

## **Economic Commission for Europe**

### **Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**

#### **Task Force on Public Participation in Decision-making**

##### **Tenth meeting**

Items 2,3, 4 and 5 of the provisional agenda  
Geneva, 10-11 October 2022

## **OVERVIEW OF THE IMPLEMENTATION OF ARTICLES 6, 7 AND 8 OF THE AARHUS CONVENTION**

Background paper<sup>1</sup>

Prepared by the secretariat

This paper directs participants to selected information from the 2021 national implementation reports submitted by the Parties to the Convention<sup>2</sup> with regard to the implementation of the public participation pillar of the Convention (responses to questions XV-XXVII). Specifically, it provides an overview of the implementation of articles 6, 7 and 8 of the Aarhus Convention and highlights key trends, good practices and challenges on the basis of the information provided by the Parties.

The document is mainly relevant for item 2 of the agenda of the tenth meeting of the Task Force on Public Participation in Decision-making under the Aarhus Convention regarding public participation in decision-making related to (i) meaningful and early public participation; (ii) the availability of all relevant documents to the public; (iii) effective notification and time frames for public participation; and (vi) ensuring that greater account is taken of the comments from the public in the final decisions, and ensuring the appropriate provision of feedback on how the public's comments have been taken into account in the decisions. The paper is also relevant for other agenda items.

Participants are invited to consult this document in advance of the meeting in order to gain an overview of issues to be discussed under agenda item 2, the challenges encountered by the Parties in implementation, and to discuss good practices and further needs to be addressed under the auspices of the Task Force on Public Participation in Decision-making.

<sup>1</sup> The document was not formally edited.

<sup>2</sup> Available from: <https://aarhusclearinghouse.unece.org/national-reports/reports>

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## Chapter 1: Overview of the implementation of articles 6, 7 and 8, of the Aarhus Convention

### 1. Albania

#### Article 6

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

*No further changes as to last report.*

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

1. Law No 10431, dated 09.06.2011 “On Environment Protection”, Article 49 highlights that “Public participation and public involvement in decision making, specifies that there will be a Decision of Council of Ministers which shall clarify public hearing procedures in EIA process”. (Decision of Council of Ministers No 247, dated 30.04.2014 “On determination of regulations, requirements and procedures to inform and involve the public in environmental decision making”).
2. Law No 12/2015 on some amendments to law No 440, dated 7.7.2011, “On environmental impact assessment”

- The amendment of the law avoided National Licensing Center until the moment of receiving environmental permit. One of the reasons was also to give the necessary time to public information process and to the process of attracting the opinion of public affected by activities listed under Annex 1.

- Another important change is that since the new Law on Environment Protection establishes National Environmental Agency (NEA) and authorizes it, inter alia, as the “competent authority to determine conditions for environmental permits”, NEA shall play a central role in the approval of decisions on EIA instead of MoE, along Regional Environmental Agencies. According to the new draft of Law on EIA, NEA shall review the application and documentation together with REAs and shall give the opinion by proposing to the minister if an EIA application shall pass or not to a detailed (in-depth) EIA procedure and shall also be responsible for the detailed procedure of EIA, through review of documents, consulting with other institutions, public information and consultation and providing the opinion on EIA report for the proposed project. The Minister shall take the final decision both for the preliminary and detailed report of EIA.

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

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

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

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

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

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

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

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

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

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

Regarding paragraph 7 – Decision 247, dated 30.04.2014 requires that the representative of Regional Environmental Agency, who participates in the meeting, keep meeting’s minutes independently from the developer of the project and reflects those in a special report and within 5

days delivers it to the National Environmental Agency, which is made aware with public's opinion, contestations and suggestions for changes.

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

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

## 2. Obstacles encountered in the implementation of article 6.

Obstacles encountered in the implementation of article 6 results due to the fact that several liabilities, in the process of public participation in environmental decision-making, are on local government, which changes every 4 years, which requires continuous attention of the Ministry of Environment on legislation enforcement.

Second, it is noticed that meeting minutes which are kept in hearings, for activities which have impact on the environment, are not put on the website of National Environmental Agency.

## 3. Further information on the practical application of the provisions of article 6.

*No further changes as to last report.*

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

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

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

## 4. Website addresses relevant to the implementation of article 6.

<http://www.akm.gov.al/publiku.html>

## **Article 7**

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

During this period its improvement the process of drafting plans, programs and strategies which are not drafted by the Ministry of Environment but that relate to environment, after the issues of

Law No 146/2014 “On public notification and consultation”, which regulates the process of public notification and consultation on project laws, national and local strategic project documents and also policies with high public interest.

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

Since the end of September 2016 is functioning the Unique Electronic Register for public notifications and consultations. The Ministry of Environment has designated the coordinator for public consultation.

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

As we mention below the Ministry of Tourism and Environment regarding the involving the Non-Profit Environmental Organizations in decision making process we will highlight:

Non-profit organizations are part of the National Council for the Protection of Wild; Representatives of civil society are members of the Steering Committee for Waste Management; Representatives of Civil Society are members of the groups for drafting Management Plans for Protected Areas set up by Mayors. For any program or strategy undertaken in these areas must be with cooperation of the civil society members that is part of these policy-making structures.

On early stage of public participation in local decision-making, further progress has been made by municipalities, especially in the area of urban planning for the city and participatory budgeting.

3. Obstacles encountered in the implementation of article 7.

One of the difficulties can be considered that in the last year the process of public hearing after the Covid -19 situation, is a process already mostly in electronic form, so this right is used by groups that are constant users of electronic facilities.

However, the number of internet users in Albania is increasing. According to statistics published in 2018 by the Albanian Electronic and Postal Communications Authority (AKEP), 3G and 4G mobile internet networks are currently used by 2.16 million users in Albania.

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

The significant improvement in this area is that in the last 8 years no legal act, strategic, plans, programs in the field of environment and beyond are adopted, as long as the process of public hearings is not documented, as well as what were the comments of the public and why they are not taken into account, if this has been the case.

This element was the reason that none of these planning acts has been approved without undergoing the process of hearings with civil society or the interested public.

At the beginning of every year, the Ministry of Environment publishes on its website the matrix of acts, strategies and plans and programs that will be drafted during the year and this is information that is used by civil society and the public to become part of the drafting from the very



beginning. There are legal acts for which the consultation process has been ongoing for a very long in time and it has been developed in more than two or three meetings; we can bring here examples of the Integrated Waste Management Strategy or the new Forest Law that has been consulted also with the civil society and the interested public and in areas where there is a density of forest areas. After the compilation, the draft is always published on the official website of the Ministry of Tourism and Environment, thus being open for comments. Also on this page, there are made the announcements for the public hearings, the date and place as well as the address where the comments can be sent in electronic format. The Council of Ministers also has a link already known to users for comments on all acts, strategies, programs and policies drafted by central institutions, where the public can register and submit comments.

5. Website addresses relevant to the implementation of article 7.

Ministry of Tourism and Environment: <https://turizmi.gov.al/konsultime-me-publikun/>

Council of Minister: <https://www.konsultimipublik.gov.al/>

## Article 8

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

The process of attracting public's opinion on legal acts, rules and regulation drafted by the Ministry of Environment, is already a consolidated process and completely known by civil society. The Ministry of Tourism and Environment publishes, at the beginning of every year, the matrix of acts which shall be drafted during the year. This information is used by civil society and public to become part of drafting since early stage. After drafting, the draft is always published in the official website of the Ministry Tourism and Environment to be commented by anyone interested, expressing comments, suggestions, and remarks.

2. Obstacles encountered in the implementation of article 8.

After the creation by the Council of Ministers of a dedicated page already known to users for comments on all acts, strategies, programs, and policies, rules, and regulation drafted by central institutions, where the public can register and submit comments, the process of public hearings face to face meeting is limited. Mixing the online form with the face-to-face meetings would be more fruitful.

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

The Ministry of Environment continues, for all regulation or rules of which cover wide action areas, the consulting process is normal procedures before the approved process.

4. Website addresses relevant to the implementation of article 8.

Ministry of Tourism and Environment: <https://turizmi.gov.al/konsultime-me-publikun/>

Council of Minister: <https://www.konsultimipublik.gov.al/>

## 2. Armenia

### Article 6

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

In 2019, legislative amendments to the Environmental Impact Assessment Act were drafted. As part of the legislative amendments, the terms have been revised:

1. Concepts that are of fundamental importance from the point of view of ratified international legal acts and the law's enforcement practice;
2. The types of proposed activities were completely revised in order to bring them into compliance with Annex I of the Aarhus Convention;
3. The timing of public hearings has been revised according to the Aarhus Convention, but detailed regulations are to be adopted at the sub-law level;
4. The expertise stages were shortened - there is no preliminary expertise stage;
5. The process of elaboration of the environmental impact assessment report was specified;
6. It is stipulated that in exceptional cases, when the expertise is directly linked to the results of inspections by the inspection bodies and it is not possible to carry out the expertise before the inspection bodies, the authorised body shall notify the initiator of this. The period of expertise from that date is considered to be suspended until the results of the inspections are received;
7. For the first time, it was stipulated that not only the EIA assessment report but also the project documents are subject to expert review;
8. For the first time, it is stipulated that the government will provide guidelines for environmental impact assessment;
9. The basis for invalidation of the expert opinion was completely revised;
10. The rights and obligations of entrepreneurs in the process of carrying out assessment, expert evaluation of proposed activities were clarified;
11. The Subsoil Code, Code of Administrative Offences, and amounts of state fees were revised.

In 2020, the policy on the EIA law was changed. Cornerstone changes of the draft law must remain, but a new law on EIA must be adopted. A new one-stop-shop principle for expert services should be adopted, corruption risks should be eliminated and responsibility should be increased.

In 2014, government decision number 1325-N on public notification and hearing procedures was adopted. According to this decision, the responsible authority, after receiving the documents of the relevant stage, within 3 days, shall post the notification on its official website, post on the buildings of public importance, publish in the official newspaper of Armenia within 7 working days before the hearing. The public can submit written comments and suggestions: 1) in the initial stage of expertise within 7 working days after the notice, 2) in the initial evaluation, main evaluation and main expertise.

After 7 working days of receipt of the notification, the assessment centre carries out a public hearing in connection with the draft decision resulting from the initial assessment. After receipt of the reports and documents, the centre of expertise will, on the 20th day at the earliest, place the electronic versions on its official website and, in due course, forward them to the persons responsible for the public notification and organisation of the hearings.

The proposal submitted to the reviewer includes information on the public notification, the initial consent of the local authority and the public hearing.

According to the decision of the Government, the community decides on the centre of expertise at the initial stage, which is recorded in the technical data. In case of activities in more than one community, the organization of public notification and hearings shall be organized jointly by the initiator and community leaders.

The initiator of the public hearings or his representative will present their intention in detail and answer questions related to the subject of the activity. It should be noted that the notification, basic and project documents are posted on the official website of the authorised body at least 7 working days prior to the hearing.

According to the above-mentioned Government Decision, the electronic version of the relevant documents shall be posted on the website of the responsible authority at each stage. The minutes of the public hearing shall be posted by the centre of expertise on its official website within 3 working days.

All expert decisions shall be posted on the official website of the Ministry of Nature Protection of RA after submission. The above decision is subject to revision after the adoption of the new EIA Law.

## 2. Obstacles encountered in the implementation of article 6.

1. Inadequate awareness of the QA provisions amongst civil servants.
2. Some gaps in legal regulation of public participation procedure in environmentally significant decisions.
3. There are also financial obstacles for full-fledged public involvement (travel to the region, invitation of independent experts, etc.). Despite the fact that the information about the public hearings is placed and actively distributed on the website of the Ministry of Environment of Armenia, in some cases, this information is provided in a very short time before the organization of the public hearings. Consequently, in some cases, the interested public is not timely informed about the announcements of public hearings as well as about the project documentation.

## 3. Further information on the practical application of the provisions of article 6.

In an electronic questionnaire posted on the ISO website for NGO representatives, most NGO representatives indicated that they were dissatisfied with the EIA procedure in Armenia, both at the legislative and practical levels. Although the public participates in the public hearings, but the public proposals are not taken into consideration much. There are cases, when the expert opinion

is issued without the EIA. The new Law on EIA should exclude such cases and take into account public proposals and provide feedback to them, organize the whole procedure on a more transparent level.

The following bylaws and the 2014 EIA Act are still in force:

- A. Decision of the Government on Establishment of Public Notification and Hearings (19.11.2014 1325-N)
- B. Decision of the Government on Establishment of Expertise of Basic Documents and Proposed Activities (09.04.2015, 399-N)
- C. Decision of the Government on establishing the procedure for declaring an expert opinion invalid (22.04.2015, 428-N).
- D. Decision of the Government on Assessment and Compensation of Possible Economic Harm to the Environment (27.05.2015, 764-N).

Obligations and requests for preliminary assessment of the environmental impact of the planned activities by the organizations are posted on the website of the Ministry of Environment and Yerevan Municipality.

During the Government meeting of July 29, 2016, a decision was made to approve the methodological recommendations for the application of the environmental impact assessment provisions: By the latter, the following were approved:

- a. Methodological recommendations on the preparation of the submitted request for preliminary environmental impact assessment for the purpose of claiming rights for geological surveys of mineral resources,
- b. Methodological recommendations for compiling a report on preliminary environmental impact assessment for the purpose of claiming geological survey rights
- c. methodological advice on the closure of ores,
- d. methodological guidelines for preparation of the report on preliminary environmental impact assessment for the purpose of claiming geological survey rights,
- e. methodological guidelines for preparation of the report on preliminary assessment of socio-economic environmental impact for the purpose of claiming geological survey rights
- f. Methodological guidelines for assessing the completeness of the report on the preliminary environmental impact assessment for the purpose of claiming the right to geological exploration of mineral resources.

It should be noted that there is some dynamic to increasing the number of participants at the public hearings, but not always and not evenly in all locations. Aarhus Centres have been attending all public hearings from 2020. The participation of Aarhus Centres in public hearings is related to the implementation of the provisions of the Memorandum on cooperation in environmental information dissemination in the process of environmental impact assessment and evaluation. It should be noted that the above-mentioned Memorandum was signed on July 29, 2020, between the "Centre for Hydrometeorology and Monitoring" SNCO, "Environmental Impact Assessment Centre" and Yerevan Aarhus Centre. The memorandum aims to deepen cooperation in the dissemination of environmental information in the process of environmental impact assessment

and evaluation, to intensify the dialogue between the State and Aarhus Centres, thus establishing a constructive dialogue between the parties. In the framework of the memorandum, joint online training seminars will be held.

In the framework of UNECE the legislation on EIA, the competent authority and the practice of the "Environmental Impact Assessment Centre" of SNCO have been studied, where there are concrete proposals on the step-by-step actions of EIA, on the account of institutional competences, on experts, etc. All these documents will be put into practice once the legislation is adopted.

## **Article 7**

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

Prior to the adoption of the new EIA Law in relation to this point, it should be noted that in July 2014, the National Assembly of the Republic of Armenia adopted the Law on Environmental Impact Assessment and Expertise. According to the aforementioned law, the main documents related to the areas of socio-economic, urban planning, transport, agriculture, subsoil use, healthcare industry, ecology, recreation, forestry production, waste management, energy, services are subject to strategic assessment and expertise.

The main document, according to Article 4 of the Act, is a draft document (policy, strategy, concept, scheme of the use of natural resources, programme, urban planning document), which has a possible impact on the environment.

The aforementioned documents, according to the Law, are subject to examination in the procedure established for Category A, whose public hearing and debate are organised on the basis of Government Decision No. 1325-N of 19.11.2014 on the establishment of the procedure for public hearing and debate. The Government Decision establishes the procedure of public notification and public hearings, the organization (first stage) at the initial stage of assessment of the main documents and planned activities of categories A, B and D, the organization (second stage) of notification and public hearings regarding the decision of the main documents and planned activities at the initial stage of assessment, the organization of notification and public hearings regarding the environmental impact assessment of the strategic documents and the planned activities

Public notification is carried out via the media, e-mail and announcements. The notification will contain information on the initiator, the location of the main documents or planned activity, the likely impact on environmental components, the place where the documents can be viewed, the date and time, the deadline for submission of proposals and comments, e-mail and the telephone number of the person responsible for the hearing.

The person responsible for the respective stage of the hearing, according to the law, shall post on the official website, on the notice board of his residence and public buildings and shall print in the official newspaper of the Republic of Armenia at least 7 working days before the hearing. The public may submit their suggestions and comments electronically within the deadlines specified for each type of expertise.

The whole process of public hearings is videotaped by the person in charge, who ensures this. Public hearings can also be videotaped by other participants and transmitted to the centre of expertise. The public hearings can be attended by specialists in the field.

It should be noted that there are changes in connection with this point, which are enshrined in the EIA draft law. The draft law was not adopted, because NGO representatives were against this draft law. Given the fact that the draft law was not passed, we do not provide details of the legislative changes (see above for some of them).

Article 29 of the Constitution (2015) enshrines the principle of prohibition of discrimination.

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

The following means are used to ensure public participation in the preparation of plans and programmes: public meetings, opinion polls and sometimes working groups with experts from different interest groups. For the implementation of the different programmes, various groups are established in which experts participate. NGO experts (as the public is concerned), representatives of relevant ministries and other specialists are the main target groups in this process. For example, the Committee of Environmental Protection of the City Council adjacent to the City Hall consists of members of environmental NGOs. Projects submitted at committee meetings are discussed not only by committee members, but also by other NGO members. Final conclusions are included in the minutes of the committee meeting. The legal basis for public participation in environmental policy development is provided by the provisions of the national law "On Environmental Impact Assessment" (Articles 15 and 7 of the AA), as well as the Government Decision No 1325-N of 19.11.2014 on establishment of public comment and debate procedures. Substantive public comments and suggestions are taken into account by the initiator and the centre of expertise. Those comments and proposals that contain information contradicting legal provisions and not related to environmental impact, as well as incorrect reports, are not taken into account. Substantiated justifications shall be provided for the latter.

Minutes, video records, proposals and comments of the discussions, together with the documents shall be kept in accordance with the procedure established by the RA Law on "Archives". The Law on Environmental Impact Assessment requires public hearings of the Concepts and consideration of public opinion. On October 6, 2010, the RA ratified the Kiev Protocol on "Strategic Environmental Assessment", which aims to ensure public participation in environmental impact assessment of plans and programs.

In the new EIA law, some conceptual approaches in this regard will be revised.

6. Obstacles encountered in the implementation of article 7.

The cooperation of government officials with independent experts needs further improvement. The re-establishment of the Public Council under the MoS on new principles and beginnings will give a fresh start and solution to these issues.

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

Below are the websites where the minutes of the Public Council under the Ministry of Nature Protection of the RA are posted, where there are NGO proposals and positions on the specific issues raised.

04.10.2016 - <http://www.mnp.am/uploads/1/1506347905Ardzanagrutyun.pdf>

01.11.2016 - [http://www.mnp.am/uploads/1/1506347887arcanagrutyn\\_hx6.pdf](http://www.mnp.am/uploads/1/1506347887arcanagrutyn_hx6.pdf)

07.12.2016 - <http://www.mnp.am/uploads/1/1506347836arcanagrut7.pdf>

01.02.2017 - <http://mnp.am/uploads/1/1519105497ardanagrutyun%20N8.pdf>

01.03.2017 - <http://mnp.am/uploads/1/1519105530ardanagrutyun%20N9.pdf>

26.08.2017 - <http://mnp.am/uploads/1/1519199340ardanagrutyun%2010.pdf>

22.09.2017 - <http://mnp.am/uploads/1/1519199386ardanagrutyun%2011.pdf>

08.12.2017 - <http://mnp.am/uploads/1/1519199419aradanagrutyun12.pdf>

No statistical data available.

8. Website addresses relevant to the implementation of article 7.

[www.aarhus.am](http://www.aarhus.am)

[www.nature.am](http://www.nature.am)

[www.gov.am](http://www.gov.am)

[www.env.am](http://www.env.am)

[www.armstat.am](http://www.armstat.am)

[www.e-gov.am](http://www.e-gov.am)

[www.elrc.yasu.am](http://www.elrc.yasu.am)

[www.mta.gov.am](http://www.mta.gov.am).

Below are also the links that relate to the implementation of Art. 7.

<http://www.mnp.am/uploads/1/1506347905Ardzanagrutyun.pdf>

[http://www.mnp.am/uploads/1/1506347887arcanagrutyn\\_hx6.pdf](http://www.mnp.am/uploads/1/1506347887arcanagrutyn_hx6.pdf)

<http://www.mnp.am/uploads/1/1506347836arcanagrut7.pdf>

<http://www.mnp.am/uploads/1/1506348085HRAMAN256.pdf>

<http://mnp.am/uploads/1/1519105530ardanagrutyun%20N9.pdf>

<http://mnp.am/uploads/1/1519199340ardanagrutyun%2010.pdf>

<http://mnp.am/uploads/1/1519199386ardanagrutyun%2011.pdf>

<http://mnp.am/uploads/1/1519199419aradanagrutyun12.pdf>

## Article 8

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

According to the Environmental Impact Assessment Act: "The public concerned is the public affected or likely to be affected by a decision" (article 1, para. 9). It was only after the ratification of the Convention in 2001 that NGOs involved in nature protection activities started to be recognized as the public concerned during the EIA process. Decision No. 1325-N of the RA Government establishes the legal framework for public participation in the process of preparing regulations that may have a significant impact on the environment. Public notification and hearings are held during the preliminary and main stages of the environmental impact assessment and the initial and main stages of the expert review. Public notification and hearings are held in accordance with the Act and the government's decision 1325-N. Where there is more than one impact community, the public notification and hearing is organized by the initiator together with the head of the community in whose administrative district the activity is planned, ensuring the participation of all representatives of the impact community.

The public opinion on key documents and planned activities is obtained through public hearings.

Public notice is given via the media, e-mail and announcements. The notification includes information on the initiator, the location of the main documents or planned activity, the possible effects on environmental components, the place where the documents can be consulted, the date and time, the deadline for the submission of proposals and comments, the e-mail address and the telephone number of the person responsible for the hearing.

The person responsible for the relevant stage of the hearing, in accordance with the law, shall post on the official website, on the notice board of his residence and public buildings and in the official newspaper of the Republic of Armenia at least 7 working days before the hearing. The public may submit their suggestions and comments electronically within the time limits specified for each type of expertise.

The whole process of public hearings is minuted and videotaped by a responsible person, who ensures all this. Public hearings may also be video recorded by other participants and transmitted to the centre of expertise. Experts in the field may be invited to the public hearing.

There is a practice of holding parliamentary hearings on draft legislation in the field of nature protection with the participation of representatives of NGOs and line ministries. The latter provides an opportunity to actively participate and make radical proposals. And NGO representatives also participate in the early stages of drafting or hearing draft legislation. For example, in 2019 on the public hearing of the "Law on Environmental Information" or the "Law on Modified Genetic Organisms" in 2019, etc.



It appears that legal mechanisms have already been established to ensure public participation in the process of preparation of executive regulations and other generally applicable legally binding norms by public authorities, which may have a significant impact on the environment.

But the problem of effective application of legal regulations in practice still remains unresolved.

Regarding the transposition of the relevant definitions of the Convention into national legislation, it must be said that prior to the adoption of the 2015 Constitution of the RA, the norms of international conventions ratified by Armenia were an integral part of the legal system of the RA. The legal regulation of 2015 (Constitution, 2015) provides only that in case of contradiction between the norms of international treaties ratified by Armenia and RA laws, the norms of international treaties are applied.

#### 10. Obstacles encountered in the implementation of article 8.

According to the Government Decision of 2015. 1325-H, there are changes regarding more effective public participation, as the grounds are regulated in detail in connection with the procedure of public notification and hearings, organization (first stage) at the initial stage of assessment of the basic documents and planned activities of categories A, B and D, organization (second stage) of notification and public hearings regarding the decision of the basic documents and planned activities at the initial stage of examination, organization of notification and public hearings regarding assessment in In addition, all authorized bodies inform the public through their official web sites, as well as through the electronic platform [www.e-draft](http://www.e-draft). On the basis of the Government's decision No. 1134-N of September 2, the Ministry of Justice has launched a single website for the placement of draft legal acts. All state bodies are obliged to place their normative legal acts on the above-mentioned website where natural persons and legal entities can make suggestions and comments. All substantive proposals are taken into account by the body that drafted the normative act, and this is noted in the document (in the final sheet).

#### 11. Further information on the practical application of the provisions of article 8.

In Armenia there is a practice where the National Assembly organises public hearings involving the media, NGOs, officials and others (e.g., Law on Amendments and Additions to the Law on Lake Sevan, Law on Amendments and Additions to the Law on Funeral and Cemetery Management and Crematoriums). The Standing Committees of the National Assembly have an independent expert institute. Representatives from the academic and non-governmental sectors work within its framework. Public authorities stimulate the expression of public opinion by publishing draft legislation on the Internet. Since 2016, all public authorities have been posting legal acts adopted within their competence on the website [www.e-draft](http://www.e-draft), where the public can make suggestions and comments. Compared to 2014, the number of people who use the internet in 2021 has increased. From 2010 to 2017 there is also an official website <https://www.e-gov.am/>, through which the Republic of Armenia has moved to an electronic system of government. The website provides access to the activities, acts, draft decisions/decisions of the Government.

#### 12. Website addresses relevant to the implementation of article 8.

[www.justice.am](http://www.justice.am)

[www.env.am](http://www.env.am)

[www.facebook.com/mnparmenia](http://www.facebook.com/mnparmenia)

[www.e-draft](http://www.e-draft)

[www.aarhus.am](http://www.aarhus.am)

[www.gov.am](http://www.gov.am)

[www.e-gov.am](http://www.e-gov.am)

[www.elrc.ysu.am](http://www.elrc.ysu.am)

[www.mta.gov.am](http://www.mta.gov.am).

### **3. Austria**

#### **Article 6**

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

In order to comply with the citizen-participation provisions of the Convention, the Environmental Impact Assessment (EIA) and Integrated Pollution Prevention and Control (IPPC) Directives were adapted at the European level by Directive 2003/35/EC which amends with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC. The same Directive was also used to implement the Convention for the plans and programmes (listed in Annex I to Directive 2003/35/EC) not yet covered by Directive 2001/42/EC on Strategic Environmental Assessment (SEA Directive), adopted only two years earlier. The SEA Directive had already implemented the Convention with regard to the plans and programmes covered by it.

A need for implementation evolved in particular from the interaction of Article 2, paragraph 5, Article 6 and Article 9, paragraph 2 of the Convention, requiring the involvement of certain environmental non-governmental organizations in approval procedures.

Austria transposed the EIA Directive 85/337/EEC (amended by Directives 97/11/EC, 2003/35/EC, 2014/52/EC, codified by Directive 2011/92/EU), the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Aarhus Convention at the project level into national law in the Federal Act on Environmental Impact Assessment (EIA Act 2000, Federal Law Gazette I No. 697/1993, last amended by Federal Law Gazette No. 80/2018).

Annex I to the Aarhus Convention, to which the provisions set forth under Article 6 refer, includes projects which are covered by the EIA and IPPC Directives. Further adaptations to the Convention were made at a Federal level in the area of commercial equipment law by way of the 2005 Amendment to Industrial Law (Federal Law Gazette I No. 85/2005) with regard to the 1994 Trade and Industry Act, the Air Pollution Act for Boiler Facilities and the Mineral Resources Act, the

2004 Amendment to the EIA Act 2000 (Federal Law Gazette I No. 153/2004), the Amendment to the Waste Management Act (Federal Law Gazette I No. 155/2004), the Agricultural Amendment Act concerning the Federal Act on Forest and Pastures Usage Rights (Federal Law Gazette I No. 87/2005) and the Emission Control Act in the framework of the 2005 Act adapting the Laws on Environmental Protection (Federal Law Gazette I No. 34/2006). The Industrial Emissions Directive (2010/75/EU), chapter II, replaced the IPPC Directive and had to be transposed by January 2013. Compared to the IPPC Directive no major changes have been introduced with regard to Article 6 of the Aarhus Convention, although some new categories of activities are covered. The respective amendments of the relevant national laws (Trade and Industry Act, Waste Management Act, Emission Protection Act for Steam Boilers) were passed by Parliament in 2013. The respective amendment of the Mineral Resources Act was adopted in 2015 (Federal Law Gazette I No. 80/2015).

#### Article 6, paragraph 1

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

The projects subject to EIA are listed in Annex 1 to the EIA Act 2000, which covers not only the projects of Annex I but also those of Annex II to the EIA Directive 2011/92/EU (and thus also those of Annex I to the Convention).

#### Article 6, paragraphs 2, 3, 4 and 5

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

#### Article 6, paragraphs 6 and 7

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

#### Article 6, paragraphs 8 and 9

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

#### Article 6, paragraph 10

Modifications of projects are subject to an EIA procedure in accordance with Article 3(a) and of Annex 1 of the EIA Act 2000.

#### Article 6, paragraph 11

The Genetic Engineering Act (Federal Law Gazette I No. 510/1994, last amended by Federal Law Gazette I No. 13/2006) transposes into national law, inter alia, the EU Deliberate Release Directive 2001/18/EC and aims at the prevention of harmful impact of genetically modified organisms (GMO) on the environment.

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

#### 2. Obstacles encountered in the implementation of article 6.

The competent authorities did not provide any information on this issue. Some NGOs as well as the Environmental Ombudsmen claimed, inter alia, that public participation takes place at a rather late stage of the EIA procedure and costs in relation to presenting a counter expertise to the competent authority in the context of the EIA procedure were rather high. An NGO referred to the judgement of the European Court of Justice in case C-243/15 which holds that also habitats and species protection procedures fall under Art 6 paragraph 1 (a) of the Convention.

#### 3. Further information on the practical application of the provisions of article 6.

On its website, the BMK has published a list of all environmental organizations approved in Austria according to the EIA Act 2000 and also gives information on the application procedure required for obtaining approval ([https://www.bmk.gv.at/themen/klima\\_umwelt/betrieblich\\_umweltschutz/uvp/anererkennung\\_org.html](https://www.bmk.gv.at/themen/klima_umwelt/betrieblich_umweltschutz/uvp/anererkennung_org.html)).

The Federal Environment Agency consolidates the key information on ongoing and completed EIA procedures in an EIA database and makes it accessible online. Accordingly, a description of the respective project, information on the legal foundations as well on the project status and information on the documents available in the EIA documentation are accessible to the general public. Every three years, the BMK also submits a report to the Parliament on the implementation of the EIA Act 2000, recently in 2018

#### 4. Website addresses relevant to the implementation of article 6.

[https://www.bmk.gv.at/themen/klima\\_umwelt/betrieblich\\_umweltschutz.html](https://www.bmk.gv.at/themen/klima_umwelt/betrieblich_umweltschutz.html)

[https://www.bmk.gv.at/themen/klima\\_umwelt/betrieblich\\_umweltschutz/uvp.html](https://www.bmk.gv.at/themen/klima_umwelt/betrieblich_umweltschutz/uvp.html)

<https://www.umweltbundesamt.at/umweltthemen/uvpsup/uvpoesterreich1/uvp-dokumentation>

#### **Article 7**

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

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

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

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

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

In addition, Austria has provided for SEAs involving voluntary public participation with regard to plans and programmes not covered by the SEA Directive, e.g. for the SEA development area “Vienna North-East” or the National Strategic Framework Plan in the framework of EU structural

funds 2007-2013 (STRAT.AT) and at the level of Local Agenda 21. For some plans the public has been involved even beyond legal requirements, e.g. waste management plans for Vienna. Moreover, some laws provide for public participation platforms, such as provincial regional planning laws (irrespective of whether SEA is required or not).

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

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

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

Central activities are:

- i. The existing “public-participation standards” should also be regarded as a contribution to the implementation of the SDGs Agenda 2030 (see also under Art. 3 para 2).
- ii. In 2002, ÖGUT, the Austrian Society for Environment and Technology, set up a “participation” strategy group at the instigation of the former BMLFUW, made up of members from ministries and authorities as well as NGOs, public participation practitioners and the scientific community.
- iii. The “Public Participation Manual”, which was drawn up by the former BMLFUW, ÖGUT, the Austrian Institute for Ecology and Büro Arbter provides for advice for successful public participation, the required framework, the expected costs and successful Austrian case histories.
- iv. Over the last years, a website on the subject of participation ([www.partizpation.at](http://www.partizpation.at)) has become an information hub (“one-stop shop”) for public participation.
- v. In the future, more attention shall be paid to e-participation/e-democracy instruments. As mentioned earlier, it is the aim of the Austrian e-government strategy to enable citizens and businesses to handle all public administration procedures electronically, smoothly and swiftly without being required to have specialist knowledge about public responsibilities and technical details. A task force on e-democracy was set up by the Federal Chancellery. The task force published a position paper on e-democracy and e-participation in Austria in 2008. It worked on an e-democracy strategy for Austria including e-participation principles and on a guideline on the evaluation of e-participation processes, e-participation tools and hints for administrators using web 2.0.
- vi. The BMK carried out several public participation processes on the following recent environment related policies: National Air Pollution Control Programme, Federal Waste

Management Plan, Waste Avoidance and Recycling Strategy, Initiative on Avoidance of Food Waste, Progress Report to the Strategy for Adaption to Climate Change (see also under Art. 3 para 4).

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

#### 7. Obstacles encountered in the implementation of article 7.

The competent authorities did not provide any information on this issue. Some NGOs as well as Environmental Ombudsmen claimed that public participation would take place too late, once the draft plan was already available. Some NGOs criticized the lack of early and effective participation within a reasonable period of time and that the representation of environmental interests in decision-making procedures is sometimes rather weak in practice. An NGO claimed that in some cases transparency is missing on how the statements received have been taken into account and which plans, and programmes shall undergo a screening, whether they are subject to strategic environmental assessment, and on which grounds this is decided.

#### 8. Further information on the practical application of the provisions of article 7.

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

#### 9. Website addresses relevant to the implementation of article 7.

<http://www.nachhaltigkeit.at>

<http://www.partizipation.at>

<https://www.bmdw.gv.at/Themen/Digitalisierung/Digitales-Oesterreich.html>

<http://www.oerok.gv.at/eu-regionalpolitik>

<https://www.laerminfo.at/>

SEA websites including information on public participation in SEAs:

[https://www.bmk.gv.at/themen/klima\\_umwelt/betrieblich\\_umweltschutz/sup.html](https://www.bmk.gv.at/themen/klima_umwelt/betrieblich_umweltschutz/sup.html)

<http://www.strategischeumweltpruefung.at>

<http://austriaca.at/6631-3>

[http://www.arbter.at/sup/sup\\_b.html](http://www.arbter.at/sup/sup_b.html)

Examples of SEA guidelines used by some Federal provinces:

<http://www.raumordnung-noe.at/index.php?id=28>

[https://vorarlberg.at/web/land-vorarlberg/contentdetailseite/-/asset\\_publisher/qA6AJ38txu0k/content/strategische-umweltpruefung?article\\_id=317523](https://vorarlberg.at/web/land-vorarlberg/contentdetailseite/-/asset_publisher/qA6AJ38txu0k/content/strategische-umweltpruefung?article_id=317523)

<https://www.salzburg.gv.at/bauenwohnen/Seiten/raumplanung.aspx>

<https://www.landesentwicklung.steiermark.at/>

<https://www.tirol.gv.at/landesentwicklung/raumordnung/>

<https://www.wien.gv.at/stadtentwicklung/partizipation/index.html>

<https://www.land-oberoesterreich.gv.at/23986.htm>

## Article 8

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

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

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

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

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



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

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

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

#### 11. Obstacles encountered in the implementation of article 8.

The competent authorities did not provide any information on this issue. An NGO complained that in practice time limits for consultation are sometimes too short (less than 6 weeks). The same NGO strengthens that the involvement of civil society is improving under the current Federal Government, however, the representation of environmental interests in decision-making progresses could be enhanced since a specific ombudsman for the economic location (Standortanwalt) has been introduced in order to advocate commercial interests.

#### 12. Further information on the practical application of the provisions of article 8.

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

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

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

#### 13. Website addresses relevant to the implementation of article 8.

<http://ris.bka.intra.gv.at/Begut/>

<https://www.bmk.gv.at/recht/begutachtungsverfahren.html>

<http://www.parlament.gv.at/PAKT/MESN/>

<https://www.wko.at/service/t/positionen-stellungnahmen-wko-2020.html>

<https://wien.arbeiterkammer.at/interessenvertretung/umweltundverkehr/index1.html>

<https://www.oekobuero.at/de/publikationen/>

<https://www.oekobuero.at/en/publications>

## 4. Azerbaijan

### Article 6

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

The legislation of the Republic of Azerbaijan pays special attention to public participation in environmental protection. Thus, the participation of the population and public associations in environmental protection is one of the basic principles of the legislation of Azerbaijan (Article 3 of the Law of the Republic of Azerbaijan "On Environmental Protection"). Citizens, stateless persons and foreigners have the right:

- i. Apply to state authorities and organizations regarding environmental protection; · put forward proposals for public ecological expertise (Article 6 of the Law "On Environmental Protection" On Public Participation");
- ii. To participate in the preparation of decisions, the implementation of which is related to the impact on the health of the population and the environment (Article 7 of the Law of the Republic of Azerbaijan "On Sanitary and Epidemiological Welfare"). Citizens and public associations also have the right to put forward proposals to state bodies and local self-government bodies (Article 7 of the Law of the Republic of Azerbaijan "On Environmental Safety"). The Public Council created under the Minister of Ecology and Natural Resources, which mainly includes NGOs and representatives of the public, collectively participate in decision-making and discussions. All directives and normative documents through the web pages ([eco.gov.az](http://eco.gov.az)) are transmitted to the public for their participation in decision making. There is a call center "168", the population through this line transmits information about the environment that worries them, so the population gets the opportunity to directly participate in decision-making.

2. Obstacles encountered in the implementation of article 6.

There were no obstacles to the implementation of the provisions of Article 6 regarding public participation in decision-making on specific activities.

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

Public authorities provide the public with all information concerning the decision-making process referred to in Article 6 by placing this information on the web page. Also, the Public Council (with

the participation of representatives of NGOs and the public) under the Minister of Ecology and Natural Resources of the Republic of Azerbaijan is constantly discussing to make decisions on specific activities.

4. Website addresses relevant to the implementation of article 6.

<http://eco.gov.az>

<https://meteo.az>

<https://nationalparks.az/>

## Article 7

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

In order to keep the public informed, members of the Public Council under the Ministry of Ecology and Natural Resources participated in public hearings, held meetings on various issues, materials were continuously prepared and distributed through official website of the Ministry and social networks.

The Public Council under the Ministry of Ecology and Natural Resources is constantly discussed to ensure public participation in the process of preparing plans and programs related to the environment. Materials subject to discussion and decision making are disseminated through the website.

At the national level, the relevant definitions of environmental information: it is information about the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural objects, biological diversity and its components, including genetically modified organisms, and the interaction between these elements; also factors such as substances, energy, noise and radiation, as well as activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programs that have or may have an impact on elements of the environment, Cost-benefit analysis of other economic analyses and assumptions used in making decisions about environmental, health and safety, and human living conditions, the condition of cultural objects and buildings and structures to the extent that they are or may be affected by the condition of environmental elements or, through those elements, by factors, activities, or measures.

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

On the basis of the law "On public participation" participation in the development of draft laws, programs and other regulatory and legal materials of environmental direction through the website is brought to the public, as well as organized discussions of the Public Council under the Minister of Ecology and Natural Resources.

7. Obstacles encountered in the implementation of article 7.

Obstacles encountered in the implementation of article 7.

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

Public representatives participated in the preparation of the Comprehensive Action Plans "On improvement of the environmental condition of Azerbaijan and the rational use of natural resources in 2014-2020", the draft "Socio-Economic Development Strategy for 2021-2025", held online public hearings of the long-term project on the joint program of the Ministry of Ecology and Natural Resources and Ministry of Agriculture to support the "Green Agriculture Programme". During the meeting, with the participation of members of the Public Council under MENR and representatives of international organizations were discussed in the draft program to mitigate the negative impact of agricultural activities on the environment, reducing greenhouse gases, cultivation of agricultural gardens, sustainable use of water, land and forests, biodiversity conservation and ecosystems, support the development of aquaculture and organic agriculture, strengthening institutional capacity, etc..

9. Website addresses relevant to the implementation of article 7.

<http://eco.gov.az>

## Article 8

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

In the direction of improving the legislation on environmental protection in order to increase the responsibility of nature users, work continued to bring the applied financial sanctions in line with modern requirements, including fines for emissions of pollutants into the atmosphere, for violating forest legislation, etc. At the same time, measures were taken to improve the norms and rules of land use, to strengthen the legislative framework in this area.

In 2019, the Decree of the President of the Republic of Azerbaijan No. 613 of April 9 on the approval of the decision of the Cabinet of Ministers "On the Charter of the State Agency for the Use of Mineral Resources" came into force, decision Cabinet of Ministers of the Republic of Azerbaijan No. 216 dated May 10, on approval of the draft decision of the Cabinet of Ministers of the Republic of Azerbaijan "On cases of transfer of mineral resources by direct negotiations", Cabinet of Ministers of the Republic of Azerbaijan No. 192 dated April 29, on approval of the draft decision of the Cabinet of Ministers of the Republic of Azerbaijan "On approval of the classification of mineral resources and prognosis of resources", Decision No. 425 of the Cabinet of Ministers of the Republic of Azerbaijan dated October 2 on approval of the draft decision of the Cabinet of Ministers of the Republic of Azerbaijan "On Approval of the Rules for control in the field of environmental impact assessment and strategic environmental assessment", Decision of the Cabinet of Ministers of the Azerbaijan Republic No. 457 of November 27 on the approval of the draft decision of the Cabinet of Ministers of the Azerbaijan Republic "On approval of the" Rules for exercising control over the maintenance of the register of appraisers and the activities of organizations carrying out environmental impact assessments, forms of special certificates issued to appraisers, their issuance , as well as the rules for their suspension or cancellation ", The Cabinet

of Ministers of the Republic of Azerbaijan approved Decision No. 192 of April 29, 2004 "On Amendments to Decision No. 636 of December 27, 1993 "On the rules of liability for damage caused to the forestry" and Decision No. 145 of September 30, 2004 "On measures to combat violations of the forestry legislation.

In addition, draft decisions of the Cabinet of Ministers of the Republic of Azerbaijan "On approval of the Rules and terms of environmental impact assessment, including transboundary impact assessment" were prepared and submitted for approval to the state authorities, "On Approval of the Rules for Strategic Environmental Assessment," "On Approval of the Cases of the Need to Prepare the Environmental Section of Construction Projects, on Amendments to Decision No. 122 of March 3, 1992 "On Payments for Use of Natural Resources, Application of Penalties for Environmental Emissions, and Use of Funds Collected from These Payments", "On approval of the "Rules of financing the State ecological expertise", on amendments to the Decision #147 dated September 30, 2004 "On approval of some normative acts concerning hunting in the territory of the Republic of Azerbaijan".

By the Decree of the President of the Republic of Azerbaijan No. 975 of March 27, 2020 "On a number of activities related to the activities of the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan", the "Regulation on the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan" was approved, "Regulations on the State Environmental Protection Service under the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan", "Regulations on the Forest Development Service under the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan", "Regulations on the National Hydrometeorological Service under the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan", "Regulations on the Service of Biodiversity Conservation under the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan" and "Statute of the State Agency of Environmental Expertise".

In order to regulate the establishment of geological parks, their management and governance, the "General regulation on geological parks of the Republic of Azerbaijan" was approved by the Decree No. 989 of the President of the Republic of Azerbaijan dated April 15, 2020"

In accordance with Strategic Goal 2 of the "2019-2020 Action Plan to Reduce the Negative Environmental Impact of Waste from Plastic Packaging in the Republic of Azerbaijan", the measures envisaged are, including international experience and legal norms, were taken into account in the preparation of a number of normative documents, including the adoption of Law No. 208 of November 26 "On Amendments to the Code of Administrative Offences of the Republic of Azerbaijan", Law No. 207 of November 26 "On Amendments to the Law of the Republic of Azerbaijan "On Environmental Protection On the application of these laws in connection with the amendments to the Code of Administrative Offences of the Republic of Azerbaijan "On Approval of Amendments to the Code of Administrative Offences of the Republic of Azerbaijan" and Presidential Decree No. 795 of 15 February 2016 "On Amendments to Law No. 96 of 29 December 2015 in connection with its application", drafted and adopted Presidential Decree No. 1222 of December 30, 2020 "On Amendments to Decree No. 1361 of May 3, 2017

"On Approval of the List of Officials Authorized to Draft Protocols on Administrative Violations Considered in District (City) Courts".

Order No. 2271 of the President of the Republic of Azerbaijan of September 21, 2020 "On amendments to Order No. 59 of January 15, 2004 "On some issues arising from the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal" came into force.

Activities were continued to determine the legal basis for the process of assessing the impact on the environment and human health and the preparation of documents for economic activities and other activities, including strategic and spatial planning documents. So, at the stage of preparing documents for the design of the construction of enterprises for the disposal of waste, their processing, as well as equipment intended for these purposes, landfills in accordance with the procedure, established by the Law of the Republic of Azerbaijan "On Environmental Impact Assessment" provides for the preparation of documents for the assessment of environmental impact (EIA) and the state ecological expertise of these documents in accordance with the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 103 dated June 21, 1999 "On the approval of the Rules the creation of protective zones and the implementation of safety measures in the gas supply ", By the decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 117 of August 25, 2004 "On approval of the State Strategy for hazardous waste management in the Republic of Azerbaijan." On May 22, 2020, the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 185 "On amendments to the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 74 dated April 21, 2005" On the approval of the Rules of sanitary standards, hygiene and removal and disposal ", On May 14, 2020, the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 173 "On amendments to the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 167 dated July 25, 2008" On approval of the Rules for the cross-border transportation of hazardous waste "and the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 31 dated February 6 2017 "On approval of the list of protective measures in areas where there is a high probability of potentially dangerous natural and man-made phenomena and cases of their use".

At the same time, the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 35 of February 7, 2020 on amendments to the "Rules for the use of water" was approved, approved by Decision No. 262 of July 17, 2014, providing for the need to conduct an environmental impact assessment in accordance with the established procedure in projects, aimed at cleaning and reuse of industrial and domestic waste water, provided for by the Law of the Republic of Azerbaijan "On Environmental Impact Assessment".

By the decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 119 of March 29, 2020, the "Standards for compensation of damage caused as a result of the widespread illegal exploitation of mineral deposits in the Republic of Azerbaijan in order to regulate regulatory payments in the field of exploitation of the earth's interior were approved.

In order to create an institutional mechanism to identify, prevent and predict the direct and indirect negative impact and induced effects on the environment and human health of the objects of

environmental expertise, the Cabinet of Ministers of the Republic of Azerbaijan approved the decision number 31 of February 5, 2020 "On approval of the Regulations on the Expert Commission performing state environmental expertise", as well as Decision No. 184 of May 21, 2020 "On Approval of the Rules for State and Public Environmental Expertise.

Taking into account the work of the institutional institutions of the ministry to implement the rational and economical use of natural resources in the country, taking into account sustainable and continuous development, to protect and preserve the environment in order to ensure continuous activities aimed at improving the quality of life of present and future generations, it was adopted Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 462 dated November 27, 2020 "On amendments to the Decision of the Cabinet of Ministers of the Republic of Azerbaijan No. 120 dated July 18, 2011" On improving the Rules for the use of vehicles in departments, enterprises and organizations of the Republic of Azerbaijan financed from the state budget ".

Currently, work is continuing to improve some of the regulatory legal acts related to hunting, water use, specially protected areas, waste management, land subsurface resources, state environmental impact assessment, redefining minimum tariffs for payments for firewood left standing in the forests, etc.

#### 11. Obstacles encountered in the implementation of article 8.

Obstacles encountered in the implementation of article 8.

#### 12. Further information on the practical application of the provisions of article 8.

When carrying out the public participation procedure, public authorities shall provide the public concerned with all the information relating to the decision-making process mentioned in Article 8 by making this information available on the web page.

#### 13. Website addresses relevant to the implementation of article 8.

<http://eco.gov.az>

## 5. Belarus

### Article 6

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

The procedures specified by Article 6 of the Convention are applied to decisions that require environmental impact assessment ("the EIA") in accordance with the Law on State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment of the Republic of Belarus of 18 July 2016 No. 399-Z (hereinafter – Law No. 399-Z), Resolution of the Council of Ministers of 19 January 2017 No. 47 "On Some Issues of State Environmental Impact

Assessment, Environmental Impact Assessment and Strategic Environmental Assessment" (hereinafter – Resolution No. 47), which approved the Regulation on the Procedure for Conducting State Environmental Expertise and the Regulation on the Procedure for Environmental Impact Assessment (hereinafter – the Regulation on the EIA).

Amendments and additions have been made to Decree on Criteria for Categorizing Economic and Other Activities that Have an Adverse Environmental Impact as "Environmentally Hazardous Activities" of the President of the Republic of Belarus of 24 June 2008 No. 349; entered into force on 12 February 2016.

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

Article 7 of Law No. 399-Z contains a list of objects for which the EIA is carried out. The specified list of objects has been brought in accordance with Annex I to the Aarhus Convention.

The activities mentioned in Annex I to the Aarhus Convention and not listed in Article 7 of Law No. 399-Z are subject to the EIA in accordance with sub-paragraphs 1.1 or 1.2 paragraph 1 of Article 7 (the dimensions of the sanitary protection zones are established in accordance with Annex 1 to the specific sanitary and epidemiological requirements for the establishment of sanitary protection zones for objects that are objects of impact on human health and the environment to the Resolution of the Council of Ministers "On Approval of Specific Sanitary and Epidemiological Requirements" of 11 December 2019 No. 847).

According to Article 15-2 of the Law on Environmental Protection, the procedures provided for in Article 6 of the Aarhus Convention are applied in relation to:

(1) EIA reports;

(2) certain types of environmentally significant decisions – decisions on the issuance of a permit for the removal of flora objects in populated points, permits for the transplantation of flora objects in populated areas in cases stipulated by the legislation on the protection and use of flora.

In addition, certain elements of the procedure provided for in Article 6 of the Aarhus Convention are also enshrined in decisions:

(3) on the issuance of integrated environmental permits (hereinafter – the IEP) in accordance with paragraph 7 of the Resolution of the Council of Ministers "On Approval of the Regulation on the Procedure for Issuing Integrated Environmental Permits" of 12 December 2011 No. 1677 as amended on 9 March 2020.

Also, the parts of the procedure provided for in Article 6 of the Aarhus Convention are used when adopting:



(4) decisions of local Councils of Deputies, local executive and administrative bodies on the planning and development of inhabited areas, housing construction in accordance with Article 4 of the Law on Architecture.

In 2016, Resolution No. 458 was adopted. The resolution enshrines legal provisions for public participation in making environmentally significant decisions, in public discussion of the EIA reports.

In 2020, the Council of Ministers adopted Resolution No. 571 of 30 September 2020, which includes adjustments to Resolution No. 458 and Resolution of the Council of Ministers "On Approval of the Regulation on the Procedure for Conducting Public Environmental Expertise" No. 1592:

a) The possibility of attracting participation in public discussions not only of requesters, but also of the design organization is established in order to increase the efficiency and the quality of the informing the public on public discussions related to the EIA reports, in subparagraph 4.5 of paragraph 4 of the Regulation on the Procedure for Organizing and Conducting Public Discussions of Draft Environmentally Significant Decisions, Reports on Environmental Impact Assessment, Taking into Account Environmentally Significant Decisions (hereinafter – the Regulation on Public Discussions).

b) The Regulation on Public Discussions is supplemented with subparagraph 43.1 of paragraph 43 and paragraph 431 on preliminary informing citizens and legal entities on the planned implementation of economic and other activities on the territory of this administrative-territorial unit and the procedure for its implementation;

c) The Regulation on Public Discussions defines specific terms for posting documentation and information obtained in the course of public discussions on the Internet, and also specifies its list in order to timely bring to the public full and reliable information on the results of public discussions of the EIA reports and the decisions made.

Paragraph 54 of the Regulation on Public Discussions introduces a legal provision obliging the requester (within 15 working days after receiving the conclusion of the state ecological expertise) to inform the relevant local Councils of Deputies, local executive and administrative bodies on the decision made based on the results of the state ecological expertise and on where to find the conclusion of the state ecological expertise. Local Councils of Deputies, local executive and administrative bodies post the specified information on the final decision of the state ecological expertise on their official website on the Internet in the section "Public Discussions".

d) The Regulation on Public Discussions specifies the location of documents and other information obtained in the course of public discussions on the EIA reports on the Internet. Due to the fact that, in practice, local Councils of Deputies do not have their own official websites on the Internet, the Regulation on Public Discussions establishes a regulation that provides for the placement of documents and other information obtained in the course of public discussions on the official websites of local executive and administrative bodies.

e) The regulation on the need to re-organize public discussions of the relevant documentation was established in order to resolve the situation in which new public consultations are required in cases when the organizer of the public discussion or other state body found violations of the procedure for their conduct: "7-1. If the organizers of public discussions and (or) state bodies find violations of the procedure for their conduct, public discussions of draft environmentally significant decisions, environmental reports on the SEA, the EIA reports are conducted anew in the manner prescribed by this Regulation".

f) To ensure free access to information and documents obtained in the course of public discussions, taking into account the practice and proposals of the public, the decree establishes the terms and conditions for storing this information and documents on the official websites of their organizers on the Internet in the "Public Discussions" section.

g) It is also envisaged to place reference information on the procedure for organizing and conducting public discussions of drafts of environmentally significant decisions, the EIA reports, collecting received information on environmentally significant decisions determined by legislation in the section "Public Discussions" for the purpose of informing citizens.

h) The organizers of public discussions are obliged to provide the answers to the questions raised in the minutes of the meeting, then publish it on the Internet.

i) The terms of publication of the notice of public discussions of the EIA report and other are being clarified taking into account the practice of application.

j) It clarifies the definition of "public ecological expertise" and its objects: "urban planning projects, as well as changes and (or) additions to them, as well as pre-design (pre-investment), project documentation for the construction, reconstruction of objects for which environmental impact assessment is conducted". These additions will allow to ensure the elimination of legal uncertainty and to fully implement the right of citizens and legal entities to conduct public ecological expertise during public discussions of urban planning projects and the EIA reports.

k) Other legal provisions are being established aimed at improving the legislation in the field of public discussions.

The preparation and distribution of information materials, written explanations on the organization and conduction of public discussions of projects of environmentally significant decisions, environmental reports on strategic environmental assessment, reports on environmental impact assessment are carried out taking into account the developed legislative changes.

#### Article 6, paragraph 1

The Law of the Republic of Belarus of 15 July 2019 No. 218-Z "On Amendments to the Law of the Republic of Belarus "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" was adopted, in which:

a) It was established that the state ecological expertise implies, among other things, the establishment of the compliance of design solutions contained in the pre-project (pre-investment) documentation, urban planning projects – also with the regulations for urban development and use

of territories. This right is vested in citizens and legal entities during the conduction of public ecological expertise. In addition, the changes will fully allow the public to exercise the right to conduct public ecological expertise during public discussions of urban planning projects.

b) It was established that requesters in the field of state ecological expertise are obliged to provide citizens and legal entities with the opportunity to familiarize themselves with the conclusion of the state environmental impact assessment.

Resolution of the Council of Ministers of 9 March 2020 No. 141 "On Amendments to the Resolutions of the Council of Ministers of the Republic of Belarus of December 2011 No. 1677 and of 17 February 2012 No. 156" amended the Regulation on the Procedure for Issuing Integrated Environmental Permits, providing for the following innovations:

a) From 10 working days to 5 five calendar days – is the period during which the permit issuing authority from the date of registration of the application places on its official website on the Internet the public notice submitted by the user of nature and the application has been reduced.

The procedure for submitting proposals and comments of citizens and legal entities on notification and application to the permit issuing authority has been determined: in electronic form within 25 calendar days from the date of posting the documents specified in part one of this paragraph.

It was determined that, based on the results of consideration of proposals and (or) comments, the permit issuing authority prepares a summary of reviews, including the received proposals and (or) comments and the results of their consideration, kept together with the documents submitted by the natural resource user to obtain an integrated environmental permit.

b) When making a decision to issue an integrated environmental permit, proposals and (or) comments are taken into account.

c) The decision is made to refuse to issue an integrated environmental permit if there are reasoned and well-grounded proposals and (or) comments that prevent the issuance of an integrated environmental permit. Information on the refusal to issue is posted on the Internet within 10 calendar days.

d) The permit issuing authority shall post information on a natural resource user whose integrated environmental permit has been terminated on its official website on the Internet.

e) An administrative decision made by the authority issuing an integrated environmental permit in accordance with the procedure provided for in Articles 30-34 of the Law on the Basis of Administrative Procedures of the Republic of Belarus.

Resolution of the Council of Ministers of 22 April 2019 No. 256 "On Amendments to the Resolution of the Council of Ministers of the Republic of Belarus of 1 June 2011 No. 687" amended the Regulation on the Procedure for Conducting Public Discussions in the field of Architectural, Urban Planning and Construction Activities, approved by the Resolution of the Council of Ministers of 1 June 2011 № 687 "On Some Measures to Implement the Law of the Republic of Belarus "On Amendments and Additions to Some Laws of the Republic of Belarus on

Architectural, Urban Planning and Construction Activities", containing provisions aimed at improving legislation in the field of public discussions.

Law of the Republic of Belarus of 15 November 2018 No. 150-Z "On Specially Protected Natural Areas" was adopted and entered into force on 14 June 2019, which introduced Article 15, determining the participation of individuals and legal entities in public discussions of draft environmentally significant decisions related to protected areas and obtaining of information related to protected areas:

a) Individuals and legal entities have the right to participate in public discussions of projects of environmentally significant decisions related to protected areas, including drafts of the National Strategy for the Development of the Protected Area System, state programmes in the development of the protected area system, schemes for the rational placement of protected areas of republican importance, regional schemes for the rational placement of protected areas of local importance, PA management plans.

b) State bodies should consider the proposals of individuals and legal entities when making environmentally significant decisions regarding protected areas, including the National Strategy for the Development of the Protected Area System, state programmes in the field of development of the protected area system, a scheme for the rational placement of protected areas of republican importance, regional schemes for the rational placement of protected areas of local importance, PA management plans.

Individuals and legal entities have the right to request and receive from the relevant state bodies and other organizations complete, reliable and up-to-date publicly available information regarding the issues of announcement, operation, transformation, termination of functioning, protection and use of protected areas, in the manner prescribed by the legislation on environmental protection.

#### Article 6, paragraph 2

In addition to the laws mentioned in the comments to paragraph 1 of Article 6 above, the procedures for notifying the public regarding environmental decision-making in relation to Article 6 of the Aarhus Convention are also regulated in the Republic of Belarus by the following laws:

a) with regard to the EIA reports, decisions on the issuance of permits for the removal of flora objects, permits for the transplantation of flora objects – by Resolution No. 458;

b) with regard to the adoption of decisions of local Councils of Deputies, local executive and administrative bodies on planning and development of inhabited areas, housing construction – by the Resolution of the Council of Ministers of 1 June 2011 No. 687 as amended by 22 April 2019 No. 256 "On Some Measures to Implement the Law of the Republic of Belarus "On Amendments and Additions to Some Laws of the Republic of Belarus on Architectural, Urban Planning and Construction Activities" ("Regulations on the Procedure for Conducting Public Discussions in the Field of Architectural, Urban Planning and Construction Activities") (hereinafter – Resolution No. 687);

c) with regard to the adoption of decisions on the issuance of the IEP – by the Resolution of the Council of Ministers of 12 October 2011 No. 1677 as amended on 9 March 2020 "On Approval of the Regulation on the Procedure for Issuing Integrated Environmental Permits".

The form and content of the public notice of public discussions are set in the Annex (Ж) to the Technical Code of established practice of the TCP 17.02-08-2012 (02120) (hereinafter – the notification form), under Article 6 of the Aarhus Convention. The specified TCP 17.02-08-2012 is outdated and will be canceled after the adoption of the new one. In accordance with the order of the MNREP of 4 February 2019 No. 47-OD, the Plan of Technical Regulation and Standardization in the Field of Environmental Protection for 2019 was implemented, according to which the draft Environmental Provisions and Regulations "Rules for Conducting Environmental Impact Assessment". In accordance with the Plan of Technical Regulation and Standardization in the Field of Environmental Protection for 2020, approved by order of the MNREP No. 32-OD of 16 February 2020, Environmental Provisions and Rules will be approved by the MNREP in 2021.

The form and content of the notice of public discussions are set in Annex A in Environmental Provisions and Rules, which has been brought in line with the Regulations on Public Discussions.

Article 6, paragraphs 3, 4

See comments above.

Article 6, paragraph 6

The following deadlines have been set for public discussion of environmental decisions and the EIA reports:

For the EIA reports – at least 30 days (paragraph 5 of Decree No. 458);

For the draft decision on the issuance of a permission to remove flora objects – within 10 calendar days from the date of receipt of an opinion from the authorized organization (paragraph 7 of the Regulations on the Procedure for Issuing Permits for the Removal of Flora Objects and Permits for Transplanting Flora Objects, approved by the Resolution of the Council of Ministers of 25 October 2011 No. 1426 as amended by the Resolution of 26 April 2019);

For the draft decision of local Councils of Deputies, local executive and administrative bodies on planning and development of inhabited areas, housing construction – the period for public discussion is 25 calendar days, including the period of the exposition (exhibition) of the project – 15 calendar days, presentation – 1 calendar day (paragraph 9 of Resolution No. 687);

For the decision to issue an IEP – 25 calendar days to discuss the notification of a natural resource user interested in obtaining an IEP (paragraph 7 of Resolution No. 1677).

Article 6, paragraph 7

Article 61 of the Environmental Protection Act makes provision for a particular form of public participation – public ecological review, organized and conducted in accordance with Council of Ministers' Resolution No. 1592 of 29 October 2010, on the initiative of public associations and

citizens, by independent experts, who are entitled to receive documentation from the project owner, including materials on the EIA and other economic activities.

In accordance with paragraph 18 of the Regulation on the Procedure for Conducting Public Ecological Expertise, approved by Resolution No. 1592, in the presence of comments, suggestions and recommendations on the planned activities contained in the conclusion of the public ecological expertise, the requester prepares a reasoned response to all comments, taking into account, if necessary, the results and conclusions public ecological expertise when finalizing project documentation before submitting it for state ecological expertise.

Article 6, paragraphs 8,10

Paragraph 7 was supplemented with subparagraph 7.71 with the following content (by the Resolution of the Council of Ministers of 11 November 2019 No. 754 in the EIA Regulations) in order to develop the institution of public discussions, to properly take into account public discussions and to inform on any changes:

"7.71. conducting public discussions of the revised EIA report".

Since the date of entry into force of these amendments to the EIA Regulations (17 November 2019), in connection with the procedural violations revealed during the consideration of the submitted documentation during the public discussions of the EIA reports, 23 administrative decisions were made to refuse to accept the application of the interested person for issuing the conclusion of the state ecological expertise.

The procedure for making changes and (or) additions to the approved urban planning projects is established by Article 6 of the requirements of the Law of the Republic of Belarus "On Architectural, Urban Planning and Construction Activities in the Republic of Belarus" of 5 May 2004 No. 300-Z. When making changes and (or) additions to the approved urban planning projects, the procedure of public discussions is mandatory in accordance with the requirements of the legislation of the Republic of Belarus.

Article 6, paragraph 11

The Law on the Safety of GMOs as the basic principle of ensuring the safety of genetic engineering activities calls "access to information in the field of safety of genetic engineering activities" (Article 3). Some provisions on public awareness are enshrined, in particular, in Article 21 of the Law on the Safety of GMOs:

during the assessment of risks of GMOs, materials containing information on GMOs, as well as measures to prevent possible harmful effects of GMOs on human health and the environment, for discussion by legal entities and individuals should be posted by the state scientific institution "Institute of Genetics and Cytology of the National Academy of Sciences of Belarus", appointed as the National Biosafety Coordination Center, on its official website on the Internet;

legal entities and individuals, within 60 days from the date of posting this information on the official website of the National Biosafety Coordination Center, can familiarize themselves with it and send their comments and suggestions to the National Biosafety Coordination Center, which,

after the specified period, summarizes the comments and suggestions received and within 10 days sends them to the MNREP for consideration at the meeting of the expert council when making recommendations on the admissibility (inadmissibility) of the release of GMOs into the environment for testing or use for economic purposes. Comments and suggestions received by the National Coordination Center for Biosafety from legal entities and individuals are considered at a meeting of the expert council;

the recommendations adopted following the meeting of the expert council on the admissibility (inadmissibility) of the release of GMOs into the environment for testing or use for economic purposes are taken into account when making a decision: the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus – on the issuance (non-issue) of a permit for the release of non-pathogenic GMOs into the environment for testing; the Ministry of Agriculture and Food of the Republic of Belarus – on the issue (non-issue) of a certificate of state registration of varieties of genetically engineered plants, breeds of genetically engineered animals and strains of non-pathogenic genetically engineered microorganisms.

Mentioned provisions of the Law on the Safety of GMOs are detailed in other acts of legislation: in the Resolution of the Council of Ministers of 12 June 2019 No. 382 "On Risk Assessment in Genetic Engineering Activities and Issuance of a Permit" (with Regulations on the Procedure for Assessing the Risks of Possible Harmful Effects of Genetically Engineered Organisms on Human Health and the Environment, Regulations on the Procedure and Conditions for Issuing Permits on the Release of Non-Pathogenic Genetically Engineered Organisms into the Environment for Testing).

It should also be noted that, in accordance with Article 22 of the Law on the Safety of GMOs, within the framework of information support in the field of safety of genetic engineering activities, a data bank on GMOs is being formed, the provision of information on the safety of genetic engineering activities to legal entities and individuals is guaranteed, including information contained in the data bank on GMOs. The following information is usually sent to the data bank on GMOs:

permits for the release of non-pathogenic GMOs into the environment for testing,

certificates of state registration of varieties of genetically engineered plants, breeds of genetically engineered animals and strains of non-pathogenic genetically engineered microorganisms, etc.

Resolution of the Council of Ministers of 15 September 2006 No. 1222 "On Approval of the Regulation on the Procedure and Conditions for Providing Information to Legal Entities and Individuals from the Data Bank on Genetically Engineered Organisms" approved the Regulation on the Procedure and Conditions for Providing Information from the Data Bank on GMOs, according to which the state scientific institution "The Institute of Genetics and Cytology of the National Academy of Sciences of Belarus" provides legal entities and individuals with complete, timely and reliable information in the field of safety of genetic engineering activities from the data bank by posting it on the website [www.biosafety.by](http://www.biosafety.by) on the Internet and (or) on paper.

Information from the data bank is provided to legal entities and individuals, including biosafety coordination centers of other countries, international organizations, foreign legal entities and foreign citizens free of charge or for a fee. Information posted on the website [www.biosafety.by](http://www.biosafety.by) on the Internet is provided free of charge.

## 2. Obstacles encountered in the implementation of article 6.

At present, in accordance with paragraph 4 of Article 15 of Law No. 399-Z "the conclusion of the state ecological expertise is recognized for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context, signed in Espoo on 25 February 1991, as a final decision on the planned economic and other activities in terms of the permissible impact of such activities on the environment and the use of natural resources for the implementation of such activities".

The issue of determining the "final decision" requires further elaboration in the framework of the preparation of the Draft Law on Environmental Protection.

According to the public, among the problems of law enforcement practice encountered in organizing and conducting public discussions of the EIA reports, one can name the organization of public meetings on weekdays during working hours. The legislation currently does not contain requirements regarding the time of an assembly.

## 3. Further information on the practical application of the provisions of article 6.

The practice of conducting a procedure for discussing the EIA documentation of a proposed activity with the public has grown significantly in the Republic of Belarus.

On the website of the Aarhus Center of the Republic of Bashkortostan, a section "EIA" has been created, in which the EIA materials are published; in the "News" section there is information on upcoming discussions with the public on the EIA materials of the planned activity.

## 4. Website addresses relevant to the implementation of article 6.

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

[https://minpriroda.gov.by/ru/new\\_url\\_765789152-ru/](https://minpriroda.gov.by/ru/new_url_765789152-ru/) – Information on objects of environmental impact assessment, planned for construction on the territory of the Republic of Belarus

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

Public discussions on local government websites:

<http://www.berezino.minsk-region.gov.by/ru/component/k2/item/147-obschestvennye-obsuzhdeniya.html>

<http://www.borisov.minsk-region.by/obshchestvennye-obsuzhdeniya>

<http://vileyka.gov.by/stroitelstvo-i-zhkh/arkhitektura-i-stroitelstvo/obshchestvennye-obsuzhdeniya>



<http://www.volozhin.gov.by/ru/obshchestvennye-obsuzhdeniya>  
<http://www.dzerzhinsk.gov.by/obshchestvennye-obsuzhdeniya>  
<http://www.kletsk.gov.by/ru/obsch-obsuzhd>  
<http://www.kopyl.gov.by/ru/obshchestvennoe-obsuzhdenie>  
<http://krupki.gov.by/ru/obshchestvennye-obsuzhdeniya>  
<http://www.logoyisk.gov.by/obshchestvennye-obsuzhdeniya>  
[http://www.lyuban.minsk-region.by/ru/obsch\\_obs/](http://www.lyuban.minsk-region.by/ru/obsch_obs/)  
<http://mrik.gov.by/obshchestvennye-obsuzhdeniya>  
<http://molodechno.minsk-region.by/arkhitektura-i-stroitelstvo/obshchestvennye-obsuzhdeniya>  
<http://myadel.minsk-region.by/ru/obsujd-ru/>  
<http://www.nesvizh.gov.by/ru/zhitelyam/obshchestvennye-obsuzhdeniya.html>  
<http://pukhovichi.minsk-region.by/ru/obshchestvennoe-obsuzhdenie.html>  
<http://slutsk.minsk-region.by/ru/naseleniyu-rajona/obshchestvennye-obsuzhdeniya>  
<http://smolevichi.minsk-region.by/ru/aktualnaya-informatsiya/item/1763-uvdomlenie-ob-obshchestvennykh-obsuzhdeniyakh.html>  
[http://www.soligorsk.gov.by/ru/obsch\\_obsuzhd/](http://www.soligorsk.gov.by/ru/obsch_obsuzhd/)  
[http://www.staryedorogi.minsk-region.by/ru/new\\_url\\_2130006676-ru/](http://www.staryedorogi.minsk-region.by/ru/new_url_2130006676-ru/)  
<http://stolbtsy.gov.by/obshchestvennye-obsuzhdeniya>  
[http://www.uzda.gov.by/special/ru/actual\\_ru/view/obschestvennoe-obsuzhdenie-12512/](http://www.uzda.gov.by/special/ru/actual_ru/view/obschestvennoe-obsuzhdenie-12512/)  
<http://www.cherven.gov.by/ru/perepis-naseleniya-respubliki-belarus>  
<http://www.zhodino.minsk-region.by/obshchestvennye-obsuzhdeniya-main>  
<https://city-brest.gov.by/ru/ob-obsyjd-ru/>  
<http://www.baranovichy.by/ru/obschestv-obsujdeniya-banner-left>  
<http://pinsk.gov.by/about/banner/publicdiscussions.php>  
[http://baranovichy.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=736&Itemid=2736&lang=ru](http://baranovichy.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=736&Itemid=2736&lang=ru)  
[http://berezha.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=759&Itemid=2756&lang=ru](http://berezha.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=759&Itemid=2756&lang=ru)

[http://brest.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=1392&Itemid=3521&lang=ru](http://brest.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=1392&Itemid=3521&lang=ru)

[http://gantsevichi.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=752&Itemid=2754&lang=ru](http://gantsevichi.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=752&Itemid=2754&lang=ru)

[http://drogichin.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=732&Itemid=2733&lang=ru](http://drogichin.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=732&Itemid=2733&lang=ru)

[http://zhabinka.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=760&Itemid=2757&lang=ru](http://zhabinka.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=760&Itemid=2757&lang=ru)

[http://ivanovo.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=1030&Itemid=2752&lang=ru](http://ivanovo.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=1030&Itemid=2752&lang=ru)

[http://ivacevichi.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=131&Itemid=91&lang=ru](http://ivacevichi.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=131&Itemid=91&lang=ru)

[http://kamenec.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=731&Itemid=2732&lang=ru](http://kamenec.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=731&Itemid=2732&lang=ru)

[http://kobrin.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=748&Itemid=2751&lang=ru](http://kobrin.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=748&Itemid=2751&lang=ru)

[http://luninets.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=806&Itemid=2800&lang=ru](http://luninets.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=806&Itemid=2800&lang=ru)

[http://liahovichi.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=758&Itemid=2755&lang=ru](http://liahovichi.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=758&Itemid=2755&lang=ru)

[http://malorita.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=767&Itemid=2761&lang=ru](http://malorita.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=767&Itemid=2761&lang=ru)

[http://pinsk.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=765&Itemid=2760&lang=ru](http://pinsk.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=765&Itemid=2760&lang=ru)

[http://pruzhany.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=751&Itemid=2753&lang=ru](http://pruzhany.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=751&Itemid=2753&lang=ru)

[http://stolin.brest-region.gov.by/index.php?option=com\\_content&view=category&layout=blog&id=807&Itemid=2802&lang=ru](http://stolin.brest-region.gov.by/index.php?option=com_content&view=category&layout=blog&id=807&Itemid=2802&lang=ru)

<http://gomelisp.gov.by/public-discussions/>

<http://zhitkovichi.gov.by/ru/obsuzhdenie>

<http://lelchitsy.gov.by/ru/oo//>

<http://yelsk.gov.by/ru/obsuzhdeniya//>

<http://narovlya.gov.by/ru/1obs/>

<http://bragin.gomel-region.by/ru/obobs>

<http://www.loev.gomel-region.by/ru/obob/>

<http://www.petrikov.gomel-region.by/ru/o-o/>

[http://www.mozyrisp.gov.by/ru/ob\\_obsuzdenia/](http://www.mozyrisp.gov.by/ru/ob_obsuzdenia/)

[http://hoiniki.gov.by/ru/aktinf\\_ru/view/obschestvennoe-obsuzhdenie-sxemy-razmeschenija-objekta-stroitelstvo-mtf-v-ksup-sudkovo-xojnikskogo-rajona-15807/](http://hoiniki.gov.by/ru/aktinf_ru/view/obschestvennoe-obsuzhdenie-sxemy-razmeschenija-objekta-stroitelstvo-mtf-v-ksup-sudkovo-xojnikskogo-rajona-15807/)

<http://www.oktiabrskiy.gomel-region.by/ru/obobs/>

<http://kalinkovichi.gomel-region.by/ru/obshestvennieobsyzdeniya//>

[http://www.mozyrisp.gov.by/ru/ob\\_obsuzdenia/](http://www.mozyrisp.gov.by/ru/ob_obsuzdenia/)

[http://rechitsa.gov.by/info\\_obsugdenie/](http://rechitsa.gov.by/info_obsugdenie/)

<http://svetlogorsk.by/ru/pages/gov/struktura-rik/otdel-arhitektury/public/>

<http://www.gisp.gov.by/index.php/9-uncategorised/773-obshchestvennoe-obsuzhdenie>

<http://rogachev.gov.by/ru/obsuzhdeniya//>

[http://www.korma.gov.by/ru/ob\\_sud/](http://www.korma.gov.by/ru/ob_sud/)

<http://chechersk.gov.by/ru/obsuzhdeniya>

<http://buda-koshelevo.gomel-region.by/ru/obsuzhdeniya//>

<http://vetka.gomel-region.by/ru/obsuzhdeniya/>

<http://dobrush.gov.by/ru/obsh-obsuzhd-dob>

<http://volkovysk.grodno-region.by/ru/obschestvennye-slushaniya-ru/>

<http://voronovo.grodno-region.by/ru/obschestvennye-slushaniya-ru/>  
<http://grodnorik.gov.by/ru/slushaniya/>  
<http://dyatlovo.grodno-region.by/ru/obsh-slush-ru/>  
<http://zelva.grodno-region.by/ru/obsuzhdenieru/>  
<http://ivje.gov.by/ru/obschestvennye-slushaniya-ru/>  
<http://schuchin.grodno-region.by/ru/slushaniya/>  
<http://ostroverts.grodno-region.by/ru/ob-ob-ru/>  
[http://svislach.grodno-region.by/ru/public\\_discussion-ru/](http://svislach.grodno-region.by/ru/public_discussion-ru/)  
[http://smorgon.grodno-region.by/ru/mnenie\\_social-ru/](http://smorgon.grodno-region.by/ru/mnenie_social-ru/)  
[http://berestovitsa.gov.by/ru/public\\_discussion-ru/](http://berestovitsa.gov.by/ru/public_discussion-ru/)  
<http://korelichy.gov.by/ru/obschestvennye-obsuzhdeniya-ru/>  
<http://www.lida.gov.by/ru/obschestvennye-slushaniya-ru/>  
[http://mosty.grodno-region.by/ru/society\\_discuss-ru/](http://mosty.grodno-region.by/ru/society_discuss-ru/)  
<http://novogrudok.grodno-region.by/ru/obs-ru/>  
<http://oshmiany.gov.by/ru/obshchestvennye-obsuzhdeniya/>  
<http://slonim.grodno-region.by/ru/obschestvennye-slushaniya-ru/>  
<http://glusk.gov.by/region/obobs>  
<http://bobruisk-rik.gov.by/index.php/obs>  
<http://osipovichy.gov.by/ru/Obsuzhdeniya-ru/>  
<http://kirovsk.gov.by/obshchestvennye-obsuzhdeniya>  
<http://klichev.gov.by/community-discussions/>  
<http://bykhov.gov.by/obsuzhd>  
<http://belynichy.gov.by/public-discussions/>  
<http://www.krugloe.mogilev-region.by/ru/ob-obsuzhd-ru>  
<http://shklov.mogilev-region.by/ru/ob-obsuzhd/>  
<http://mogilev-rik.gov.by/ru/obsch-obsuzhdenie/>  
<http://chausy.gov.by/anketa-korrupt>  
<http://gorki.gov.by/obshchestvennoe-obsuzhdenie>

<http://dribin.gov.by/obs>

<http://mstislavl.mogilev-region.by/ru/obsuzhdaem-vmeste/>

[http://mstislavl.mogilev-region.by/ru/aktualn\\_inf-ru/view/27-9606-2018/](http://mstislavl.mogilev-region.by/ru/aktualn_inf-ru/view/27-9606-2018/)

<http://slavgorod.gov.by/aktualno/ob-obsuzhd>

<http://krasnopolie.gov.by/index.php/obsuzhd>

<http://cherikov.gov.by/news/aktualno/item/319-uvedomlenie-o-provedenii-obshchestvennogo-obsuzhdeniya-v-forme-informirovaniya-fizicheskikh-i-yuridicheskikh-lits-i-analiza-obshchestvennogo-mneniya>

<http://krichev.gov.by/obsuzhdaem-vmeste>

<http://klimovichy.gov.by/ekonomika/stroi-zchkh/itemlist/category/305-mnenie>

<http://kostukovichy.gov.by/obsuzhd>

<http://khotimsk.gov.by/obsuzhdaem-vmeste>

<http://beshenkovichi.vitebsk-region.gov.by/ru/izveschenie/>

<http://braslav.vitebsk-region.gov.by/ru/obsch/>

<http://vitebsk.vitebsk-region.gov.by/ru/obshchestvennye-obsuzhdeniya-i-izuchenie-mneniya-grazhdan>

<http://verkhnedvinsk.vitebsk-region.gov.by/ru/obschestvennoe-obs/>

<http://glubokoe.vitebsk-region.gov.by/ru/oob-ru/>

<http://gorodok.vitebsk-region.gov.by/ru/obshchest-ru/>

[http://dokshitsy.vitebsk-region.gov.by/ru/obschestvennoe\\_obs/](http://dokshitsy.vitebsk-region.gov.by/ru/obschestvennoe_obs/)

<http://dubrovno.vitebsk-region.gov.by/ru/oo-ru/>

<http://lepel.vitebsk-region.gov.by/ru/obsuzhdeniya/>

<http://www.liozno.vitebsk-region.gov.by/ru/region1/view/obschestvennoe-obsuzhdenie-proekta-mikrorajona-usadbenoj-zastrojki-sujkovo-nachalos-v-vitebske-5643/>

[http://miory.vitebsk-region.gov.by/ru/obschestv\\_obsuzhdeniya/](http://miory.vitebsk-region.gov.by/ru/obschestv_obsuzhdeniya/)

<http://orsha.vitebsk-region.gov.by/ru/obsch-obsuzhdeniya/>

<http://polotsk.vitebsk-region.gov.by/index.php/ru/component/content/Article/2-uncategorised/1706-obshchestvennoe-obsuzhdenie>

<http://postavy.vitebsk-region.gov.by/ru/obschestvennye-obsuzhdeniya/>

<http://rossony.vitebsk-region.gov.by/ru/obsy zd/>

<http://senno.vitebsk-region.gov.by/ru/obshchko/>  
<http://tolochin.vitebsk-region.gov.by/ru/ob-obsuzhd//>  
<http://ushachi.vitebsk-region.gov.by/ru/obsuzhdeniya/>  
[http://chashniki.vitebsk-region.gov.by/ru/obschestvennye\\_obsuzhdeniya/](http://chashniki.vitebsk-region.gov.by/ru/obschestvennye_obsuzhdeniya/)  
<http://sharkovshchina.vitebsk-region.gov.by/ru/obsuzh/>  
<http://shumilino.vitebsk-region.gov.by/ru/izuchmnenie-ru/>

## Article 7

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

Article 15-2 of the Law on Environmental Protection, which regulates public participation in public discussions of programme documents, of the Law of the Republic of Belarus of 17 July 2017 No. 51-Z "On Amendments and Additions to Certain Laws of the Republic of Belarus" has been supplemented with a new object of public discussion – "regional complexes of events". In addition, in accordance with Law No. 399-Z, environmental reports on strategic environmental assessment (hereinafter – the SEA) are the object of public discussion.

Amendments and additions were also made to chapter 2, dedicated to the regulation of public discussions of draft policy documents, draft normative legal acts of Resolution No. 458, in particular:

paragraph 5 has been supplemented with a detailed regulation stating that a notice of public discussions of draft policy documents, draft normative legal acts, environmental reports on SEA is posted by the organizer on its official website on the Internet in the "Public Discussions" section no later than the beginning of public discussions;

in paragraph 7, it is noted that on the Internet in the section "Public Discussions", as well as in a place accessible to citizens and legal entities at the location of the organizer of public discussions, one can find information on the planned development of draft programme documents or draft normative legal acts, as well as environmental SEA reports;

in paragraph 8, additions were made to the effect that the procedure for public discussions of draft programme documents, draft normative legal acts includes, among other things, the accounting and analysis of comments and proposals received from citizens and legal entities on draft programme documents and the draft normative legal acts;

paragraph 12 states that the organization and conduct of public discussions of the draft program document or draft normative legal act include, among other things, the recording and analysis of comments and proposals received from citizens and legal entities, their acceptance or rejection;

paragraph 14 details the data on the content of the notice on the conduct of public discussions of the draft policy document and the draft normative legal act;

in paragraph 19, the deadline for holding a meeting is reduced to no earlier than 25 calendar days (previously the deadline was 30 days) from the date of the beginning of public discussions.

According to Article 15-2 of the Law on Environmental Protection, public discussions of individual programme documents – draft concepts, programmes, plans, schemes, regional complexes of measures in the field of architectural, urban planning and construction activities are carried out in the manner prescribed by the legislation on architectural, urban planning and construction activities.

In particular, Article 4 of the Law on Architecture provides that decisions of local Councils of Deputies, local executive and administrative bodies on planning and development of inhabited areas, housing are taken after public discussions.

Urban planning projects in accordance with the requirements of technical normative legal acts include the section "Environmental Protection". They are subject to public discussion in accordance with the requirements of the Law of the Republic of Belarus of 5 May 2004 No. 300-Z "On Architectural, Urban Planning and Construction Activities", Regulations on the Procedure for Conducting Public Discussions in the Field of Architectural (Resolution No. 687), Urban Planning and Construction Activities. For urban planning projects that are objects of the SEA, additional public discussions are held in accordance with the requirements of the Law No. 399-Z and the Resolution No. 458.

Amendments and additions introduced to the Resolution No. 687 on 22 April 2019, in particular:

paragraph 5 was supplemented with the regulations that if the organizers of the public discussion and (or) state bodies find violations of the procedure for holding a public discussion, it shall be repeated;

paragraph 6 fixed the regulations on the distribution of responsibilities of local executive and administrative bodies in the event of a public discussion in the territory of several administrative-territorial units (districts in the city);

paragraph 9 clarified the timing of the presentation (1 calendar day), the beginning of the exposition (exhibition) of the project (must coincide with the beginning date of the public discussion), it is established that the presentation of the project is carried out no earlier than the 3rd calendar day from the date of the beginning of the project public discussions;

paragraph 17 was excluded, according to which information on the approved project is posted on the official website of the local executive and administrative body on the Internet for a period of three months;

in chapters 2 and 3, objects of public discussion are detailed in the form of informing and analyzing public opinion (urban planning projects of general and special planning, as well as detailed planning, developed in an area free of development, and (or) in an area with buildings subject to demolition; architectural – planning concepts of construction objects (in the absence of detailed planning projects); and in the form of the commission's work (urban planning projects for detailed

planning of parts of inhabited areas (territorial zones, quarters, microdistricts, territories of proposed investment activity), etc.

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

Environmental policy of the Republic of Belarus is formed on the basis of the Constitution of the Republic of Belarus and the Law of the Republic of Belarus of 14 November 2005 № 60-Z "On Approval of the Main Directions of Domestic and Foreign Policy of the Republic of Belarus".

The specification of the policy regarding the environment and sustainable use of natural resources is carried out in state programmes, strategies, concepts, plans and other program documents, as well as legislative acts and other legal acts adopted on their basis. Accordingly, opportunities for public participation in the development of environmental policy are implemented through ensuring public participation in the adoption of policy documents (see the comments of the report to Article 7 of the Aarhus Convention) and in the adoption of binding regulations or laws and regulations (see the comments of the report to Article 8 of the Aarhus Convention) in the Republic of Belarus.

7. Obstacles encountered in the implementation of article 7.

In the opinion of a number of members of the public, there is a problem of interpretation of Article 15-2 by the Law on Environmental Protection in relation to the selection of policy documents subject to public discussion. The law uses the definition "concepts, programs, plans, schemes, regional complexes of measures, the implementation of which has an impact on the environment and (or) is associated with the use of natural resources"; it does not fully comply with Article 7 of the Aarhus Convention, which deals with plans, programmes related to the environment.

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

In order to increase the efficiency and effectiveness of public administration of urban areas, the project enterprise Belarusian Scientific Research Project Institute Urban Development, subordinated to the Ministry of Architecture and Construction, is introducing such a method of public participation as participatory planning; the work is carried out to involve the public in the design process from the very beginning of the development of an urban planning project during the development of the projects.

The enterprise conducts pre-project research using tools of preliminary questionnaires, information meetings and consultations with citizens in experimental mode, with the support of local executive and administrative authorities, in the development of urban planning documentation for a number of inhabited areas (Gomel, Ostrovets, Slonim, Krichev, Disna, Kolodischi, Ostroshitsky Gorodok, etc.). Currently, this type of work is being carried out as part of the development of urban planning projects for special planning of the cities of Mogilev and Brest.

In the course of developing urban planning projects for special planning – Schemes of Green Areas of Public Use, including for the cities of Gomel, Mogilev; the International Public Association of Ecologists actively supported the enterprise. The public association assisted in establishing



contacts with regional public organizations and local activists, disseminating information on the beginning of the development of an urban planning project, questionnaires, as well as conducting information and familiarization meetings and trainings. Similar cooperation is envisaged for Brest.

The partnership of the project developers, public organizations and residents of the city was used in the development of a special planning town-planning project "Schemes of Green Areas of Public Use of Zheleznodorozhny, Novobelitsky, Sovetsky and Central districts of the city of Gomel".

9. Website addresses relevant to the implementation of article 7.

[http://minpriroda.gov.by/ru/ob\\_obsuzd\\_ru/](http://minpriroda.gov.by/ru/ob_obsuzd_ru/) – MNREP

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

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

<http://part.gov.by/obshchestvennye-obsuzhdeniya> – Partizansky District Administration, Minsk

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

<http://www.irup.by/participation/> – Experience of Participatory Planning

## Article 8

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

Normative legal act is also an object of public discussion in accordance with Article 15-2 of the Law on Environmental Protection (in terms of provisions aimed at regulating relations in the field of the implementation of economic and other activities related to environmentally hazardous activities in accordance with the criteria determined by the President of the Republic of Belarus or a state body authorized by him).

As noted in the comments to Article 7 of the Convention above, a number of amendments were made to Resolution No. 458, including those concerning the organization of public discussions of the normative legal acts.

The Law on Normative Legal Acts defines the rules for public discussion of the normative legal acts.

Another legal subject with the right of legislative initiative, a legislative body (official) or a state body (organization) preparing a draft legal regulation (hereinafter – the organizer of public discussion), a draft legal regulation may be submitted (public or professional) discussion on the website "Legal Forum of Belarus" on the Internet, as well as through parliamentary hearings, in the media or in other ways that do not contradict the legislation (as it was established by the President of the Republic of Belarus). Information on the conduct of a public discussion of the draft normative legal act is posted on the National Legal Internet Portal of the Republic of Belarus and in the media and (or) in information resources posted on the Internet, determined by the

organizer of the public discussion, as well as on the official websites of state bodies (organizations) on the Internet.

The organizer of the public discussion ensures that the received comments and (or) proposals are considered.

The following are subject to public discussion:

draft legislative acts and resolutions of the Council of Ministers affecting the rights, freedoms and obligations of citizens and legal entities and establishing new or fundamentally changing existing approaches to the legal regulation of a certain area of public relations;

draft legislative acts that may have a significant impact on the conditions for carrying out entrepreneurial activity;

drafts of other acts of legislation on behalf of the President of the Republic of Belarus, the Council of Ministers, the Administration of the President of the Republic of Belarus, or at the initiative of the organizer of the public discussion.

It is stipulated that "legislative acts may provide for a public discussion of drafts of other legal acts and the specifics of the procedure for its implementation".

It was also established that the requirements for public discussion of normative legal acts do not apply to the draft normative legal acts in the following cases:

It was prepared in connection with the conclusion, execution, suspension or termination of international treaties, as well as related to the maintaining external relations;

Draft normative legal act regulates public relations in the field of defense and national security, protection of state secrets, military-technical cooperation, export control, licensing of activities related to specific goods (works, services), budgetary, currency legislation;

Draft normative legal acts on the establishment, introduction, change and termination of the republican taxes, fees (duties) and local taxes and fees;

Draft normative legal acts aimed at the implementation of the main directions of monetary policy;

Draft normative legal acts containing national secrets, as well as other information, the dissemination and (or) provision of which is limited;

The term of preparation of the draft normative legal act on behalf of the President of the Republic of Belarus, the Council of Ministers, the Administration of the President of the Republic of Belarus is less than 15 calendar days.

The term for public discussion of the draft normative legal acts is determined by the organizer of the public discussion, based on the specifics of regulated public relations; the term is at least 10 calendar days.

Information on the results of public discussion of the draft normative legal acts and consideration of the comments and (or) proposals received in this case is included in the justification for the need to adopt (issue) the normative legal act.

Based on this provision of the Law, the Resolution of the Council of Ministers of 28 January 2019 No. 56 "On Public Discussion of Draft Normative Legal Acts" was approved (together with the "Regulation on the Procedure for Public Discussion of Draft Normative Legal Acts").

11. Website addresses relevant to the implementation of article 8.

<http://minpriroda.gov.by/ru/obsuzhdaem/> – MNREP

<https://pravo.by/> – National Legal Internet Portal of the Republic of Belarus

## 6. Belgium

### Article 6

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

Federal authority: The legislation with regard to authorisations for activities in the North Sea, including the list of exceptions, is currently under revision.

Walloon Region:

(a) The decree of 11 March 1999 on the environment permit and the decree of 20 July 2016 on the Territorial Development Code (CoDT) which has replaced the former Code (called CWATUP) cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. The Environment Code (Book I, Part V) requires the implementation of impact assessments of certain projects on the environment before granting permits. In accordance with these texts, prior impact assessments are required for a series of activities that are liable to have significant environmental impacts. For the other activities the applicant must append an environmental impact assessment sheet (notice) to their permit applications.

These texts regulate the public information and participation procedures in these areas, including the matter of deadlines.

The public is defined in these decrees as follows: one or more natural or legal persons, as well as their associations, organizations, and groups.

The Environment Code (Book I, Part V) also provides for public participation when it comes to the environmental plans and programmes that are developed by the public authority. The decree of 31 May 2007 concerning public participation fully transposes the Directive 2003/35, in compliance with the Convention. This decree reorganise public participation for elaboration of certain plans and programmes relating to environment by harmonising and making uniform rules

and procedures applying to public enquiries. This ensures simplification and results in better regulation, simplification and transparency.

In addition, at the local level, municipal authorities have the possibility of setting up a Municipal Advisory Committee for Spatial Planning and Mobility (CCATM), which enables the inhabitants to be involved in the decisions of the municipality in matters of town / country planning. It issues opinions on the dossiers submitted to it by the council and the Municipal Council. It can also give opinions on initiatives on subjects it considers relevant. The CCATM's opinion is mandatory in a series of cases and procedures provided for by the CODT (e.g. the preparation of environmental impact reports and studies).

(b) When an impact assessment is required information meetings at the start of the process of conducting the impact assessment and a public inquiry as part of the environmental permit investigation are planned. Both the information meeting and the public enquiry must be announced in due time to the public.

(c) Fifteen-day deadline for submitting remarks after the information meeting that is part of the impact assessment. Thirty-day deadline for projects submitted to an Environmental Impact Assessment and fifteen-day deadline for other projects for submitting remarks after the request for a public inquiry has been submitted under the environmental permit procedure.

(d) See paragraphs (b) and (c).

(e) In the case of carrying out an impact assessment, the applicant must publish an announcement specifying the nature of the project at least fifteen days before the information meeting.

(f) Under the public inquiry the local administration that is in charge of issuing the permit must inform the residents and post an announcement that spells out the project consultation procedures.

(g) See (c).

(h) The decree of 11 March 1999 concerning the environmental permit includes an obligation to take into consideration the outcome of the public participation. The CWATUP organizes an administrative appeal procedure against permits granted or refused. Likewise, the Environment Code as amended by the Decree of 31.05.2007 provides that the outcome of a public participation process should duly be taken into account.

(i) The Book I of the Environment Code specifies the measures to take to publicize the decisions that are taken by the authority responsible for granting the permits.

(j) The same procedures apply for granting a new permit.

(k) See Federal report (<http://www.health.fgov.be>).

Brussels Capital-Region:

Paragraph 1:

- Brussels Town Planning Code (CoBAT) of 09/04/2004, art. 175/1 to 175/21

- Ord. of 22 April 1999 setting the list of installations classed as 1A (published in the Moniteur Belge of 5 August 1999).
- AGRBC of 4 March 1999 setting the list of installations classed as 1B, 2 and 3 (published in the Moniteur Belge of 7 August 1999).

Paragraphs 2, 3, 4, 5, 7, 8, 9, 10:

- Brussels Town Planning Code (CoBAT) of 09/04/2004, art. 175/1 to 175/21.\
- AGRB of 25 April 2019 relating to public consultation in matter of town planning and environment.

Paragraphs 2, 3, 4, 9:

- Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004).
- AGRB of 25 April 2019 regulating the form and the procedures for information and provision of decisions taken in urban planning permits by the college of mayors, the delegated official and the Government.

Flemish Region:

(a) Since 2018 there is one single licensing system that regroups various former licensing systems: the building permit, the environmental licence, the retail trade permit, and the permit to change vegetation. An environmental licence is required to operate or change hazardous installations, which list is more extensive than in Annex I of the Convention.

(b)+ (g) The information requirement within the participation procedure is regulated in the “public inquiry” procedures. The application is available for public inspection and is announced by posters. For some plants, all property owners living within a radius of a hundred metres are informed and the public inquiry is announced in the press. When an environmental impact report or a safety report is required, an information meeting is organised. Content of the publication: subject of the application, short description of the plant, the municipal authority services, the possibility to submit objections and remarks, place and time of the information meeting.

(c) The public consultation shall last at least thirty days. During this period the information is available for inspections and objections can be formulated.

(d) After the declaration of completion and admissibility of the environmental application, the public consultation will be held shortly (5 to 10 days).

(e) Currently, the Flemish environmental legislation does not contain an overall regulation regarding the contact between potential applicants and the public concerned. The notification phase of the environmental impact reporting process gives the initiator the chance to clarify the project objectives at an early stage.

(f) When an environmental impact report is required, it contains: a detailed description of the project, the main characteristics of the production processes, the probably significant environmental effects for man and environment and in another country, the intended measures to

avoid, restrict and possibly remedy major environmental effects, a prognosis of the expected emissions and residues, a draft of the main alternatives, and a non-technical summary.

(h) There is a general obligation to state reasons (Act of 29.07.81). Apart from this Act, specific obligations to state reasons exist.

(i) Articles 55 to 64 of the Order of 27/11/2015 regulate in detail the publication of decisions on applications for environmental licences.

(j) The procedure for an amendment or addition to the licence conditions is the same as for the initial application.

## 2. Further information on the practical application of the provisions of article 6.

Brussels Capital Region: Brussels Environment is developing several projects in parks in which the inhabitants are directly and mainly involved. For example, initiatives for the comanagement and co-development of parks with non-profit organisations, citizens, ... (<https://environnement.brussels/thematiques/espaces-verts-et-biodiversite/lesparcs-et-jardins/des-parks-made-for-their-0>) or temporary occupation of parks focused on promoting neighborhood social cohesion (<https://toestand.be/fr/projets/alleedukaai>).

## 3. Website addresses relevant to the implementation of article 6.

Federal authority: New websites referred to in the report:

- <http://www.actionradon.be> (information to the public on the risk of radon in Belgium);

- <http://www.cpnpc.be>. (the 'Comité du Programme national de gestion du combustible' has been set up in 2014 and is responsible for establishing a program for radioactive waste and spent fuel. It has been charged to actively communicate on its work to the public.).

<http://www.mumm.ac.be>

<http://fanc.fgov.be>

Walloon Region: <http://environnement.wallonie.be>

Brussels Capital-Region: [www.brusselsenvironment.be](http://www.brusselsenvironment.be)

Flemish Region: <http://navigator.emis.vito.be/> <http://www.omgevingsloket.be>

## Article 7

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

Federal authority: Thirteen public participations on programs related to the environment (e.g. on an integrated national climate and energy plan or persistent organic pollutants) have been organized in the period 2016-2020. Public consultations have also been organised with regard to programs submitted to strategic environmental assessment, e.g. with regard to the management of nuclear waste.

Walloon Region: The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority and affect the environment. The definition of “public” in this code is the one given in the Aarhus Convention. Article 54 of the Code sets up criteria regarding the impacts on the environment. If a plan is likely to have significant impacts on the environment, its author must append thereto an impact report. A public inquiry is organized, and the author is required to issue an environmental statement summing up how the environmental considerations and opinions submitted were integrated into the plan. See also answer under Art. 6.a (box XV). The CoDT contains a Book VIII entitled “public participation and assessment of the impact of plans and programmes” (art. DVIII.1 and following).

Brussels Capital-Region:

- General legislation: see Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004), art. 10 to 14.
- Thematic legislation: see o.a. Ord. of 14 June 2012 on waste, Ord. of 17 July 1997 on noise abatement in urban settings, Ord. of 1 March 2012 on nature conservation, Ord. of 20 June 2013 on use of pesticides, etc. Public inquiries are held during the preparation of each plan and program directed by Brussels Environment. Plans and programs adopted in Brussels Capital Region as well as relevant documents from the environmental evaluation are available on Brussels Environmental website: <https://environnement.brussels/guichet/plans-etprogrammes>.

Flemish Region: The Flemish environmental policy contains a wide range of plans and programmes relating to the environment at sectoral, compartmental or thematic level containing detailed provisions on participation.

The spatial policy planning and the spatial implementation planning involve similar forms of participation, whereby the early participation takes place and information provided and the subject of the spatial plan is subject to public consultation before final adoption.

For the determination of the provincial and municipal environmental planning and spatial plans, participation opportunities are the same as for the regional plans.

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

Federal authority & Flemish Region: The term “policy” is covered, at federal level, in the concept of plans and programmes (see above).

Walloon Region: Several advisory bodies have been created by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development, water policy and land use. These councils have been integrated into the Environment Department of the Economic, Social and Environmental Council of Wallonia (CESEW). These bodies are made up of representatives of business federations, trade unions, associations and NGOs.

Brussels Capital Region: See Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes, Art. 11 and 13.

#### 6. Obstacles encountered in the implementation of article 7.

Federal authority: The number of reactions to any public consultation varies greatly. Given the division of competences, federal plans and programmes are generally elaborated from a “meta-strategic” viewpoint. The direct impact on the daily life of citizens is hard to estimate and difficult to express, making it difficult to engage people. However, certain plans do receive a large number of reactions, which is sometimes due to mobilisation by stakeholders.

Walloon Region: One of the main challenges is to provide the public with the keys to understanding the debate and participating efficiently. There remain legal difficulties as regards Art. 7 of the Convention: 1) compatibility between the Walloon legislation (art. 57 §3 of Book I of the Environment Code) and the Strategic Environmental Assessment Directive (Directive 2001/42/EC), 2) interpretation of what is meant by plans and programs.

Brussels-Capital Region: Disparity of the legal texts (Ord. and implementing regulations for each public inquiry) makes the implementation of public inquiries more cumbersome and costly. This does not, however, constitute a real obstacle to the implementation of the article (for the public).

Flemish Region: The description “relating to the environment” does not ensure a sufficient or sound definition of the type of “plans and programmes” to which the Convention apply.

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

Walloon-Region: Several recent examples of public participation can be mentioned : The Walloon Plan of Waste- Resources (may-june2017), The National Energy Climate Plan (March-April 2017 and February-March 2018), public enquiry in relation with operation and acoustics of wind turbines (February-May 2020), or with river basin management plans (2018), prelude to the PARIS ("Action Programs on Rivers through an Integrated and Sector-based approach ") whose public enquiry will take place in 2021, etc.

Brussels Capital Region: Brussels Capital region organized a public inquiry for the modification of the Regional Town Planning Regulation from 14 March to 13 April 2019.

Flemish Region: A project creates a portal containing all information on public participation periods at regional level within the Environment policy area.

#### 8. Website addresses relevant to the implementation of article 7.

Federal authority: <http://www.aarhus.be> which features the public consultations on plans or programmes that are organised at federal and/or regional level. It is also possible to find former consultations that were organised.

Walloon Region: <http://environnement.wallonie.be>

For biodiversity: <http://biodiversite.wallonie.be>



For air quality and climate: <http://airclimat.wallonie.be> <https://energie.wallonie.be/fr/la-contribution-wallonne-au-plan-national-energieclimat-2030.html?IDC=6238&IDD=127763>

For wind turbines operation plan: <http://environnement.wallonie.be/planexploitation-eoliennes/>

Brussels-Capital Region: [www.brusselsenvironnement.be](http://www.brusselsenvironnement.be)  
<https://environnement.brussels/guichet/plans-et-programmes>

Flemish Region: [www.milieubeleidsplan.be](http://www.milieubeleidsplan.be)  
[www.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen](http://www.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen)

## Article 8

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

Federal authority: § unchanged in comparison with previous reporting: the Federal Council for Sustainable Development has published about 300 recommendations/advice.

Walloon Region: See Frame XX.

The Environment Code (Book I, Part V) provides for public participation in plans and programmes drawn up by the public authority (cf. wind turbine operating and acoustic plan) that have an impact on the environment. The same applies, in the CoDT, to plans and programmes adopted in the field of land use planning, and which are likely to have an impact on the environment. Art D.VIII.29 and following the Code.

Brussels Capital-Region: Public participation is guaranteed by representative organizations brought together in the Brussels Environment Council. See Brussels Decree of 15 March 1990 regulating the creation, functions and composition of the Environment Council for the Brussels Capital Region (published in the Moniteur Belge of 6 July 1990).

Decisions and agenda of the Brussels Government are made public on the Government's website.

Flemish Region: Draft regulations are submitted for advice to the MINA-council, the SERV and the Strategic Advisory Council Spatial Planning, mainly composed of social groups and experts. There is a similar regulation at provincial and municipal level. A consultation portal is now under construction. If the Flemish Government wishes to ensure public participation in the preparation, implementation, or evaluation of its policy, it shall inform the public at least via the consultation portal on the central website of the Government of Flanders. A public consultation period of 30 days is provided for the proposed adaptation of general and sectoral environmental conditions.

### 10. Further information on the practical application of the provisions of article 8.

Walloon Region: Public participation varies according to the citizen's interest in the subject under discussion, despite its technical nature.

Brussels Capital-Region: The opinions of the Environment Council are not binding on the public authorities, who must nevertheless justify any decision running counter to the Council's opinions.

These opinions are available on [www.cerbc.be](http://www.cerbc.be) in addition to the schedule and agendas of the Council's meetings. It has been deeply reorganized in 2020.

#### 11. Website addresses relevant to the implementation of article 8.

Federal authority: <http://www.frdo-cfdd.be>: website of the Federal Council for Sustainable Development

[www.developpementdurable.be/nl/icdo](http://www.developpementdurable.be/nl/icdo): website of the Interdepartmental Commission for Sustainable Development, which houses representatives from the federal and regional administrations responsible for sustainable development policy.

Brussels Capital-Region: [www.cerbc.be](http://www.cerbc.be)

Walloon Region:

Site DGARNE: <http://environnement.wallonie.be>

Site relatif à la stratégie wallonne de développement durable: développement durable

## 7. Bosnia and Herzegovina

### Article 6

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

The relevant definitions specified in Article 2 and anti-discrimination measures specified in Article 3, Paragraph 9 are listed in the response pertinent to Article 4.

Of relevance are the following:

- LoW FBiH; LoW RS; LoPW BD;
- Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and Out into Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 19/04 and 1/21),
- Rulebook on Projects Requiring Environmental Impact Assessment and Criteria to Determine the Implementation and Scope of Environmental Impact Assessment (Official Gazette of RS: 124/12), Rulebook on Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of RS: 124/12),
- Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of BD: No 30/06),
- Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),

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

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

In particular, describe the following:

With respect to Paragraph 1, measures undertaken to ensure that:

- (i) The provisions of Article 6 are applied with respect to decisions on whether to allow proposed activities listed in Annex I to the Convention;
  - a. Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
  - b. Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
  - c. Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
  - d. Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 19/04 and 1/21),
  - e. Rulebook on Projects Requiring Environmental Impact Assessment and Criteria to Determine the Implementation and Scope of Environmental Impact Assessment (Official Gazette of RS: 124/12),
  - f. Rulebook on Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of RS: 124/12),
  - g. Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of BD: No 30/06).

Under the provisions of national regulations, two procedures are in place for the purpose of approval of activities listed in Annex I of Aarhus Convention, specifically: environmental impact assessment and issuance of environmental permit. During the course of both procedures, relevant provisions of LoPE of FBiH/RS/BD apply, in addition to subsequent application of the applicable provisions of LoAP FBiH/RS/BD. The requirement pertinent to public participation in decision-making is mandated under the provisions of Article 40 of LoPE FBiH, Article 39 of LoPE RS and Article 35 of LoPE BD. The activities specified in Annex I of Aarhus Convention are also specified in the facilities and machinery rulebooks in effect in FBiH, RS and BD.

The activities specified in Annex I of Aarhus Convention are also specified in the facilities and machinery rulebooks in effect in Posavina Canton and approval for their implementation is given

by the relevant cantonal Ministry of Posavina Canton, which is also responsible for the procedure of issuance of environmental permits.

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

The units of local self-government in the RS are responsible for issuance of environmental permits for facilities and machinery under the threshold determined in the facilities and machinery Rulebook in effect in the RS, as well as activities and interventions not listed in the applicable Rulebook.

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

With regard to some activities, the criteria contained in the regulations specified above have been lowered in comparison with those specified under the provisions of Annex I of the Convention. Furthermore, Cantons and units of local self-government in the FBiH and the RS are responsible for issuance of environmental permits.

In the RS, environmental permits are issued for the facilities listed in Article 2 of the Rulebook.

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

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

In the RS, the public is informed by posting announcements in the daily press, submission of applications and documentation to units of local self-government and posting the information on submitted applications on the website of the RS MUPCEE. Units of local self-government inform the public by posting announcements on the website and on the bulletin board.

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

- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Law on Concessions of BiH (Official Gazette of BiH: 32/02, 56/04) (LoC BiH),
- Law on Concessions of FBiH (Official Gazette of FBiH: 40/02, 61/06) (LoC FBiH),
- Law on Waters of FBiH (Official Gazette of FBiH: 70/06) (LoW FBiH),
- Law on Waters of RS (Official Gazette of RS: 50/06, 92/09, 121/12 and 74/17) (LoW RS),
- Law on Protection of Waters of BD (Official Gazette of BD: 25/04, 1/05, 19/07) (LoPW BD),
- Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),
- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07),
- Law on Air Protection of FBiH (Official Gazette of FBiH: 33/03, 4/10) (LoAP FBiH),
- Law on Air Protection of BD (Official Gazette of BD: 25/04, 1/05, 19/07, 9/09) (LoAP BD).

Of relevance are the provisions of Article 40 of LoPE FBiH, Article 39 of LoPE RS and Article 35 of LoPE BD, which stipulate that upon initiation of the administrative procedure, the public would be informed of the proposed activities, bodies responsible for decision-making and course of the proceedings pertinent to public participation, time and place of public discussion, bodies responsible for provision of information as well as bodies responsible for answering to comments and questions. Of importance are also the provisions of articles 72 to 80 of LoPE FBiH, articles 56, 69-71, 88 and 89 of LoPE RS and articles 59 and 66 of LoPE BD. It is also important to note the provisions of articles 10 and 29 of LoPE FBiH, Article 12 of LoPE RS and articles 10 and 29 of LoPE BD.

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

According to the FMET, in line with the provisions of Article 70 of LoPE FBiH, Article 64 of the LoPE RS, the request for environmental impact assessment is submitted to the relevant ministry.

The relevant ministry presents the request with accompanying documentation to the relevant bodies and other interested parties for comments and suggestions. In line with the amendments to the LoPE RS, any interested public is participating in the procedure of environment impact assessment, because both the application and the data for environment impact assessment are posted on the website of the RS MUPCEE.

In the process of development and adoption of necessary regulations of relevance to environment protection, the FEF cooperates with the FMET, as well as with other ministries in the FBiH Government. Promotion of public participation in the law-making process is outside the scope of competence of the FEF.

In the RS, under the provisions of Article 64 of LoPE RS, the procedure of environmental impact assessment is initiated upon submission of the request.

Descriptions are provided using technical language, and should include narrative, numerical and visual data, while the non-technical description is provided using non-technical language, suitable for the purpose of informing the relevant bodies, organisations and the public. General and interested public is informed of applications submitted via the website of the RS MUPCEE.

Article 3, Item 8 of the Law on Spatial Planning and Use of Land at the level of the Federation of Bosnia and Herzegovina stipulates that spatial planning shall be based on the principle of transparency and free access to data and documents of importance to planning, in accordance with the Law and special regulations in effect.

Article 7 of the Decree on Methodology of Development of Planning Documents stipulates that public participation is necessary in all stages of development of planning documents, at all levels of spatial planning. Paragraph 4 of the same Article defines that the Programme of Public Participation specifies methods of public participation (public rallies, round table discussions, public debates and other forms of public participation) in all stages of development of planning documents.

Article 56 of the Law on Spatial Planning and Use of Land at the level of the Federation of Bosnia and Herzegovina stipulates that prior to issuance of construction permits the Ministry is responsible to enable the parties to the proceedings to see project documentation.

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

In the FBiH, the public is informed of an upcoming public discussion 15 days prior to the date of the public discussion, which enables the public to submit suggestions and comments to the relevant Ministry within 30 days of the announcement of the public discussion (articles 61 and 62 of LoPE FBiH). In the RS (Article 69, Paragraph (3) and Article 88 of LoPE RS) and BD (Article 66 of LoPE BD), members of the public may submit their opinion on the request for issuance of the environmental permit within 30 days of publication of the announcement. In the RS, the project

holder is required to notify the concerned public of the request for approval of environmental impact assessment within 15 days of submission of the request, by posting the announcement in one of daily newspapers in circulation in the RS available on the territory of the local community in which the project is to be implemented.

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

In line with the provisions of Article 75 of LoPE FBiH, FMET presents the request specified under the provisions of Paragraph 1 of this Article with the accompanying documentation to the relevant bodies and interested parties for comments and suggestions. Deadline for submission of comments and suggestions is 30 days of the date of receipt of the request. The applicant and other relevant parties shall be informed of the outcome of the environmental impact assessment. In accordance with the provisions of Article 76 of LoPE FBiH, the FMET informs the public of the initiation of the procedure of environmental impact assessment by posting announcements in newspapers in circulation in the FBiH and invites the public to take part in the public discussion. Comments and suggestions received from the public are to be presented to the relevant ministry within 30 days of the date of publication of the announcement. In accordance with the provisions of Articles 76 and 77 of LoPE FBiH, the FMET organises public discussion on the project, at the location in the closest proximity to the project location. The public is to be informed of the upcoming discussion at least 15 days prior to the date of the discussion. The relevant ministry prepares minutes of the public discussion within three days of the date of the discussion.

In the RS, the public is informed of the submission of request for approval of the environmental impact assessment by posting the request and the corresponding documentation on the website. In addition, the public is informed of the upcoming public discussion by posting the announcement in the daily newspapers. During the course of the proceedings, opinions are obtained from the relevant bodies.

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

In accordance with regulations on public participation in the process of issuance of environment permits and water legal acts, the public is informed and invited to express opinions and make comments before decisions are made by the relevant bodies.

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

Immediately upon submission of the request, the FMET initiates early public participation, in line with the provisions of Article 40 of LoPE FBiH.

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

(e) With respect to Paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit

- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Law on Protection of the Environment of the RS (Official Gazette of the RS: 71/12, 79/15 and 70/20) (LoPE RS);

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

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

- (i) The relevant bodies allow access to the public concerned to all information of importance to decision-making available at the time of the proceedings which include public participation, as stipulated under Article 6,
- (ii) The relevant bodies ensure access to the public concerned to information specified under this Paragraph.
  - a. Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
  - b. Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15, 70/20) (LoPE RS),
  - c. Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
  - d. Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),
  - e. Decree on Public Participation in Water Management (Official Gazette of RS: 35/07).

The information on allowing access of the public concerned is integrated in the provisions of Article 40 of LoPE FBiH, Article 69, Paragraph 4 of LoPE RS and Article 36 of LoPE BD.

With reference to the procedure of issuance of water permits, of relevance are the provisions of Article 9 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of



the Water Permits of FBiH. In the RS of relevance in these matters are the provisions of Article 15 of the Decree on Public Participation in Water Management of RS.

In the RS, in the procedure of approval of the environment impact assessment, the announcement encompasses the following information on the request submitted:

1. Basic information on the request,
2. Summary of the request with conclusion of impact assessment,
3. Time and location where the public will be able to examine the request and impact assessment documents, free of charge,
4. Planned time and location of public discussion on the subject of impact assessment,
5. Deadline for submission of written comments on the request and impact assessment,
6. Address for submission of written comments referred to under item d) above, and
7. Information about the project with possible impact on the environment of the other entity or Brčko District.

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

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

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

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

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

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

In 2020, Ministry of Environment and Tourism of the FBiH developed and posted the Instruction specifying the manner in which the public should be informed and involved in decision making processes of relevance to projects that require environmental impact assessment and issuance of

environmental permits. The Instruction is posted on the following website <https://www.fmoit.gov.ba/bs/okolisne-dozvole/okolisna-dozvola>

(g) With respect to Paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity

- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Law on Waters of FBiH (Official Gazette of FBiH: 70/06) (LoW FBiH),
- Law on Waters of RS (Official Gazette of RS: 50/06, 92/09, 121/12 and 74/17) (LoW RS),
- Law on Protection of Waters of BD (Official Gazette of BD: 25/04, 1/05, 19/07) (LoPW BD).

Of relevance to this section are the provisions of articles 40 and 78 of LoPE FBiH, articles 15, 40, 55, 66 and 69 of LoPE RS and articles 35, 36, 58, 59 and 60 of LoPE BD, which mandate that the public concerned may submit in writing any comments, information, analyses or opinions deemed important to the given activity.

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

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

enabling the public to view the relevant documentation in the premises of the Ministry, and

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

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

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

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

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

- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07),
- Law on Administrative Procedure of BiH (Official Gazette of BiH: 92/02, 12/04, 88/07, 93/09, 41/13) (ZoAP BiH),
- Law on Administrative Procedure of FBiH (Official Gazette of FBiH: 2/98, 48/99) (LoAP FBiH),
- Law on General Administrative Procedure of RS (Official Gazette of RS: 13/02, 87/07, 50/10) (LoGAP RS).

LoPE FBiH/RS/BD do not have any provisions stipulating that public suggestions and objections should be taken into consideration before issuing any environmental permits, nevertheless public participation procedures are applied in practice. Article 89, Paragraph 1 of LoPE RS stipulates that the body authorised to issue an environmental permit shall issue a decision concerning the issuance of an environmental permit and concerning its content, on the basis of request filed by a responsible official, attached documentation, as well as on the basis of opinions obtained from the local self-government unit and the interested members of the public, no later than 60 days after the receipt of a valid request for issuance of an environmental permit, which in essence corresponds to the provision that stipulates that suggestions and comments of the public are to be taken into account in the process of issuance of environmental permits.

Besides, LoPE FBiH/BD do not contain any obligation to incorporate suggestions and objections of the public in the process of giving approval for the environmental impact assessment while, as per Article 71 of the LoPE RS, the Ministry in charge is obliged to forward its assessment of received objections from the interested members of the public to the project coordinator, as well as its own position regarding the matter and, if necessary, to instruct the project coordinator to make some alterations and additions to the assessment. Finally, in accordance with Article 73 of the LoPE RS, it is noted in the explanation of the assessment approval decision whether the objections by the interested members of the public were taken into consideration or not. In the RS, the decision concerning a request for water/legal act must include an explanation, describing all

the implemented activities in determining whether the request was justified or not, in addition to describing the effects and conclusions of consultations with the public, in accordance with Article 21(1) of the Decree on Public Participation in Water Management in the RS.

According to the relevant provisions of the Law which regulate administrative procedures, the resolution that enacts a decision must contain all the evidence, as well as assessment of the reasons that resulted in its adoption. This way, obligations from the Convention are fulfilled.

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

(i) With respect to Paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures

- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07 and 9/09) (LoPE BD),
- Law on Waters of FBiH (Official Gazette of FBiH: No 70/06) (LoW FBiH),
- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07),
- Law on Administrative Procedure of BiH (Official Gazette of BiH: 92/02, 12/04, 88/07, 93/09, 41/13) (ZoAP BiH),
- Law on Administrative Procedure of FBiH (Official Gazette of FBiH: 2/98, 48/99) (LoAP FBiH),
- Law on General Administrative Procedure of RS (Official Gazette of RS: 13/02, 87/07, 50/10) (LoGAP RS),
- Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and put into Operation upon Issuance of the Environmental Permit (Official Gazette of FBiH: 19/04),
- Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits (Official Gazette of FBiH: 6/08, 57/09, 72/09, 68/12),
- Law on Spatial Planning and Use of Land at the Level of the Federation of Bosnia and Herzegovina (Official Gazette of FBiH: 2/06, 72/07, 32/08, 4/10, 13/10 i 45/10), Article 3, Item 8, Article 56 Paragraph 2,
- Decree on Methodology of Development of Planning Documents (Official Gazette of FBiH: 63/04, 50/07 and 84/10) Article 7.

According to Article 40 of LoPE FBiH/Article 40 of LoPE RS/Article 36 of LoPE BD, the competent administrative body informs the public of the decision immediately following its adoption. In the RS and BD, the competent administrative body is obliged to publish text of the decision by posting it on the website of the RS MUPCEE and publishing it in daily press, noting also the reasons for adoption of such decision. In BD there is an obligation to publish the decision on environmental impact assessment, according to Article 61 of the LoPE BD. Article 126 of the

LoW FBiH prescribes an obligation to submit the issued water act to the interested parties and to the public, but only upon their request. In the RS, also relevant is Article 21(2) of the Decree on Public Participation in Water Management.

The parties involved in administrative proceedings must be informed of the decision, which means that the members of the public who provided their comments should also be informed of the decision.

Measures taken to ensure that the public is immediately informed of the decision, in accordance with relevant procedures of the FBiH Ministry of Environment and Tourism, shall be implemented by providing the decision to all the interested bodies and to the interested members of the public, and by publishing the decision on the website of the Ministry.

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

(j) With respect to Paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in Paragraph 1, the provisions of Paragraphs 2 to 9 are applied, making the necessary changes where and when appropriate.

In accordance with Articles 94(3) and 95(3) of LoPE RS, the public is informed of the environmental permit revision. Compliance with the requirements of the environmental permit is verified by the relevant inspectorate. The procedure of issuance of water acts also applies to cases of amendments to the existing water acts in the FBiH and of the RS. The correlation between the procedure of extension and/or revision of water use permit and the procedure relating to the participation of public has not been defined.

In the FBiH Ministry of Environment and Tourism, the process of amending a decision is subject to the provisions of Article 6, Paragraphs 2-9 of the Aarhus Convention, specifically, necessary changes are made to the decision on the basis of opinions and comments, in other words, on the basis of inputs resulting from public participation.

(k) With respect to Paragraph 11, measures taken to apply the provisions of Article 6 to decisions on whether to allow deliberate release of genetically modified organisms into the environment.

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

Adriatic Sea River Basin Agency - ASRBA

Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits

In particular, describe the following:

With respect to Paragraph 1, measures taken to ensure that:

(I) The provisions of Article 6 are applied with respect to decisions on whether to allow proposed activities listed in Annex I to the Aarhus Convention;

(II) The provisions of Article 6 are applied with respect to decisions on whether to allow proposed activities not listed in Annex I to the Convention, which may have significant impact on the environment;

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

...Of relevance are articles 28, 40, 41 of LoPE FBiH / Article 12 of LoPE RS / articles 10 and 29 of LoPE BD, and in particular, articles 70, 75 and 76 of LoPE FBiH / articles 69 – 71, 88 and 89 of LoPE RS / articles 59 and 66 of LoPE BD. In addition, of relevance are articles 124 and 126 of LoW FBiH / Article 130 of LoW, as well as articles 22 and 23 of the FBiH Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits and articles 4, 14 and 15 of the RS Decree on Public Participation in Water Management...

c) Measures undertaken to ensure that timeframes pertinent to public participation procedures are in line with the requirements specified under Paragraph 3;

... In the FBiH, the period for completion of the procedure of issuance of water permits cannot be less than 5 or more than 30 days from the day the information on submission of the request was released, in accordance with Article 22 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH. In the RS, this period cannot exceed 30 days, as specified under the provisions of Article 131 of LoW of RS...

d) With respect to Paragraph 4, measures undertaken to ensure participation of the public early into the procedure;

...In line with the provisions on public participation in the process of issuance of environmental permits and water acts, the public is informed and invited to give opinions and comments prior to issuance of a decision by the relevant authorities. Such approach ensures public participation early into the process...

e) With respect to Paragraph 5, measures undertaken to encourage future applicants to recognise the interested public, take part in the discussion and provide information focusing on the objectives of applying prior to filing an application for permit;

With respect to Paragraph 6, measures undertaken to ensure that:

(I) Relevant bodies of public administration provide the interested public with all information of relevance to decision-making specified under Paragraph 6, available at the time of implementation of the procedure of public participation;

(II) Relevant bodies provide the interested public with information specified in this Paragraph;

.... With respect to the procedure of issuance of water acts, of relevance is Article 22 of the FBiH Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits, and Article 15 of the RS Decree on Public Participation in Water Management.

g) With respect to Paragraph 7, measures undertaken to ensure that the procedure of public participation allows the public to submit comments, information, analyses or opinions deemed by the public to be of relevance to the proposed activity;

...in the FBiH, the public may express its position on the request for issuance of water acts in writing, in addition to participating in public discussion in line with Article 22 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH, provided that the relevant agency or body deems organisation of such discussion necessary...

h) With respect to Paragraph 8, measures undertaken to ensure that the process of decision-making takes into account the outcome of public participation;

i) With respect to Paragraph 9, measures undertaken to inform the public as soon as possible of the decision in accordance with the applicable procedure;

.... Article 126 of LoW FBiH specifies the responsibility for submission of issued water acts to interested parties and the public, but only upon request. In the RS, of relevance is Article 21(2) of the Decree on Public Participation in Water Management.

Parties in administrative proceedings must be informed of the decision, which means that the members of the public who provided their comments should be informed of the decision...

In line with Article 126, Paragraph 4 of LoW and Article 24 Paragraph 1 of the Rulebook on Content, Form, Conditions, Procedure of Issuance and Archiving of the Water Permits of FBiH the resolution on issuance of water act is posted on the website of ASRBA.

j) With respect to Paragraph 10, measures undertaken to ensure that once the public authority reviews or updates the conditions for performance of activities listed in Paragraph 1, the provisions specified under paragraphs 2 to 9 are applied *mutatis mutandis*, and where appropriate;

.... The procedure of issuance of water permit is also applied to amendments of water acts in the FBiH and the RS. The correlation between the procedure of extension and/or revision of water use permit and the procedure relating to the participation of public has not been defined...

k) With respect to Paragraph 11, measures undertaken with the view of application of the provisions of Paragraph 6 to decisions on whether to permit deliberate release of genetically modified organisms into the environment.

Food Safety Agency

Article 6 Annex I 19 Other Activities (b) and (c)

Food Safety Agency of Bosnia and Herzegovina, within the scope of its competence, as defined under the Law on Food (Official Gazette of BiH: 50/04), participates in development and adoption of food regulations.

In line with the Law on Food, Food Safety Agency of Bosnia and Herzegovina, in cooperation with relevant institutions of BiH, its entities and Brčko District of BiH, prepared and developed the Rulebook on Food Hygiene (Official Gazette of BiH: 4/13), Rulebook on Hygiene of Animal Source Food (Official Gazette of BiH: 103/12), Rulebook on Control Measures Implemented for the Purpose of Verification of Compliance with Food and Animal Feed Regulations and Regulations on Health and Wellbeing of Animals (Official Gazette of BiH: 5/13, 62/17), Rulebook on Raw Milk (Official Gazette of BiH: 21/11, 62/14, 17/19) Rulebook on minced meat, semi-finished and finished meat products (Official Gazette of BiH: 82/13, 84/17).

In the Department for Spatial Planning and Property Affairs of the Government of Brčko District, issuance of environmental permits includes public participation from the very beginning of the process, as mandated under the Law on Protection of the Environment of Brčko District of BiH as well as the Rulebook on Facilities and Machinery that Require Environmental Impact Assessment, and Facilities and Machinery that may only be Built and Out into Operation upon Issuance of the Environmental Permit.

Once the application is submitted for issuance of environmental permit, the documents which represent the ground for issuance of the permit are posted on the official website of the Government of Brčko District of BiH to ensure public is informed of initiation of the proceedings and of possibilities for public participation in the process.

The interested public has 30 days to submit views, comments and suggestions pertinent to the content of the documents and participate in public discussion. After having received comments and suggestions from interested members of the public, the relevant department reviews them and decides whether to reject or accept them. Once comments and suggestions that are deemed relevant are accepted, the relevant body proceeds with making necessary changes and informing the interested parties of its final decision, in accordance with the appropriate procedures which ensures that the outcome of public participation is taken into account.

BiH Ministry of Justice improved its transparency by introducing a web platform: e-konsultacije (e-consultation), developed as a part of the project under the title: “Institutional Capacity Building to Initiate Dialogue with Civil Society”

## 2. Obstacles encountered in the implementation of article 6.

Although legislation in both entities provides for public participation, the NGO representatives have repeatedly pointed out the problems they encounter when a project has an impact on the citizens of the other Entity. Thus, according to the representatives of the NGO sector, in some cases in practice, they are not invited to public discussions, or else, public discussions are not held in their vicinity, although consequences are felt in their environment. In the RS, the public discussion is held on the territory of a unit of local self-government in which the project is implemented. Nevertheless, the other entity is informed of organisation of a public discussion focusing on projects that could have major impact on the environment in another entity and information on such proceedings is also made available to the Inter-entity Body for Environment Protection.



The FBiH Ministry of Environment and Tourism recognised these difficulties at the local level, which occur in cases when the local community, specifically, the relevant service in the Municipality on whose territory the intervention is planned, does not co-operate fully in dissemination of information to the public and facilitating public participation in decision-making.

Obstacles encountered by the Department for Spatial Planning and Property Affairs of Brčko District of BiH mainly refer to disagreement of the public with implementation of specific projects (such as building farms, concrete factories, etc.) in residential areas, despite the fact that urban planning documentation allows implementation of such projects. In such cases, the relevant department implements the procedure and organises public discussions to demonstrate the justification of planned projects. As a result, the decision-making process takes a lot of time, as the aim is to reach a decision at the satisfaction of all parties involved. This means that all relevant regulations are complied with in the decision-making process, in addition to taking into account (if possible) comments and suggestions of the public.

### 3. Further information on the practical application of the provisions of article 6.

Detailed information on public participation referring to Article 6 of the Convention does not exist. Also, there is no data concerning the procedures which exclude the public from participation.

The FBiH Ministry of Environment and Tourism does not have a precise summary of statistical data on public participation.

In individual cases of environmental impact assessment in which the public is involved through a public debate, the list of participants is enclosed as an integral part of the case file and of the minutes of the public debate. In addition, the minutes of the public debate specify the names of people who took part in the discussion, in addition to detailing their proposals.

Participation of the public in environmental matters consists of two key aspects. On the one hand, that is an opportunity for the general public to participate, practically and efficiently, in administrative procedures, which lead to concrete decisions or to the issuance of permits. This aspect primarily refers to urban planning (and to related processes), as well as practical aspects of public participation via written comments and public debates. On the other hand, there is an aspect of participation through the engagement of representatives of the public who are consulted in the relevant processes of legislation adoption and of policymaking. The Rules of Procedure of the BiH Parliament do not require that the public be consulted in any case, except when there is a specific decision to that effect. In contrast to that practice, entity parliaments should include public consultations in their regular processes. However, that requirement is often circumvented through implementation of urgent procedures.

An analysis of mechanisms for taking positions of the public into account was conducted at a local level by CE and it showed that they were, in most cases, in accordance with minimum requirements set by the Aarhus Convention and domestic legislation. The situation is more complicated when it comes to the implementation of EU legislation, such as the Directive concerning integrated pollution prevention and control. Even if in most cases the local administration strives to inform the public through various channels (internet, newspapers, official bulletin boards, etc.), the

practical efficiency of such attempts remains low. The official websites of local administrative bodies mostly do not promote information on public debates in an adequate and user-friendly way. Instead, the information is hidden under various subsections.

4. Website addresses relevant to the implementation of article 6.

Adriatic Sea River Basin Agency – ASRBA - <http://www.jadran.ba/>

Sava River Basin Agency – SRBA - <http://www.voda.ba/>

FBiH Ministry of Justice explained that representatives of the public may turn to the relevant bodies using the contact details posted on their websites, as specified under Item VI above.

Department for Spatial Planning and Property Affairs of the Government of Brčko District of BiH - [www.vlada.bdcentral.net](http://www.vlada.bdcentral.net) explained that there must be a significant number of institutions that act in line with Article 6 and post on their websites the information needed to facilitate public participation in decision making on specific activities. All those institutions and their websites should be added to this list.

## Article 7

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

The relevant definitions in Article 2 and the non-discrimination clauses in Article 3, Paragraph 9, were listed in the response provided with respect to Article 4.

Of relevance are:

- Rules of Procedure of the House of Representatives of the FBiH Parliament (Official Gazette of FBiH: 69/07),
- Rules of Procedure of the RSNA (Official Gazette of the RS: 66/20),
- Rules of Procedure of the BD Assembly (Official Gazette of BD: 17/08, 20/10),
- Law on Protection of Environment of FBiH (Official Gazette of FBiH: 15/21) (LoPE FBiH),
- Law on Protection of Environment of RS (Official Gazette of RS: 71/12, 79/15 and 70/20) (LoPE RS),
- Law on Protection of Environment of BD (Official Gazette of BD: 24/04, 1/05, 19/07, 9/09) (LoPE BD),
- Law on Waters of FBiH (Official Gazette of FBiH: 70/06) (LoW FBiH),
- Law on Waters of RS (Official Gazette of RS: 50/06, 92/09, 121/12, 74/17) (LoW RS),
- Law on Protection of Waters of BD (Official Gazette of BD: 25/04, 1/05, 19/07) (LoPW BD),
- Law on Spatial Planning and Land Use of FBiH (Official Gazette of FBiH: 2/06, 72/07, 32/08, 4/10, 13/10, 45/10) (LoSPLU FBiH),
- Law on Spatial Planning and Civil Engineering of RS (Official Gazette of RS: 40/13, 106/15, 3/15, 84/19) (LoSPCE RS),

- Law on Spatial Planning and Civil Engineering of BD (Official Gazette of BD: 29/08, 18/17) (LoSPCE BD),
- Law on Protection of Air of FBiH (Official Gazette of FBiH: 33/03, 4/10) (LoPA FBiH),
- Law on Protection of Air of RS (Official Gazette of RS: 124/11, 46/17),
- Law on Protection of Air of BD (Official Gazette of BD: 25/04, 1/05, 19/07, 9/09) (LoPA BD),
- Law on Protection of Nature of FBiH (Official Gazette of FBiH: 66/13) (LoPN FBiH),
- Law on Protection of Nature of RS (Official Gazette of RS: 20/14) (LoPN RS),
- Law on Protection of Nature of BD (Official Gazette of BD: 24/04, 01/05, 19/07) (LoPN BD),
- Decree on Content and Operators of Unified Information System, Methodology of Collection and Processing of Data, and Templates used for Recordkeeping (Official Gazette of FBiH: 33/07),
- Decree on Public Participation in Water Management (Official Gazette of RS: 35/07).

In accordance with Articles 57 and 59 of LoPE FBiH, proposals of the FBiH and cantonal environmental protection strategies must be available to the public for the purpose of provision of suggestions and comments. Comments shall be provided within three months, but the above-mentioned Articles do not prescribe an obligation to take into account the result of public debate, nor is the public included in the earliest phases of decision-making. In the Brčko District, LoPE does not prescribe participation of the public at the time of adoption of the strategic plan. LoPE RS, in its article 55, prescribes that the body in charge of preparation of the plan and programme provides for public participation in the process of deliberation on the strategic assessment report before sending the report to the Ministry for an opinion, thus including the public in the early phase of decision-making. The body in charge of preparation of the plan and programme is obliged to properly inform the public on the manner and deadlines in which to gain insight into the content of the report and to provide an opinion, as well as on time and place of the public debate, in accordance with the regulation prescribing the process of drafting the plan and programme. The body in charge of preparation of the plan and programme prepares the report on the participation of interested bodies, organisations and members of the public, which contains a statement on all the accepted or rejected views no later than 30 days from the date of the public debate. Article 55 of LoPE RS is fully harmonised with Article 7 of the Aarhus Convention.

Article 25 of LoW FBiH/ Article 26 of LoW RS/Article 14 of LoW BD prescribes that the water management plan contains, among other things, a report covering the results of public participation in the plan drafting process. Also, documents used for the preparation of water management plans are made publicly available. Legal and natural persons may submit their comments to draft plans. Public participation is also planned in the process of development of detailed plans and programmes of water management, in line with the provisions of Article 41 of the LoW FBiH.

Article 23 of the LoUP FBiH prescribes an obligation of holding a public debate when drafting urban planning documents. LoSPCE RS was somewhat more detailed in terms of obligation to include the public. Thus, it was envisaged in Article 46 that the urban planning development stakeholder deliberates on comments, opinions and suggestions on the pre-draft and includes the

accepted solutions into the draft urban planning document with which the public debate starts. Members of the public are not included in the development of the pre-draft (only the professional community is involved), thus violating the provision of the Aarhus Convention on the involvement of the public from the earliest phases. The deadline for comments is 30 days. Article 37 of LoSPCE BD provides detailed instructions on the involvement of the public regarding the draft urban planning document. This Article is fully harmonised with Article 7 of the Aarhus Convention, since the public shall be included at the earliest stage of decision-making, there is a reasonable deadline for comments and an obligation to take into account the comments of the public.

Relevant are Article 1 of LoPA FBiH/Article 3 of LoPA BD, in accordance with which the public is participating in determining and making plans and programmes for the protection of air. In the RS, by adopting a new law, this regulation was amended because sectoral strategies are an integral part of the Environmental Protection Strategy.

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

In accordance with Article 44 of LoPE FBiH, the environmental planning system encompasses the adoption of the following programmatic documents:

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

In accordance with LoPE RS, the strategic documents are the Environmental Protection Strategy, whose integral parts are sectoral strategies (Air, Nature, Waste and other thematic areas) and Local Self-Government Units' Environmental Protection Plan.

Pursuant to Article 43 of LoPE, the RS prepares the proposal of the Environmental Protection Strategy. Included in the integral parts of the Strategy are the Nature Protection Strategy, the Air Protection Strategy, and the Waste Management Strategy.

Pursuant to Article 44 of LoPE, the FBiH Ministry of Environment and Tourism prepares a proposal of the FBiH Environment Protection Strategy. Integral parts of the FBiH Environment Protection Strategy are the FBiH Water Protection Strategy, the FBiH Nature Protection Strategy, the FBiH Air Protection Strategy, and FBiH Waste Management Strategy. The proposal of the FBiH Environment Protection Strategy is delivered to cantonal ministries and to the Advisory Council to provide their opinions and it also must be available to the public for suggestions and comments. The proposal of the FBiH Environment Protection Strategy is also sent to the Inter-Entity Body for Environment and to the Government of the Republika Srpska to provide their

opinions. The comments and suggestions regarding the proposal of the FBiH Environment Protection Strategy shall be delivered no later than three months after the receipt of the proposal.

In accordance with provisions of LoSPLU FBiH and with the Directive on the Content and Stakeholders of a Unified IT System, for the methodology of data collection and processing, and for unified record forms, one needs, among other things, information on threats to the environment (illegal construction, pollution of soil, water, air, etc.), and information on areas in which the danger stemming from consequences of natural and man-made disasters and war-related activities is especially prominent, for the purpose of preparation for the development of plans. The stakeholder of the preparation of the planning document is obliged to provide the document developer with all the available documentation relevant for plan development, and especially with the documentation of the plan of the wider area, water management and forestry resources, environment protection strategy, development plans for economy, agriculture, transport, and information about the geological basis, mineral resources, etc. The stakeholder of the preparation of the planning document is obliged to ensure co-operation and harmonisation of stances with all real estate owners, space users and relevant construction stakeholders, especially with: the relevant administrative bodies, legal persons in charge of water management, forestry, agriculture, transport, energy, mining, tourism, healthcare, education, culture, protection of cultural, historical and natural heritage, protection of environment, defence authorities, the Chamber of Commerce, utilities companies, representatives of religious communities, and to obtain opinions and approvals of relevant bodies and organisations, under the law.

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

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

The public participates in the preparation and development of the Water Management Strategy (Article 24, Paragraph 4 of LoW of the Federation of BiH), which defines the water management policy. Also, water basin advisory councils, which include NGO representatives, participate in the preparation of plans and strategies in accordance with Article 165 of LoW of the Federation of BiH.

The public also participates in the development of water management plans, pursuant to Articles 25 and 26 of LoW of the Federation of BiH. Also, the public gains insight into documents used in the development of the management plan. Legal and natural persons can provide comments

regarding the draft plan. Public participation is also envisaged in more detailed water management plans and programs, pursuant to Article 41 of LoW of the Federation of BiH.

The Adriatic Sea River Basin Agency: “The public participates in the development of river basins management plans, pursuant to Articles 25 and 26 of LoW FBiH/25. Also, the public gains insight into documents used in the development of the management plan. Legal and natural persons can provide comments regarding the draft plan. Public participation is also envisaged in more detailed water management plans and programs, pursuant to Article 41 of LoW of the Federation of BiH.”

Representatives of FPHI and FMH participated in the development of the 2008-2018 FBiH Environment Protection Strategy, as well as in the development of the 2012 BiH State of Environment Report. They also provided an opinion and suggestions on the 2018-2019 Draft FBiH Waste Management Plan, especially the segment of medical waste. The RS adopted the Republika Srpska Waste Management Plan, including the prior procedure of environmental impact strategic assessment and the development of the Strategic Assessment Report and the Consultations Report.

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

The Brčko District Government Department of Urban Planning and Property-Related Issues: The procedure of preparations of the Environmental Protection Policies is conducted in a way similar to the development and adoption of the Environmental Protection Policies, because the public is involved from the early stages of the development, i.e., during the formation of working groups they are members of. That provides timely impact on the form and content of the document. Of course, before it is adopted, the document is published on the official site of the Brčko District Government and remains there for a period of 30 days. Subsequent procedure is the same as in the previous Article.

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

- Rules of Procedure of the House of Representatives of the FBiH Parliament (“Official Gazette of FBiH”, No 69/07);
- Rules of Procedure of the RS National Assembly (“Official Gazette of the RS”, No 66/20));
- Rules of Procedure of the BD Assembly (“Official Gazette of BD”, No 17/08, 20/10).
- Law on Protection of Air of FBiH (“Official Gazette of FBiH”, No 33/03, 4/10) (LoPA FBiH);
- Law on Protection of Air of RS (“Official Gazette of RS”, No 124/11, 46/17);

- Law on Protection of Air of BD (“Official Gazette of BD”, No 25/04, 1/05, 19/07, 9/09) (LoPA BD);
- Law on Waste Management of FBiH (“Official Gazette of FBiH”, No 33/03, 72/09 and 92/17) (LoWM FBiH);
- Law on Waste Management of RS (“Official Gazette of RS”, 111/13, 106/15, 16/18 and 70/20) (LoWM RS);
- Law on Waste Management of BD (“Official Gazette of BD”, No 25/05, 1/05, 19/07, 2/08, 2/09) (LoWM BD)

Pursuant to Article 227 of the Rules of Procedure of the Republika Srpska National Assembly/Article 177 of Rules of Procedure of the House of Representatives of the FBiH Parliament / Article 129 of the Rules of Procedure of the BD Assembly concerning the plans, programs and other acts decided by the Assemblies/Parliament, relevant Rules of Procedure are to be implemented concerning public participation during the adoption of laws, unless this is determined differently (see XXIV). The public participates in the preparation and development of the Water Strategy (Article 24, Paragraph (4) of LoW FBiH), which defines the water management policy. Also, advisory councils for river basins, in which NGO representatives take part, participate in the preparation of plans and strategies pursuant to Article 165 of LoW FBiH/Article 185 of LoW RS. Similar function is also envisaged for the advisory environment councils in BiH.

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

In RS, public participation during the development of the Waste Management Strategy was provided (the Plan was adopted in 2020) through the implementation of Article 206 of the Rules of Procedure of the Republika Srpska National Assembly (“Official Gazette of the Republika Srpska”, No 31/11 and 34/17) and the Guidelines for Action of RS Administrative Bodies Concerning Public Participation and Consultation in Drafting Laws (“Official Gazette of the Republika Srpska”, No 123/08 and 73/12).

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

Pursuant to Article 1 of LoPA FBiH/Article 3 of LOPA BD, the public participates in process of determining the policies of air protection. The public also participates in the procedure of adoption of the Environmental Protection Strategy in RS.

#### 7. Obstacles encountered in the implementation of article 7.

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

#### 8. Further information on the practical application of the provisions of article 7.

Pursuant to Articles 44, 45, and 46 of LoPE, the FBiH Ministry of Environment and Tourism prepares a proposal of the FBiH Environment Protection Strategy, which envisages public participation, but does not clearly prescribe the manner in which the public participates. Often the adoption of very important documents is almost unnoticed by the general public due to inadequate information (e.g., uploading to the web site).

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

As a result, significant issues for ground water and subterranean waters were identified for the Adriatic Sea River basin in FBiH. All the comments, questions and suggestions received were discussed and included in the Plan, together with the official response.

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

The following activities were conducted by ASRBA between 2017 and the end of 2019:

- Pursuant to Article 28 of the Law on Waters, ASRBA prepared the Working Plan for the Preparation and Adoption of the Adriatic Sea River Basin Waters Management Plan in the Federation of BiH (2022 – 2027). That document was published on the web site of the Agency, and information was sent to the media (daily newspapers and the web site of the Agency), as well as by post and by e-mail to institutions and to members of the Advisory Council on the beginning of the preparation of the Adriatic Sea River Basin Waters



Management Plan in the Federation of BiH (2022 – 2027). The Working Plan also envisaged public consultations per individual documents.

- On 11 December 2019, they organised a public workshop on the topic of the “Overview of issues of importance to water management as part of the development of the Draft Adriatic Sea River Basin Waters Management Plan in the Federation of BiH (2022 – 2027)”, and they sent invitations to over 140 addresses (institutions of BiH and of FBiH, municipalities, public utility companies, faculties, associations, NGOs, companies, etc). Following the workshop, interested members of the general public had a period of time during which they could send comments and suggestions.
- Further activities on the preparation of the Adriatic Sea River Basin Waters Management Plan in the Federation of BiH (2022 – 2027) are ongoing.

The Plan to Conduct Public Consultations, as part of the process of adoption of the 2016-2021 Sava River Basin Waters Management Plan, was defined primarily on the basis of the FBiH Law on Waters. Pursuant to that, the Sava RBA, as the main stakeholder of the development of the Management Plan, conducted the following activities with the aim to ensure public participation in the development of the Plan:

- a. The Draft Plan, with the accompanying documents, was published on 01 March 2016 on the web site of the Sava RBA ([www.voda.ba](http://www.voda.ba)), inviting all the interested parties to gain direct insight into the proposed Draft Plan and its accompanying documents, and to provide their comments no later than 01 September 2016.;
- b. An official letter was sent to key actors/participants to get involved in the Plan development process, primarily by sending comments on the Draft Plan, and if they are interested, also by pasting a link to the web address of the Sava RBA, at which the Draft Plan was presented;
- c. Invitation to the general public to comment on the Draft Plan was published in daily newspapers in FBiH;
- d. An official letter was sent to the media in FBiH with information that the Draft Plan was finalised in order for the media to get involved in informing the public more widely;
- e. The Draft Plan was discussed at public debates held in:
  - a. Odžak on 15 March 2016;
  - b. Travnik on 23 March 2016;
  - c. Sarajevo on 29 March 2016.
- f. A concise report was prepared on all the comments provided on the Draft Plan with explanations per individual comments.

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

The Sava River Basin Agency, as the main stakeholder of the development of the Sava River Basin Waters Management Plan, also prepared the Strategic Environmental Impact Assessment of the Sava River Basin Waters Management Plan (2016–2021), and conducted the public consultation process.

The Sava RBA conducted the following activities regarding public participation in the Strategic Assessment procedure:

- i. Draft Strategic Assessment was published on 07 October 2016 on the web site of the Sava RBA (<http://www.voda.ba/nacrt-strateske-studije-o-utjecaju-plana-upravljanja-vodama-za-vodno-podrucje-rijeke-save>) inviting all the interested parties to gain direct insight into the proposed Draft and to provide their comments no later than 20 October 2016;
- ii. An official letter was sent to over 100 addresses, to key actors/participants to get involved in the Strategic Assessment development process, and to send their comments on the draft document by pasting a link to the web address of the Sava RBA, at which the Draft Plan was presented;
- iii. Invitation to the general public to comment on the draft document was published in daily newspapers in FBiH;
- iv. An official letter was sent to the media in FBiH with information that the Draft Strategic Assessment was prepared in order for the media to get involved in informing the public more widely;

The Sava RBA also organised two public debates on the Draft Strategic Environmental Impact Assessment of the Sava River Basin Waters Management Plan (2016–2021).

According to the activities related to the development of the draft of the 2022-2027 Management Plan, it is of major importance that issues of relevance to water management, as part of the above-mentioned Draft Management Plan, are presented to the stakeholders and professionals. This document is a key basis for the definition of water management goals and of a program of future measures.

The Sava RBA organised a public debate regarding the “Issues of Relevance to Water Management” document, held on 21 January 2020 at 11:00 hours, at the IBIS STYLES Hotel, located at the following address: Džemala Bijedića 169A in Sarajevo.

The goal of the public debate was for all the participants to be informed about the water-related situation in the Sava River basin in the Federation of BiH, and to discuss current problems and challenges faced by the water sector in the subsequent timeframe.

The public debate encompassed two activities:

- Presentation of the content of the draft of the “Issues of Relevance to Water Management” document and the subsequent discussion;
- Responses to written comments and suggestions by the public;

The invitation was published on the official web site of the Sava RBA, together with the draft of the “Issues of Relevance to Water Management” document. Also, written invitations were sent to 250 addresses (inviting representatives of the State, FBiH and cantonal institutions, municipalities/cities, the Waters Advisory Council, water polluters/users, relevant institutions of the Republika Srpska and the Brčko District, academic community, scientific institutions, the non-governmental sector, representatives of the media...), and there were approximately 150 participants.

In the framework of the public debate process, the public could provide comments and suggestions on the published document in a written form, by either using the form referred to in Annex 1, or as a letter, sent to the following addresses: e-mail: [planupravljanja@voda.ba](mailto:planupravljanja@voda.ba), as well as to the postal address of the stakeholder of the 2022-2027 Management Plan: Sava River Basin Agency, Hamdije Čemerlića 39a, 71000 Sarajevo.

The deadline to provide comments on the presented document was 28 February 2020.

Link: <http://www.voda.ba/znacajna-pitanja-upravljanja-vodama>

9. Website addresses relevant to the implementation of article 7.

ASRBA: As above under XIV.

Brčko District Government Department of Urban Planning and Property-Related Issues - [www.vlada.bdcentral.net](http://www.vlada.bdcentral.net)

## Article 8

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

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

- Rules of Procedure of the House of Representatives of the FBiH Parliament (“Official Gazette of FBiH”, No 69/07);
- Rules of Procedure of the RS National Assembly (“Official Gazette of the RS”, No 66/20));
- Rules of Procedure of the BD Assembly (“Official Gazette of BD”, No 17/08, 20/10).
- Rules and Procedures in Drafting Laws and Other Regulations of FBiH (“Official Gazette of FBiH”, No 71/14).

Article 204 of the Rules of Procedure of the Republika Srpska National Assembly/Article 173 of the Rules of Procedure of the House of Representatives of the FBiH Parliament /Article 129 of the Rules of Procedure of the BD Assembly define that, following the completed consideration of a draft law, the representative body may decide to hold a public hearing on the proposed draft law, in case the respective piece of legislation regulates issues of special public interest. The public provide specific proposals, suggestions, and comments either at public hearings or submit them by e-mail or often by postal service. Inclusion of public opinion in the final act is not binding; however, reasons for non-inclusion have to be stated. The public is entitled to institute an administrative dispute in case its opinion is not accepted. Also, the environmental protection associations take part in the activities of the Environmental Advisory Council, thus contributing to the preparation of generally accepted and legally binding rules. Public participation in the preparation of regulations and other legally binding rules is promoted, inter alia, through calls to participate in public debates. The Guidelines for Action of RS Administrative Bodies Concerning Public Participation and Consultation in Drafting Laws (“Official Gazette of the Republika Srpska”, No 123/08 and 73/12), define that the regulations identified as being of public interest,

shall be posted on the website, for the purpose of submitting comments and suggestions by the public.

As early as 2014, the FBiH Ministry of Environment and Tourism held four public debates on the Draft Law on Environment Protection, thus providing for public participation and for the interested parties to provide their comments and proposals of amendments to the Draft Law. The technical support in organising the public debates was provided by Strengthening Governing Institutions and Processes Project in BiH (SGIP), financed by USAID, in co-operation with the Aarhus Centre in BiH.

The public and the interested parties also participated in 2016 and 2017 concerning the new Draft Law on Environment Protection, Draft Law on the Environmental Fund, Draft Amendments to the Law on Waste Management, by-laws (Rulebook on the Monitoring of Air Quality, Rulebook on Facilities, etc.). The new Law on Environment Protection was adopted only in February 2021.

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

FMAWMF conducted consultations on the working draft of the Regulation on Methodology of Determination of the Lowest Basic Price of Water Management Services in FBiH (working draft), on the following dates:

- On 03 October 2019, presentation of information at the Water Management Conference on Results of the UNDP-MEG Project, the only ongoing EU project that implements a fundamental reform and reorganisation of local self-government and of the sector of water management services in BiH,
- On 09 October 2019, consultations with FBiH institutions and with some of the cantonal ministries in charge of water management and utilities,
- On 08 November 2019 the draft was presented to professionals at the 2nd Congress on Waters of BiH,
- On 21 November 2019, presentation and consultations with representatives of JLS and utility companies (approximately 100 participants), who gave their full support to its adoption as soon as possible, and who expressed their dissatisfaction with the lack of progress in the adoption of amendments to the Law on Waters.

The adoption of the Regulation will create preconditions for the improvement of infrastructure for the provision of water services and their adequate management. At this moment (before the adoption of the Regulation) the improvement of infrastructure for the provision of water services and their adequate management are entirely limited. That problem was also identified through adopted planning documents in the fields of water and environment in FBiH/BiH, such as:

- 2010-2022 FBiH Water Management Strategy,
- 2016-2021 Sava River Basin Water Management Plan in FBiH,
- 2016-2021 Adriatic Sea Basin Water Management Plan in FBiH,

- Strategy of Approximation of Environmental Legal Regulations in BiH with EU Acquis in the Area of Environment.

#### 11. Obstacles encountered in the implementation of article 8.

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

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

#### 12. Further information on the practical application of the provisions of article 8.

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

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

The law was adopted only in late February 2021, and it entered into force on 04 March 2021.

In the RS, the public was included both in the adoption of the Environmental Protection Law in 2012 and in all its amendments (in 2015 and 2020).

The FBiH Law on Chemicals (“Official Gazette of FBiH”, No 77/20) was adopted in October 2020, but it did not go through a public debate (i.e., the public debates included only cantonal assemblies, but not the general public). The law regulates classification, packaging and labelling, safety data sheets, conducting activities with chemicals, integral inventory of chemicals, limitations and bans of chemicals, conditions for import and export of chemicals, putting detergents on the market, integrated management of chemicals, supervision and other issues of importance for safe management of chemicals in the Federation of BiH.

In accordance with the EU REACH Directive, and with the FBiH Law on Chemicals, substances of very high concern (SVHC) will particularly be defined by a special by-law, which the FBiH Government should adopt within 24 months following the adoption of the law. Until then, regulations will be applied based on the Law on the Transport of Toxic Materials (“RBiH Official Gazette”, No 2/92 and 13/94), if they are not in contravention of this law.

#### 13. Website addresses relevant to the implementation of article 8.

FBiH Ministry of Justice

Representatives of the general public may address relevant authorities, using contact information available on the websites of the relevant authorities, mentioned above under Section VI.

## 8. Bulgaria

### Article 6

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

#### Subpoint (a):

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

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

1. any development proposals according to Annex 2 hereto;
2. any extension or modification of development proposals according to Annex 2 hereto, which have already been approved or are in the process of being approved, have been executed or are in the process of being executed, provided any such extension or modification may cause a significant adverse impact on the environment;
3. any extension or modification of development proposals according to Annex 1 hereto and Appendix I to Article 2 of the Convention on Environmental Impact Assessment in a Transboundary Context, which have already been approved or are in the process of being approved, have been executed or are in the process of being executed, provided any such extension and/or modification may cause a significant adverse impact on the environment;
4. investment proposals according to Appendix No 1, developed exclusively or primarily for development and testing of new methods or products and not which are not going to be operative for more than two years, with the exception of installations for disposal of hazardous and non-hazardous waste by incineration or co-incineration within the meaning of the Waste Management Act;
5. investment proposals under point 10.1 of Annex № 1 (installations for the disposal or recovery of non-hazardous waste by incineration or co-incineration within the meaning of the Waste Management Act) falling within the scope of Regulation (EC) No 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002.

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

- affecting any reserves, national parks and managed reserves constituting protected areas according to the procedure established by the Protected Areas Act;

- affecting an area covered by two or more Regional Inspectorates on Environment and Water (RIEWs);
- on respect of any development proposals for construction, activities or technologies in the territory Republic of Bulgaria, which are likely to have a significant impact on the environment in the territory of another State or States;
- which have been designated works of national importance by an act of the Council of Ministers;
- for drilling for exploration and production of unconventional hydrocarbons, including shale gas;
- in the cases where the Director of RIEW or the Director of the National Park Directorate is the Contracting Authority;
- falling within the Black Sea or Danube waters; which fall under Annex 1 and are subject to a common EIA procedure and at least one of the procedures: issuance of permit for approval of the safety report with regard the construction and operation of a new and the operation of an existing enterprise and/or facility with high risk potential for major accidents with dangerous substances or parts thereof and for planned changes/expansions in existing enterprises and / or facilities with high risk potential; the issuance of an integrated pollution prevention and control permit – IPPC permit The Director of RIEW is the competent authority in all other cases. Pursuant to the requirements of article 122a, paragraph 5 of EPA and article 7, paragraph 4 of the Ordinance on the terms and conditions for issuing integrated permits (integrated pollution prevention and control permit – IPPC permit), EEA and the municipality in which is situated the installation for which an application for an IPPC permit is submitted, announce and provide for one-month equal access of stakeholders to the application. The EEA and the municipality / municipalities provide access to the application through their websites. In accordance with article 7, paragraph 4 of the Ordinance on the terms and conditions for issuing integrated permits, the announcement for the procedure and the conditions for access to the application for IPPC permit are published on the websites of the EEA and of the municipality (municipalities) at the location of the installation. The announcement shall contain the following information: 1.the fact that the decision is subject to consultation with other EU Member States, where applicable; 2. the operator of the installation; 3.the type of possible decision – for construction and/or operation of the installation; 4. activities carried out/will be carried out in the installation; 5. competent authority for decision making 6. authorities which obtain information and the time and place where it could be received; 7 authorities to which may be submitted comments, clarifications and objections by interested parties and the deadline and place for submission; 8. indication of the time and place or means by which the information will be provided.

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

In accordance with article 17, paragraph 2 of the Ordinance on the terms and conditions

for issuing integrated permits, in connection with article 124, paragraph 8 of the EPA, in cases of article 126, paragraph 1, p. 5 of the EPA, where article 124, paragraph 8 of the EPA apply, within 5 days from the receipt of the statements under article 16, paragraph 9 and/or from the end of the meeting under art. 16, paragraph 10, the executive director of the EEA shall prepare a draft decision for updating of an integrated permit and with the municipality at the location of the installation provide access of stakeholders to the draft decision by the order of article 122a, paragraph 5 of the EPA and art. 7, para. 3 and 4 of the ordinances.

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

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

According to article 111, paragraph 1, point 6 of the EPA, the Minister of Environment and Water or an authorized officer shall keep a public electronic register of lower and upper tier enterprises and facilities. The form and content of the register are laid down in article 15 of the Ordinance to prevent major accidents involving dangerous substances and limit



their consequences. The registry operates from 2017.

Subpoints (b) – (g):

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

1. Articles 95, 97 and 98 of the EPA. The initiator shall undertake consultations with the competent authorities or officials empowered thereby, with other specialized institutions and the public concerned for the purpose of the making of an EIA decision. The consultations shall be undertaken with regard to:
  - a. the specific characteristics of the proposed construction, activities or technologies, level of development of the design solution and its inter-relation with existing or other planned construction, activities or technologies;
  - b. the characteristics of the existing environment and all environmental media thereof;
  - c. the significance of the eventual impacts;
  - d. the terms of reference for the scope and content of the EIA incl. in cases when a combined procedure is applied – EIA and at least one of the procedures – issuance of decision for approving the safety report of enterprise with high risk potential and/or issuance of IPPC permit;
  - e. the scope of study connected to the EIA;
  - f. the alternative development proposals;
  - g. the affected population's interests and opinions;
  - h. the sources of information;
  - i. the forecasting methods used to assess the effects on the environment;
  - j. measures for mitigation of the eventual adverse impacts on the environment.

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

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

All natural and legal persons concerned may participate in the discussions, including representatives of the authority competent to make an EIA decision, the local executive administration, public organizations and citizens.

The initiator of the proposal shall give the persons notice through the media of mass communication or in another appropriate manner of the venue and date of the discussion not later than thirty calendar days before the public discussion meeting.

The initiator of the proposal and the competent authorities shall ensure public access to the EIA documentation for a period of thirty calendar days prior to commencement of the discussions. The competent authorities (MoEW/RIEW) shall provide public access to the EIA documentation at least 30 calendar days before the public discussion through their websites and at designated place. Members of the public shall submit their written comments prior to, during the meeting for public discussion or three days after the discussion at the latest by sending them to the initiator with a copy to the competent authority for deciding on the EIA.

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

The initiator is obliged to inform in writing the competent authorities - MoEW/RIEW, at the earliest stage of their investment proposal by submitting notice, according to a template. The initiator shall announce its proposal on its website, if any, and through the media and/or in any other appropriate manner. The competent authority announces the proposal on its website and notifies the mayor of the respective municipality, region and mayor's office within 3 days of receiving the notification. The mayor of the respective municipality, region and mayoralty shall announce the investment proposal on its website, if any, or in a publicly accessible place within 3 days of receiving the notification, for which it shall provide information to the competent authority. The information about the proposal obligatory shall include:

- Contact information of the initiator
- Resume of the proposal - description of the main processes and the capacity; area used; shall be notified: a new investment proposal and/or extension, or change in production process; auxiliary or supporting activities, etc.
- Relation to other existing and approved with a development or other plan activities within the scope of the impact of the object of the investment proposal; needs of other permissions/authorization, competent authorities thereof.
- Location of the site.
- Natural resources intended for use during construction and operation, intended water abstraction for drinking, industrial and other needs - through public water supply (water supply or other network) and/or water abstraction or use of surface water and/or groundwater necessary quantities, existing facilities or the need to build new facilities.
- Expected substances that will be emitted by the activity, incl. priority and/or danger, for which contact with water takes place or is possible.
- Expected total emissions of harmful substances into the air by pollutants.
- Waste expected to be generated and plans for treatment.

- Expected quantity and type of wastewater generated by streams (domestic, industrial, etc.), seasonality, envisaged ways for treatment (treatment plant/facility, etc.), discharge into the sewerage system/surface water body/watertight rake pit, etc.
- Expected quantities, type and classification of the dangerous substances (if applicable).

In order to consider the need for EIA for investment proposal a written request shall be submitted by the initiator with attached information for assessing the need for EIA, incl. about the public interest to the investment proposal. In order to clarify the public interest, the competent authority shall: provide public access to the information by posting a notice on its website and otherwise for at least 14 days for access to the information and for the expression of opinions by interested parties; provides a copy of the request and the information on electronic media to the respective municipality/region/mayoralties. Within 3 days after receiving the information, the respective municipality/region/mayorality: provides public access to the information for at least 14 days by placing a notice on its website (if any) and in a publicly accessible place for access to the information and for expression of opinions by interested parties; within 3 days after the expiration of the term sends to the respective competent authority the results of the public access, incl. in the manner of its provision according to a template. The information should include:

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

According to the characteristics of the investment proposal the initiator shall determine which specialized authorities and members of the public affected to consult. Consultations can be arranged at any of the following ways:

- announcement in the media;
- sending messages to local authorities;
- preparation and distribution of a prospectus or brochure with brief information about the investment proposal;
- distribution of letters and questionnaires to interested organizations or individuals living in close proximity, with a request for information and comments about the investment proposal;

- placing information boards and posters;
- organizing expert or public groups on the scope of the assessment;
- arranging meetings with the affected population.

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

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

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

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

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

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

1. The initiator shall provide a copy of the EIA report with all annexes to the designated authorities.
2. Affected regions and/or municipalities confirmed in writing the place, date and time for a meeting/s for public discussion, time and place of public access to the EIA report and the notes thereto, and the place for providing written opinions; the initiator shall announce them by the mass media and/or by other appropriate means at least 30 days before the meeting/meetings for public discussion; the notice is done following a template.
3. Affected regions/municipalities shall adequately inform the public about the upcoming public hearing, including by posting notice in public accessible place in the building of the region/municipality/city hall, for which shall be kept a record, copy of which shall be provided to the competent authority
4. The initiator shall notify the competent authority of the place, date and time for meeting/meetings for public discussion, for disclosure by the competent authority through its website at a designated place and shall provide evidence for the implementation of the obligations under p. 2 within at least 30 days before the meeting/meetings for public discussion.
5. At its discretion, the initiator may give written notice to other specialized persons, bodies and organizations for meeting/meetings for public discussion.
6. Meeting/meetings for public discussion is guided by the initiator or by a person authorized by him which have to briefly acquaint attendees with the investment proposal.

7. The initiators shall ensure the presence of the head and members of the team of independent experts at the meeting/meetings, which have to introduce briefly attendees with the results of the EIA, by using maps, charts and other visual materials.
8. A record/minutes is kept for the public discussion by an official appointed by the mayor (district, mayoralty) on whose territory the meeting takes place. The record shall be signed by the initiator and the recorder and shall be attached to it the written statements submitted in advance or during the discussion.
9. Within 10 days after the meeting/the last meeting for the public discussion the initiator shall submit to the competent authority and the municipalities/districts/mayoralties written statement on the proposals, recommendations, opinions and objections resulting from the public discussion.
10. Respective municipalities/districts/mayoralties shall provide for a period of 7 days on its website and/or other appropriate means public access to the statement for the interested persons or organizations and the proposers of the recommendations, opinions and objections as a result of the public consultation, for which shall inform the competent authority.

Subpoint (h):

Article 6, paragraph 8 of the Convention has been transposed through the provisions of:

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

Subpoint (i):

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

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

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

Subpoint (j):

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

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

Subpoint (k):

Public participation in decisions concerning the deliberate release of genetically modified organisms (GMOs) is stipulated in the Act on Genetically Modified Organisms (GMO Act), and in particular in article 50 of that Act.

A GMO or a combination of GMOs shall be released into the environment after obtaining an authorization granted by the Minister of Environment and Water.

An authorization shall be granted for each particular case, acting on an application in writing from a person.

The Advisory Commission on GMOs to the Minister of Environment and Water within 60 days after submission of an application shall prepare an opinion and shall submit the said opinion to the Minister of Environment and Water.

After preparation of the opinion, the MoEW shall organize a public consultation, which is to be carried out within 45 days after preparation of the opinion.

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

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

Any person may provide an opinion on the subject of the consultation, whether in writing or in electronic form. The applicant or representatives thereof and the members of the Commission shall likewise be invited to participate in the public consultation.

Minutes shall be taken at the public consultation and shall be attached to the authorization dossier.

Acting on the basis of the opinion given by the Commission, the economic analysis, the results of the public consultation, the comments from the rest of the Member States of the European Union, and after consultation with the Minister of Agriculture, Food and Forestry, the Minister of Environment and Water shall prepare a draft of an authorization for the release of a GMO or a

combination of GMOs into the environment within 14 days after the date of holding of the public consultation and shall present the said draft for approval by the Council of Ministers. The Council of Ministers will adopt a decision within 14 days.

The Minister of Environment and Water may issue permit for release of GMO or combination of GMOs into the environment if the decision of the Council of the Ministers is positive and taking into consideration all other documents, incl. the results of the public consultation.

The MoEW maintains in an electronic form:

- public register of the authorizations for deliberate release of GMOs into the environment
- public register of the location and size of the areas wherein the release of GMOs is authorized.

2. Obstacles encountered in the implementation of article 6.

None

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

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

So far, no deliberate releases into the environment of genetically modified organisms have been authorized in Bulgarian and there is no practical experience in applying the requirements of article 6, paragraph 11 of the Convention.

4. Website addresses relevant to the implementation of article 6.

<https://www.moew.government.bg/en/prevention/>

<https://www.moew.government.bg/en/environmental-protection-act-7628/>

<https://www.moew.government.bg/en/ordinance-for-the-conditions-and-the-order-for-implementing-environmental-impact-assessment/>

## Article 7

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

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

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

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

- The state of environmental components is as follows: air, atmosphere, water, soil, earth, landscape, landmarks, minerals, biodiversity and their sub-components and their interaction;
- Factors, in accordance with article 5 of the EPA, and the activities and / or measures, including administrative measures, international agreements, policies, legislation and reports on implementation of legislation, plans and programmes which have or are able to affect components of the environment;
- The state of human health and safety of people as they are or may be affected by the state of environmental components or those components of the factors, activities or measures referred to in paragraph 2;
- Cultural and historical heritage sites, buildings and installations, inasmuch as they are or may be affected by the state of the environmental media or, through the said media, by the factors, activities or measures referred to in paragraph 2;
- Cost-benefit and other economic analysis and assumptions used within the measures and activities referred to in paragraph 2;
- Emissions, discharges and other harmful environmental impacts.

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

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

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

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

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

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



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

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

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

1. access and sufficient technical capability for becoming acquainted with the materials of the EAPP report, the draft plan/programme and visual aids for each of the alternatives;
2. expert or a person with appropriate qualifications from the planning team responsible to provide additional oral explanations on the spot;
3. adoption of the opinions expressed before the deadline.

The notice shall provide detailed information concerning the plan/programme, incl. the investment proposals with presumed significant impact on environment, with regard to which the proposed plan/programme determines criteria, norms and other guiding conditions of importance for their future resolving or approval with respect to location, character, scale and operation conditions; importance of the plan/programme for integrating environmental considerations, especially in view to promoting sustainable development; environmental issues, relevant to the plan/programme; characteristics of the affected territory and the expected impacts on the environment and human health, etc.

The notice shall include also:

- place with public access and time for acquainting with the draft plan/programme, the report on EAPP and the materials with all the Annexes to it;
- term for expression of an opinion, which may not be shorter than 30 days; after publication of the communication and provision of access;
- way of expressing of statement, which cannot be only by Internet or other electronic means.

Consultations with the public and the bodies of interested and third persons may be implemented in one or in several of the following ways:

- sending messages to the central and the territorial bodies of the executive power and to the municipal councils;
- working out and dissemination of leaflet or brochure with brief information about the plan/programme;

- organising of expert or public groups for the range of the assessment;
- sending by post or by Internet of opinions, statements and recommendations to the team for the report on EAPP and to the assignor;
- public discussions.

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

- it is required for the draft plan or programme under a special law;
- more than two negative opinions or suggestions for alternatives, reflected in the EAPP report or within the consultations are received.

There are minimum requirements for organizing and conducting public discussions:

- The developer shall notify the competent authority and the authorities, participated in the consultations, about the existence of the circumstances under article 21, paragraph 1 (see above), defining the location, date and time for holding the meeting for public discussion and place for public access and the time for getting acquainted with the draft plan/programme, the EAPP report with all applications and materials to it.
- The developer shall notify in writing the persons which have submitted opinion/statement and may notify other persons, organizations and bodies for the meeting for public discussion..
- Public discussion meeting is held after the completion of consultations on the EAPP report for and is managed by the developer or by an authorized official.
- The developer shall ensure the presence on the meeting of representatives of the design team, the manager and the independent experts as they shall briefly introduce to the attendees the plan or program and the results of the environmental assessment.
- For the public discussion shall be kept a record by the person designated by the developer, the record shall be signed by the representative of the developer and the record keeper, and to the record shall be attached written opinions submitted in advance or during the discussion.
- The designated person shall provide the materials with the results of the public discussion to the developer within three days from the date of the meeting.

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

- endorses the plan or programme if, among others, as a result of the consultations have not been received reasoned objections on lawfulness;
- provide the developer with the decision on EAPP with the obligation to announce it within 3 days of receipt on the website of the developer or by other appropriate means;
- shall make the decision on EAPP public on its website and in the office.

7. Obstacles encountered in the implementation of article 7.

None.

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

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

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

According to article 146p and article 168b of the Water Act shall be published and announced to the public, including to the water users, and for consultations and written comments for each basin management district:

- a draft of a flood risk management plan, including the measures planned to be undertaken and the results expected of the implementation of the said measures, as well as the results achieved and the proposals to modify and update the measures and the plan;
- draft of a river basin management plan.

The information shall be published on the website of the competent Basin Directorate and on the website of the MoEW.

Under article 9 of the Climate Change Mitigation the National Climate Change Adaptation Strategy shall be drawn up following consultation with the National Expert Council on Climate Change, which includes representatives of environmental NGOs.

According to article 59, paragraphs 1 and 2 of the Protected Areas Act, in the process of working out the management plans for national and natural parks and maintained reserves the executors shall organize public discussions with the participation of representatives of the interested central and local authorities, of the owners or their associations, of scientific, academic and non-governmental organizations and other; the management plan shall take account of the statements, recommendations and notes.

The Ordinance on the terms and conditions for the development and approval of management plans for protected sites provides for the management plans for Natura 2000 protected sites to be subject to public discussion (article 12, paragraph 1), as detailed rules for implementation are set out in Section II.

Public participation in the development of action plans for plant and animal species is stipulated in the Ordinance № 5 on the conditions and procedures for development of action plans for plant and animal species from 2003. The development of drafts of such plans can be assigned to NGOs

among others. Once the draft of a plan has been prepared it is subjected to public consultation (articles 11-13 of the Ordinance). At least 20 days before the consultation the date, time, place and topic, as well as the place where the draft is available to the interested parties, are announced in the mass media. Relevant state institutions and scientific and academic institutes are notified about the consultation in writing.

At the consultation the draft of the action plan is presented and minutes are prepared that contain the expressed opinions, remarks and recommendations. After the consultation the appropriate opinions, remarks and recommendations should be reflected in the draft and specific explanation should be provided for those that are not included. The minutes from the public consultation and the written explanation mentioned above included in the dossier of the draft. In the process of developing an action plan additional public hearings or other consultations can be organized with the public and other stakeholders. Results of that hearings and consultations are documented in minutes.

When developing the municipal programmes for reducing the levels of pollutants and for reaching the approved norms under article 27 of the Clean Air Act, an Instruction for development of programmes for reduction of emissions and achievement of the established norms for harmful substances is applied in the regions for assessment and management of the air quality, where there is an excess of the established norms. The mayors of municipalities establish programme councils for assessment and management of the air quality (according to article 6 (1) of the Instruction). Article 6 (2) designates the representatives of the bodies, structures and organizations participating in the programme council. According to item 3, "the interested natural and legal persons and environmental organizations or associations participate in the councils".

Within the updated National Strategy for Sustainable Development of Tourism in the Republic of Bulgaria 2014-2030 and its Action Plan for the period 2017-2020, the Ministry of Tourism adopted the EU and national commitments regarding sustainable development and presented a plan for their achievement in the field of tourism. The policy framework promotes the optimal use of natural resources, which are a key element in tourism development, the maintenance of basic environmental processes and the protection of natural heritage and biodiversity. In the process of discussion and adoption of the Strategy, stakeholders were consulted and public hearing and workshops were held to inform the public about the measures to achieve the goals set out.

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

Public consultations in the form of conferences, round tables, workshops, etc. are carried out.

#### 9. Website addresses relevant to the implementation of article 7.

<https://www.moew.government.bg/en/>

<http://www.strategy.bg/>

[https://www.moew.government.bg/static/media/ups/tiny/%D0%A3%D0%9E%D0%9E%D0%9F/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE/WASTE%20MANAGEMENT%20ACT\\_13.pdf](https://www.moew.government.bg/static/media/ups/tiny/%D0%A3%D0%9E%D0%9E%D0%9F/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE/WASTE%20MANAGEMENT%20ACT_13.pdf)

<https://www.mrrb.bg/en/act-on-waters/>

## Article 8

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

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

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

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

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

According to the Administrative Procedure Code (APC) the general administrative acts, i.e., such with one-time legal action, by which shall be created rights or obligations or shall be directly affected rights, freedoms or legitimate interests to indefinite number of persons, shall be also subject to public consultations. Article 66 states that the opening of the proceedings on the issue of the general administrative act shall be announced in public by the mass media, by sending the draft to organisations of the interested persons or in another suitable way. The notification shall include the main reasons for the issue of the act, as well as the forms of participation of the

interested persons in the proceedings. As far as by a special law has not been established otherwise, the interested persons and their organisations shall have the right of access to the whole information, content in the file on the issue of the general administrative act at any time of the proceedings, including after its completion (article 68). The administrative body shall determine and announce in public one or more of the following forms of participation of the interested persons in the proceedings on the issue of the act: written proposals and objections; participation in consultative bodies, supporting the body who is issuing the act; participation in meeting of the body, issuing the act, when is collective; social discussion (article 69, paragraph 1); the administrative body shall ensure to the interested persons an opportunity to implement their right of participation in a reasonable term, determined by the administrative body, which may not be shorter than one month from the day of the notification (article 69, paragraph 2).

The APC, by the procedure regulated in Chapter eight, explicitly envisages the possibility for reporting signals for unlawful or inexpedient actions or inactions of administrative bodies. Pursuant to article 107, paragraph 4 of APC signals may be filed for abuse of power and corruption, bad management of state or municipal property or other unlawful or inexpedient actions or inactions of administrative bodies and officials in the respective administrations, by which are affected state or public interests, rights or legitimate interests of other persons. The procedure is open for all members of the public - every citizen or organisation, as well as the ombudsman, may file a proposal or a signal (article 109). The proclaimed principle of objectivity and impartiality is of essential importance – the signals may not be decided by the bodies or the officials, against which actions they have been filed, unless when they accept that they are grounded and consider them favourably (article 113). Further, it is placed as an explicit requirement regarding the execution: the body, who has pronounced the decision, shall undertake measures on its execution, determining the way and the term for the execution (article 115). The filed signal does not stop the execution of the disputed act or the execution of particular activity, unless the body, competent to pronounce, directs the execution to stop until pronouncement of the decision (article 120). However, short terms for review, pronouncement of decision and undertaking actions on the signal, regulatorily established by the Code, are present - the decision upon the signal shall be taken not later than within two months period after its receipt; when particularly important reasons impose that, the term may be prolonged by the higher body, but not by more than a month, for which the sender shall be notified." (article 121). When considering favourably the signal, the body shall undertake immediately measures on eliminating the admitted violation or inexpedience, for which shall notify the sender and the other interested persons (article 122, paragraph 1). The decision upon the signal shall be executed within one month period after its pronouncement. By way of an exception, when it is imposed from particularly important reasons, the term may be prolonged by the body, who has pronounced it, but not by more than two months, for which the sender shall be notified (article 125, paragraph 1).

The Code foresees the decision on a given signal to pronounce legal action in direction of elimination of harmful consequences, as a result of unlawful actions and even restoration in case of caused damages - at the execution of the decision upon the signal, shall be eliminated the harmful consequences, caused by the unlawful or the inexpedient actions; when that is impossible,

the affected persons shall be satisfied by another legal way or shall be explained to them the way they should act (article 125, paragraph 2).

There is a possibility in the APC for submission of proposals (also in Chapter Eight “Proposals and Signals” of the APC) by every citizen and organization, as one of the main inalienable rights of citizens (article 45 and article 57, paragraph 2 of the Constitution of the Republic of Bulgaria), which is no less significant than the signal as an opportunity for effective functioning of the administration and the opportunities for public participation in the process of preparation of regulations and rules that can have a significant impact on the environment. In article 107, paragraph 3 of the APC, the legislator determines the following purposes for which proposals may be made - to improve the organization and activities of administrative bodies and bodies that perform public law functions or to resolve other issues within its competence of these bodies. The right to propose (opinion, desire, idea, opportunity for action) as a manifestation of the right of referral to state bodies allows to every citizen to file a request for protection of the public interest. It gives every citizen the right to refer to the administrative body or the body that performs public law functions, informing it of his understanding of the public interest, the achievement (regulation) of which is within the competence of the body.

The provision of article 115 of the APC explicitly determines the obligation of the body not only to issue a decision, but also to ensure its implementation. The provision should be considered as a guarantee for the implementation of the adopted decision or signal, i.e. for the effectiveness of the constitutional right of the citizens (article 45 and article 57, paragraph 2 of the Constitution of the Republic of Bulgaria). The body's compliance with this obligation may be monitored administratively. The provision gives the body the right to determine the manner and term of implementation, assessing the nature of the measures necessary for implementation. When in pursuance of this decision an individual administrative act should be issued, the proceedings shall be conducted under the terms and conditions of Chapter Five “Issuance of Administrative Acts”.

The procedure for examining signals and proposals provided for in Chapter Eight shall apply whenever a special law does not provide otherwise. For example, article 154a of the EPA provides for a one-month period for verification of a received signal. The time provided by the legislator for checking the signal (by one month or less) corresponds to the principle of timeliness, applicable to any administrative procedure.

#### 11. Obstacles encountered in the implementation of article 8.

None.

#### 12. Further information on the practical application of the provisions of article 8.

MoEW publishes on its website drafts of normative instruments to enable the public to express their recommendations, comments and suggestions.

The participation of NGO representatives in working groups set up by the MoEW in the drafting of regulations can be given as an example of a good practice.

In recent years, a number of methodological guidelines in the field of public consultation have been developed and introduced, applicable to all sectors of government, not only with regard to the environment:

- Standards for conducting public consultations – present the main stages of the preparation, conduct and evaluation of public consultations, as well as the standards for their practical application by the public administration, including the consideration of the contribution of the participants in the public consultations. The standards are designed to assist administrations in implementing the defined principles for conducting public consultations as part of the overall process of planning, developing and implementing public policies.  
<http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&categoryId=&Id=296&y=&m=&d=>
- Handbook for civic participation - its main purpose is to guide and assist citizens and their organizations in their dialogue with public authorities. It is intended for national and local civil society organizations but can also be useful for public institutions. The handbook contributes to creating an enabling environment for civic participation in the decision-making process by presenting principles, guidelines, tools and mechanisms for participation. The aim is to encourage involvement in the process of making public decisions by summarizing and providing in a convenient, practical form the available knowledge and practice in the field, and presenting new and experimental forms of participation.  
<http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&categoryId=&Id=294&y=&m=&d=>
- Handbook for crowdsourcing and civic hacking - it includes references to specific examples of the application of both tools, as well as information on resource sources.  
<http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&categoryId=&Id=287&y=&m=&d=>
- Rules, procedures and criteria for appointing representatives of civil society organizations in consultative bodies. The document aims to lay a solid foundation and a unified approach in the practices of the administration to attract civic expertise in the advisory bodies of the administration. The rules contain sample procedures and criteria for attracting experts from the public.

<http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&categoryId=&Id=284&y=&m=&d=>

### 13. Website addresses relevant to the implementation of article 8.

<https://www.moew.government.bg/en/>

<http://www.strategy.bg/>

<http://www.lex.bg/laws/ldoc/2127837184>

## 9. Croatia



## Article 6

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

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

The Act on Regulatory Impact Assessment (OG 044/17) and the Regulation on the implementation of the regulatory impact assessment (OG 052/17) prescribe the rules for consultations with stakeholders, consultation and public discussions/round tables, and a minimum deadline of 30 days. After the completed consultation and public discussion, including the public presentations, the expert responsible person shall consider all comments, proposals and opinions of the public and the public concerned as well as issue a notification of the accepted and rejected comments, proposals and opinions which shall be made available to the public and the public concerned on its website.

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

Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing of certain plans and programmes relating to the environment has been fully transposed into national legislation. The principle of public participation is thus defined under the EPA and the RIPPCEM, which regulates the manner of informing and participation of the public and the public concerned and the Decree on Environmental Impact Assessment (OG 61/14, 3/17), the Regulation Strategic Environmental Assessment of Strategies,

Plans and Programs (OG 3/17), the Regulation on Environmental Permits (OG 8/14, 5/18), if participation of such public is prescribed by law, in the following procedures: strategic assessment; adoption of plans and programmes which are not subject to strategic assessment; drafting of laws, implementing regulations and other generally applicable legally binding rules that could have a significant impact on the environment; environmental impact assessment and environmental permits for installation. The Regulation also prescribes the procedure for holding public discussions, public inspections and public presentations, as well as the related deadlines. In the procedures for issuing approvals for the Safety Report and the Major Accident Prevention Policy, as well as in the procedures for issuing approvals for the rehabilitation program in accordance with the provisions of the EPA, the public is informed about the submitted requests. In addition to the information, the public is provided with access to the above-mentioned documents for a period of 30 days on the MESD website and is invited to submit opinions. All received public opinions in the proceedings are considered in decision-making and the decisions explain how they were taken into account in decision-making. Approvals to the Safety Report and the Major Accident Prevention Policy as well as approvals for the rehabilitation program are published on the MESD website (<https://mingor.gov.hr/>). In addition, some sectoral regulations further regulate public participation. Article 45 of the WA (OG No. 66/19) and Articles 8 and 9 of the Ordinance on the Manner of Public Consultation and Information regarding the Draft Water Management Strategy and River Basin Management Plan (OG No. 48/14) prescribe public participation and information in the procedure of adopting the Water Management Strategy and River Basin Management Plan.

The Nature Protection Act (OG No. 80/13) prescribes public participation, i.e., the procedure for holding a public discussion, in articles referring to the ecological network; reintroduction and repopulation of native species. The Act on the Prevention of the Introduction and Spread of Alien and Invasive Alien Species (OG 15/18 and 14/19) prescribes informing and obtaining public opinion (public consultation) on the risk assessment of the invasiveness of an alien species for which it was not possible to exclude ecological risk in case of cultivation in controlled conditions, introduction into nature and / or placing on the market of the Republic of Croatia.

Article 15 of the EPA (OG 127/19) prescribes the obligation and manner of public participation in the process of adopting plans, programs and reports at the national, regional and local level.

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;

Activities listed in Appendix I of the Convention correspond to the list of projects listed in the Annex I of the Regulation on the of environmental impact assessment (NN 61/14,3/17, hereinafter: UPUO) and in the list of activities in Annex I of the Regulation on the environmental permit. The administrative procedure is conducted for environmental impact assessment for the approval of activities listed in Annex I of UPUO which precedes other approvals or permits. The obtaining procedure for environmental permit for new activities follows the procedure separately and after environmental impact assessment procedure. The process of the environmental permit does not

serve to allow activities, but for the regulation of conditions of work for activities that have already been permitted. The process of the environmental permit should be implemented at the latest before the commissioning of the facility. Due to the formality of the process, the PUO follows the procedure in accordance to the regulation of GAPA. The process of environmental permits is conducted according to Regulation of environmental permit with a lower application of the provisions of the EPA, the EIA Regulation and GAPA when it comes to issues that are not covered by these regulations. During the procedure the public has a right of access to documents during public consultations, which includes public access to documents and public presentation on the project that is, the expert background that is the subject of the procedure. Before making a decision of the competent body in the environmental permit procedure, the public is provided with an insight into the draft decision by publishing it via the web.

(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;

As stated in the previous report in the case of projects listed in Annexes II and III of the REIA, i.e. the projects or activities which are not covered by Annex I to the Convention, the assessment of the need for an environmental impact assessment is carried out, on the basis of which it is determined whether the proposed project could have significant impacts on the environment and if there is a need for EIA and /or Major assessment. In the procedure for obtaining approvals or permits for projects which are not subject to the assessment of the need for an EIA, public participation is not envisaged. However, pursuant to the Physical Planning Act (OG 153/13, 65/17, 114/18, 39/19), in the procedure for obtaining a location permit, the parties (and only the parties) are allowed to inspect the conceptual design in accordance with the Construction Act (OG 153/13, 20/17, 39/19) and in the procedure for issuing decisions concerning construction requirements and building permits, the parties are allowed to inspect the conceptual design.

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

As noted in the previous report the RIPPCEM prescribes that the competent authority shall be responsible for the accuracy, timeliness, comparability and availability of information provided in relation to environmental matters. Besides the requirement to publish information on its website, the competent authority may provide information using other methods which are perhaps more appropriate in that particular case considering the relevant local community or individual citizen, referring in particular to public announcements in the press, i.e. the official bulletin of the local or regional self-government unit, posting information on the notice boards in relevant towns, publishing information in other media, electronic media, on appropriate information boards and similar, or issuance of written materials.

Art. 8 of the REIA is also applied in this context. It prescribes that the competent authority shall inform the public and the public concerned of the developer's request for EIA after it establishes that the request contains all the required information and evidence and that the study contains all the necessary chapters in accordance with Annex IV to this Regulation. Art. 10 and 16 of the

Decrees on environmental permits that obliges MESD to inform the public and the public concerned about the procedure of the environmental permit on the request of the operator, i.e. in the procedure *ex officio*.

Articles 1 and 4, para. 24, art. 39, para. 1 and 4, art. 42, para.3, art. 63, para 4 of the new Act on Genetically Modified Organisms (OG 126/19, hereinafter: AGMO) are also applicable in this context.

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

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

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

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

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

statements shall become integral parts of the documents that the proposal of the proclamation act is founded on.

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

It is still prescribed a minimum time period of 30 days for public participation in the process of drafting acts and implementing regulations as well as other general binding rules that could have a significant environmental impact, as well as amendments to the same. This requirement is reiterated in the relevant legal and subordinate regulations. The time limits are aligned with the Act on Regulatory Impact Assessment (OG 044/17) and the Regulation on the implementation of the regulatory impact assessment (OG 052/17) prescribing a minimum time limit of 30 days.

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

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

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

(e) With respect to paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

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

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

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Art. 163 of the EPA, which regulates the informing of the public and the public concerned with regard to the right and manner of participating in procedures and the applicable deadlines, Art. 166 of the EPA, which regulates the participation of the public and the interested public in special proceedings is applied in this context, together with Articles 5, 7, 9, 10 and 11 of the and Article 16 of the Decree on the Environmental Permit (OG 8/14, 5/18) and Art. 13. RIPPPCEM.

(g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

Within the framework of the national portal e-Consultations the public can directly enter comments on the text for the duration of the consultations. There is an obligation to prepare a report on the carried-out and publish it within one month at the same portal. In the EIA and SEA procedures the public can during information and participation submit their comments in writing or in person. Information on these procedures is made public on the website of the competent body, in the daily press and maybe in another way (radio program). In environmental permit procedures, the public can also during information and participation give your written comments, opinions, suggestions, and in person at a public hearing and additional comments in writing when participating in the review of the draft decision.

(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;

In general, the EPA (Articles 162 – 166) prescribes the right and manner of participation of the public and the public concerned in the process of drafting implementing regulations and/or generally-applicable legally binding normative instruments, as well as strategies and programmes referring to the environment, as noted in the previous report. The EPA also prescribes that the public proposals and opinions and the outcomes of transboundary consultations concerning draft proposals of strategies, plans and programmes and in an individual procedure have to be taken into consideration in the SEA and EIA procedures (Art. 73, Art. 89). Also relevant in this context are Art. 21 of the RIPPPCEM and Art. 24 of the AGMO. The EPA stipulates those proposals for public opinion, as well as the results of cross-border consultations, are also taken into account in the environmental permit procedure (Article 106).

(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;

As stated in the previous report, the manner in which the public has to be informed of a decision adopted by a competent authority and the grounds which the relevant decision is based on, including the data concerning the procedure for participation of the public and the public concerned, is prescribed under a number of different laws and regulations.

MESD regularly uses the decisions of the Administrative Court (concerning violations of the rules governing public participation in environmental decision-making) for the purpose of improving the EIA and environmental permit procedure. Thus, the decisions concerning the assessment of acceptability of a particular project and decisions from the environmental permit procedure specify

the public concerned that has provided comments, as well as the grounds for all comments that were not accepted. All decisions issued are available on MESD's website

In the environmental permit procedure, the draft of the environmental permit must be publicly available before adoption with a mandatory insight duration of 15 days, and the public feedback and comments must be taken into account. Only after the completion of access to the draft permits may a decision on the environmental permit be issued, which in the explanation must include responses to comments from the public debate and respond to comments on the draft permit, if any. Also, a decision on the environmental permit may provide additional requirements that are determined on the basis of public participation, if their decision was justified. The 2017 amendments to the UPUO stipulate that a draft decision from the environmental impact assessment procedure is published before the decision is made.

(j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

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

In the procedure of amending the conditions of the issued environmental permit, which is carried out at the request of the operator for a significant change in the operation of the plant in accordance with EPA and the Environmental Permit Regulation, the procedure is identical to obtaining a new environmental permit. In the ex officio procedure of reviewing the conditions of the environmental permit and in the procedure of amending the conditions of the environmental permit, for which the competent authority (MESD) assesses that there are no significant changes in work, the operator's request and in the procedure ex officio informs the public on the application and all relevant information is provided in accordance with the Environmental Permit Regulation and the participation of the public and interested public is carried out by inspecting the draft permit for a mandatory period of 30 days (Article 16).

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

(k) With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

In their approval procedures, state administration bodies are obliged to provide the public with access to information from applications, the content of technical documentation and conducted risk assessments, as well as to state a statement of objections and public opinion in the explanations of their approval decisions. (Article 24, paragraphs 1 and 4 and Article 39, paragraphs 1 and 4 of the AGMO). In the event of any modifications, new data and unplanned changes in the deliberate release into the environment that could adversely affect biodiversity, the environment or human health, the state administration body responsible for environmental protection and nature is obliged

to inform the public in accordance with Article 40 paragraph 3. ZGMO. In case of unplanned release of GMOs into the environment, the state administration body responsible for environmental and nature protection is obliged to inform the Croatian Government of and the public about the event and the preparation and implementation of the program for eliminating the consequences of uncontrolled spread of GMOs in the environment. 4. ZGMO. Pursuant to Article 63, paragraph 4 of the Ordinance on GMO, updated information on the restriction or prohibition of the cultivation of certain GMOs and / or groups of GMOs must also be made available to the public.

Croatia has not ratified the GMO Amendment to the Aarhus Convention. However, the provisions of the Aarhus Convention regarding public access to information and public participation have been fully integrated into the AGMO as in other regulations.

2. Website addresses relevant to the implementation of article 6.

<https://mingor.gov.hr/>

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

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

Art. 8 para. 7, art. 10 para. 1, art. 23, Art. 27. Decree on Strategic Environmental Assessment of Strategies, Plans and Programs (OG 3/17) is relevant in this context. Also applicable are the NPA: Art. 5 and 125; the WA: Art. 5, para. 8 and Art. 39; and the NMO: Art. 27.

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

## Article 7

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

Articles 17, 164 and 165 of the EPA, and the RIPPPCEM are applied in this respect. The public has the right to express its opinion, comments and suggestions concerning draft strategies and proposals of plans and programmes related to the environment for which the EPA does not prescribe mandatory strategic assessment.

Public authorities form working groups for the preparation of certain strategic and planning documents as well as advisory bodies for the purpose of obtaining opinions regarding such documents. It is common practice that such bodies include the representatives of both the business and the civil sector, as well as representatives from scientific institutions. Croatian Government's Office of Legislation, through its website, keeps a database of advisory bodies in which a search can be conducted of state institution advisory bodies by person or by institution/organisation to which they belong, <https://savjetovanja.gov.hr/baza-savjetodavnih-tijela/1118>.



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

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

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

6. Website addresses relevant to the implementation of article 7.

<https://mingor.gov.hr/>

[www.zagreb.hr](http://www.zagreb.hr)

<https://udruga.gov.hr/ipa-2012/324>

<https://savjetovanja.gov.hr/baza-savjetodavnih-tijela/1118>

<https://www.zagrebacka-zupanija.hr/javne-rasprave/>

## Article 8

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

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

Pursuant to Article 24 of the Act on Regulatory Impact Assessment (OG 044/17) and Articles 18 and 19 of the Regulation on the Implementation of the Regulatory Impact Assessment Process (OG 052/17), during the preparation of any national legislative act, it is required to include consultations with stakeholders, public consultations and public discussions.

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

The opinions, comments and proposals can be submitted by all citizens, without exceptions, in accordance with the principle of equality of citizens from Art. 14 of the Constitution of the Republic of Croatia. The Amendments to the Rules of Procedure of the Government of the Republic of Croatia (OG 121/12), Art. 30, para. 4, prescribes that the draft proposal of the regulation must be subject to the mandatory consultation procedure (in accordance with the Code of Practice on Consultations with the Interested Public) as well as the mandatory delivery of the report on consultations with draft proposals of acts and other regulations.

According to the latest Analytical Report of the Information Commissioner “Implementation of public consultations in state administration bodies and offices of the Government of the Republic of Croatia in 2019 (March 2020), it was determined that the consultation was conducted for 95.62% of laws and regulations.

8. Website addresses relevant to the implementation of article 8.

<https://savjetovanja.gov.hr/>

## 10. Cyprus

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

Decisions on whether to allow specific activities are subject to the provisions of the Law on Environmental Impact Assessment of Certain Projects (Law 127(I)/2018). According to the Law, the projects listed in Annex I (according to Annex I of the Aarhus Convention), are subject to environmental impact assessment. The projects listed in Annex II are subject to a preliminary environmental ASSESSMENT and SCREENING to decide whether to approve the project or whether an EIA report is required before a decision is made. Law 127(I)/2018 applies the provisions of Article 6 of the Convention regarding the participation of the public in decisions on whether to allow specific activities. By law, the "public" is defined as one or more physical or legal persons and their associations, organizations or groups. In the light of the new Directive 2014/52/EU and after an assessment of the problems and shortcomings of the current evaluation procedures, new legislation was drafted (Law 127(I)/2018) to replace Law 140 (I)/2005. This Law entered into force on 31/7/2018. Specifically, Article 38 of this Law sets the provisions for informing of the public through several means (website, public announcements, radio, etc). Article 39 sets the provisions for a public hearing of certain projects. Article 40 sets the provisions for an archive that is available to the public. Article 48 sets the provisions for access to justice and clarifies the procedure to follow. A more detailed analysis is followed.

- Paragraph 1: Activities falling under Article 6

Law 127(I)/2018 applies to projects listed in Annex I or Annex II, which are expected to have significant effects on the environment, including the use of natural resources. The projects listed in Annex I are those that are expected to have a significant impact on the environment and are subject to a full environmental impact assessment study. The projects listed in Annex II are of a smaller scale and are subject to a preliminary environmental ASSESSMENT and SCREENING to

determine whether a full environmental impact assessment is required or whether the project can be approved under the conditions and measures proposed by the Environmental Authority to minimize or eliminate.

For other projects that do not fall within the scope of Law 127(I)/2018, the planning authority may consult the Environmental Authority as part of the consultation process carried out with all relevant services before approving a project. In such cases, the Environmental Authority proposes to include them in the terms of the design permit to avoid adverse environmental effects during the construction and operation of the project. Projects located or projects within a Natura 2000 site that are not directly related to the site management, but may have a significant impact on it, are subject to appropriate impact assessment in the light of the site maintenance objectives and under the new legislation (127(I)/2018) the data are included in environmental impact assessment study for project listed in Annex I or Annex II. According to article 16 for the Protection and Management of Nature and Wildlife Law (153(I)/2003).

Public participation as part of the EIA process takes place before the design decision, or in the case of projects not subject to a design permit, before the final environmental permit. Similar provisions apply to the CMO of plans and programs, as well as to the preparation of other plans, programs and integrated permits provided for by applicable environmental legislation, such as waste legislation and the Industrial Emissions Directive. Public participation, although not mandatory, is part of the process of preparing legally binding instruments. Article 39 sets the provisions for a public hearing of certain projects. The competent public authorities provide the public with all information related to decision-making.

- Paragraph 2: Notification of the public concerned

Before submitting an EIA report, the developer should conduct a public consultation and at least a public presentation, in order for the local authority and public to give their views and submit comments and suggestions on the impact of the project. These views are incorporated in the EIA report along with comments on the extent to which they have been taken into account. This information must be covered by the EIA report, which is publicly accessible. According to Article 27 of Law 127(I)/2018, every person or public authority submitting an EIA report has to issue, at the same time, a public notice in at least two daily newspapers of the Republic, announcing the following:

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

7. That any person may submit comments and opinions to the Environmental Authority regarding the content of the report or the possible environmental impacts that could result from the project.

The examination of the EIA report by the Environmental Authority does not begin until the public notice has been issued. Within 30 days from the date of the notification, any person may submit to the Environmental Authority comments or opinions regarding the content of the report or the possible environmental impacts that could result from the project. These will be taken into account by the EIA Committee (established under the EIA law for the assessment of the EIA reports submitted) when evaluating the study and subsequently by the Environmental Authority when preparing its opinion. The study is posted on the website of the Environmental Authority and is sent to any person who requests it. Excluded from the above are the studies concerning projects related to essential interests of the Republic of Cyprus such as hydrocarbon activities within the exclusive Economic Zone of the Republic of Cyprus.

Article 32 of the Law provides that, within fifteen (15) days after receiving the information the Environmental Authority informs the interested authorities that participated in the process, as well as any state with which any consultations were held and publishes the decision through Environmental Authority website, notifying that the following information is entered in the EIA Registry:

- a. the content of the decision and the conditions and other documents that may accompany it
- b. information on the public participation process that has taken place, including a summary of the results of the consultation and the information gathered during the process.

Article 38 of the Law provides that, to ensure the effective participation of the public in the decision-making processes for a project, is informed through:

- (1) the website, through public announcements or other appropriate means, such as publications or announcements in newspapers or television and radio stations of Cyprus and / or local, wall-painting in the area of the planned execution of a project, use of e-mail, posts on the Environmental Authority website, copies to the local authorities and posts on social media.
- (2) Information and Studies must be available for inspection at least thirty (30) days from the date the documents are made available for examination.
- (3) A copy of the Study is available to the local authority for public inspection.

According to Article 40, the Environmental Authority maintains an EIA Registry in printed and electronic form, made available to the public in which the following information is listed:

- i. the Studies and information submitted
- ii. all project drawings and maps and photographs of the project location and the geographical area affected by the project
- iii. Any document submitted by another state in the case of transboundary impacts
- iv. any public announcement issued by the Environmental Authority requesting public participation in the environmental impact assessment process

- v. the views and Opinions submitted by the Environmental Authority to the Planning Authority or to the developer or to any government agency in accordance with this Law
- vi. The opinions submitted by any organization, body or person to the Environmental Authority,
- vii. Environmental Approval granted
- viii. The decision of the planning or other public authority responsible for the project,
- ix. The minutes of the meetings of the EIA Committee
- x. copies of the information referred to in Article 32
- xi. copies of review and / or monitoring reports and inspectors' reports and references to enforcement measures taken and
- xii. any other information that the Environmental Authority deems relevant and useful.

Relating to the Environment Law, the Environmental Authority ensures the convenience access of the public to printed forms, which can be inspected during working days and hours. If information contains confidential information relating to commercial and industrial secrecy, including intellectual property, as well as national security and public interest, which may not be available to the public, the Environmental Authority acts accordingly to ensure the confidentiality of such information. Excluded from the above are the studies concerning projects related to essential interests of the Republic of Cyprus such as hydrocarbon activities within the exclusive Economic Zone of the Republic of Cyprus.

According to the Directive 2014/52/EU and the new Law 127(I)/2018, defines the “public concerned” as the public affected or likely to be affected by or having an interest in the environmental decision-making procedures, whereby for the purposes of this definition, non-governmental organizations promoting environmental protection are deemed to have an interest. The definition has been added for the purpose of access to justice.

Under the new EIA law, public participation is mandatory during the evaluation process and preparation of the EIA report and the developer will be required to hold a public consultation and at least one public presentation before the completion of the exhibition, which should include the results of the consultation and how the views expressed were taken into account. In addition, the new law allows the Environmental Authority to determine whether to hold another public presentation for Annex I projects depending on the project features and potential impacts and sets out practical provisions for the hearing process.

- Paragraphs 3 and 4: Sufficient timeframes and effective public participation

Any person or public authority submitting an environmental impact assessment report has to issue, at the same time, a public notice, notifying the public of the practical arrangements for obtaining the relevant information and submitting opinions. Any person may submit opinions to the Environmental Authority within 30 days from the date of the notification, which are taken into account by the EIA Committee examining the report and subsequently by the Environmental Authority when preparing its opinion. The EIA process, including public participation, takes place prior to development consent when all options are still open with respect to the characteristics, siting and final approval of the project, whereby appropriate measures may be imposed to avoid

or minimize adverse environmental impacts, whilst also taking into account public opinion. Furthermore, the EIA report must include an analysis of the main alternatives considered by the developer and an indication of the main reasons for selecting the chosen option with respect to the resulting environmental impacts, which are accessible to the public to comment on.

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

- Paragraph 5: Encouraging prospective applicants to enhance public participation

Under the new EIA legislation 127(I)2018, it is the responsibility of the developer (consultants) to conduct a public consultation and at least one public presentation before the end of the report, which should include the results of the consultation and how the views have been taken into account. expressed. During the evaluation process, the views of all local authorities affected by the proposed project, NGOs and competent public authorities should be taken into account and taken seriously by the consultants in the evaluation process. The opinions submitted should be included in the EIA report, together with the conclusions and recommendations on these views and how they have been taken into account. In the case of public works, the preliminary results of the EIA report must be presented at a public presentation.

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

As mentioned above, once the EIA report is submitted, the public is notified of the submission and of the times and place where the study can be examined. According to Law 127(I)/2018, the report must contain the following information:

- A. A description of the project and in particular:
  - a. a description of the physical characteristics of the project and its land use requirements during the construction and operational phases,
  - b. a description of the main characteristics of the production processes,
  - c. an estimate of the type and quantity of expected residues and emissions resulting from the operation of the proposed project.
- B. An outline of the main alternatives studied by the developer and an indication of the main reasons for the chosen option, taking into account environmental impacts.
- C. A description of the aspects of the environment likely to be significantly affected by the proposed project and its alternatives, including in particular, population, fauna, flora, soil, water, air, climate, material assets, including the architectural and archaeological heritage, landscape, and the interrelationship between these factors.
- D. A description of the possible significant impacts of the proposed project on the environment resulting from the siting, construction and operation of the project, the use of natural resources, the emission of pollutants, creation of nuisances and disposal of waste, and a description of the forecasting methods used to assess the impacts on the environment.
- E. A description of the measures proposed to prevent, reduce and, where possible, mitigate, or compensate for, any significant adverse impacts on the environment.

- F. A non-technical summary of the information listed above, including a visual presentation with maps, drawings, diagrams, tables, photographs, etc., where necessary.
- G. A description of the prediction methods used to assess impacts on the environment and the basic assumptions and hypothesis that have been adopted, as well as the data and measurements used, the models, and the calculations followed. An indication of any difficulties encountered in compiling the required information.
- H. Where relevant, a detailed monitoring and management programme, particularly addressing the serious or long-term environmental and social impacts that will be identified.
- I. Before submitting a study, the developer should conduct a public consultation and at least a public presentation, in order for the local authority and public to give their views and submit comments and suggestions on the impact of the project. These views will be part of the EIA Report along with comments on the extent to which they have been taken into account.

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

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

- Paragraph 7: Public comments

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

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

According to Law 127(I)/2018, the comments and opinions expressed by the public during the consultation period are taken into account by the EIA Committee when evaluating the EIA report and subsequently by the Environmental Authority when preparing its opinion. Moreover, the opinions expressed by the local communities where the project will be executed and the Federation of Environmental Organizations, as the representative of environmental NGOs in the EIA Committee, are taken into account by the Environmental Authority and have an important weight in the decision-making process.

Furthermore, the new EIA legislation includes provisions for public hearings to be held by the Environmental Authority in cases when it is deemed useful or appropriate given the characteristics of a project, the magnitude of its potential environmental impacts and the extent of the public interest shown for the project. The public hearing will allow the public to present their opinions and concerns, and an exchange of views. The opinions expressed will be recorded, summarized

and forwarded to the developer, allowing his consultants to respond to the issues raised. The results of the public hearing will be taken into account during the decision-making.

Any opinions submitted are kept in the EIA registry which is accessible to the public as well as an EIA platform. The platform includes information on projects that have been submitted to the Environmental Authority based on the Environmental Impact Assessment of some projects Law N127(I)/2018.

- Paragraph 9: Information about the decision

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

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

- Paragraph 10: Public participation in reconsidering or updating the decision

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

The provision of information and public participation procedures have been significantly strengthened through the new EIA legislation and the EIA platform that was launched in September 2019.

- Paragraph 11: Public participation with respect to decisions over GMOs

Projects involving installations where genetically modified organisms are produced or used, or are planned to be produced or used, are included in Annex I of Law 127(I)/2018 and are therefore subject to an EIA and the provisions outlined above regarding public participation. Where the project will involve the storage or use of genetically modified organisms the EIA report must include a scientific description of the organisms and an assessment of their origin and the necessary means and measures for their containment.



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

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

## 2. Further information on the practical application of the provisions of article 6.

Public authorities may, inter alia, refuse a request for environmental information if:

- The information requested is not held by or for the public authority to which the request is addressed. In this case, where the public authority is aware that the information is held by or for another public authority, it shall forward the request to that authority and inform the applicant accordingly or notify the applicant where to apply to receive the requested information.
- The request is manifestly unreasonable, formulated in too general a manner, concerns material in the course of completion or unfinished documents and data, or internal communications.

A public authority may also refuse requests for information if the disclosure of such information could adversely affect:

- The confidentiality of the proceedings of public authorities where such confidentiality is provided for by law.
- International relations, public security and national defence.
- The course of justice, the right of any person to a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.
- The confidentiality of commercial or industrial information, where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy.

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

[www.moa.gov.cy/environment](http://www.moa.gov.cy/environment)

<http://infoeia-sea.environment.moa.gov.cy/>

## Article 7

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

The Law on the Assessment of the Impacts on the Environment from Certain Plans and Programmes (N. 127(I)/2018) introduces environmental considerations in the preparation and approval of plans and programmes, ensuring the assessment of the impacts on the environment from those plans and programmes which could potentially result in significant adverse impacts on the environment. According to the Law, an assessment of the impacts on the environment is required for every plan and programme:

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

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

As with the EIA Law, it ensures the participation of NGOs active in the field of environmental protection, as the Federation of Environmental Organizations of Cyprus is a permanent member of the SEA Committee, which examines the SEA reports submitted and advises the Environmental Authority in preparing its opinion on a proposed plan or project. Regarding public participation, according to Article 28 of the Law, when a competent authority submits an SEA report for a proposed plan or programme, it has to issue, at the same time, a public notice in the Official Gazette of the Republic, two daily newspapers and through the Internet with which to announce:

- the submission date of the study and the name of the competent authority which has submitted it,
- the nature of the proposed plan or programme and the area it concerns,
- that the report can be examined during the working days and hours at the offices of the Environmental Authority and the authority competent for the plan/project,
- that any person may submit comments or opinions to the Environmental Authority regarding the content of the report or the environmental impacts likely to result from the approval of the plan or programme, within 35 days from the date of the notification.

During the evaluation of the report, consultations are carried out with the public. The public with which the Environmental Authority carries out consultations includes the public that is affected or

likely to be affected, or whose interests are at stake from the decision-making process regarding a plan or programme and includes NGOs promoting environmental protection.

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

The opinion of the Environmental Authority is filed in the Register kept in accordance with Article 40 of the Law and made available to the public through the internet. Before taking a decision regarding a proposed plan or programme, the competent authority must take into account the opinion of the Environmental authority and the results of the public consultation. Once the decision is taken by the competent authority, the Environmental authority informs the public of the decision by issuing a public notice through the Internet, and that the following information is available, specifying the time and place where it can be obtained:

- i. A description of the plan or programme as this has been approved,
- ii. A summary statement regarding:
  - a. the way in which the environmental parameters were incorporated in the plan or programme,
  - b. the way in which the SEA report and the opinion of the Environmental Authority were taken into account,
  - c. any opinions expressed by the public,
  - d. the reasons why the particular plan or programme was chosen taking into account other alternative possibilities examined
- iii. A description of the major adverse environmental impacts that will arise as a result of the plan or programme, and
- iv. A description of the measures to monitor and control the adverse impacts that may result from the implementation of the plan or programme.

The Environmental Authority keeps a Register of the following information:

- all the studies submitted,
- the opinions and comments expressed by the public,
- the opinions of the environmental authority,
- the information mentioned above, and
- the results from the monitoring of the environmental impacts that may result from the approval of the plan and/or programme.

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

All the relevant documentation is also made available at the EIA platform.

#### A. Participation under the Law on the Control of Water and Soil Pollution

The provisions on access to information and public participation under the Law on the Control of Water and Soil Pollution (No. 160(I)/2005 as amended by Law No. 181(I)/2013) ensure that early and effective opportunities are given to the public concerned to participate in the following procedures:

1. The preparation and modification or review of the plans or programmes, concerning the protection of waters against the pollution caused by nitrates from agriculture sources,
2. The granting of a Waste Discharge Permit.

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

- Any proposal for such plans or programmes or for their modification or review
- Any application for a permit,
- Details regarding either the proposal for a plan or program, or the application for a permit,
- Details of the competent authority responsible for taking the decision, from which relevant information can be obtained and to which comments or questions may be submitted,
- An indication that the relevant information is available at the offices of competent authority during working hours,
- An indication that any opinions or comments from the public concerned may be submitted within 35 days from the date of the notification.

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

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

#### B. Access to information and participation under the Industrial Emissions Law

The provisions for access to information and public participation under the Industrial Emissions Law (N. 131(I)/2016) ensure that early and effective opportunities are given to the public concerned to participate in the following procedures:

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

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

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

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

- i. The content of the decision, including a copy of the permit and any subsequent updates,
- ii. The reasons on which the decision was based,
- iii. The results of the consultations and an explanation of how they were taken into account in the final decision,
- iv. The title of the Best Available Techniques (BAT) reference documents relevant to the installation or activity concerned,
- v. How the permit conditions, including the emission limit values, were determined in relation to the best available techniques and emission levels associated with the best available techniques,
- vi. Where derogation is granted, the specific reason for that derogation, based on the criteria laid down in Article 15(4) of the Industrial Emissions Directive,
- vii. Where applicable, relevant information on the measures taken by the operator regarding the cessation of activities,

- viii. Where applicable, the emission monitoring results, if required under the permit conditions.

### C. Participation under the Waste Management Laws

The provisions on access to information and public participation, under the Waste Law, No. 185(I)/2011 (2011 to 2016), ensure that early and effective opportunities are given to the public concerned to participate in preparation and modification or review of the plans and/or programmes. According to Article 38 of the Waste Law of 2011 (185(I)/2011), the Environmental Authority ensures that stakeholders, the competent authorities and the general public have the opportunity to participate in the elaboration, amendment or review of waste management plans and waste prevention programmes. Specifically, the public is informed through a notification published in the Official Gazette, two widely circulated daily newspapers and the internet, about:

- I. Any proposal for waste management plan or waste prevention programme or for their modification or review,
- II. Details regarding the proposed plan or program can be examined during the working days and hours at the offices of the Environmental Authority,
- III. That any person may submit comments or opinions to the Environmental Authority regarding the content of the proposal, within 35 days from the date of the notification.

The Environmental Authority informs the public through the internet of any proposals for plans or programmes or for their modification or review, as well as of any opinions and comments submitted by the public during the consultation period. During the evaluation of proposals, consultations are carried out with the public, including public hearings. The public with which the Environmental Authority carries out consultations includes the public that is affected or likely to be affected, or whose interests are at stake from the decision-making regarding a plan or programme and includes NGOs promoting environmental protection. The results of the public participation and consultation are taken into account of a decision.

The approval of the plan and/or programme, by the Council of Ministers is published through a notification in the Official Gazette of the Republic, two daily newspapers and through the Internet. The Environmental Authority keeps a Register of the following information:

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

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

### D. Participation under the Packaging and Packaging Waste Law

In accordance with Article 16A of the packaging and packaging waste law to participate in the elaboration of plans and programmes for the management of packaging and packaging waste. The public must be informed through a notification published in the Official Gazette of the Republic, two widely circulated daily newspapers and the internet about: Law 159(I)/2005 to 2019), the

Environmental Authority must ensure that the relevant stakeholders, competent authorities and the general public have the

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

#### E. Participation under the Law on the Management of Waste from the Extractive Industries

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

1. The granting of a mining waste management permit,
2. The granting of a permit for any substantial changes,
3. The review of a mining waste management permit,
4. The granting of an approval for a mining waste management plan
5. The granting of an approval for any substantial changes to the management plan
6. The review of a mining waste management plan

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

1. The application for a permit or, as the case may be, the proposal for the review of a permit or permit conditions, including the description of the elements contained,
2. Where applicable, the fact that a decision is subject to a national or transboundary EIA or to consultations between Member States,
3. Details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions may be submitted, and details of the time schedule for transmitting comments or questions,
4. The nature of the possible decisions or, where there is one, the draft decision,
5. Where applicable, the details relating to a proposal for the review of a permit or permit conditions,
6. An indication that the relevant information is available at the offices of competent authorities during working hours,
7. An indication that any opinions or representations may be submitted within 35 days from the date of the notification,

8. Details of the arrangements for public participation and consultation, and particularly on the date and place of the public consultation, the deadline for submitting written views and positions, the issues identified as essential by the competent authorities, etc.
9. The main reports and advice issued to the competent authorities at the time when the public concerned are informed,
10. Other information relevant to the decision, which only becomes available after the time the public concerned was informed.

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

1. The content of the decision, including a copy of the permit and any subsequent reviews,
2. The reasons on which the decision was based,
3. The results of the consultations and an explanation of how they were taken into account in the decision-making.

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

- The proposed external emergency plans,
- That the proposals may be examined during the working days and hours at the offices of the Environmental Authority,
- That any person may submit comments or opinions to the Environmental Authority regarding the content of the plans from the approval of the plans, within 35 days from the date of the notification.

The Competent Authority keeps a Register of the following information:

- All the external emergency plans and their revisions,
- The opinions and comments expressed by the public,
- The final external emergency plans.

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

#### F. Participation under the Nature Protection Laws

According to Article 9(4) of the Law for the Protection and Management of Nature and Wildlife (N. 153(I)/2003 to 2015), the Environmental Authority maintains a publicly accessible database on Special Areas of Conservation, Sites of Community Importance, Special Protected Areas and



areas that include priority habitats and species. Furthermore, according to Article 15(3), before the adoption of a Decree on the management and protection of a Special Area of Conservation, the public must be informed through a notification in the daily press of the proposed Decree and that comments may be submitted within 30 days from the date of the notification.

#### G. Participation under the Environmental Noise Law

The Department of Environment in Cyprus is the responsible authority for the implementation of the Environmental Noise Directive. Since 2007, and every five years, it has developed the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> round of strategic noise maps and action plans for agglomerations, roads, airports and industrial activities. Action plans address the priorities in those agglomerations and are drawn up in consultation with the public. The information channels selected for these consultations are public presentation on a specific day and public consultation through a written procedure.

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

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

The strategic noise maps and actions plans developed for the 1st, 2nd and 2rd rounds are available on the official website of the Department of Environment and can be found below (in Greek):

[http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page10\\_gr/page10\\_gr?OpenDocument](http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page10_gr/page10_gr?OpenDocument)

#### H. Access to information and participation under the Department of Forest Law

The Department of Forests, in the context of information and education of the public for nature and forest protection organizes events and lectures on radio and television programs and publishes informative material.

#### 5. Further information on the practical application of the provisions of article 7.

The provisions relating to Articles 6 and 7 of the Convention have introduced uniform procedures for public participation in the decision-making process over plans, programmes and projects relating to the environment. The practical arrangements which are now in place have provided the public with the opportunity to be informed in a timely manner regarding a possible decision and have enabled concerned citizens to participate in the decision-making process more effectively. Through these arrangements, all information relevant to a proposed decision is now accessible and the public, including NGOs and other stakeholders, can express opinions which must then be taken into account when the final decision is taken. This has also enabled public authorities to evaluate and take into consideration public opinion on a specific project, plan or programme at a stage when it is still possible to introduce changes and measures to minimize any potential impacts. As a result, the decision-making process has become more efficient, the decisions taken meet the needs and

concerns of the public concerned and are more transparent and with added validity. In many instances, public participation has also increased public awareness on specific issues, such as waste management and energy production.

The major advantage is the involvement of the public from an early stage in the decision-making process. This allows the public the opportunity to express their opinions and concerns regarding a possible decision, and the public authority to assess those opinions at a stage when it is still possible to change the parameters of a project, plan or programme to reduce impacts and increase public acceptance. Additionally, implementation has ensured a uniform approach to public participation by incorporating procedures already found in other legislation (EIA and SEA Laws) in the decision-making process.

*Differences between plans, programmes and policies according to national legislation:* According to the SEA legislation, plans and programmes include those subject to preparation and / or adoption by an authority at national, regional or local level or which are prepared by a competent authority for adoption through the legislative procedure, or which are required by any legislative provisions, including environmental and community legislation. Policies are not within the scope of the SEA legislation.

6. Website addresses relevant to the implementation of article 7.

[www.moa.gov.cy/environment](http://www.moa.gov.cy/environment)

<http://infoeia-sea.environment.moa.gov.cy/>

## Article 8

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

In 2011 the Ministry of Finance, in cooperation with the Legal Service, published a Consultation Guide for public authorities providing guidance over the public participation procedures to be followed during the preparation of legislative and regulatory acts. The Guide forms part of the Impact Assessment Questionnaire that must accompany a draft bill when submitted to the Legal Service for legal vetting and, following this, the Council of Ministers and the House of Representatives for adoption. One of the central aspects of the questionnaire is the public dialogue conducted with interested parties, and the Guide provides assistance to public authorities in this respect. The Guide covers the types of consultations that need to be carried out when preparing a new legislative act or amending an existing one, ways to identify and engage interested stakeholders in the participation process, the preparation of the information necessary for the participation process, and ways of evaluating the contributions made, while setting timeframes for the participation process. The Guide covers two types of participation procedures which may be followed, informal and formal participation. During the informal procedure there is a preliminary exchange of opinions with affected parties and an initial evaluation of responses to the proposed legislation. Based on this it is then decided whether it is necessary to conduct a formal participation procedure, which involves the notification of information material to interested parties, the

submission of written comments and, where necessary, public hearings, meetings campaigns, public enquiries and expert committees. Stakeholders are informed as to how their opinions have been utilized.

An informal participation procedure must be concluded within a 4-week period. In the case of formal participation procedures, the consultation period must take at least 4 weeks and be concluded at a maximum of 8 weeks. The precise timeframes for informing stakeholders and the public and for the submission of opinions are determined by the competent body preparing the legislation and depend on the precise methods chosen for participation. Invitations to participate in public consultations must be sent to interested parties at least 2 weeks prior to the onset of the consultation period. To ease access to relevant information, consultation documents must be made available through the Internet. The participation procedure is carried out at the initial stages of the legislative procedure, when a draft legislative proposal is prepared, allowing for a first exchange of views between interested parties and a first evaluation of responses to the proposed legislation. The contributions received and the analyses made must be made available through the internet within 2 weeks after the consultation period. The results of the public consultation are submitted as part of the Impact Assessment Questionnaire which accompanies the proposed legislation.

8. Website addresses relevant to the implementation of article 8.

[www.moa.gov.cy/environment](http://www.moa.gov.cy/environment)

## 11. Czechia

### Article 6

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

The Czech legal system regulates public participation in decisions on specific activities. However, the regulation is included in both general and special regulations. Therefore, the general regulation of participation contained in the Administrative Procedure Code often applies, as does partial regulation contained in individual sectoral laws, which, as a *lex specialis*, modify the general regulation, in some cases even excluding it. If the circle of participants in the proceedings is not regulated in any way, in addition to the applicant, other persons concerned also become participants in the proceedings pursuant to Section 27 (2) of the Administrative Procedure Code, if they could be directly concerned by the decision in their rights or obligations. A typical example is the procedure for issuing a permit for the operation of a waste management facility, the participants of which are not defined by the Waste Act (except for municipalities). In such a case, the concerned natural person (usually a neighbour) as well as a legal entity (e.g. an environmental association) can also become a participant. In some cases, which are specified in the law, only the applicant is a participant.

Within the scope of Article 6 of the Aarhus Convention, Czech law allows the relevant public to participate in permitting procedures that follow the EIA process, which also carries out impact assessments on Natura 2000 sites, and in the integrated permit procedure (IPPC). In addition to the requirements of the Aarhus Convention, Czech law also involves the public concerned in certain proceedings in which the interests of nature and landscape protection may be affected, and in water law proceedings, which primarily concern water management and the protection of water resources. Special requirements are set for the participation of environmental associations in these proceedings.

Administrative proceedings following the EIA process are defined by the EIA Act in Section 3 (g) as: a zoning procedure, construction procedure, joint zoning and building procedure, repeated building procedure, procedure for an additional building permit, procedure for a mining activity permit, procedure for determination of mining area, procedure for a permit of activity performed by mining method, proceedings on permits for the management of surface and groundwater, proceedings on the issuance of integrated permits, proceedings on the issuance of permits for the operation of a stationary source, proceedings on the issuance of a permit for the operation of facilities for the use, disposal, collection or purchase of waste. Furthermore, the follow-up procedure is another procedure in which the decision necessary for the implementation of the project is issued, if none of the above-mentioned proceedings nor the procedure for changing the decision is conducted.

If an EIA is performed (a binding opinion has been issued), according to Section 9c (3) (b) of the EIA Act environmental associations that were established at least 3 years ago, or are supported by the signatures of at least 200 persons can register in the procedures as participants. These associations can even lodge an appeal against a decision given in a follow-up procedure without having to take part in the proceedings at first instance. Persons concerned may participate in follow-up proceedings in accordance with the rules on participation set forth in individual laws. These usually do not define the circle of participants, so the general regulation in the Administrative Procedure Code (see above) applies, or the participants include the affected owners of neighbouring land (this applies to land and building procedure), or explicitly the municipality in whose territory the project is to be implemented (see, for example, the planning procedure or proceedings for the issuance of a permit to operate a waste collection or purchase facility; however, the municipality is not the public concerned in the sense of the Aarhus Convention). Tenants are not among the participants in the building and zoning procedures and will not become participants even according to the Administrative Procedure Code, because the comprehensive regulation of the participants in the Building Act in this respect excludes the application of the Administrative Procedure Code. Rather, in theory, it may be the case that even a neighbour – the owner concerned - will not be able to participate in the follow-up proceedings.

In addition to the participation of the public concerned in decisions, the EIA Act regulates the consultative participation of the general public in the EIA process and in follow-up proceedings. If an EIA is not carried out because, according to the conclusion of the screening procedure, the project does not have a significant impact on the environment, the environmental associations may

appeal against the conclusion of the screening procedure, which is issued in the form of a decision. The people concerned do not have this right.

Participation in the procedure for issuing an integrated permit (IPPC) allows a broad range of participants in this procedure, which is regulated in Section 7 of Act No. 76/2002 Coll., On integrated pollution prevention and control, on the Integrated Pollution Register and on amendments to certain acts (Integrated Prevention Act).

According to this provision, the participants in the procedure for issuing an integrated permit may be civil associations or public benefit corporations, on the basis of an application. However, if the procedure for issuing an integrated permit precedes the EIA, this procedure will be conducted as a follow-up procedure. Consequently, the regulation in the EIA Act will apply, according to which environmental associations may participate in the follow-up procedure if the conditions under the EIA Act are met (3 years of activity or 200 signatures). The case law has not yet clarified whether and, if so, to what extent this special regulation in the EIA Act excludes the participation of other associations, the scope of which is defined more broadly in Act No. 76/2002 Coll. – i.e., whether only associations that meet the requirements of the EIA Act can participate. Disputes about the correct definition of the scope of participants have practically not come up to this date.

As regards the participation of persons concerned, a participant to the procedure for issuing an integrated permit can also be the person who would be one according to special legal regulations – i.e., the participant to the procedure which the integrated permit replaces. The scope of participants in these proceedings is usually determined according to the general regulation in Section 27 (2) of the Administrative Procedure Code. An exception is, for example, the procedure for granting an exemption from noise limits pursuant to Section 31 of Act No. 258/2000 Coll., On the protection of public health, in which only the applicant is the participant. If the decision taken in these proceedings was the only act replaced by the integrated permit, the persons concerned would not be among the participants to the integrated permit procedure. The public concerned is not a participant to the permit procedure for a minor change to the integrated permit.

The participation of the public concerned in decision-making outside the scope of Article 6 focuses on proceedings under the Nature and Landscape Protection Act. The provision of Section 70 of this Act, which regulates the participation of environmental associations, has been the basis of effective public participation in environmental protection for almost thirty years. Until 2017, this provision allowed environmental associations, without requirements for a history or size, to apply for all proceedings conducted under various legal regulations in which the interests of nature and landscape protection may be affected. In particular, it was a procedure for the location or permission of a construction that did not require an EIA. The objections of the associations were limited to defending the interests of nature and landscape protection. They could not therefore challenge the general legality of the administrative authority's procedures, or the decision issued. From 2018, this right applies exclusively to proceedings conducted in accordance with the Nature and Landscape Protection Act. Typically, this is a procedure for permitting the felling of trees growing outside the forest, unless the felling is carried out for construction purposes (then only a binding opinion is issued on procedure under the Building Act) or proceedings for an exemption from territorial or species protection when the occurrence of endangered animal or plant species

are identified only after the commencement of proceedings under the Building Act (also only a binding opinion on the procedure under the Building Act is issued).

The regulation of the participation of environmental associations in Section 115 (4) of Act No. 254/2001 Coll., On waters and on the amendment of certain acts (Water Act), also does not exceed the scope of the Water Act and applies only to certain proceedings conducted under this Act, which all fall outside the scope of Article 6 of the Aarhus Convention. According to provision, environmental associations may, without requirements for history or size, participate in water law proceedings, which include, for example, proceedings for permitting water management or proceedings for permitting the collection of surface or ground water. However, they may not take part in proceedings for the siting or permitting of the construction of water works.

In addition to the participation of the public concerned within the meaning of the Aarhus Convention, the Czech law under which decisions are made in environmental matters also regulates the wide participation of municipalities. The municipalities concerned may become participants in the follow-up proceedings after the EIA; by law they are participants in zoning proceedings, proceedings for the issuance of an integrated permit, proceedings under the Nature and Landscape Protection Act or water law proceedings (see above).

a) with respect to Article 6 paragraph 1

The scope of activities listed in Annex I to the Convention overlaps primarily with the scope of activities that, according to Czech legislation, are mandatory in the process of environmental impact assessment (EIA process). The EIA Act regulates the range of activities that require impact assessment by distinguishing between the category of projects that always require impact assessment and those that require an investigation procedure. Projects that correspond in nature to the defined categories but do not meet the limit values are not assessed, except for so-called sub-limit projects that reach at least 25% of the relevant limit value, are located in a specially protected area or a protection zone under the Nature and Landscape Protection Act, and the competent authority determines that they be subject to an investigation procedure. Protected areas include large (national parks, protected landscape areas) and small (nature reserves, natural monuments) areas.

Czech courts constantly emphasize the ban on the so-called piecemeal approach in order to avoid the exclusion of projects from the EIA process – and to avoid public participation in decision-making as a result (Supreme Administrative Court judgments of 6 August 2009, No. 9 As 88 / 2008-301 of 18 September 2014, No. 2 As 119 / 2014-31, of 13 December 2018, No. 6 As 139 / 2017-73).

Projects for which a significant negative impact on a site in the Natura 2000 system cannot be ruled out are also subject to the investigation procedure in the EIA process. These projects are not limited in any way by their nature or scope. Therefore, in accordance with the case law of the Court of Justice of the European Union, the Czech courts conclude that these can also be projects not listed in the Annex to the EIA Directive (2011/92 / EU). These are, for example, the marking of hiking trails (Supreme Administrative Court judgment of 18 December 2015, No. 2 As 49 / 2013-109) or the use of biocidal products (Supreme Administrative Court judgment of 13 August 2014,

No. 3 As 75 / 2013-112). According to the Czech courts, an assessment in the Natura 2000 system is also required for projects that are located outside the affected sites. The assessment of the effects of project on a Natura 2000-protected site is carried out in the same way as the EIA, but with a narrower, more consistent focus on the site in question. The public concerned may thus dispute the specific conclusions of the assessment in follow-up proceedings.

The participation of the public concerned in decision-making in relation to the projects that were assessed in the EIA process (but not terminated in the investigation procedure) is ensured through the so-called follow-up procedures (see above in the introductory commentary to Article 6).

The definition of facilities that require an integrated permit (IPPC) in the annex to the Integrated Prevention Act also corresponds to the scope of activities listed in Annex I to the Convention. The issuance of an integrated permit is required for the operation of all installations that meet the limit values, and according to case law it is necessary to consider the nature of the operation, the potential of the installation and the sum of production of individual parts of the operation. An integrated permit can also be issued voluntarily, but this option is practically not used in practice. An integrated permit is issued in administrative proceedings as a separate decision.

b) with respect to Article 6 paragraph 2

Follow-up proceedings (meaning follow-up proceedings following an environmental impact assessment) are considered by law to be proceedings with a large number of participants (these otherwise mean, according to the Administrative Procedure Code, proceedings with more than 30 participants). Participants in the proceedings with a large number of participants may be notified of the commencement of the proceedings by a public ordinance. Therefore, as a rule, the notice of initiation of proceedings, which falls within the scope of Article 6 of the Convention, is published on the official notice board of the administrative body. The situation is similar for the phase of the EIA process, about which information is also published on the website (publicly available portal [https://portal.cenia.cz/eiasea/view/eia100\\_cr](https://portal.cenia.cz/eiasea/view/eia100_cr)), based on the rules set for the EIA process.

The administrative body responsible for conducting follow-up proceedings also publish, together with the notice of initiation of proceedings

- a) the application together with a notice that it is a project subject to environmental impact assessment, or a project subject to transboundary environmental impact assessment, together with information where the relevant documentation for follow-up proceedings can be examined;
- b) information on the subject and nature of the decision to be issued in the follow-up proceedings;
- c) information on where the documents obtained during the assessment that are published can be consulted;
- d) information on the conditions of public participation in the proceedings pursuant to Section 9c (1) of the EIA Act and pursuant to special legal regulations, which means in particular information on the place and time of a public oral hearing, if applicable, the deadline for public comments on the project and possible consequences of default such time limits, information on whether and, if so, within what time period, the public may inspect the grounds for the decision, on the bodies

concerned and information on the options of the public concerned to participate in the follow-up proceedings pursuant to Section 9c (3) and (4) of the EIA Act. The information is deemed to have been published by posting it on the official notice board of the administrative body conducting the follow-up proceedings. The information must be posted for 30 days.

If the integrated permit procedure is not conducted as a follow-up procedure (the project does not require an EIA), the above requirements do not apply. For the purposes of the IPPC, a national public administration information system is maintained, which, among other things, serves to ensure obligations related to the publication of information and public access to information. However, information on administrative proceedings is published on the basis of the requirements of the Integrated Prevention Act. The administrative authority must, within 7 days from the date of finding the application complete, ensure the publication of a brief summary of the information (in particular the applicant, facility, technologies used, state of the territory and compliance with preventive measures) and when and where the application can be examined, and extracts, transcripts or copies obtained from it. The publication is made by means of the integrated prevention information system, on its official notice board and on the official notice board of the municipality on whose territory the facility is or is to be located. The administrative body and the municipality post this information on their official notice boards for a period of 30 days. Within that period, any person may send their comments concerning the application to the authority.

With regard to the disclosure of information on proceedings instituted outside the scope of the Convention, environmental associations may request information on all intended interventions and initiated administrative proceedings in which the interests of nature and landscape protection may be affected. The request for information is valid for one year and must be materially and locally specified (Section 70 (2) of the Nature and Landscape Protection Act). In other cases, where it is not a permit procedure following the EIA (where the information is publicly available), it is possible to request access to information on administrative proceedings on the basis of the Act on Access to Information on the Environment, or with proof of legal interest or other serious reason to invoke the institute of inspection of the file according to Section 38 of the Administrative Procedure Code.

c) with respect to Article 6 paragraph 3

In the EIA process, any person has the right to send their written statement on the published notice of the project to the competent authority (within 30 days from the date of publication of the notice of the project) and statement on the documentation (within 30 days from the date of publication of the information on the documentation). If the administrative body receives a reasoned dissenting opinion from the public on the documentation, it must order a public hearing. The ordered public hearing would take place no later than 30 days after the deadline for comments on the documentation and the notice of its holding must be published in advance.

In the follow-up proceedings, the public (any person) has the opportunity to submit comments within a period which may not be less than 30 days from the publication of the information together with the notice of initiation of the proceedings. Environmental associations become participants in the follow-up proceedings if they register within 30 days from the date of publication of



information on the follow-up procedure. Persons concerned who are participants by law (typically neighbours - owners) do not have to register and therefore there is no time limit for their participation. The persons concerned, within the meaning of the Aarhus Convention, have only consultative participation in the follow-up proceedings, so it is not relevant to address the time-limit for their registration as participants in the proceedings.

In the case of building projects that are permitted in a joint zoning and building procedure with an environmental impact assessment or in a zoning procedure with an environmental impact assessment (which is at the choice of the investor), the general requirements for processing the application under the Building Act apply, not the provisions of the EIA Act.

The building authority conducting the zoning procedure related to the environmental impact assessment or the joint zoning and building procedure with the impact assessment may order a public oral hearing to discuss the project and, if appropriate, combine it with an on-site inspection. The public hearing shall be held with the participation of the competent authority. The participants in the proceedings and the public may submit comments on the project in terms of its impact on the environment, and the authorities concerned may submit their binding opinions, or comments on the project, at the latest at a public oral hearing.

In the procedure for issuing an integrated permit, any person may send their opinion on the application within 30 days of the publication of the information (see above) (Section 8 (2) of Act No. 76/2002 Coll.). The participants in the proceedings may send their comments within 30 days of receiving the application (Section 9, Paragraph 3 of Act No. 76/2002 Coll.). The administrative authority will order an oral hearing whenever a participant requests. A participant in the proceedings may request an oral hearing within the time limit for submission of a statement or, in the case of a request for an expert opinion, within the time limit for submission to the administrative body (30 days from the date on which the expert received the request).

In general, for all administrative proceedings, the parties may propose evidence and make other proposals while the proceedings are still in progress, until a decision is issued; the administrative body may, by resolution, state how long the participants have to make their proposals. Participants also have the right to express their views in the proceedings. If they so request, the administrative body shall provide them with information on the proceedings, unless otherwise provided by law. The administrative body must set a reasonable time limit for the participant to perform the act, unless required by law and if necessary. Special laws then regulate special deadlines for the submission of a statement (see above 30 days in the proceedings following the EIA or 30 days from the publication or receipt of the application in the IPPC department).

An appeal against the decision in the follow-up proceedings as well as against the decision to issue an integrated permit may be filed within a general period of 15 days from the date of notification of the decision. The notice of the decision must state whether and within what period the appeal may be lodged, from which date this period is calculated, which administrative body decides on the appeal and to which administrative body the appeal is lodged.

d) with respect to Article 6 paragraph 4

The EIA process is carried out at an early stage of project preparation, when all options are still open. In the investigation procedure and in other phases of the process, the competent authority takes into account the public's opinion and may, for example, return the file for revision or supplementation by the notifier. The issued EIA binding opinion must also be based on the binding statement. If the EIA is not carried out because, according to the conclusion of the screening procedure, the project does not have a significant impact on the environment, the environmental associations may appeal against the conclusion of the screening procedure, which is issued in the form of a decision.

The EIA Act then basically refers to follow-up proceedings as all proceedings in which permits are issued are essential for the implementation of the project. The public concerned may thus raise objections and, where appropriate, oppose the decision at all stages of permitting of the project. Full participation in the follow-up proceedings, including the right to appeal, is granted only to environmental associations, or to persons concerned, who have become participants in the permitting procedure with regard to the affected property or other right in rem.

If no EIA is carried out and the project is evaluated only in the inquiry procedure, then the general rules for these proceedings (not the rules for follow-up proceedings) apply to participation in proceedings where activities are decided under the Annex to the Aarhus Convention.

The administrative body, in making decisions in the follow-up proceedings, also uses the documents of the EIA process (documentation, notifications, public comments, or the results of the public oral hearing, if held) as a resource for its decision.

Similarly, an integrated permit also includes the settlement of comments on the application contained in the submitted statements.

e) with respect to Article 6 paragraph 5

Czech law does not know of any mandatory instruments of active action (and possibly mediation) in the direction of resolving conditions in situ before the commencement of mandatory environmental procedures. In particular, the institutes of prior information and preliminary hearing (before submitting the application) serve to stimulate the applicant and discussion with the public concerned, which enable the applicant to become acquainted with the conditions of the project and which allow the administrative body to draw the applicant's attention to the public's concerns. After submitting the application, a public hearing serves as a means of formalized discussion (see above).

The request for preliminary information is a general institute vested in the Administrative Procedure Code. Special regulations supplement it, for example, so that before the procedure for issuing an integrated permit is initiated, the administrative body provides information on the prescribed requirements of the application and on the definition of facilities in the application (Section 3a of Act No. 76/2002 Coll.). Pursuant to Section 9b (2) of the EIA Act, the administrative body responsible for conducting follow-up proceedings in cooperation with the authorities concerned shall provide, at the request of the applicant for a follow-up decision, preliminary information on data and documents required which the applicant must submit with his application for a decision.

Pursuant to Section 15 of the EIA Act (preliminary discussion), the administrative body, if the notifier so requests before submitting the notification, discusses the intended project with the notifier, including possible variants of the project, and recommends a preliminary discussion with other relevant administrative authorities, and possibly with other relevant entities.

In 2011, the Ministry of the Environment prepared the EIA-related guidance document The Notifier's Handbook, which highlights the key role of the notifier, draws attention to the purpose of public participation and lists various incorrect dialogue tactics on the part of the notifier, the administrative body and the public. The Ministry of the Environment also produces EIA-related guidance documents, that illuminate, for example, the definitions of specific activities subject to EIA.

f) with respect to Article 6 paragraph 6

As a participant in the proceedings, the public concerned has access to all resources for the decision. If the public concerned is not a participant in the proceedings, it has access to information published by the administrative body (see above) and may also examine the file pursuant to Section 38 of the Administrative Procedure Code, if the public concerned can prove a legal interest or other serious reason and this will not impinge on the right of any other participant, other persons concerned or a public interest. Other information available to the administrative body may be made available upon request in accordance with the procedure under the Act on Access to Information on the Environment (see above).

g) with respect to Article 6 paragraph 7

Comments, objections and statements of the public concerned are generally submitted in writing. If a public hearing of the EIA process is ordered, the administrative body takes a record of it according to the EIA Act, containing in particular data on participation and conclusions from the hearing, and also makes an audio recording from it. Subsequently, the administrative body is obliged to send the minutes of the public hearing to the notifier, the administrative bodies concerned, and the territorial self-governing units concerned and to publish them on the internet. If a public oral hearing is held in accordance with the Building Act, a protocol is drawn up from it, in which the public may state their comments and objections.

h-i) with respect to Article 6 paragraphs 8 and 9

As already noted, public opinion is essential already at the stage of the EIA process and may be a reason to return the file for revision or supplementation. It is also one of the resources for the binding EIA opinion. If the EIA binding opinion ignores the public opinion or does not sufficiently address the concerns, this constitutes a defect of the binding opinion - which may also be a defect of the decision issued in the follow-up proceedings. At the same time, Czech courts have ruled that the statements of the individuals concerned may relate to all aspects of assessing the effects of plans on the environment, including, for example, risks to public health (NSS judgment of 20 January 2017, No. 7 As 188 / 2016-75).

The administrative authority responsible for issuing a decision in a follow-up procedure or in an integrated permit procedure which is not conducted as a follow-up must already, in accordance

with the general requirements laid down in the Administrative Procedure Code for the decision of the administrative body, state in the dealt with the proposals and objections of the participants and their comments on the basis of the decision. If they do not do so, the decision is illegal due to unreviewability.

With regard to the comments of the public, which is not a participant in the proceedings, § 9c paragraph 2 of the EIA Act stipulates that the administrative body shall state the settlement of the comments of the public in the justification of its decision. In addition, according to § 9b par. 5 of the EIA Act, the administrative body deciding in the follow-up proceedings also relies on the documents of the EIA process (including public opinion).

If the procedure for issuing an integrated permit is not conducted as a follow-up, the public applies comments pursuant to Section 8 (2) of the Integrated Prevention Act and these comments must be settled in the decision.

The decision issued in the subsequent proceedings is usually delivered on the official notice board, because it is the Act on Proceedings with a High Number of Participants (Section 144 of the Administrative Procedure Code). It is delivered in person only to the main participants according to § 27 para. 1 of the Administrative Procedure Code (ie especially to the applicant). The decision is not published on the internet, such as documents obtained during the assessment and information about them. The reasons for the decision must state the reasons and aspects on which the decision is based. Access to decisions suspended from the official notice board is possible on request in accordance with the procedure under the Act on the Right to Environmental Information (see above).

The decision on issuing an integrated permit or rejecting an application for an integrated permit shall be published by the administrative authority via the integrated prevention information system within 5 days from the date of entry into force and shall publish on its official notice board for 30 days information on when and where the decision can be examined. All changes to issued integrated permits (<https://www.mzp.cz/ippc>) are also published in the information system.

j) with respect to Article 6 paragraph 10

A review or an update of the operating conditions by the administrative body requires a change in the operating decision. The decision to change the decision is made in administrative proceedings, for which the same rules generally apply as for ordinary proceedings, unless the law provides otherwise. If the scope of the change reaches the limit set by the EIA Act, it is necessary to perform a new impact assessment (or at least the investigation procedure), which in principle does not differ from the standard EIA process, including requirements for public participation and public information.

With regard to the change of an integrated permit, the legislation distinguishes between substantial and minor changes; however, it does not define them precisely. The provision of Section 2 (i) of Act No. 76/2002 Coll. stipulates under which conditions the change is always substantial, but the list is not exhaustive. In other cases, the administrative authorities are left room for discretion. After announcing the planned change in the operation of the facility, the authority will evaluate

this change and determine whether, in its administrative discretion, the change is substantial or insignificant. In the case of a procedure for a substantial change, the procedure is similar to that in the procedure for issuing an integrated permit. The scope of participants in the procedure for a minor change is limited. It does not include environmental associations, but it still includes persons who would be participants in the proceedings under special regulations governing proceedings for integration (e.g., when permitting waste facilities that fall under IPPC capacity). These may be people concerned, especially neighbours - owners.

k) with respect to Article 6 paragraph 11

The Czech legislation does not explicitly allow the public to become a participant in the procedure for permitting the release of GMOs into the environment. Act No. 78//2004 Coll., On the handling of genetically modified organisms and genetic products, provides exclusively for consultative public participation, unlike the older regulation (Act No. 153/2000 Coll.), which allowed the full participation of environmental associations in decision-making. The scope of participants in the proceedings pursuant to Act No. 78//2004 Coll. it is not regulated, so the general regulation in the Administrative Procedure Code applies, according to which other persons whose rights are concerned can become participants in addition to the applicant. However, it is not clear whether they may be representatives of the public concerned.

Consultative participation in decision-making pursuant to Act No. 78/2004 Coll. consists of participating in a public hearing and making a statement. Following the submission of an application for a permit for contained use and for placing on the market, the Ministry of the Environment will publish information on the official notice board, on the internet and in at least one other appropriate manner in the municipality and region in whose territory the contained use or release takes place, or where such action is, given all circumstances, expected. The public (any person) may send their written statement to the Ministry within 30 days from the date of publication of the application. If the Ministry thus receives a dissenting statement with the release of the GMO into the environment, it will call a public hearing of the submitted application before deciding on the application. It will publish a notice of the public hearing at least five days in advance in the same manner as above. The decision on the submitted application always includes a summary settlement of statements.

## 2. Obstacles encountered in the implementation of article 6.

The implementation of Article 6 is hindered in particular by the fragmentation of permitting procedures, which makes it necessary for effective environmental protection to participate in several procedures and often to raise the same objections repeatedly. While the courts conclude that specific objections always fall within a certain permitting procedure, they add that some objections are of a reciprocal nature and are directed, for example, not only to building issues but also to the operation itself (judgment of the Municipal Court in Prague of 27 November 2014, No. 7 A 58 / 2010-53). The fragmentation of proceedings also means that individual permits may be at a stage that does not correspond to their chronological sequence (for example, as a result of the annulment of a decision on the situation of a building by a court). The public concerned thus participates in the proceedings, which may no longer have any outcome.

The fragmented regulation of the conditions of public participation in individual proceedings also poses problems. It is difficult for administrative authorities not only to define the scope of participants, but also to assess on the basis of which regulation and under what conditions individual members of the public concerned may participate in the proceedings and what objections they may raise. This is evidenced by the practice where courts annul administrative decisions in the field of environmental protection mostly due to procedural errors (due to the non-reviewability of the decision and the non-settlement of the objections of the parties to the proceedings).

The different determination of the conditions of participation for ecological associations and the people concerned is also problematic. While environmental associations may, for example, appeal against the conclusion of the inquiry procedure that the project will not be assessed in the EIA process, individuals do not have such a right. While environmental associations may appeal against a decision given in a subsequent procedure without participating in the proceedings at first instance, individuals again do not have such a right.

In addition, from among the persons concerned, only the owners concerned are considered to be participants in the proceedings (however, they are full participants, including the right to appeal against the decision) and not, for example, tenants. The exclusion of some of the persons concerned from the decision-making process is therefore problematic. This is typically an example of the legal regulation of the participants in zoning and building proceedings, as well as the procedure for defining participants in cases where the scope of participants is not defined by law, and it is necessary to follow the general regulation in the Administrative Procedure Code (where persons other than property owners are omitted).

The political reluctance to address the current confusing situation, or even efforts to limit public participation, which are particularly evident in relation to traditional regulation that goes beyond the scope of the Convention, can also be seen as an obstacle to the implementation of Article 6. These efforts can also be seen as a form of the price paid for the success of a strong civil society, which helped to establish environmental protection in the 1990s. However, the courts are increasingly confirming the view that public participation in environmental protection constitutes the implementation of legal guarantees in public administration. As they infer to the role of ecological associations, “the meaning and purpose of their participation in building proceedings is not to block, delay and prolong the implementation of a building project through procedural obstructions, but to defend the (public) interests of nature and landscape protection in competition with other public interests and private interests” (judgment of the Supreme Administrative Court of 4 May 2011, No. 7 As 2 / 2011-52).

### 3. Further information on the practical application of the provisions of article 6.

The main problems of practical application are listed above. They consist in the fragmentation of proceedings and also in the different positions of the persons concerned in the various environmental proceedings.

### 4. Website addresses relevant to the implementation of article 6.

<https://www.casopis.ochranaprirody.cz/pravo-v-ochrane-prirody/ucast-verejnosti-na-rozhodovacich-procesech/>

[http://www.mzp.cz/cz/posuzovani\\_vlivu\\_zivotni\\_prostredi](http://www.mzp.cz/cz/posuzovani_vlivu_zivotni_prostredi)

[http://portal.cenia.cz/eiasea/view/eia100\\_cr](http://portal.cenia.cz/eiasea/view/eia100_cr)

## Article 7

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

The public is involved in the preparation of various policy documents, primarily in a consultative form. Qualified forms of participation are less common.

If the policy is subject to an environmental impact assessment (SEA) process, the general public can be involved at this stage through submission of comments. The SEA opinion will be issued by the competent authority on the basis of a draft, the comments submitted to it and a public hearing. It becomes the basis for the approved policy. When approving a policy, the approving authority is obliged to take into account the requirements and conditions arising from the opinion on the draft policy (SEA opinion), which means that it may deviate from them if it sufficiently justifies its action.

Individual policies are issued in various legal forms, most often in the form of measures of a general nature, the issuance of which is governed by general regulations in the Administrative Procedure Code. The Administrative Procedure Code regulates the publication of a draft measure of a general nature during the administrative process, as well as the manner and form of public comment on this draft.

Policy documents often serve as a basis for other policy tools, especially spatial planning documentation. For example, the plan of the ecological stability system is the basis for the principles of spatial development or the zoning plan – and only their approval creates regional or supraregional territorial systems of ecological stability (bio-corridors, bio-centres, interaction elements). The public can comment on the form of the ecological stability system plan or similar policies that address various aspects of spatial development during the discussion and adoption of spatial planning documentation.

For the approval of spatial planning documentation, a special regulation of public participation in the Building Act will apply (see below).

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

From the point of view of public participation in the preparation of policies related to the environment, it is important whether a specific policy can be described as a policy subject to the SEA process. It allows for public participation through comments (see below). The way in which the public is involved in the preparation of the policy itself, which may or may not be preceded by a SEA, differs mainly depending on the form in which the policy is approved.

In the SEA process, anyone can comment on the policy within 20 days of the publication of the concept notice on the internet and on the official notice board of the local and regional authorities concerned. A public part of the SEA process is a mandatory part of the process. It is organized by the submitter and must comply with the deadlines set by law. The submitter is obliged to publish information on the place and time of the public hearing of the draft policy. Minutes are taken of the public hearing itself and published on the internet. Within 5 days from the day of the public discussion of the draft policy, any person can still submit written comments. When assessing the effects of the spatial development policy, the principles of spatial development and the zoning plan on the environment, the procedure is in accordance with a special regulation in the Building Act, which, however, is similar to the general regulation.

If the policy is issued in the form of a measure of a general nature according to the general regulation in the Administrative Procedure Code, then according to Section 172 (4) and (5) of the Administrative Procedure Code, any person can comment on the draft measure of a general nature whose rights, obligations and interests may be directly concerned. The administrative authority is obliged to deal with the comments as a basis for measures of a general nature and to address them in its justification. Objections may be raised by property owners whose rights, obligations or interests related to the exercise of the right of ownership may be directly affected by the measure of general application or, if the administrative authority so determines, other persons whose legitimate interests may be directly affected by the measure of general nature. The administrative authority that issues the measure of a general nature decides on the objections. If the settlement of the objection would lead to a solution which directly affects the legitimate interests of a person in a way other than the draft measure of a general nature, and if the change is clearly not in that person's favour, the administrative authority will find out the person's opinion. The decision on the objections, which states the reasons on which it is based, will appear as part of the statement of reasons for the measure of general application. An appeal or demonstration cannot be lodged against the decision, but it can be challenged in an administrative court. Modification or revocation of a final decision on objections may be grounds for modification of a measure of a general nature.

However, in some cases, the process of preparation of policy documents limits public participation. For example, national river basin management plans and flood risk management plans pursuant to Act No. 254/2001 Coll., On waters and on amendments to certain acts (Water Act) are issued in the form of measures of a general nature, however, the Water Act in Section 115a (3) excludes the possibility of objections from the public concerned. Consequently, the public concern can only submit comments. Objections may be raised by the public concerned when the protection zones of a water source and a waterworks are considered for declaration. Participation in the approval of regional forest development plans or forest management plans and forest management guidelines is similarly limited.

As for the Building Act, it regulates the acquisition of spatial development policies. The spatial development policy (the national spatial policy) is compulsorily discussed in public. A time limit is introduced for the submission of comments, which may not be less than 60 days from the public hearing. The public may submit written comments to the Ministry of Regional Development. The Ministry submits the policy proposal to the government for approval; in addition to the proposal,



it also submits a report that contains an evaluation of the public's comments. The public is involved in the preparation of spatial planning documentation (zoning plans at the regional and municipal level) primarily through comments or objections submitted by a public representative. While the administrative authority has to decide on objections and justify its decision, only comments are settled. The statement of reasons for zoning documentation includes the settlement of public comments and decisions on objections. Both contain a statement of reasons in which the administrative authority is obliged to disclose all documents, considerations and reasons that led to the decision on the objections or the settlement of comments. The settlement of comments is less extensive, and, above all, comments are not decided upon; the administrative authority will use them as a basis for the zoning documentation. The decision on objections, which is part of the statement of reasons for a specific zoning instrument, cannot be appealed or remonstrated against; only a review procedure or a reopening of proceedings can be used, to which there is no entitlement. However, the decision on objections can be reviewed in an administrative court, while a representative of the public is also actively entitled to file an action for annulment of the decision on objections (judgment of the Supreme Administrative Court of 27 October 2010, file No. 2 Ao 5 / 2010-24.). It is also possible to seek judicial annulment of all or part of a measure of a general nature (see below).

#### 7. Obstacles encountered in the implementation of article 7.

More effective public participation under Article 7 of the Convention is hindered, in particular, by the low awareness of the general public about the existence and relevance of various policies. In the case of the public, which has sufficient professional awareness and human resources, the disincentive is the low reflection of public comments in the final version of the document.

The diversity of policies is problematic. Unless the legislation mandates their exact title and content, policy documents are prepared under different names and with different levels of detail. The effective participation of the public is to some extent hindered by the division of policies into several levels. This is typical for spatial planning documentation, which consists of the principles of spatial development, zoning plans and in some cases also regulation plans. Substantial aspects of the location of projects of supra-local significance with a high impact on the environment are usually regulated by spatial planning documentation adopted at the regional level (spatial development principles). However, with a few exceptions, spatial development principles are given less attention by the public than the zoning plans of municipalities. Moreover, it is not always clear which projects meet the condition of supra-local significance. Frequent and unsystematic updates of spatial planning documentation at various levels are also a problem as it makes it difficult for the public to monitor, at least until the digitization of public building law is implemented to a satisfactory level.

#### 8. Further information on the practical application of the provisions of article 7.

The Government of the Czech Republic adopted a Concept of Support for Local Agenda 21 (MA21) Until 2020. Within the systemic approach to MA21, great emphasis is placed on public participation in planning and decision-making. The support is coordinated by the Ministry of the Environment, which works closely with associations of cities, municipalities and regions (Union

of Towns and Municipalities of the Czech Republic, Association of Local Authorities, Association of Regions of the Czech Republic, Association of Secretaries of Municipalities). The interest of cities in the implementation of MA21 and its quality is increasing.

9. Website addresses relevant to the implementation of article 7.

[http://portal.cenia.cz/eiasea/view/SEA100\\_koncepce](http://portal.cenia.cz/eiasea/view/SEA100_koncepce)

<http://ma21.cenia.cz>

<https://www.participace21.cz>

## Article 8

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

The adoption of legislation at the government level is governed by the Legislative Rules of the Government. The government, as the supreme body of executive power, manages the activities of ministries and other central state administration bodies and is responsible for the quality of draft laws, draft legal measures of the Senate and government regulations approved by it. Ministers and heads of other central state administration bodies are responsible to the government for the quality and timely preparation of executive regulations approved by them.

With regard to the application of the Aarhus Convention, it can be stated that the same procedure is applied to regulations that may have a significant impact on the environment as that which applies to other proposals. There are therefore no specific rules for public participation.

Draft legal regulations issued by the executive (white papers, draft laws, draft government regulations and draft decrees) must be published on the government portal - in the public library of the legislative process - according to the Legislative Rules of the Government.

Proposals are circulated for consultations to the so-called mandatory consultation instances. They also include organizations outside public administration, self-government, or courts, such as the Cooperative Association of the Czech Republic, if the white paper concerns cooperatives, the Czech Chamber of Commerce and the Agrarian Chamber of the Czech Republic, trade unions and employers' organizations, if the relevant proposal concerns them.

In addition to the mandatory consultation instances, draft regulations are also sent to optional consultation instances at the discretion of the authority that drafted the proposal. Legislative Rules of the Government in this matter explicitly allow proposals to be sent to other interest groups, such as professional associations, business or consumer interest groups, scientific and professional institutions, and also environmental organizations. The Ministry of the Environment uses this option for practically all draft legal regulations (it sends draft proposals to the association Zelený kruh, for example).

On the basis of making the proposal available in the public library of the legislative process, the public can communicate its comments on draft government legislation in electronic or paper form

to the submitter, i.e., the author of the proposal. Comments must be worded clearly and concretely and must be duly substantiated. Comments can be marked as recommendatory or material, but if the public marks their comment as material, the submitter does not have to address these comments as he is obliged to do so in relation to mandatory consultative instances in the sense of the Legislative Rules of the Government. If the comments of the public have been submitted within the set deadline and the submitter does not incorporate them into the proposal, they must be generally addressed in the submission report, or the statement of reasons for the legislation.

The deadline for the communication of comments is 15 working days from the date of entering the white paper into the electronic library (or 20 for draft laws), unless the body submitting the white paper allows for a longer deadline for comments.

The Ministry of the Environment also publishes its draft legislation at various stages of the legislative process on its website. Each proposal contains information on when the consultation procedure for this proposal ends, as well as the electronic address of MoE officer(s) to whom comments can be sent. The comments are then used to modify the text of the proposal, which occurs after the deadline for sending comments. The Ministry of the Environment also lists the regulations for which the consultation procedure has ended and for which the text is being amended on the basis of the comments received. Another group consists of draft regulations that have been sent to the government (draft laws and government regulations) or working committees of the Legislative Council of the Government (draft decrees) for discussion. Government bills that were approved by the government and subsequently sent to the Chamber of Deputies are also published here. Each government bill contains the number of the House or Senate prints, which makes it possible to find the regulation on the website of the Chamber of Deputies (Senate) and thus monitor its discussion in parliament, including the adoption of any amendments.

In the event that bills are submitted as private member's bills, their discussion is governed by the Rules of Procedure of the Chamber of Deputies. Consequently, the bills are not collectively discussed at the government level and public comments are not incorporated.

Generally binding legal regulations issued by regions and municipalities are discussed at public council meetings which, however, guarantees only passive participation. The legislation does not regulate the obligation of competent authorities to take public comments into account.

#### 11. Obstacles encountered in the implementation of article 8.

The obligation to consult draft legislation with the public is not stipulated by law, however, the Legislative Rules of the Government list a relatively broad range of entities to which proposals are sent on a mandatory basis, and at the same time, they explicitly allow proposals to be sent to other interest groups. In addition, the Ministry of the Environment publishes draft legislation on its website and allows comments from the public at the stage of legislative preparation.

If bills are submitted as parliamentary bills, the public can monitor the course of their discussion, also within the framework of participation in publicly accessible committees or meetings. This is a consultative participation.

Consequently, the legislation does not contain specific binding mechanisms to ensure the effective participation of the public in the official preparation of legally binding regulations that may have a significant impact on the environment. However, this obstacle is overcome by practical cooperation with the public.

Since 2007, the government of the Czech Republic has implemented several pilot projects to verify the methodology of public participation in the preparation of government documents, following the Guidelines for Public Participation in the Preparation of Strategic Documents (2006). The approved methodology aims to consolidate the procedure of state administration in the area of public participation in the preparation of government documents and to establish general principles for public participation following a set structure. The aim of involving the public is to obtain the widest possible range of opinions on the issue at hand. The methodology envisages the involvement of consulted entities, including non-governmental non-profit organizations, provided that the principle of partnership is respected. There are no publicly available summary reports on the application of the methodology outputs.

#### 12. Further information on the practical application of the provisions of article 8.

The legislative process is regulated both at the governmental level (Legislative Rules of the Government) and at the parliamentary level (Rules of Procedure of the Chamber of Deputies and the Senate; Act No. 90/1995 Coll., Act on the Rules of Procedure of the Chamber of Deputies, Act No. 107/1999 Coll., On the Rules of Procedure of the Senate), as well as at the level of self-government [municipalities and regions; Act No. 128/2000 Coll., On municipalities (local government), Act No. 129/2000 Coll., On regions (regional government)].

#### 13. Website addresses relevant to the implementation of article 8.

<https://apps.odok.cz/veklep>

<https://www.vlada.cz/cz/ppov/lrv/dokumenty/legislativni-pravidla-vlady-91209/>

<https://ria.vlada.cz/wp-content/uploads/Metodika-pro-zapojovani-verejnosti-do-pripravy-vladnich-dokumentu-MV-2009.pdf>

<https://ria.vlada.cz/wp-content/uploads/Metodika-pro-zapojovani-verejnosti-do-pripravy-vladnich-dokumentu-MV>

## 12. Denmark

### Article 6

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

(A)

(i) A great many of the annex activities of the Convention are regulated by the regulations in the Danish Planning Act on EIA, or by special EIA regulations on off-shore activities. A new Environmental Assessment Act (act. No. 425 of 18. May 2016) is entered into force 16. May 2017. This current act gathers and replaces the Danish Planning Act and most of the special EIA regulation. The Danish EIA regulations contain regulations on procedures that are in accordance with the regulations in the Convention. The rest of the annex activities are regulated by chapter 5 of the Environmental Protection Act on listed enterprises, including in particular the special system with advance public participation that was introduced by Act no. 369 of 2 June 1999 in connection with implementation of the IPPC Directive. In 2000 a couple of small adjustments were made to the existing law, including in particular in connection with public participation in connection with reassessments of certain types of heavily polluting enterprises. The text was further adjusted in 2012 as a transposition of Directive 2010/75/EU. As regards activities covered by the annex number 15, these requirements are incorporated into the Approval of Livestock Holdings Act part 3.

(ii) Article 6, paragraph 1 of the Convention has been implemented in Denmark via the EIA regulations in the Planning Act. These regulations imply in part a compulsory EIA procedure with advance public participation for a large number of other activities than those listed in annex 1 of the Convention. In part they also mean that a large number of other activities are covered by the so-called screening system in the Planning Act, which means that these activities are also covered by the EIA regulations, if, following a specific assessment, they are deemed to have significant environmental impacts.

(B-I) The provisions in article 6, paragraphs 2-9 have been implemented in Danish law in a large number of provisions. The Danish Minister for the Environment can decide that information regarding public participation only shall be made available digital by announcements on the ministry's website.'

(J) Article 6, paragraph 10 regarding reconsideration has been implemented in the Environmental Protection Act and the Statutory Order on Approval of Listed Activities and the Approval of Livestock Holdings Act. The Minister for the Environment has access to stipulate regulations on public participation in connection with decisions on whether there should be an extraordinary revision of the conditions in an environmental approval.

(K) The Danish regulations on releases of GMOs into the environment are in the Act on the Environment and Gene Technology. The Act contains provisions according to which affected authorities and organisations must be heard in matters of approvals of genetically modified organisms for release.

There are provisions on the procedure for hearing and information for the public in connection with approvals for trial releases and marketing of GMOs, including:

1. hearings must be announced on the EPAs website.
2. the EPA must set up a register of approvals for trial releases and marketing of GMOs. The register must include information on the name and address of the applicant, a description of the GMO, the objective and location of the release, a summary of the risk assessment, the Minister for the Environment's assessment of the case, as well as the approval terms.
3. A great deal of information such as changes to an approval and results of monitoring of GMOs approved for marketing is made public on the EPAs website.

In practice, the hearing takes place by parts of the application, (the Summary Notification Information Format and an overview of the full application), being sent for hearing to about 50 parties, including environmental and consumer organisations. There are announcements on the EPAs website that the public may comment on new applications for trial releases or marketing of GMOs. The full application, except confidential information, can be supplied on request. The hearing replies received by the EPA are incorporated in a memo to the Minister, and this forms the basis for the Minister's decision. The memo is subsequently made public on the EPAs website. Under the MIM, the Statutory Order on the cultivation of GMOs stipulates rules on the duty to provide information on cultivation of genetically modified crops.

2. Obstacles encountered in the implementation of article 6.

N/A

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

N/A

4. Website addresses relevant to the implementation of article 6.

[www.ft.dk](http://www.ft.dk);

[www.naturerhverv.dk](http://www.naturerhverv.dk);

[www.mfvm.dk](http://www.mfvm.dk);

[www.kyst.dk](http://www.kyst.dk);

[www.ens.dk](http://www.ens.dk);

[www.mst.dk](http://www.mst.dk).

## Article 7

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

The precise scope of the regulations in the Convention on public participation in the authorities' planning etc. under article 7 is difficult to establish, in that the Convention does not define the concept "the environment area". It would seem relevant to seek guidance in the Convention's definition of environmental information. In connection with the implementation of the Aarhus

Convention, it was deemed in the 2000 Act Amending Certain Environmental Acts (Implementation of the Aarhus Convention, etc.) that the requirements of article 7 were in general being met.

In 2004 an act was adopted on environmental assessment of plans and programmes. This act is part of the implementation of article 7 of the Aarhus Convention. Planning and environmental legislation contains a number of regulations on planning and prior public participation in accordance with article 7 of the Convention. In addition to this, there is a great deal of planning that does not arise directly from legislation. The public is also very much involved in practice with this type of planning. The Ministry's own planning always involves prior public participation. Rules have been laid down on public involvement in water planning in Act on Water Planning from 2013 and in NATURA 2000 planning. Danish environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

The Danish Environmental Protection Act contains a provision which gives the Minister for the Environment the authority to stipulate regulations regarding public participation in the preparation and amendment of plans and programmes within the scope of the Act. Within this framework, it is also possible for the minister to lay down requirements for public participation in the preparation of any future national plans and programmes as well as to ensure that any later Community law requirements concerning public participation in plans and programmes can be implemented in Danish legislation.

This authority has been exploited in the Statutory Order on public involvement in preparation of certain plans and programmes in the environment field, which includes rules on public involvement in connection with preparation by the EPA of a national waste plan, a national waste prevention plan. With regard to the agricultural area, legislation on the giant hogweed has been issued. According to this legislation, municipal councils must hold public hearings on draft action plans.

MIM places priority on public participation in connection with establishing policies, plans and programmes related to the environment. In establishing policies and strategies, preliminary idea meetings and workshops are extensively utilised where the public has an opportunity to have a say in the decision-making process.

With regard to the legislation on environmental assessment of plans and programmes, the former Nature and Environmental Protection Board of Appeal has issued a thematic supplement in the journal "NK-Orienterer" and NOMO about initial experience with the legislation. On the basis of a large amount of cases, various themes are reviewed, including the threshold for execution of environmental assessment.

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

N/A

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

N/A

8. Website addresses relevant to the implementation of article 7.

[www.retsinformation.dk](http://www.retsinformation.dk)

## Article 8

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

The most important rule is that the public is involved prior to the introduction of a bill or the issuance of a new statutory order etc. The procedure is that a draft of the general regulations is sent for hearing by a wide range of organisations and authorities addressed directly by email and put up on the web portal for public hearings. Memorandums are prepared for the incoming hearing replies, and the need for amendments as a result of the remarks is considered in each case. In normal circumstances, this practice is never diverted from.

Acts and statutory orders for the environmental and agricultural area are usually in hearing for four weeks. All hearing material is collated on a common public hearing portal ([www.hoeringsportalen.dk](http://www.hoeringsportalen.dk)).

10. Obstacles encountered in the implementation of article 8.

N/A

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

N/A

12. Website addresses relevant to the implementation of article 8.

<http://hoeringsportalen.dk/> and the websites of the respective authorities.

## 13. Estonia

### Article 6

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

The specific activities provided for in article 6 of the Convention have been regulated in national legislation through the issuing of authorizations and EIAs. The objective of EIAs is to provide information to the issuer of the authorisation on the planned activity and the environmental impact arising from its actual alternative opportunities, and for choosing the best suitable solution for the planned activity for avoiding or decreasing adverse effect on the environment and promoting sustainable development. The necessity of performing an EIA to the planned activity is determined in the process of issuing the authorisation. The Environmental Impact Assessment and



Environmental Management System Act sets forth the activities for which it is necessary to initiate impact assessment, and the activities for which an ex-ante assessment has to be performed to establish whether conducting an EIA process is necessary or not. The Act establishes thresholds for most of the activities; these thresholds determine when it is obligatory to perform EIA upon crossing the limits and when it is necessary to consider the necessity of EIA or perform an ex-ante assessment of the possible impacts.

Authorizations upon the issue of which environmental impacts are assessed are, inter alia:

- building permits or permits for the use of construction works (procedure based on the Building Code);
- integrated environmental permits (based on the Industrial Emissions Act) or environmental permits within the meaning of the General Part of the Environmental Code Act (permit for a special use of water – based on the Water Act; ambient air pollution permit – based on the Atmospheric Air Protection Act; waste permit and hazardous waste handling licence – based on the Waste Act; extraction permit – based on the Earth's Crust Act, or the radiation practice licence – based on the Radiation Act) or design specifications;
- any other document permitting to carry out activities that are likely to have a significant environmental impact.

According to section 3 of the Environmental Impact Assessment and Environmental Management System Act, an assessment of environmental impacts is mandatory if:

- (a) upon application for or application for amendment of a development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in significant environmental impact;
- (b) the planned activity can result, based on objective information, either individually or in combination with other activities in a significant adverse impact on the protection objective of the Natura 2000 network area and is not directly related to the organisation of protection or is not directly necessary for it.

Environmental impact is significant if it is expected to exceed the environmental capacity of a site, cause irreversible changes to the environment, or endanger human health and well-being, cultural heritage, or property.

In accordance with the Environmental Impact Assessment and Environmental Management Act, notification of the public display and discussion of an Environmental Impact Assessment programme and report must be made to Ametlikud Teadaanded (Official Announcements), a newspaper, and in at least one public building or place of the site of the proposed activities (e.g., shop, library, school, bus stop). In addition, the relevant authorities, non-governmental organisations, and people likely to be affected by the proposed activity must be informed in writing.

Upon the issuing of permits, the provisions on open proceedings provided for in the Administrative Procedure Act are applied. These open proceedings mean that, as a rule, public participation in the procedures has been foreseen and are obligatory.

Public participation in decisions on the intentional release of genetically modified organisms (GMOs) into the environment is regulated by the Release of Genetically Modified Organisms into the Environment Act (adopted in April 2004). The Act determines that GMOs may be released into the environment only with the written authorisation of the Minister of the Environment. For this purpose, a relevant application is submitted to the Ministry of the Environment, and pursuant to section 10 of the Act the Ministry of the Environment notifies about open proceedings of issuing a permit and subsequent granting of permit in the official publication *Ametlikud Teadaanded* (Official Notice) and at least in one national newspaper within seven days from the receipt of the application and the issuing of the permit. Regarding the release of genetically modified organisms (GMOs) into the environment and granting marketing permits, open procedure provisions shall be applied.

Pursuant to section 28 of the General Part of the Environment Code Act, it is provided expressly that everyone has the right to participate in procedure of granting permit for activity with significant environmental impact and in planning an activity with significant environmental impact. In case of the decision-making procedure related to significant environmental impact, public shall be informed with efficiency that does not cause unreasonable expenses, but ensures that the information shall reach those persons, who have significant connection to the affected environment. Pursuant to the same section public has to be involved in decision-making processes of significant environmental impact effectively and in early phase, before the final solutions have been chosen. In case of public involvement, the procedural time-limit must be such that having regard to scope and complexity of the case, it should allow public to participate effectively, including the possibility for sufficient preparation time. Pursuant to section 28 the important materials regarding a case must be easily accessible for public in Internet or in other manner.

The General Part of the Environment Code Act also regulates in detail the procedure of open proceeding regarding the review of environmental permit application.

## 2. Obstacles encountered in the implementation of article 6.

The public's proposals and objections are sometimes based on the emotional reaction that the activity should not be carried out in anyone's "back yard" may very well be caused by lack of knowledge. NGOs consider that the state should make efforts to educate the public concerned with regard to participation in the decision-making process. The objections and proposals prepared by NGOs are better worded and reasoned.

However, in this field the following problems were indicated:

- In case of environmental permits the information does not often reach affected persons – also the Estonian National (Supreme) Court has indicated that an administrative body has to guarantee efficient informing, even if this would require more intense measures than those foreseen by the law;
- Although the deadlines for public participation foreseen by the law are usually sufficient it may still not be enough in case of more complicated cases;
- Sometimes the participation of the public may be formal and does not take into account the internal objectives of the participation;

- NGOs claim that there have been cases where the public is not engaged in the decision-making process in a sufficiently early stage and the form of engagement is not efficient enough, which is rather the case at the level of local governments;

In real life the content of notices is not always inspiring but rather technical and formal and therefore in case of newspaper announcements the appropriate persons may not become aware of the importance of the issue;

Electronic means could be more applied for the engagement of the public in the future (besides already existing means). E. g. automated electronic message system would be suitable for more efficient notification. The system would allow for the registration of the participants and to notify what are the activities and/or locations of the activities they would like to receive information;

Currently no efficient regulation exists that would require environmental impact assessment of logging. In addition, obligation for environmental impact assessment does not seem to work for building permits; in addition, the proceeding process of building permits does not include general involvement (the state register of construction works does not allow publishing notes of initiating or failure to initiate environmental impact assessments, although publishing of such information should be operated through the register of construction works).

### 3. Further information on the practical application of the provisions of article 6.

Regarding EIA and issuing permits, the disclosure requirements determined under the law have been performed. Environmental Impact Assessment and Environmental Management Act obligates notify in public of the decision to initiate or not initiate environmental impact assessments, disclose a programme or a report – through the official publication *Ametlikud Teadaanded* and newspapers, also the appropriate agencies and persons etc. must be notified in writing. The public display of the impact assessment programme (both the environmental impact assessment and the strategic evaluation of environmental impact) shall take place at least for 14 days, the public display of the report at least for 21 days, and in the case of a report of strategic assessment of environmental impact, at least for 21 days (excl. plans). In the Planning Act, which entered into force on 1 July 2015, the planning procedure and the strategic evaluation of environmental impact have been integrated into one single process. Pursuant to the Planning Act, the duration of the public display of the report on planning and strategic evaluation of environmental impact is at least 30 days. In general, these terms are reasonable, while often the large volume of documentation and the complicated nature of the planned activity is not taken into account while assessing environmental impact – regardless of the volume of the report a tendency is to set the limits according to the minimum term allowed by law. During the process of the assessment of the impact, all people can examine the materials, submit proposals and objections regarding the programme and the report on the basis of which the programme and the report are improved, if possible. The people submitting proposals must receive feedback on whether the proposals were taken into account or not. During the processing of the plans, the engagement of the public takes place already at the initiative stage of the plan and later at the stage of disclosing the plan.

In 2020, it is still found that involvement of the public and interested parties has remarkably improved and in general this can be considered as efficient and sufficient – it is possible to take part in the decision-making process for those who so wish. In the Ministry of the Environment participation in the early phase has improved remarkably. More and more stakeholders are included already before completion of a draft document. However, often there is less interest for participation in early phases. Most of the information is available electronically, new initiatives are announced through the mass media and local advertisements and by ordinary mail. The deadlines are usually met, participation is not limited, and the results of participation (remarks, proposals) are taken into account.

## Article 7

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

Section 31 of the new EIA and Environmental Management System Act defines the term of strategic planning document. Strategic planning document is a national, county, comprehensive or detailed plan, or a national or local government designated spatial plan within the meaning of the Planning Act, a development plan of an area within the meaning of the State Budget Act, and a plan, programme or strategy the requirement for which arises from the law or from other legislative act provided based on a provision delegating authority established in the law, and which shall be prepared or adopted by an administrative authority or which shall be prepared by an administrative authority and adopted by the Riigikogu, the Government of the Republic or other administrative authority. Pursuant to the law, the open procedure provisions of the Administrative Procedure Act apply to public participation in the preparation of these documents. The public has also been involved in the preparation of the Rural Development Plan and the operational programme for EU Structural Funds for the period 2021–2027. The documents are accessible to the public for at least two weeks in the disclosure and SEA process, after which, an open meeting is organized for asking questions and expressing opinions; proposals are expected in writing. The large number of participants has sometimes been a problem, and at the same time the interests of the various interest groups are different and often contradictory, which has made taking the proposals into consideration very difficult.

The waste management plans of local governments prepared on the basis of the Waste Act are public documents, and a disclosure process must be completed upon the preparation thereof. The public is informed of the initiative and public display of the national waste management plan, as well as of the relevant public sessions, through notices published in the Ametlikud Teadaanded, on the Ministry's homepage and in a national newspaper (county plans are not prepared any more). Practice has shown so far that people are very interested in this kind of disclosure process and take an active part in it. The opinions of the public differ – there are hasty and poorly considered conclusions, but also constructive proposals are often made that can be taken into account while preparing the waste management plan. Generally speaking, public participation in the process has a positive effect and helps to reduce the occurrence of problems and errors at the later stages.

The public is informed of the submission of applications for a waste permit issued on the basis of the Waste Act in Ametlikud Teadaanded. The data contained in the notice such as the business name of the applicant, registry code and location, the planned location of Activity, short description of the location of activity and information regarding how and when the application for the waste permit and the draft waste permit can be examined and proposals and comments submitted. Depending on the planned activity, public interest in this process has generally been very passive.

Public participation in the preparation of plans is regulated by the Planning Act, pursuant to which different means of notification are established for different types of planning. The Ministry of Finance, other government agencies, or local government administering the preparation of the plan provide the main characteristics and time frame of the process. The completed plans are put on public display either in the local government or county centre.

Everyone has the right to present proposals and objections concerning a plan during the duration of public display. The local government or county governor administering the preparation of the plan must inform persons who have sent proposals and objections by post or electronic mail during the time the plan is on display of their opinion on such proposals and objections and specify the time and place of the public discussion within two weeks from the end of the public display of the plan. On the basis of the outcome of the public display and discussion, the local government or county governor make the necessary amendments to the plan.

#### 5. Obstacles encountered in the implementation of article 7.

The responses received in 2020 did not reflect the situations where NGOs did not receive any feedback on proposals and objections submitted by them in respect of national and local strategies and action plans.

The impact of public participation is usually valued as positive, necessary and informative by both the public and authorities. However, often the limitation of resources may also limit the effect of public participation (in the case of voluminous documents, there is not enough capacity for adequate elaboration) and all proposals made in respect of documents cannot be taken into account (it is not possible in every case also due to conflicting interests, but often the participation pursuant to the responses received from the State authorities and taking into account the submitted proposals are considered as synonyms). Some shortcomings have been indicated in justifying rejected proposals. NGOs have also noted that the disclosure process is often formal, not substantial. Disclosure meets the requirements set out in law, but no efforts are made to ensure that the information reaches stakeholders. The notice regarding public discussion may be published in a national newspaper and the web page of the municipality, but in case these sources are not constantly followed, no information is received.

#### 6. Further information on the practical application of the provisions of article 7.

As of 2020, the involvement of the public in the development of strategic documents has remarkably increased and the public participation phase is foreseen for all more important documents prepared by state and local authorities.

The legal basis of involvement is the regulation No 180 “Regulation for good legislative drafting and standard techniques” of the Government of the Republic of 22 December 2010; pursuant to § 1 (5) of this regulation, the involvement of interest groups and public in draft preparation intention, concept and draft act preparation and coordination shall be done on the basis of rules and regulations of the Government of the Republic in a manner of good practice. In the case of post assessment of act impacts, interest groups are involved in a manner of good practice.

Pursuant to § 4 (2) of the regulation No 10 from 13 January 2011 “Rules and regulations of the Government of the Republic” by the Government of the Republic relevant interest groups shall be involved in preparation of a draft or other matter accordingly to good practice of involvement, which shall be approved by the Government of the Republic. A good practice of involvement shall be published on the website of the Government of the Republic.

The Government of the Republic approved at the sitting of 29 December 2010 “Good practice of involvement” i.e. principles, which have to be followed by all authorities of public sector. The objective of good practice of involvement is to provide clearer instructions for involvement planning and arrangement and harmonise the involvement practice quality of governmental institutions. Further objective of involvement is to increase the transparency of decision-making processes and increase the reliability of the governmental sector in relations with the public.

In the document, the instructions for notifying the interest groups and organising a public consultation are described. In relation to the latter, the ministry has to involve interest groups in the preparation of a decision, submit a draft for expressing their opinion and providing feedback regarding the consideration of collected opinions.

A good practice of involvement shall be implemented in course of policy initiatives preparation, which can be legislation draft preparation of Riigikogu, government and minister, also a development plan preparation, and other type of political initiative, in which consulting with NGOs is important despite of the fact whether the decision shall be made in the form of legal concept or not.

The basis for the preparation of good practice are the rules and regulations of the government and the action programme of the government. The requirement to involve interest groups in the preparation of a draft act stated in the development trends of legal policy until 2018 by Riigikogu has been taken into account. Once a year the Government Office submits a review to the government regarding the implementation of involvement good practice.

The State Forest Management Centre (hereinafter referred to as RMK) involves the public in the preparation of different plans, of which the most important one for RMK is definitely the RMK development plan. Involvement of the public in the preparation of User Management Plans for nature protection is considered a good practice. A good practice is the involvement of the public in the preparation of user management plans for nature preservation, in the preparation of long-term forest management plans of a forest district and in preparation of more important strategies e.g. strategy of logging in spring and summer and in the preparation of economic strategy of drainage systems.

In the area of government of the Ministry of Interior environmental associations are involved into decision-making bodies through the Estonian Council of Environmental NGOs. Under the management of the Minister of Interior, the joint committee of the implementation of activity plans of the Estonian Civil Society Development Concept and assessment of completion of the activity plans and improvement of state cooperation meets, consisting of the representatives of the Government of the Republic and citizen associations to which relevant representative belongs. Further information is available on the address <https://www.siseministeerium.ee/ekak>.

By the autumn of 2020, the Ministry of Rural Affairs had completed a draft development plan for agriculture and fisheries until 2030. In addition, a corresponding strategic plan for the period 2021–2027 is being prepared for the use of the budgetary resources of the EU Common Agricultural Policy, in which a number of institutions and organisations are involved. Several commissions and councils have been set up under the Ministry of Rural Affairs, involving NGOs, such as the Council for Agriculture and Rural Development and the Fisheries Council. NGOs are also involved in the preparation of strategic documents and support measures in the administrative area of the Ministry of Rural Affairs and in the evaluation of the effectiveness of the implementation of measures (Rural Development Plan Monitoring Committee).

The Ministry of the Environment has engaged NGOs in developing various strategic documents. For example, stakeholders are thoroughly involved in the development of the Public Water Supply and Sewerage Act, where a working group is formed who meets regularly. Stakeholders have been very pleased with the involvement.

The biggest process is the development of a new forestry development plan, which has used innovative inclusion solutions, such as the creation of a forest collection for which all people could apply. The process is currently in progress. According to the inputs received in 2020, NGOs are critical of the implementation of the process. The Ministry of the Environment is trying to find a compromise that satisfies all parties.

Tallinn Environmental Board pointed out the processes of preparing the Tallinn Environmental Strategy until 2030 and the Tallinn Environmental Protection Action Plan for 2013–2018 prepared based on the former, Tallinn Greenery Action Plan for 2013–2025, and Tallinn Waste Management Plan as good examples of involvement. Based on the estimation of the Tallinn Environmental Board, the influence of involvement has been constructive and has broadened horizons.

Based on the information received from NGOs, they have been engaged in the process of preparation of almost all strategies, national development plans and also some draft acts in the area of administration of the Ministry of the Environment. The proposals submitted by NGOs have been analysed and used for the improvement of documents. As a result of involvement, the needs of (protection of) the environment have gained increased reflection in the development plans in some cases. In response to the 2020 questionnaire, several NGOs marked that they have been involved in the development of environment-related plans, programmes, and strategies and their proposals have been analysed and used for improving documents. However, there are still cases where their viewpoints have not been taken into consideration. It was also pointed out as a

shortcoming in 2020 that the draft National Energy and Climate Plan 2030 was submitted to NGOs at a very late stage.

## Article 8

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

In accordance with § 28 clauses 15)–17) of the Public Information Act, the following documents must be disclosed:

- Draft Acts prepared by ministries and draft Government regulations, together with explanatory memoranda, when such drafts are sent for approval or presentation to the Government;
- Draft regulations of ministers and local governments together with explanatory memoranda before such drafts are presented for adoption;
- Draft concepts, development plans, programmes and other projects of general importance before such drafts are presented to the competent bodies for approval, and the corresponding approved or adopted documents.

For approval, draft decisions of the Riigikogu, draft regulations of the Government and draft regulations of ministers together with all annexes are made available in the draft legislative act approval information system managed by the Ministry of Justice. The ministries and the Government Office will post a link to the Internet location of the draft legislative act approval information system on their websites. The documents entered into the draft processing information system are public. The public has the possibility to submit proposals in regard to draft legal acts during the duration of the display.

In accordance with the rules and regulations of the Government, drafts or other documents, except for draft acts, draft decisions of the Riigikogu and draft regulations forwarded to the Government by a ministry or the Government Office, can be classified as information intended for internal use either by the minister or the State Chancellor, respectively, on the grounds and in the order established in the Public Information Act, until the adoption of a decision by the Government or for another term prescribed by law. The Ministry and State Chancellor must not release or publish the drafts and documents annexed thereto submitted to the Government and classified as information intended for internal use until the adoption of a decision by the Government or until the end of another term of restriction on access.

During the preparation of draft legal acts for the Ministry of the Environment, drafts are also sent to relevant NGOs and professional unions and other interested persons. The Ministry's internal procedure for preparing legal acts has been brought into conformity with the rules of engagement of the public and the good involvement practice. Proposals submitted in regard to legal acts are taken into account to the extent possible.

Pursuant to the good involvement practice, involvement is implemented at the Ministry of the Environment for the development of all draft acts with significant impact. A separate involvement



plan is prepared, which includes the process of involvement, involved interest groups, and preliminary schedule. A separate webpage is created, where the entire information is available to the public. All interest groups influenced by the draft are involved. Interest groups are given sufficient time for presenting proposals – 4 weeks is a good practice. A more recent solution is to collect proposals through a form created on the website if it is not possible to hold meetings.

The Ministry of the Environment also organises a partner day at the beginning of each year for all of its partners to introduce the plans for the year and the priorities. In addition, they meet separately with environmental organisations a few times a year.

Pursuant to section 29 of the General Part of the Environment Code Act, the Government Office and the ministries publish on their websites relevant information on which draft regulations and acts that have a significant impact on the environment they intend to draft, publishing the intent of drafting, timetable, research to be carried out in the course of drafting, persons responsible, possibilities of participating in drafting, the issues on which public opinions are expected, and the results of consultations. If it helps the public to follow the legislative drafting process and to involve the public more effectively, the information may be published on another website or in another manner, referring on its website to the source where the information is published.

#### 8. Obstacles encountered in the implementation of article 8.

NGOs have pointed out in the implementation of article 8 that the involvement practice is unsystematic.

General principles for the involvement of the public have been adopted by several ministries and the Government Office, such principles are usually followed, in particular in the case of more important draft legal acts. The results of the involvement of the public are valued by drafters of acts as very positive, however, the representatives of the public and authors of amending proposals (in particular NGOs) are not so content with the process. The deficits in planning of the involvement process are being criticised (not enough resources, including time) also in 2020, in addition to reactions to proposals made and the low level of consideration thereof, and that despite of all the public is often excluded in the development of many legal acts (especially in the case of amending legal acts in force). NGOs consider that for effective involvement, the good practice requirements of the government should get more attention, particularly important should be consulting with the public already in the phase of establishing the intention to make a draft, also providing feedback. Statements of the people involved should be considered more thoroughly. In the case of many drafts, no involvement plan is prepared, and it remains unclear in the early stage, when and in which stage they can express their opinions. NGOs find that, generally, the ministries consult with NGOs on the same basis as with other ministries or institutions, not considering the fact that NGOs have significantly less resources for working through materials and developing an approach.

#### 9. Further information on the practical application of the provisions of article 8.

Based on the responses submitted in 2020, the state authorities still found that increased involvement causes an increase in administrative work load, but also an increase of awareness. In

order to avoid subsequent misunderstandings, early involvement is always recommended and therefore the state authorities have been guided by this principle pursuant to their responses

Competent parties from different fields shall be added to working groups preparing drafts of legislation and cooperation with relevant professional associations shall be done. Due to involvement, the information is more objective and the involvement is educating and allows getting new experiences and knowledge. Involvement ensures that the interests of all parties are taken into account as much as possible and compromise solutions satisfying parties are found. Involvement also guarantees information to users in early phase about which obligations they shall meet in future and they can start making preparations for implementation in the early phase.

In the field of chemicals, there are many directly applicable EL legislation, and based on the information of the Ministry of Social Affairs, many different interest groups (representatives of producers, consumers, etc.) are involved already at the EU level when the legislation is prepared.

## **14. European Union**

### **Article 6**

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

As EU institutions and bodies do not adopt decisions to permit the proposed activities listed in Annex I to the Aarhus Convention, implementation of Article 6 is focused on the Member States.

The relevant definitions of Article 2 of the Aarhus Convention are to be found in Article 3(1) and 4(1)(b) of the Public Participation Directive 2003/35/EC.

#### Article 6, paragraph 1

Article 6 of the Aarhus Convention is implemented notably by the Industrial Emissions Directive (IED) and the (revised) Environmental Impact Assessment Directive 2011/92/EU as amended by 2014/52/EU (EIA-Directive) .

For the Aarhus-related parts, the revised EIA Directive introduced certain changes:

Article 6 sets a minimum time-frame of 30 days for consulting the public on the EIA report. Local and regional authorities can participate in the EIA consultation. Relevant information shall be electronically accessible to the public, through a central portal or easily accessible access points, at the appropriate administrative level.

Member States shall provide for reasonable time-frames for information and participation in decision-making.

The results of consultations must be duly taken into account in the development consent procedure. The decision to grant development consent must incorporate the reasoned conclusion of the competent authorities on the significant effects of the project, any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to

avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures. A decision to refuse development consent shall indicate the main reasons for the refusal.

The public and the environmental, regional and local authorities shall be promptly informed on the decision to grant or refuse development consent; information shall be available to the public and these authorities. A summary of the results of consultations and how they have been addressed, in particular comments from the affected Member State for trans-boundary projects, shall also be made available.

The Nuclear Safety Directive 2014/87/Euratom amending Directive 2009/71/Euratom, sets more specific requirements as to the type of information to be provided to the general public as well as to the opportunities to participate in the relevant phases of the decision-making process related to nuclear installations.

The Spent Fuel and Radioactive Waste Management Directive 2011/70/EURATOM regulates both public participation and access to information (Article 10).

The Offshore Safety Directive includes procedural obligations on public consultation for those cases where the Strategic Environmental Assessment (SEA) or EIA Directives do not apply, whenever 'it is planned to allow' exploration operations.

The Regulation on guidelines for trans-European energy infrastructure 347/2013 contains provisions on public participation in permit granting and in the implementation of projects of common interest.

Article 14 of the Water Framework Directive 2000/60/EC obliges Member States to publish their draft river basin management plans (adopted every 6 years) 1 year before adoption and to give the public a six- months period to comment in writing.

Article 11 of the Bathing Water Directive states that Member States must encourage public participation in this Directive's implementation and ensure that the public is given opportunities to be involved, in particular, in the establishment, review and updating of lists of bathing waters in accordance with Article 3(1). Competent authorities have to take due account of any information obtained.

Workshops on implementing the Aarhus Convention in the nuclear field to ensure a better knowledgebase were held with the participation of ANCCLI (Association Nationale des Comités et Commissions Locales d' Information).

Under Action 5 of the action plan for nature, people and the economy, the Commission committed to holding dedicated bilateral meetings with Member States, involving national and regional authorities responsible for implementing the Nature Directives, as well as stakeholders. Nature dialogues took place with 24 Member States. Follow-up dialogues took place as well and are still taking place to monitor the implementation of the agreed roadmaps. In each of these meetings, among other issues, the Commission has raised awareness and discussed access to justice and

public participation in the field of nature protection and conservation in light of judgement C-243/15.

#### Article 6, paragraph 2

The ‘public concerned’ is defined in Article 3(1) of the Public Participation Directive as the public ‘affected or likely to be affected or having an interest in the environmental decision-making procedures. An NGO promoting environmental protection is expressly deemed to have such an interest.

#### Article 6, paragraph 3

Article 3(4) of the Public Participation Directive sets reasonable timeframes for effective public participation. The public is informed early in the environmental decision-making and, at the latest, as soon as information can reasonably be provided.

#### Article 6, paragraphs 4 to 10

Those provisions of the Aarhus Convention are implemented in Article 3(4) to (6) of the Public Participation Directive and the EIA Directive. Further details are given in the earlier EU Implementation Reports.

#### Article 6, paragraph 11

The amendment to the Aarhus Convention on genetically modified organisms (GMOs) was adopted in May 2005. It specifies the obligations of Parties with regard to public participation in decision-making processes concerning GMOs. Any Party whose regulatory framework is consistent with the GMO amendment is also in line with Article 6, paragraph 11, of the Convention. Reference is thus made to part XXXIII and the following of the present report.

[1] COM (2017) 198 final,  
[http://ec.europa.eu/environment/nature/legislation/fitness\\_check/action\\_plan/communication\\_en.pdf](http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/communication_en.pdf) and SWD (2017) 139 final,  
[http://ec.europa.eu/environment/nature/legislation/fitness\\_check/action\\_plan/factsheets\\_en.pdf](http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/factsheets_en.pdf).

#### 2. Obstacles encountered in the implementation of article 6.

A pending compliance case against the EU concerning Article 6, ACCC/C/2014/121, has been published on the UNECE website.

In relation to case ACCC/C/2014/121, as part of the European Green Deal, the Commission is reviewing EU measures to address pollution from industrial installations, including in particular Directive 2010/75/EU on industrial emissions (IED). The review will look at the sectoral scope of the legislation and at how to make it fully consistent with the European Green Deal commitments, in order to progress towards the EU’s zero pollution ambition for a toxic-free environment and to support climate, energy and circular economy policies. The Commission will carefully take into

account concerns about public participation, also with a view to making it easier for concerned parties to seek judicial review where appropriate.

3. Website addresses relevant to the implementation of article 6.

[https://ec.europa.eu/environment/eia/index\\_en.htm](https://ec.europa.eu/environment/eia/index_en.htm).

## Article 7

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

Public participation concerning plans and programmes relating to the environment by Member States' authorities is ensured through the following legislation:

- the Public Participation Directive, see Article 2 in conjunction with Annex I;
- the Strategic Environmental Assessment Directive 2001/42/EC ('SEA-Directive');
- The Water Framework Directive 2000/60/EC;
- The Flood Risk Management Directive 2007/60/EC, which foresees public involvement in Article 9 and requires, in Article 10, that relevant assessments, maps and plans are made available to the public;
- The SEVESO III Directive, which obliges operators to provide sufficient information on risks for the purpose of land-use planning. Detailed procedural requirements for public participation are provided and a reference is included in Article 2 of the Public Participation Directive for public participation in preparing general plans and programmes. Public participation in external emergency plans is also addressed;
- The Marine Strategy Framework Directive 2008/56/EC, which foresees in Article 19 public consultation on Member States' marine strategies and participation of interested parties in the implementation of the Directive.
- The Governance Regulation on the Governance of the Energy Union and Climate Action, which provides in Article 10 for Member States' to ensure that the public is given early and effective opportunities to participate in the preparation of the draft integrated national energy and climate plan — as regards the plans for the 2021 to 2030 period, in the preparation of the final plan well before its adoption — as well as of the long-term strategies referred to in Article 15. Each Member State shall set reasonable timeframes allowing sufficient time for the public to be informed, to participate in and express its views.

Article 9 of the Aarhus Regulation, combined with the definitions in Article 2, ensure public participation in the preparation of environmental-related plans and programmes by EU institutions and bodies. The Aarhus Regulation requires EU institutions and bodies to provide early and effective opportunities for the public to participate in the preparation, modification or review of environmental-related plans or programmes when all options are still open.

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

A number of recent environmental instruments include requirements for public participation in drawing up environmental plans.

Whenever ‘it is planned to allow’ exploration operations, the Offshore Safety Directive 2013/30/EU includes procedural obligations on public consultation and participation on its own merits and where public participation has not been undertaken pursuant to Article 5 (1) of the Directive. The Framework Directive for Maritime Spatial Planning 2014/89/EU aims to ensure effective implementation of maritime spatial planning in EU waters and integrated coastal management in the coastal areas of Member States. Article 2 of the Public Participation Directive is highlighted in recital 21 as a good example of a public consultation provision. Consultation is addressed in Article 9.

Partnership is one of the key principles that govern Cohesion policy. For the 2014-2020 programming period the "partnership principle" was reinforced by entering it in the legal basis of European Structural and Investment Funds (ESIF), under Article 5 of Regulation 1303/2013. Under this principle, the programming (partnership agreements and programmes) and their implementation are subject to a collective process involving authorities at Member State, regional and local level, social partners and organisations from civil society, including environmental NGOs. The respect of the partnership principle remains a legal requirement in the new Common Provisions Regulation for the programming period 2021-2027. The new Article establishes the possibility for Member States to allocate an appropriate percentage of resources coming from the Funds for the administrative capacity building of civil society organisations, which may include environmental NGOs.

The Commission also established the ‘European Network of Environmental Authorities - Managing Authorities for the Cohesion Policy’ (ENEA-MA) which brings together experts from environmental administrations, authorities managing cohesion policy and other organisations (e.g., Bankwatch). It contributes to the integration of environment and sustainable development in the cohesion policy programmes and projects, (see [http://ec.europa.eu/environment/integration/cohesion\\_policy\\_en.htm](http://ec.europa.eu/environment/integration/cohesion_policy_en.htm)).

The Commission has set up a ‘structured dialogue’ with partners working in the field of the ESIF. It is a mutual trust-building mechanism in order to bring the ESIF closer to civil society, assist the Commission in the development of this policy in the different areas of expertise and to discuss ESIF implementation, see [http://ec.europa.eu/regional\\_policy/en/policy/communication/structured-dialogue-with-partners/](http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners/).

Together with the Member States and stakeholders, the Commission has set up a ‘common implementation strategy’ for implementing the Water Framework Directive 2000/60/EC. In this framework, technical guidance documents are developed, in close cooperation with all relevant stakeholders, including representatives from civil society. All documentation is made publicly available on the relevant circabc website.

The recovery and resilience plans set out a coherent package of reforms and investment initiatives to be implemented up to 2026 to be supported by the RRF (Recovery and Resilience Plan). The Commission provided Member States with clear guidance to support them in the preparation of

the recovery and resilience plans in September 2020. It updated this guidance in January 2021 to assist Member States in preparing plans in line with the political agreement of the co-legislators on the regulation. Plans should also include a summary of the consultation process at national level as well as a presentation of the controls and audit system put in place to ensure that the financial interests of the Union are protected.

#### 6. Obstacles encountered in the implementation of article 7.

Pending compliance cases against the EU in the ambit of Article 7 are published on the UNECE website.

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

The 2010 Report on the application of Article 2 of the Public Participation Directive takes into account information gained by Member States and the Commission. It concluded that ‘Article 2 of the Directive has had the effect of firmly establishing the right of the public to participate in the decision-making process on plans and programmes uniformly in the legislation of Member States.’

In 2017 the Commission adopted the second implementation report of the SEA Directive. The report shows that the Member States did not raise major implementation concerns. The report concluded that all Member States should pursue their implementation efforts to ensure compliance with the SEA Directive.

Also, in cooperation with the Member States the Commission services prepared national summaries providing basic information on the legal, administrative and policy context regarding the SEA system in the Member States. These summaries describe the legal and administrative framework supporting the implementation of the SEA Directive, including the organisational arrangements as well as the procedural obligations in place.

In 2019 the Commission completed the evaluation of the SEA Directive and issued the Commission Staff Working Document Evaluation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes.

This evaluation examined the extent to which the SEA Directive is fit for purpose by looking into what works and what can be improved, the extent to which the Directive’s objectives have been achieved and why some elements or features are successful or not.

The evaluation was carried out using the five standard evaluation criteria (effectiveness, efficiency, relevance, coherence and EU added value) and the following findings were established.

The evaluation concluded that the SEA Directive is a major piece of EU environmental legislation and remains relevant for attaining the objectives that it has set. The evaluation has shown that the SEA Directive brings multiple benefits to the EU, contributing to wider goals on attaining the sustainable development goals (SDGs) and environmental protection, by integrating environmental concerns into the appropriate plans and programmes. The benefits it provides do not cause disproportionate costs for the national administrations. The Directive’s effectiveness differs between sectors and the types of plans and programmes to which it is applied but depends significantly on how it is transposed into national law and further implemented in each Member

State. The central issue for the future is the scope and purpose of the SEA Directive. The Directive is coherent with other EU legislation prescribing environmental assessments.

In 2020 the Commission published the fourth edition of the EIA and SEA Directive booklet gathering excerpts from rulings of the Court of Justice of the European Union related to the provisions of the EIA Directive and SEA Directive.

8. Website addresses relevant to the implementation of article 7.

Your Voice in Europe: [http://ec.europa.eu/yourvoice/index\\_en.htm](http://ec.europa.eu/yourvoice/index_en.htm).

Commission transparency portal: <http://ec.europa.eu/transparency/>

European Network of Environmental Authorities: [http://ec.europa.eu/environment/integration/enea-ma\\_plenary\\_meetings\\_en.htm](http://ec.europa.eu/environment/integration/enea-ma_plenary_meetings_en.htm)

Structured Dialogue with the ESIF expert group: [http://ec.europa.eu/regional\\_policy/en/policy/communication/structured-dialogue-with-partners](http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners)

## Article 8

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

Reference is made to the previous EU implementation reports and, insofar as Article 8 of the Convention would cover the preparation of EU legislative acts, to the explanations on the Commission's impact assessment and Better Regulation schemes under Section XI.

10. Obstacles encountered in the implementation of article 8.

No indications.

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

Further measures regarding proactive transparency early on in the risk assessment process in the area of food safety were introduced by the Transparency Regulation (EU) No 2019/1381, amending Regulation (EC) No 178/2002 on general food law as well as eight other sectoral acts, which [will be]/[are] applicable as of 27 March 2021. In that respect, it is noted that Article 41(1) of Regulation (EC) No 178/2002 as amended by the Transparency Regulation, provides among others that, where environmental information is concerned, Regulation (EC) No 1367/2006 of the European Parliament and of the Council would also apply. Directive 2003/4/EC of the European Parliament and of the Council on the other hand would apply to environmental information held by Member States, notwithstanding the rules on confidentiality provided in Regulation (EC) No 178/2002. In addition, the Management Board of the European Food Safety Authority was empowered to adopt practical arrangements for implementing Regulation (EC) No 1049/2001 and Articles 6 and 7 of Regulation (EC) No 1367/2006 by 27 March 2020, ensuring as wide access as possible to the documents in its possession. These practical arrangements have been adopted and are to be found at: <https://www.efsa.europa.eu/sites/default/files/documents/wp200327-a2.pdf>



This also involves the area of plant protection products. Studies supporting an application are to be notified and will be proactively made public; a public consultation will take place on the submitted studies.

There were more studies available on and greater involvement in the procedure on the renewal of active substance approvals for pesticides under Commission Implementing Regulation (EU) 2020/1740 of 20 November 2020. This Implementing Regulation sets out the provisions for implementing the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and repealing Commission Implementing Regulation (EU) No 844/2012.

Notifications on studies intended to be conducted to support a renewal application are to be submitted and a public consultation must take place following such notification. Submitted studies must be notified and made public, and a public consultation on these studies must also take place.

All draft acts and review reports concerning decisions on active substances in plant protection products are also made available via the Comitology Register.

A large participatory process involving a wide range of stakeholders to define specific protection goals (SPGs) for non-target organisms for the environmental risk assessment was launched in 2018. For the provisions in Regulation (EC) No 1107/2009 ensuring ‘no unacceptable effects on the environment and on biodiversity’, the objective is to translate these provisions into SPGs i.e., what, when and how long to protect if pesticides are used. The initiative builds on a method developed by EFSA in 2010/2016 and takes into consideration relevant and recently available scientific knowledge.

## 12. Website addresses relevant to the implementation of article 8.

See the links provided in Section XI.

## **15. Finland**

### **Article 6**

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

The provisions of article 6 as well as the participation of ‘the public’ and ‘the public concerned’ under article 6 have been taken into account in the EIA Act (252/2017) and Decree (277/2017) as well as in certain special acts, such as the Environmental Protection Act (EPA) and Environmental Protection Decree, the Land Use and Building Act and Decree and other sector-specific permit acts and their supplementary decrees. Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and Directive 2010/75/EU on industrial emissions as well as their national implementation measures play a key role as regards article 6 of the Convention.

The coordination of certain permit procedures relating to the environment is enabled under a new Act 764/2019. The Act seeks to make procedures smoother and more efficient by e.g. organising simultaneous consultations in permit applications initiated at the same time under different acts.

Under the new EIA Act and the amendments that entered into force on 1 September 2020 (768/2019), consultations relating to the EIA procedure can be conducted jointly in conjunction with a procedure under another act, e.g. in conjunction with the environmental permit procedure or procedure under the Water Act or with statutory land use planning. The EIA procedure may also be conducted in conjunction with a project-specific land use plan procedure.

With respect to article 6, paragraph 1, measures taken to ensure that:

The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention:

The list of proposed activities has been implemented in Finland especially by the EIA Act and Decree as well as the EPA and Decree. Relevant provisions are also contained by acts including the Water Act, the Land Use and Building Act (132/1999), the Chemicals Safety Act, the Nuclear Energy Act (990/1987), the Land Extraction Act, the Act on the Transport System and Highways (503/2005), the Railway Infrastructure Act (110/2007), the Aviation Act (864/2014), the Mining Act, the Act on the Redemption of Immovable Property and Special Rights (768/2004), depending on the project under annex I in question.

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:

Finnish legislation enables the general public to participate also in projects not listed in annex I to the Convention. For example, the list of projects under the EPA is more extensive than the list under annex I to the Convention. Likewise, under section 3 of the EIA Act, the environmental impact assessment procedure is applied, in addition to projects listed in Annex 1 of the Act, also to other projects and project alterations that may cause significant environmental impacts, if so decided specifically by an authority.

With respect to article 6, paragraph 2, measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in paragraph 2:

Provisions on informing the public as well as the public concerned and the contents of the information at the various stages of the decision-making procedures under the scope of article 6 are laid down in sector-specific acts, such as the EPA and the EIA Act, together with their supplementary decrees. In addition, section 62a of the Administrative Procedure Act (APA), which entered into force on 1 January 2020, is a general provision concerning public notices based on the premise whereby the notice and the documents noticed are to be published on the public information network on the authority's website. Special acts may contain provisions that deviate from or supplement this. Amendments concerning electronic service have also been made to acts including the EPA, the EIA Act and the Water Act.

Section 44 of the EPA provides that the permit authority shall announce the permit application, including the related documents, by public notice posted for at least 30 days, as laid down in section 62a of the APA. Provisions on the contents of the public notice are laid down in section 11 of the Environmental Protection Decree. The public notice must contain the information referred to in article 6(2). The public notice shall be provided separately for information purposes to those parties concerned who are particularly affected by the matter. Section 45 of the Act also lays down provisions on promoting access to information by means of electronic communications.

Under section 13 of the EIA Act and section 62a of the APA, public notice must be given on a decision to apply the EIA procedure. Sections 17 and 20 of the EIA Act and section 5 of the EIA Decree lay down provisions on the public notice concerning an environmental impact assessment programme and report becoming pending and the content of the notice and in sections 3–4 on the contents of the documents noticed. These cover the information referred to in article 6(2). Under the Act, public notice of a matter becoming pending must be published on the internet and in at least one newspaper in general circulation within the area of impact of the project. Provisions on how information is to be provided are laid down in other sector-specific acts. For example, chapter 11, section 10 of the Water Act and section 40 of the Mining Act lay down provisions on provision of information concerning permit applications and the manner and contents of information provision.

With respect to article 6, paragraph 3, measures taken to ensure that the time frames of the public participation procedures respect the requirements of paragraph 3;  
With respect to article 6, paragraph 4, measures taken to ensure that there is early public participation:

The requirements of article 6, paragraphs 3 and 4 are taken into account in the EIA Act, the EPA and Decree, the Land Use and Building Act and certain other sector-specific acts. General administrative regulations alone require that the public authorities must consult the parties concerned and others significantly affected by the matter already before deciding on the matter and notify of the opportunity to submit an opinion and of the time limits for consultation (chapter 6 of the APA). To avoid the purpose of the consultation to be jeopardized, the time limit may not be unreasonably brief.

For example, under section 43 of the EPA, it is required for a permit or other decision-making procedure concerning the environment that, before deciding on the matter, the permit authority shall reserve for the parties concerned as well as other parties the opportunity to lodge an objection to the matter and express their opinions on the application documents. The time limits for participation must be notified when announcing the permit application by public notice (section 44 of the EPA and section 11 of the Environmental Protection Decree). The permit documents and the public notice must be posted for 30 days. Sections 17 and 20 of the EIA Act lay down the time limits for consultations, i.e. at least 30 and no more than 60 days from the announcement of the public notice. Under section 15 of the Act, the environmental impacts of a project must be studied as early as possible, taking the other preparation of the project into account and while the options are still open.

With respect to article 6, paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit:

In the EIA and environmental permit processes, the applicant/the person responsible for the project provides their estimate of the area impacted by the project. The permit applications must contain information on the parties concerned. The authorities may extend this group.

With respect to article 6, paragraph 6, measures taken to ensure that:

- 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;
- In particular, the competent authorities give the public concerned the information listed in this paragraph:

Public notice is published on information referred to in article 6, paragraph 6, and the information is, as a general rule, publicly available as described above in the answer concerning article 6, paragraph 2. Information is increasingly available online. For example, the premise of the EPA is that all key documents concerning decision-making are published on the information network, with provisions on the publication and non-disclosure of personal data taken into account.

With respect to article 6, paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity:

Before a matter is decided, each party shall be provided with an opportunity to express an opinion on the matter and to submit an explanation of claims and of evidence, which may influence the decision (section 34 of the APA). Under section 41 of the APA, if the decision made on a matter could have a significant effect on the living environment, work or other conditions of persons other than the parties, the authority shall provide such persons with an opportunity to obtain information on the bases and objectives of the consideration of the matter and to express their opinion on the matter. Provisions on the opportunities of the public to participate are laid down in the EIA Act, the EPA and other sector-specific special acts. For example, section 43 of the EPA provides the parties concerned and other parties with the opportunity to lodge an objection to the matter and to express their opinions. The opportunity provided under sections 17 and 20 of the EIA Act to express an opinion also applies to the public.

With respect to article 6, paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation:

The APA lays down provisions on the duty to state the reasons for a decision (sections 44–45), in addition to which further provisions on the matter are laid down in special acts. For example, under sections 48 and 83 of the EPA, the permit authority shall investigate the conditions for granting the environmental permit and shall take into account the statements issued and the objections and opinions submitted on the matter and provide responses to the specified demands set out. In addition, under section 15 of the Environmental Protection Decree, the permit decision must

contain information including how the official opinions, objections and other opinions have been taken into account. Section 26 of the EIA Act lays down provisions on the obligation to take the assessment, including the consultation results, into account in the permit.

With respect to article 6, paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures:

Decisions by the authorities must be notified without delay. Chapters 9–10 of the APA contain provisions on the service of decisions. Provisions on informing the public are also laid down in special legislation, such as section 85 of the EPA, under which the decision on the permit shall be published by public notice in accordance with section 62a of the APA.

With respect to article 6, paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes:

Under section 29 of the EPA, a permit is required for any change in an activity that increases emissions or their impacts, or for any other substantial change in an activity requiring an environmental permit. In such cases, the permit procedure complies with the provisions (section 96) described above under 3–9. The EIA Act is applied to projects and alterations to projects that will probably have significant environmental impacts (section 3).

With respect to article 6, paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment:

Provisions concerning consulting the public are included in the Gene Technology Act (377/1995) and EU legislation discussed below in section XXXIII.

## 2. Further information on the practical application of the provisions of article 6.

The Central Organisation of Finnish Trade Unions (SAK) and the Finnish Association for Nature Conservation (FANC) stated in August 2020 that the switch from permits to notifications or registrations impedes participation and appeal opportunities. According to SAK, the impacts of the legislative amendments on the participation and appeal opportunities of the public should be evaluated. The Central Union of Agricultural Producers and Forest Owners (MTK) stated that due attention was paid to maintaining participatory and appeal rights even in the notification and registration processes, and these rights are included in the Environmental Protection Act (EPA). The Finnish Environment Institute (SYKE) commented that even if participatory opportunities are weakened, in the light of the proportionality principle this is sometimes justified.

SAK regarded the combination of public notices relating to the EIA procedure and statutory land use planning, as well as the joint consideration of permits to speed up construction projects, as a good reform but hoped for more time to be allowed for opinions due to the large scope of the matters. FANC pointed out the same issue.

In its statement in December 2020 FANC makes reference to section 37 of the EIA Act, which concerns the right to appeal a decision regarding whether to apply the EIA procedure. FANC

criticizes restricting the right to appeal in situations where the public does not have the right to appeal the permit decision for the activity in question.

FANC also draws attention to recent amendments to legislation governing statutory land use planning and to the Mining Act that it regards as having impacts including worsening the state of the environment and the status of those suffering from adverse effects. In addition, FANC criticizes the short time limit and the lack of participation procedure in notifications of forest use.

The Ministry of Agriculture and Forestry states that the notified forest use does not have environmental impacts in the meaning of the EIA Act, and the procedure therefore does not fall within the scope of the Convention. MTK states that participatory rights and access to justice in relation to forestry activities are secured in the EPA in line with the Convention.

### 3. Website addresses relevant to the implementation of article 6.

Further information about environmental impact assessment and the completed and pending EIA procedures including their documents: [https://www.ymparisto.fi/en-US/Forms\\_permits\\_and\\_environmental\\_impact\\_assessment/Environmental\\_impact\\_assessment](https://www.ymparisto.fi/en-US/Forms_permits_and_environmental_impact_assessment/Environmental_impact_assessment)

Environmental and water permit information service: see section VI.

## **Article 7**

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

The Protocol on Strategic Environmental Assessment to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context and the EU Directive on the assessment of the effects of certain plans and programmes on the environment (2001/42/EC) govern the assessment of the environmental impacts of plans and programmes and also contain obligations concerning the participation of the public. The Protocol and the Directive have been transposed into national legislation by several different statutes, with the main ones being the Act on the Assessment of the Effects of Certain Plans and Programmes on the Environment (200/2005, the SEA Act) and the SEA Decree (347/2005). The SEA Act contains not only provisions on the plans and programmes that require environmental assessments and related consultation of the public, but also a general provision concerning the identification and assessment of the environmental effects of plans and programmes in the preparation of plans and programmes, which had already previously been included in national legislation. Under section 3 of the SEA Act, the general assessment obligation applies broadly to a variety of plans and programmes of the authorities.

The Land Use and Building Act and Decree contain the provisions required by the SEA Protocol and Directive on the contents and procedures of environmental impact assessments of plans as regards statutory land use planning. The Land Use and Building Act emphasises environmental matters and public participation as well as transparency in land use planning. Assessments are planned case-specifically and, when a plan is being drawn up, a scheme covering participation and

interaction procedures and assessment of the plan's impact must be drawn up in good time, as required by the purpose and the significance of the plan (section 63).

Section 65 of the Nature Conservation Act requires an impact assessment if a project or plan, either individually or in combination with other projects and plans, is likely to have a significant adverse effect on the ecological value of a site included in, or proposed by the Government for inclusion in, the Natura 2000 network, and the site has been included in, or is intended for inclusion in, the Natura 2000 network for the purpose of protecting this ecological value. The assessment obligation also applies to any project or plan outside the site which is liable to have a significantly harmful impact on the site.

The consultation of the public included in the drawing up of a plan or programme may also be required under other legislation, regardless of whether any environmental impact assessment takes place. The Environmental Protection Act lays down provisions on the procedure for the preparation of an air quality protection plan and a short-term action plan (section 147), the national air pollution control programme (section 149c), the procedure for the preparation of noise maps and noise abatement action plans (section 152) and national plans and programmes on environmental protection referred to in the regulations of the European Union (section 204). Section 89 of the Waste Act lays down provisions on the procedure for the preparation of waste plans. Section 10 of the Climate Change Act (609/2015) lays down provisions on the preparation of climate change policy plans, including the participation of the public. Several consultations, seminars and workshops for stakeholders were organised during the preparation of the medium-term plan for climate change policy.

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

The general assessment obligation under section 3 of the Act on the Assessment of the Effects of Certain Plans and Programmes on the Environment (200/2005) also applies to policies.

Central government has used approaches including internet-based solutions such as the online consultation site (otakantaa.fi) for consultations relating to policies and strategies. The *demokratia.fi* democracy website maintained by the Ministry of Justice contains a lot of information about the various types of access to influence.

The National Audit Office of Finland (NAOF) is an independent auditor operating in affiliation with Parliament, which audits central government finances and the management of property, evaluates fiscal policy and monitors political party and election campaign funding. In its publications and opinions, the NAOF has also drawn attention to transparency and access to influence in the formulation of political strategies, such as the National Energy and Climate Strategy of Finland as well as the Finnish Bioeconomy Strategy and identified both good practices and aspects in need of development.

#### 6. Further information on the practical application of the provisions of article 7.

According to the opinion of 14 August 2020 of the Central Organisation of Finnish Trade Unions (SAK), there is still room for improvement in the equal participation of the various stakeholders

in the preparation of policies relating to the environment with regard to e.g. the Government's energy and climate strategies. the Finnish Association for Nature Conservation (FANC) also raises the issue in its opinion.

7. Website addresses relevant to the implementation of article 7.

Guide on environmental assessment under the SEA Act:  
[http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/79246/OH2\\_2017.pdf?sequence=3](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/79246/OH2_2017.pdf?sequence=3)

## Article 8

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

Everyone has the right of access to information about matters prepared by the authorities and the right to participate in and influence the development of society and their own living environment. The Ministry of Justice maintains electronic democracy services that the public and stakeholders can use to participate in the preparation of matters and to influence decision-making online. The authorities and decision-makers can use the services to obtain the views of the public and stakeholders on matters being prepared. The democracy services have been compiled on the [demokratia.fi](http://demokratia.fi) website, where background material and information sources concerning civic engagement and democracy can be found.

Issued by the Government, the Guide to Consultation in Statute Drafting defines policies for the consultation of stakeholders and their participation in the law drafting process. The new guide, published in 2016, replaces the Government resolution on consultation in statute drafting from 2010. Other material on the consultation process and methods to be used in it have also been drawn up to support the revised guide. The Guide to Consultation in Statute Drafting applies to the drafting of acts, decrees and regulations including legal provisions. In addition, the provisions on the openness of the law drafting procedure and consultation laid down in the Constitution, the Act on the Openness of Government Activities, the APA and the Language Act must be complied with in consultation.

The Government Programme of Prime Minister Marin's Government outlines the launch of the preparation of a cross-administrative democracy programme to continue the democracy work of previous administrations. On 19 December 2019, the Ministry of Justice appointed a working group to prepare and coordinate the programme (National Democracy Programme 2025). The objective of the cross-administrative programme is to promote participation and new forms of interaction between the public administration and civil society.

The Government acts in close cooperation with representatives of civil society and various population groups. The Advisory Board on Civil Society (KANE), the Advisory Board for Ethnic Relations (ETNO) and the Advisory Board for Language Affairs operate in conjunction with the Ministry of Justice. The Advisory Boards are tasked with promoting cooperation between civil society and the administration and making initiatives for the promotion of participation and influence of the various population groups. The Government appoints the Advisory Boards for four years at a time.



9. Website addresses relevant to the implementation of article 8.

Guide to consultation in legislative drafting: <http://kuulemisopas.finlex.fi/>

The democracy website of the Ministry of Justice: <https://www.demokratia.fi/en/home/>

## 16. France

### Article 6

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

The principle of public participation has constitutional value (Article 7 of the Charter of the Environment) and is one of the main principles of environmental law (Article L. 110-1 II 4° EC).

The main legislative measures corresponding to the provisions of Article 6 of the Convention are contained in Title II of Book I of the Environment Code, "Information and participation of citizens", and are set out in Articles L. 120-1 et seq. These provisions were significantly reformed in 2016.

In addition, Article L. 103-2 of the Urban Planning Code (CU) provides for compulsory prior consultation in a number of cases and Article L. 300-2 CU for optional consultation.

Public participation in the preparation of projects and plans likely to have an impact on the environment takes place at two stages:

- upstream, during the preparation of the plan or project: these are the procedures for public debate (L.121-8 EC et seq.) or prior consultation (L.121-15-1 et seq.). Their purpose is to involve the public in the preparation of the plan or project, at a stage when all options are still open, making it possible in particular to question the appropriateness of the project. When there is a public debate, it is organised by the National Commission for Public Debate (CNDP), an independent administrative authority, which guarantees the completeness of the dossier, the timetable and the organisation of the debate. This debate is reserved for the most important national projects, plans and programmes;
- downstream, at the stage of approval of the plan or authorisation of the project: these are the procedures for public enquiry (L.123-2 et seq.), public participation by electronic means (PPVE - L.123-19) or the public participation mechanism outside of specific procedures (L.123-19-1 et seq.). This consultation concerns a finalised file (plan/programme or project ready to be approved/authorised).

Lastly, a mechanism aimed at ensuring continuity between these two phases has been instituted: this is the 'participation continuum'.

French law provides that projects subject to environmental assessment (Article L. 122-1 EC) are subject to a public enquiry (Article L. 123-1 EC), which covers the projects mentioned in Annex

I of the Convention. If these projects meet certain criteria and thresholds, they may also be subject to 'upstream' public participation (see previous section).

For the projects mentioned in Article 6(1)(b), a case-by-case screening procedure determines whether the environmental impacts of the project in question justify an environmental assessment and, consequently, public participation. This procedure concerns in particular the projects listed in Annex II to Directive 2011/92/EU on the assessment of the effects of certain public or private projects on the environment.

These projects are then subject at least to a public enquiry (Article L. 123-2 EC et seq.) or to public participation by electronic means (Article L. 123-19 EC), including the same documents as the public enquiry file.

However, certain activities are exempt from any public participation procedure because of the imperatives of preserving national defence secrets. Law No. 2020-1525 of 7 December 2020 on the acceleration and simplification of public action, known as "ASAP", extended this exemption to sensitive operations involving national security.

National legislation does not define the "public concerned", which allows any interested person to participate in the public enquiry.

At least fifteen days before the organisation of a preliminary consultation (R. 121-19 EC), the opening of a public enquiry (Articles L. 123-10, R. 123-9 and R. 123-11 EC) or a PPVE (Article L. 123-19 EC) and during the latter, the public is informed of the elements referred to in Article 6, paragraph 2, by all appropriate means

In the upstream phase, a public debate may last four months for projects and six months for plans and programmes (Articles L. 121-8 and L. 121-11 of the EC Treaty), while a preliminary consultation lasts between 15 days and three months.

In the downstream phase, the duration of a public enquiry cannot be less than 30 days for projects subject to environmental assessment and 15 days for those not subject to environmental assessment (Article L. 123-9 EC). The duration of a PPVE may not be less than 30 days (Article L. 123-19 EC).

Upstream participation (Articles L. 121-1-A et seq. of the EC Treaty) makes it possible to involve the public before the start of a decision-making procedure, when the project owner is still in the project design phase, through public debate and prior consultation.

With regard to this upstream phase, the Environmental Code distinguishes between two types of projects, plans and programmes:

- Those that fall within the scope of the CNDP (L.121-8 and R.121-2), making a distinction between those subject to mandatory referral to the CNDP and those subject to optional referral. When a case is referred to it, the CNDP decides to organise a public debate, or a preliminary consultation organised under the aegis of a guarantor. It may also decide that 'upstream' public participation is not necessary. In the case of projects subject to optional referral to the CNDP, the project owner who decides not to have recourse to the CNDP is

obliged to organise prior consultation under the aegis of a guarantor. This category of projects, plans and programmes is systematically subject to "upstream" public participation unless the CNDP decides otherwise;

- Those that do not fall within the scope of the CNDP: projects subject to environmental assessment for which the amount of public funding exceeds 5 million euros, as well as all plans and programmes subject to environmental assessment, must be subject to a declaration of intent. On the basis of this declaration, local authorities, environmental protection associations or citizens may, under the conditions laid down in the regulations, request the organisation of a prior consultation through the right of initiative. The decision on whether or not to organise a consultation is taken by the prefect. For this second category of projects, plans and programmes, prior consultation is therefore never systematic. In all cases, the project leader or the person responsible for the plan or programme has the possibility of organising voluntary prior consultation.

The provisions relating to upstream public participation (Art. L 121-1 EC et seq.), described in the previous paragraph, and to prior scoping (Art. L 122-1-2 EC) meet the objective set out in paragraph 5 of Article 6 of the Convention, relating to public information and participation upstream of the application for authorisation.

In the upstream phase, for projects falling within the scope of the CNDP, the project owner sends the latter a file describing, in particular, the objectives and characteristics of the project (Article L. 121-8 of the Environment Code). For projects that are subject to prior consultation, the file includes the objectives and main characteristics, the list of municipalities concerned, an overview of the potential impact on the environment and any alternative solutions (Article R. 121-20 of the Environment Code).

In the downstream phase, the public enquiry file includes the impact study and the documents and opinions issued on the project, which can be consulted on the Internet (Articles L. 123-12 and R. 123-8 to R. 123-11 of the Environment Code). The PPVE file, which includes the same documents, is made available to the public digitally and, on request, in paper format (Article L.123-19 of the EC Treaty).

The upstream and downstream mechanisms all guarantee the collection of public contributions and have developed dematerialized participation. During a public enquiry, for example, the public may systematically submit their observations and proposals by e-mail, as well as by any other method specified in the order opening the enquiry (Article L. 123-13 of the EC Treaty).

The traffic restrictions imposed by the containment measures in 2020 have made it possible to develop new ways of contributing to public enquiries, set up by the Compagnie nationale des commissaires-enquêteurs (CNCE), in particular by telephone or videoconference, which could be reused to deal with exceptional circumstances or natural disasters that prevent the public from travelling to the enquiry sites.

For the most important projects or those with the highest environmental stakes, independent third parties guarantee the rights of the public and the regularity of the procedure: the guarantors in the upstream phase and the investigating commissioners during public enquiries.

At the end of a public debate, the project owner or the public person responsible for drawing up the plan/programme must decide on the principle and conditions of its continuation and specify the modifications made to it as well as the measures necessary to respond to the lessons learned from the debate (Article L. 121-13 EC).

At the end of a preliminary consultation, a report is made public and the project leader indicates the measures he or she deems necessary to implement in response to the lessons learned from the consultation (Article L. 121-16 EC).

At the end of a public enquiry, the investigating commissioner publishes a report and reasoned conclusions (Article L. 123-15 EC).

The project leader and the decision-making authority must take account of the public's observations and proposals (Articles L. 122-1-1 and L. 123-1 of the EC Treaty).

Lastly, a project by a local authority or a public establishment for inter-municipal cooperation that has given rise to unfavourable conclusions must be the subject of a reasoned deliberation reiterating the request for authorisation or a declaration of public utility (L. 123-16 EC).

II of Article L. 123-19-1 provides that, in the case of a PPVE, the draft decision cannot be definitively adopted before the expiry of a period of time allowing the observations and proposals submitted by the public to be taken into consideration and a summary of these observations and proposals to be drawn up. The aforementioned article adds that the public's comments and proposals, together with the summary, indicating those that have been taken into account, and the reasons for the decision, are made public no later than the date of publication of the decision and for a minimum period of three months.

The Council of State considered that the fact that this summary and the reasons for the decision were not made public until almost a month and a half after the publication of the decision has no bearing on its legality and that this delay cannot establish that the drafting of this summary took place after the adoption of the decision (Council of State, 6th - 5th joint chambers, 17/12/2020, 430314)

Although, from a legal point of view, this Council of State ruling does not call into question the application of Article 6(8) of the Aarhus Convention, it does, however, call into question its effective application and the monitoring that can be carried out in the area of PPVE.

Consideration is being given to improving the effectiveness of participation, and the Minister for the Environment has commissioned an inspection mission in 2021 that includes this issue.

When a decision to grant or refuse authorisation for a project subject to environmental assessment has been taken, the competent authority must inform the public (IV of Article L. 122-1-1 EC). The authorisation decision must be explicit (I of Article L. 122-1-1 EC).

The declaration of project or public interest must include the reasons and considerations that justify its general interest nature, taking into account in particular the result of the public consultation (Articles L. 126-1 EC and L. 122-1 of the Expropriation Code).

Project modifications or extensions that are subject to environmental assessment under Article R. 122-2 of the EC Treaty are subject to public participation.

Article L. 181-14 of the Environment Code specifies that the operator must renew his application for authorisation in the event of substantial modification of the activities, installations, works or structures that are subject to environmental authorisation.

There are two authorisation procedures for the deliberate release of genetically modified organisms (GMOs) into the environment: authorisations for any purpose other than placing on the market, in particular field trials (Article L. 533-3 EC) and authorisations for placing on the market (Article L. 533-5 EC).

The dossier submitted by the applicant to the competent administrative authority includes an assessment of the effects and risks of the GMOs for health and the environment. Each application for authorisation is subject to an opinion from the High Biotechnology Council (HCB), which includes an economic, ethical and social committee made up of representatives of civil society.

The National Agency for Food, Environmental and Occupational Health Safety (ANSES) is also competent to assess the safety risks of food consisting of or produced from GMOs. The opinions of these bodies are published on their respective websites.

For each application for field trials, a public consultation procedure is set up via the Internet. The application file, the opinion of the HCB and a public information sheet are posted online for each trial.

For each marketing application, a public consultation procedure is carried out at Community level via the Internet. Dossiers submitted under Regulation (EC) No 1829/2003 on genetically modified food and feed are subject to consultation on the following website: [http://ec.europa.eu/food/plant/gmo/public\\_consultations\\_en](http://ec.europa.eu/food/plant/gmo/public_consultations_en).

Those submitted under Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms are consulted on the website of the European Commission's Joint Research Centre <http://gmoinfo.jrc.ec.europa.eu/Default.aspx#>.

## 2. Obstacles encountered in the implementation of article 6.

The obstacles are presented below in order of importance:

- I. Concerning the downstream phase, the public enquiry is being increasingly reduced in favour of the PPVE, without a face-to-face meeting and without an investigating commissioner.
- II. The criticism concerns the fact that the summary of the PPVE observations is produced by the authority that organises them and not by a person independent of the organising authority.
- III. In addition, consideration has been given to improving the conditions for publicising and informing the PPVE, which differ from those of the public enquiry.
- IV. In chronological terms, the main exceptions to the public enquiry are as follows:

- a. Since 1 January 2016, projects covered by a building permit or development permit subject to environmental assessment after case-by-case examination have been subject to a PPVE (1° of I of Art L. 123-2 EC).
  - b. Sectoral laws have also been passed to provide for a PPVE instead of a public enquiry (for the Olympic Games, projects in the context of Brexit, prison centres, etc.).
- V. An experiment, provided for by law n°2018-727 of 10 August 2018 for a State at the service of a trustworthy society, consists, in the regions of Brittany and Hauts-de-France, for any project subject to environmental authorisation, of replacing the public enquiry with the PPVE, provided that the project has given rise to a prior consultation under the aegis of a guarantor. A report on this experiment will be submitted to the French Parliament in 2021.
- VI. Until 2020, environmental authorisation was systematically associated with a public enquiry. Law No. 2020-1525 of 7 December 2020 on the acceleration and simplification of public action (ASAP) reversed the principle for projects subject to environmental authorisation but not subject to environmental assessment: they are now subject to a PPVE, although the organising authority has the option of opting for a public enquiry if the project's impacts on the environment or socio-economic issues justify it (Art. L181-10 Environmental Code).
- VII. Concerning the upstream phase: While, due to the strengthening of upstream participation that it brought about, the 2016 reform constitutes a considerable advance with regard to paragraph 4 of Article 6 in order to allow participation "when all options and solutions are still possible and the public can exercise a real influence", the highest French administrative court considers that the stipulations of this paragraph "do not create rights that individuals could directly avail themselves of" (Conseil d'Etat of 13 March 2019, No. 414930).
- VIII. More generally, the information provided for in the Environmental Code, both for the upstream and downstream phases of public participation, is often done at a minimum without going beyond the strict regulatory framework of legal announcements in the press.
- IX. Comments from the public point to difficulties, particularly due to the lack of a single site for participation, deadlines considered too short or the simultaneous nature of many consultations.
- X. Comments also indicate that the public's opinions do not seem to be sufficiently taken into account in the final decision, or that it is rare for opinions that are mostly against to be followed. An inspection mission has been commissioned to examine this issue (see § 107).
- XI. The fact that the upstream phase, in particular the public debate, takes place very early on before the impact assessment is carried out is an advantage. However, this can be a source of misunderstanding for the public and the associations that participate for example, one association, taking offshore wind power as an example, criticises the fact that the public was consulted even though the ecological issues were not known. In any case, the impact study will be provided in the complete file during the downstream public participation phase.

### 3. Further information on the practical application of the provisions of article 6.

According to the CNDP's 2019 annual report, its referrals have increased sevenfold since 2016. The CNDP was involved in 152 procedures in 2019 alone and in particular prepared and conducted 7 public debates.

The 2019 annual report of the compensation fund for investigating commissioners mentions 5,262 public enquiries opened in 2018 compared with 6,314 in 2016.

A Public Participation Charter, drawn up in 2016, recommends good practice in public participation and sets out the values and principles that define the basis of a virtuous participatory process.

In this spirit, the AdCF - Intercommunalités de France has published a guide for local authorities in 2019 on consultation at the inter-municipal level, proposing a method for involving citizens more in public decision-making.

#### 4. Website addresses relevant to the implementation of article 6.

Website for debates, consultations and forums on the territory: <https://www.vie-publique.fr/consultations>

Website for impact studies: <https://www.projets-environnement.gouv.fr/pages/home/>

The prefectures' sites list the consultations underway for which they are responsible, for example: <https://www.ariège.gouv.fr/Publications/Enquetes-publiques/Liste-des-enquetes-en-cours-ou-programmees>

Page devoted to environmental dialogue on the website of the Ministry in charge of the environment: <https://www.ecologie.gouv.fr/dialogue-environnemental#e2>

Participation Charter: <https://www.ecologie.gouv.fr/charte-participation-du-public>

CNCE: [www.cnce.fr](http://www.cnce.fr)

AdCF and Palabreo, Concertter à l'échelle intercommunale - guide pratique, <https://www.adcf.org/files/THEME-Insitutions-et-pouvoirs-locaux/AdCF-Guide-Concertation-18x24-PAGE-A-PAGE.PDF>

### **Article 7**

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

France has transposed Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment and Directive 2003/35/EC of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment, in particular in Articles L. 122-4 et seq.

In the upstream phase, Article L. 121-8 of the EC Treaty provides for mandatory referral to the CNDP for national plans or programmes subject to environmental assessment. The CNDP decides on the most appropriate method of public participation (Article L. 121-9 EC).

A plan or programme that is not subject to referral to the CNDP and is also subject to environmental assessment must be the subject of a declaration of intent published on the Internet and may be subject to prior consultation pursuant to Article L. 121-15-1 of the Environment Code.

In the downstream phase, the public is also invited to participate in plans and programmes subject to environmental assessment via the PPVE procedure (Article L. 123-19 of the EC Treaty) or the public enquiry procedure (Article L. 123-1 of the EC Treaty).

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

Article L. 121-10 of the EC Treaty allows the government, as well as 500,000 adult European Union nationals residing in France or sixty deputies or senators, to refer a matter to the CNDP for a national public debate on a draft reform with a significant effect on the environment or regional planning.

More generally, public participation in the development of environmental policies is achieved through consultation with representatives of the public concerned within consultative bodies, such as the CNTE.

7. Obstacles encountered in the implementation of article 7.

Feedback from associations emphasizes that the technical nature of the information available can put off the general public and make it difficult for them to participate, even though, in the nuclear field, events in recent years have demonstrated the willingness of stakeholders to involve the public in debates, to share with them and to take their opinions and expectations into consideration, such as, for example, the public debate on the 5th National Radioactive Materials and Waste Management Plan.

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

In quantitative terms, it is the draft town planning documents that are most concerned by the application of Article 7 of the Convention in France. They are subject to public involvement throughout their design and some of their developments via the prior consultation procedure of the town planning code (Article L. 103-2 of the CU), the scope of which was broadened by Article 40 of Law No. 20-20-1525 of 7 December 2020, known as the "ASAP" law.

With regard to public participation in the development of policies relating to the environment, France innovated in 2020 by implementing a new method of associating citizens so that they can be a force of proposal during the Citizens' Climate Convention (CCC). This method of "citizen participation" brought together 150 randomly selected citizens who volunteered to propose measures to accelerate the fight against climate change. These measures were included in various bills, including the "climate and resilience law" and a law amending Article 1 of the Constitution (see point 4 above).

9. Website addresses relevant to the implementation of article 7.

[www.consultations-publiques.developpement-durable.gouv.fr](http://www.consultations-publiques.developpement-durable.gouv.fr)



## Article 8

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

In order to give Article 7 of the Charter of the Environment its full scope and to allow citizens to participate in the preparation of public decisions with an impact on the environment, the law of 27 December 2012, the order of 5 August 2013 and the order of 3 August 2016 reformed the cross-cutting public participation mechanism.

Since Ordinance 2016-1060, the conditions for public participation in the preparation of these decisions are defined in Articles L. 123-19-1 et seq. EC and apply in particular to the regulatory decisions of all public authorities and legal persons under private law responsible for the management of a public service, when they act within the framework of public authority prerogatives.

The right to participate in the preparation of public decisions is open to any person, natural or legal, without discrimination and without justification of interest.

Public participation is organised by electronic means, with the draft decision and a presentation note being made available.

The public's comments and proposals must be summarised and the draft decision may not be definitively adopted before their consideration (Article L. 123-19-1 of the EC Treaty).

### 11. Obstacles encountered in the implementation of article 8.

One association report that consultations on normative provisions are sometimes confidential. The issues at stake can be difficult to grasp, as they are expressed in technical terms. The various consultations on related subjects are not always coordinated. Organised by text and not by public policy issue, they require good monitoring of regulatory developments.

One association was critical of the consultations conducted on the ministerial platform ([www.consultations-publiques.developpement-durable.gouv.fr/](http://www.consultations-publiques.developpement-durable.gouv.fr/)) and referred to the opinion issued by the CNDP on 19 December 2019 regarding online consultations ([https://www.debatpublic.fr/sites/cndp.portail/files/191213\\_cndp\\_avis\\_lpo.pdf](https://www.debatpublic.fr/sites/cndp.portail/files/191213_cndp_avis_lpo.pdf)). In response, the ministry in charge of the environment wishes to improve its practices, as illustrated in Chapter XXVI below.

### 12. Further information on the practical application of the provisions of article 8.

An inspection mission by the Ministry of the Environment was undertaken in May 2020 to gather feedback from the administration on the implementation of Article L. 123-19-1 of the EC Treaty, particularly concerning the publication of a summary of the public's observations and the reasons for the decision.

A comparative study recently carried out with eight European Union member countries shows that France, by systematising consultations in the environmental field, has gained experience in this area.

13. Website addresses relevant to the implementation of article 8.

[www.consultations-publiques.developpement-durable.gouv.fr/](http://www.consultations-publiques.developpement-durable.gouv.fr/)

## 17. Georgia

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

(a) Environmental Assessment Code (EAC) defines list of activities subject to EIA[225], represented through two Annexes of EAC, considering environmental impact risks and levels.

(i) Annex I activities are subject to EIA, considering significant effect on the environment;

(ii) For Annex II activities, screening procedure is established to determine whether the planned activity is subject to EIA or not.

(b) For screening/scoping/EIA procedures, documentation submitted to MEPA, indicated procedure, name/implementer/place of planned activity, means/deadlines/administrative body for submission of comments, etc., are placed on the MEPA website within 3 working days and sent to relevant municipalities for placing information on boards of executive/representative bodies. For public information/participation, EIA report shall contain brief non-technical resume.

To inform/involve the public effectively, information about proceedings in MEPA is uploaded on the EIEC website, Facebook, sent electronically to the environmental NGO's, subscribers[226]; placed in open areas in all permitted locations of municipalities. Brief presentation about planned activities is also placed on MEPA website and sent to municipalities for uploading on websites and dissemination to the public, as requested.

(c) EAC defines deadlines (working days) for:

decision-making:

Screening decision: no earlier - 10, no later - 15;

Scoping conclusion: no earlier - 26, no later - 30;

Environmental protection decision: no earlier - 51, no later - 55.

submission of public opinions/comments:

Screening documentation – 7;

Scoping documentation – 15;

EIA report – 40.

(d) No earlier than 10 and no later than 15 days from placing scoping applications (see subparagraph (b)), MEPA conducts public hearings on scoping, and no earlier than 25 and no later than 30 days - on EIA reports. Considering epidemiological situation, in order to conduct procedures under EAC without any hindrance, based on amendments to EAC, public hearings are held remotely from 01/10/2020 using electronic means of communication in accordance with EAC rules on publishing/placing of information on public hearings.

(e) EIA report shall cover assessment of issue of informing the public and submitted opinions/comments at the scoping stage.

(f) Procedures for public hearings, participation and access to information are regulated. MEPA organizes/conducts public hearings on the scoping/EIA reports. In case the project covers several municipalities and/or their administrative units, several public hearings are conducted. Information on public hearing on the scoping report is published at least 10 days prior to the hearing, and in case of EIA – no later than 20 days. Application on public hearing includes brief description of subject, format/time/place/rule of hearing, scoping/EIA reports, etc., availability of printed documents.

Public hearing is open – everyone can participate. Information on public hearings on the EIA reports is published on MEPA website; in newspaper, widely distributed in relevant area and available for the public (if applicable); on information board/website of the relevant municipality's executive/representative body; established areas of information dissemination, and nearest public places of implementation of activities subject to EIA. Representative of MEPA prepares public hearing report within 5 days after hearing, specifying, among others, comments/opinions submitted during the hearing. Participant in the public hearing can submit comments on the report within 3 days after its overview. MEPA either confirms its correctness, or issues individual legal-administrative act about rejection of the comment, which can be appealed in the higher administrative body.

During COVID-19, public participation in administrative proceedings for issuance of scoping conclusion, environmental decision, and submittal of comments/opinions performed in writing/electronically, according to EAC.

MEPA ensures printed/electronic versions of abovementioned documents as requested.

Aquaculture zone is defined on the basis of stakeholders' consultations and aquaculture permit is issued through public administrative proceeding, under which NEA ensures:

- public access to the information on issuance of extensive aquaculture/aquaculture permits in marine waters;
- consideration of the public comments/opinions on the public hearings/consultation and their outcomes; public accessibility to decisions;
- publication of ecological monitoring results.

(g) EAC defines means of electronic/written submission of public comments/suggestions to MEPA, and verbally - during the public hearing.

(h) A table of comments submitted during the public hearings and their consideration is attached to the public hearing report. MEPA shall review the public comments/opinions, reflect public participation results in written justification of relevant decision under EAC, inform the public about decision timely.

(i) MEPA publishes decisions on its website within 5 days, sends to the relevant municipalities for posting on information boards of executive/representative bodies, ensures availability of printed versions, as requested.

(j) Replacement of production technology of activity, subject to environmental decision, by other technology and/or change of operational conditions, including production increase, is subject to screening decision.

(k) Release into the environment and placing on the market of Living Genetically Modified Organisms on the territory of Georgia is prohibited.

## 2. Obstacles encountered in the implementation of article 6.

In general, public participation in EIA discussions isn't intensive. The public is mostly interested in major projects. Following is notable: low public organization and interest; low awareness on certain environmental issues; interest towards only in major infrastructural projects, where, in some cases, it is difficult for the public to clarify in detail; lack of trust; in some cases – improper/incorrect informed public; lack/weakness of organizations representing public interests in small settlements; etc., which was also indicated by the Ombudsman. Hereby, it shall be noted that MEPA conducts active awareness-raising campaigns in this direction. Despite the Ombudsman's very positive evaluation of EAC, considering the county's characteristics/reality, the Ombudsman indicates in some cases the need for the revision/upgrading limit criteria for activities, subject to EIA.

The Ombudsman indicates on the importance of elaboration of long-term energy policy planning and strategy. It should be noted that MESD has defined the elaboration process of the document and will start its development in the nearest future. Besides, draft energy action plan, and energy and climate change integrated action plan, representing one of the components of renewable energy policy document, was elaborated.

The Ombudsman notes that on hydropower plant projects energy-economic benefits aren't studied, public isn't comprehensively informed/involved, regulations aren't implemented effectively. Some NGOs believe that signing of memorandum between GoG and company before starting the EIA procedure cannot ensure public participation at the early stage. The following have to be noted in this regard: company shall look for the territory where project implementation is recommended considering energy-economic factors, EIA factors are evaluated also. Investment proposal is prepared only on the basis of the abovementioned. At the first stage, an agreement is signed between GoG and the company for feasibility study, which, before the starting the project, is submitted by the company to MESD. Based on positive evaluation and with GoG approval,

detailed surveys are conducted. Furthermore, signing the memorandum doesn't mean that preliminary construction permits will be issued for any project upon signature. Besides, despite the energy-economic benefit of the project, construction permit isn't issued without EIA permit, for obtaining which one of the most important factors is public information at the early stage and their involvement in decision-making effectively through the public hearings.

### 3. Further information on the practical application of the provisions of article 6.

490 public hearings were conducted with participation of 5166 persons in decision-making on activities under EAC.

Public hearings were conducted on infrastructural projects at scoping and EIA stages.

UWSC cooperates with the population on environmental awareness-raising and their involvement in project implementation. Continuous public awareness-raising on water supply/discharge infrastructural projects is performed within a particular programme, ensuring public involvement in environmental issues before starting the project, during preparation of IEER.

Developers may be exempted from EIA for the specific activity, aiming at ensuring the state security or taking of urgent measures due to force majeure circumstances. MEPA ensures placement of the developer's application and GoG legal act on the exemption or rejection of exemption from EIA on its website and information boards of executive/representative bodies of relevant municipalities.

Activities, exempted from EIA in 2017 - 10, in 2018-2020 - 4.

### 4. Website addresses relevant to the implementation of article 6.

[www.mepa.gov.ge](http://www.mepa.gov.ge)

[www.mrdi.gov.ge](http://www.mrdi.gov.ge)

<https://mepa.gov.ge/Ge/EiaAndSeaAnnouncements>

<https://mepa.gov.ge/Ge/PublicDiscussion>

<https://mepa.gov.ge/Ge/FinancialAndMaterialResources>

## **Article 7**

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

SEA is a mandatory for elaboration of the strategic document and essential amendments thereto, which define future development frame for activities under EAC annexes I-II in defined areas. Strategic documents, related to the state security, implementation of urgent measures due to force majeure, or financial/budgetary issues, isn't subject to SEA. EAC ensures mechanisms for informing the public. Draft water law envisages public participation in the development of river basin management plans, namely, MEPA ensures publication/accessibility to all necessary

information, including the public discussion procedures; provision of additional information/documentation as requested; receipt of comments/opinions; public hearings.

Physical/legal persons have the right to present suggestions to executive bodies on the improvement of ambient air protection, participate in important discussion/decision-making, support implementation of relevant state and local programs.

Public hearing is conducted on mid-term plan of EPNRD, AR of Adjara for submission/consideration of public comments.

Public discussions are conducted during the preparation of other environmental documents (e.g. NEAP, SOER) for submission/consideration of public comments.

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

Within SEA procedure, the public is authorized to provide electronically written comments/suggestions on documents submitted to MEPA. At the stage of discussion/issuance of the SEA recommendations, planning institution ensures public hearings on SEA report. Within 3 days from the SEA screening/scoping applications and registration of the SEA report, screening application and concept or draft of the strategic document is published on the websites of the respective institutions; MEPA also ensures their publication on information boards of executive/representative bodies of relevant municipalities.

Deadlines for submission of public suggestions/comments (working days):

SEA screening documentation – 7;

SEA scoping documentation – 15;

SEA report – 40.

A public hearing on the SEA report is organized by the planning institution, disseminating information at least 30 days prior to the public hearing. Within 5 days of hearings, the planning institution prepares a public hearing report and submits it to the respective institutions within the next 5 days.

Within 5 days from issuing SEA screening decision, scoping conclusion, recommendations on SEA report and draft strategic document, respective institutions publish on their websites scoping conclusions and concept/draft strategic document; MEPA also ensures their publishment on information boards of executive/representative bodies of relevant municipalities.

SEA related documents issued by MEPA:

2018 – 1 screening decision;

2019 – 3 screening decisions; 3 scoping conclusions;

2020 – 2 scoping conclusions; 1 – ongoing procedure on SEA recommendation.

Legislation establishes administrative rules on the review/approval of city building plans and rules on informing the interested person on city building activities. Public hearing procedures on the drafts/concepts of city building plans exist. Pursuant to EAC, contractor organizations conducted public hearings for 19 projects. Information is available on the respective webpage.

7. Obstacles encountered in the implementation of article 7.

Since public participation mechanism on strategic documents entered into force recently and SEA performed for only a few documents, obstacles cannot be fully analyzed.

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

Up to 30 working meetings with stakeholders were held during the development of the National Forest Programme.

Process of integration of issues of Forest Sector Reform Strategy and Action Plan (2016-2021) in different documents, went on with broad stakeholders' involvement.

Approved programme for Tbilisi ambient air pollution reduction was elaborated with the stakeholders/public involvement.

A working group, including the stakeholders, was created for elaboration/planning necessary activities to support Rustavi ambient air quality improvement.

Also, besides basin management draft plans, pilot SEA of one draft plan is ongoing with stakeholders' involvement/participation.

A public hearing was held on the draft Biodegradable Municipal Waste Management Strategy.

APA disseminates the draft Protected Areas Management Plans for the public review, before official approval of which, considers the stakeholders' comments/proposals.

Public participation is provided in the approval process of hunting/fishing management plans. Draft plans are placed on the MEPA website for public comments/proposals; public hearings are held. But the public doesn't participate, with a few exceptions, such as expressing opinions in various meetings/discussions/conversations. For the development of necessary mechanisms to regulate this situation, the process of developing a new legal framework on regulating hunting/fishing has begun.

Draft Tbilisi Municipality Waste Management Plan was preliminary posted on the City Hall website for comments and was discussed with the stakeholders at Tbilisi Municipal Assembly meetings.

SDGs Council was established, and 4 Working Groups were set up representing by the government, civil, international, academic, and private sectors. Special electronic system for the monitoring of SDGs implementation is public. SDGs 2nd VNR was prepared with broad stakeholders' involvement.

9. Website addresses relevant to the implementation of article 7.

[www.mepa.gov.ge](http://www.mepa.gov.ge)

[www.mof.gov.ge](http://www.mof.gov.ge)

[www.matsne.gov.ge](http://www.matsne.gov.ge)

[www.sdg.gov.ge](http://www.sdg.gov.ge)

[www.mrdi.gov.ge](http://www.mrdi.gov.ge)

## Article 8

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

National legislation ensures implementation of the provisions of article 8 of the Convention. Public administrative proceeding is applicable for promulgation of individual legal-administrative act of administrative body if the abovementioned is directly considered by the legislation. Everybody has a right to submit written suggestions within 20 days. From the date of notice on issue of individual legal-administrative act or submission of draft individual legal-administrative act for the public consideration, each administrative body ensures publication of the draft normative acts, elaborated by them on their official websites. Publicity in the elaboration process of the draft normative acts is ensured by the issuing body, which receives public comments/suggestions.

### 11. Obstacles encountered in the implementation of article 8.

There're both active public participation in preparation of specific draft laws, and total unawareness. Interested public can participate in the development of draft laws. Initiatives often come from the public but not from the state agencies.

### 12. Further information on the practical application of the provisions of article 8.

Administrative bodies often publish information/documents on their websites and disseminate them through NGOs. For draft laws and important legislative changes MEPA uploads documents on its website and conducts public hearings, e.g.:

- up to 10 public hearings, 50 working/consultation meetings held with NGOs/scientific sectors on the draft Forest Code;
- active public hearings held on 9 normative acts on waste management, with participation of local/international experts, NGOs, Business Ombudsman, etc.; sectoral/consulting/working meetings, discussions with companies, and media tours were organized. The issue is being covered by the media;
- 5 public hearings held on draft Law of Georgia on Biodiversity and, at NGOs request - 8 hearings together with working group. Within the development process, certain procedures are implemented. It's planned to continue hearings with stakeholders/specialists. In total, up to 60 public hearings were held on legislative acts. As for legislative changes, public hearings were



mostly held on important ones. However, no public hearings were held on the amendments to the Resolution on the Approval of Forest Use Rules.

EIEC supports public involvement in discussions on draft laws. Over 10 public hearings were conducted, all necessary information/documentation was placed on EIEC website, Facebook, sent via e-mail; submission of suggestions/comments was ensured.

Two laws on agriculture elaborated by the Agrarian Issues Committee were prepared with the public involvement. The draft law on windbreak prepared by the Committee considers publicity of information and public involvement in the arrangement/restoration of windbreak belts. The Committee conducted annual report hearings of agencies of MEPA with participation of civil sector and opportunity to submit opinions/comments.

13. Website addresses relevant to the implementation of article 8.

[www.parliament.ge](http://www.parliament.ge)

[www.mepa.gov.ge](http://www.mepa.gov.ge)

[www.eiec.gov.ge](http://www.eiec.gov.ge)

[www.air.gov.ge](http://www.air.gov.ge)

## 18. Germany

### Article 6

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

Public participation in decisions on specific activities mentioned in Article 6 of the Convention has traditionally been regulated on a broad basis in German law, so that in terms of the implementation of the provisions of the Convention and Directive 2003/35/EC, only minor adjustments were required through the Act on Public Participation in Environmental Matters pursuant to Directive 2003/35/EC (Public Participation Act, Öffentlichkeitsbeteiligungsgesetz) of 9 December 2006. It should also be noted in this context that Germany has been a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) since 2002.

(a) (i) Under German law, many of the activities listed in Annex I to the Aarhus Convention are subject to the licensing procedure under Section 10 of the Federal Immission Control Act (Bundes-Immissionsschutzgesetz – BImSchG), which is elaborated in the Ninth Ordinance Implementing the Federal Immission Control Act (Neunte Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes – 9. BImSchV). This procedure safeguards the participation of the affected public in accordance with the provisions of Article 6 of the Convention.

For the licensing and closure of nuclear power plants, the same applies accordingly pursuant to Sections 2a and 7 of the Atomic Energy Act (Atomgesetz) in conjunction with the Nuclear Licensing Procedure Ordinance (Atomrechtliche Verfahrensverordnung). It also applies to the selection of a site offering the best possible safety for a repository for high-level radioactive waste in accordance with the provisions of the Repository Site Selection Act (StandAG), and to the plan approval or licensing of repositories pursuant to Section 9b of the Atomic Energy Act. Similarly, public participation in connection with licensing procedures for interim storage facilities for irradiated nuclear fuels and radioactive wastes (in accordance with the provisions of UVPG Annex 1 No. 11.3) is also an activity within the scope of Article 6 of the Convention.

Major planning and infrastructure projects, such as the construction of airports, railway lines, motorways, express roads, waterways, ports, landfill sites, high-voltage transmission lines and pipeline systems, are subject to the so-called planning approval procedure, in which intensive public consultation is also prescribed as mandatory (cf. Section 73 of the federal Administrative Procedure Act (Verwaltungsverfahrensgesetz – VwVfG)). The Building Code (Baugesetzbuch – BauGB) also provides for public consultation during the establishment of all area development plans (Sections 3 and 4a BauGB).

In addition, the Federal Environmental Impact Assessment Act (Gesetz über die Umweltverträglichkeitsprüfung – UVPG) provides for a public consultation process in the licensing of activities with substantial environmental impacts, which include the activities listed in Annex I of the Convention. Here, the UVPG sets a minimum standard which must always be met if the provisions of specialised law lag behind the requirements of the UVPG. Within their jurisdiction, the Länder have adopted regulations that correspond to those contained in the UVPG at federal level.

In licensing procedures under mining law, public participation is ensured by Section 57a of the Federal Mining Act (Bundesberggesetz – BBergG) in conjunction with Articles 15 – 27 and 31 UVPG. Furthermore, Section 48 (2) BBergG provides for the consideration of public interests during licensing procedures under mining law.

(ii) Both Annex 1 to the Fourth Ordinance Implementing the Federal Immission Control Act (Verordnung über genehmigungsbedürftige Anlagen – 4. BImSchV) and Annex I of the UVPG include a list of activities for which approval and/or environmental impact assessments are mandatory, and which are not included in Annex I of the Convention. They are also subject to the procedure set forth in Section 10 BImSchG in conjunction with the Ninth Ordinance Implementing the Federal Immission Control Act or Sections 5 ff. UVPG, as appropriate.

(b) The consultation process is fleshed out in more detail in, for example, Section 10 (3) and (4) BImSchG in conjunction with Sections 8 to 12 of the Ninth Ordinance Implementing the Federal Immission Control Act, and in Sections 18 to 21 UVPG. The process is illustrated as follows with reference to these norms. The competent authority must first give public notice of the project in the area where the installation is to be constructed (see, for example, the first sentence of Section 10 (3) BImSchG in conjunction with the first sentence of Section 8 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act; and the fourth sentence of Section 18 (1) UVPG

in conjunction with the first sentence of Section 73 (5) VwVfG). In this notice, the public must be provided, in particular, with the following information: details of the application including the type, scale and site of the project, the type of possible approval decision, the competent authority, the procedure envisaged, details of the time period for public discussion and deadlines for submitting opinions, and details of any consultation of the authorities and the public in other countries (see Section 9 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 19 (1) UVPG). Based on Section 27a VwVfG, which entered into force in 2013, in addition to giving public notice in the locally usual way all public notices and disclosed documents are also to be published on the website of the competent authority. Within the scope of application of the UVPG, it is mandatory to additionally publish the notification pursuant to Section 19 (1) UVPG and the documents stated in numbers 1 and 2 of the first sentence of Section 19 (2) UVPG via a central Internet portal (sentence one of Section 20 (2) UVPG). The purpose of these provisions is to improve public participation through greater utilisation of electronic means of communication, thus implementing the corresponding requirements of Directive 2014/52/EU amending the EIA Directive. Great importance attaches to the EIA portals of the Federation and the Länder as modern tools of public participation.

(c) Under German legislation, the application and the supporting documents must be made available for public examination at the licensing authority and, depending upon the type of project, also at other suitable locations such as in the municipalities affected, for a period of at least one month following the publication of such notices; in plan approval procedures, in accordance with sentence 1 of Section 73 (4) VwVfG the public may lodge objections against the project in writing with the competent authority up to two weeks after the expiry of the examination period. Within the scope of application of the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) and the Industrial Emissions Directive (2010/75/EU) the deadline for submitting opinions is at least one month after the expiry of the examination period, see Section 21 (2 and 3) UVPG and sentence 4 of Section 10 (3) BImSchG.

(d) Under German legislation, the public consultation process must be initiated, at the latest, once the competent authority takes the view that the project application documents are complete. For projects which require an environmental impact assessment (EIA), this must also include a comprehensible, non-technical summary of the EIA report. This ensures that the public has an adequate basis for effective consultation on the anticipated environmental impacts of the project. At this point in time, no decision will have been taken by the competent authority on the project's eligibility for approval. For projects which require an EIA, there is also the option for the competent authority to call in expert witnesses, affected local authorities, authorities of neighbouring states, recognised environmental associations and other third parties – which may also include members of the public – to attend the scoping meeting at which the scope of the EIA will be determined before the EIA report is compiled. A particular purpose of this meeting is that the competent authority consults with and informs the project carrier about the content, scope and detail of the information which the project carrier must include in the EIA report.

In accordance with Section 25 (3) VwVfG, during the planning of projects with not merely insignificant impacts on the concerns of a large number of third parties the authorities should

furthermore seek to ensure that the project carrier informs the public concerned at an early stage about the aims of the project, the means by which they are to be realised and the foreseeable impacts, in order that the public concerned has the opportunity to express its opinions and discuss the project (early public consultation).

The special procedure established for the search for and selection of a site for a repository for high-level radioactive waste involves more extensive public consultation under the provisions of Sections 5 to 11 StandAG. These envisage various public participation formats, from regional to national. The initial findings of the project carrier are discussed in a “sub-areas conference” (Fachkonferenz Teilgebiete). Subsequently, regional conferences are set up to represent the potentially affected region in further proceedings. To gain a supra-regional perspective, representatives of all regional conferences meet in a council of regions. Moreover, in order to inform the public comprehensively, the competent federal agency operates an Internet information platform on which the key documents relating to the site selection procedure are published. A pluralistic national body (Nationales Begleitgremium) accompanies the site selection procedure, particularly the public participation activities, in order to build trust in the way the procedure is carried out.

(e) A major contribution to the implementation of Article 6 (5) of the Convention has been made by the German IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue, which highlights the information, application and evaluation options for voluntary, multiparty dialogue on conflict resolution for sites with neighbourhood complaints.

(f) The requirements concerning the documents which must be made accessible for examination pursuant to Article 6 (6) of the Convention have been incorporated, for example, into Section 4a of the Ninth Ordinance Implementing the Federal Emission Control Act and Section 6 UVPG.

(g) Under German law, at least the public concerned always has the opportunity to lodge written objections to the project with the competent authority. In addition, German law provides for procedures which allow universal participation, such as under Section 10 (3) BImSchG; in such cases there is no need to determine who belongs to the “public concerned”.

(h) After the establishment of the requisite facts and participation of all actors, the authority must, on the basis of the overall findings of the administrative procedure, including the result of the public consultation, take a final decision. Appropriate consideration of the outcome of the public consultation process in the authority’s decision is safeguarded, e.g., in relation to projects subject to the licensing procedure under emission control law, by Section 20 of the Ninth Ordinance Implementing the Federal Emission Control Act, and otherwise by Sections 24, 25 and 26 UVPG. The competent authority subsequently prepares, inter alia, a summary description and evaluation of the environmental impacts of the project, taking account of the opinions presented by the public, and these in turn must be considered in the project approval decision in the interests of effective precautionary action in the field of environmental protection.

(i) The public must be informed, by means of public notice, of the approval or rejection of a project application. The decision is made available for public examination, with reasons for the decision being stated (see, for example, Section 21a of the Ninth Ordinance Implementing the

Federal Immission Control Act, and Section 27 UVPG). The decision on a project is also notified to the public via the above-mentioned EIA portals; in some Länder, negative EIA screenings are also notified there.

(j) The competent authorities, according to the environmental laws applicable to them, must supervise compliance with the relevant legislation and review any licences granted at regular intervals (see, for example, Section 52 (1) to (1b) and Section 52a BImSchG). If necessary, the installation's operator may be issued with a subsequent order requiring them to upgrade their system. Section 17 (1a) BImSchG requires public participation in the event of subsequent orders prescribing new emission limits that replace a licence for installations covered by the Industrial Emissions Directive.

(k) The public is also consulted on decisions on the deliberate release of genetically modified organisms into the environment: Section 18 (2) of the Genetic Engineering Act (Gentechnikgesetz – GenTG) prescribes a consultation procedure that must essentially satisfy the requirements of Section 10 (3 to 8) of the Federal Emission Control Act, unless a simplified procedure is conducted once the experience gained of releases of genetically modified organisms is sufficient to guarantee protection. The details of the consultation procedure are defined in the Genetic Engineering Consultation Ordinance (Gentechnik-Anhörungsverordnung). The current German legislation on genetic engineering already complies with the provisions of the first amendment to the Convention (the “Almaty Amendment”). The Federal Republic of Germany adopted the Almaty Amendment with effect under international law on 20 October 2009.

## 2. Obstacles encountered in the implementation of article 6.

Complying with provisions and deadlines during a pandemic presents particular challenges to all involved. For this reason, an Act to safeguard orderly planning and licensing procedures during the COVID-19 pandemic (Planungssicherstellungsgesetz, BGBl. I, S. 1041 ff.) was adopted on 20 May 2020. The Act further assures that the provisions of Article 6 of the Convention are complied with even under the constrained conditions prevailing due to pandemic-related contact restrictions.

## 3. Further information on the practical application of the provisions of article 6.

Under the UVPG, which entered into force in 1990, the obligation to carry out an EIA applies in principle to defence activities as well. In accordance with *litera c* of Article 6 (1) of the Convention, however, it may be decided, on a case-by-case basis, not to apply the provisions relating to EIA or public participation to proposed activities that serve defence purposes, if they exclusively serve defence purposes and application of the stipulations of the UVPG would have a detrimental effect upon the fulfilment of these purposes. Section 1 (2) UVPG sets out the conditions governing such individual decisions. The Ordinance Implementing Section 3 (2) of the Act on Environmental Impact Assessment in Relation to Defence Projects (Gesetz über die Umweltverträglichkeitsprüfung bei Vorhaben der Verteidigung – UVP-V Verteidigung) was repealed through the amended UVPG in 2017 in the course of transposition of the Directive amending EIA Directive 2014/52/EU.

The further strengthening of public participation in decision-making procedures is an important political topic. Since 2012, a directorate at the BMU is concerned with “civic participation” across the board with the aim of mainstreaming the topic more firmly in all areas of policy and, in this way, fostering a new culture of participation. Its work involves, inter alia, drawing up principles for high quality consultation processes, which is done in part on the basis of research projects. In this respect, the focus is on how the formal participation processes founded on Article 6 of the Convention can be meaningfully complemented with informal consultation processes.

In 2015 the BMU and UBA published practical guidance for authorities setting out how to handle an additional participation of citizens, to an extent going beyond statutory requirements, during the planning and licensing of projects in the context of realising the German energy transition.

On behalf of the UBA, the German Institute of Urban Affairs (Deutsches Institut für Urbanistik) analysed the participation of the public in twenty procedures concerned with the planning and licensing of environmentally relevant projects. In 2017 the institute developed and published recommendations for action in the form of a 3x3 of good public participation in large-scale projects.

In a further research project running since 2019, the UBA has commissioned the evaluation of the participation of citizens and environmental associations in the planning and licensing of environmentally relevant large-scale projects. This project has created an empirical basis and has used it to analyse whether and under which conditions public participation in the planning and licensing of environmentally relevant projects contributes to decisions with better environmental outcomes. The final results of this research project are expected to be available by the end of 2021.

In the Land of Schleswig-Holstein, the competent ministry and the transmission network operator have offered, and continue to offer, a range of dialogue events at an early time in the process of planning the transmission networks the installation or expansion of which is essential to the success of the energy transition. The purpose of these events is to improve acceptance of these spatially significant projects.

Since late 2015 the federal office for waterways and shipping (Wasserstraßen- und Schifffahrtsverwaltung des Bundes – WSV) has been acting as a partner of the integrated LIFE project termed “LiLa Living Lahn – one river, many interests”. Within the project the WSV has responsibility for elaborating an action plan for the Lahn River by the end of the project in 2025. The action plan shall set out for future infrastructures and uses the types and extent of maintenance work and the transport-related, ecological and other goals for the Lahn. The challenge is to strike a balance wherever possible between competing interests (flood protection, heritage preservation, nature conservation, shipping, water-body maintenance, cost-effectiveness, hydropower use, tourism, agriculture, fisheries, and more). The work takes an integrative, holistic approach. An interactive process involves not only the competent authorities in various sectors and at different tiers of administration but also the wider public (both organised stakeholders and individual citizens). The project aims to gather experience for similar future participation processes.

Strengthened public participation has also been embodied in the StandAG, as set out above (XV. d.). In July 2016 the German commission on the storage of high-level radioactive waste

(Kommission „Lagerung hoch radioaktiver Abfälle“ – the Repository Commission) had submitted its final report. In particular, the commission had agreed on site selection criteria, criteria for weighing conflicting interests, and a comprehensive public participation procedure. Directly following publication of the repository report, a public consultation on the Repository Commission’s report was organised in the summer of 2016. The Act of 5 May 2017 to further develop the StandAG and other acts then supplemented the StandAG to include the extensions to public participation as proposed by commission.

The BMU is currently having a German translation made of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters that were taken note of by the 5th Meeting of the Parties to the Aarhus Convention in June 2014. Upon completion, the German translation will be made available to the Länder.

#### 4. Website addresses relevant to the implementation of article 6.

Information provided by the BMU:

<http://www.bmu.de/buergerbeteiligung/>  
<https://www.bmu.de/themen/bildung-beteiligung/buergerbeteiligung/umweltpruefungen-uvpsup/>

Information on the IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue: <https://www.bmu.de/download/nachbarschaftsdialog-freiwilliges-instrument-zur-konfliktloesung/>

EIA/SEA procedures for nuclear facilities abroad: <https://www.bmu.de/themen/atomenergie-strahlenschutz/nukleare-sicherheit/internationales/beteiligungsverfahren-und-uvpsup/www.dialog-endlagersicherheit.de>

Information provided by the Federal Environment Agency (UBA):

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/beteiligung>  
[www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen](http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen)  
[www.uvp-portal.de](http://www.uvp-portal.de)

3x3 of good public participation for large-scale projects:

<https://www.bmu.de/download/beteiligungsverfahren-bei-umweltrelevanten-vorhaben/>

Information provided by the BASE:

[www.base.bund.de](http://www.base.bund.de)

Information platform pursuant to Section 6 StandAG:

[https://www.base.bund.de/SiteGlobals/Forms/Suche/BfE/DE/SOA-Suche\\_Formular.html](https://www.base.bund.de/SiteGlobals/Forms/Suche/BfE/DE/SOA-Suche_Formular.html)

Virtual repository exhibition:

<http://multimedia.gsb.bund.de/BFE/animation/endlagerausstellung/index.html>

Information provided by the BMWi:

[www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/buergerdialog.html](http://www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/buergerdialog.html)

Information provided by the BMVI:  
[https://www.bmvi.de/SharedDocs/DE/Publikationen/G/handbuch-buergerbeteiligung.pdf?\\_\\_blob=publicationFile](https://www.bmvi.de/SharedDocs/DE/Publikationen/G/handbuch-buergerbeteiligung.pdf?__blob=publicationFile)

Federal Institute for Geosciences and Natural Resources (BGR):  
[http://www.bgr.bund.de/DE/Home/homepage\\_node.html](http://www.bgr.bund.de/DE/Home/homepage_node.html)

Information provided by the BMEL on genetic engineering:  
[https://www.bmel.de/DE/themen/landwirtschaft/gruene-gentechnik/gruene-gentechnik\\_node.html;jsessionid=0DC8EA99D85F9A4700563C8C206B94F0.internet2851](https://www.bmel.de/DE/themen/landwirtschaft/gruene-gentechnik/gruene-gentechnik_node.html;jsessionid=0DC8EA99D85F9A4700563C8C206B94F0.internet2851)

Information provided by the Federal Nature Conservation Agency (BfN) on agricultural genetic engineering and nature conservation:  
<https://www.bfn.de/themen/agro-gentechnik.html>

Information provided by the Nature and Biodiversity Conservation Union (NABU):  
<https://www.nabu.de/>

Information provided by the Independent Institute for Environmental Issues (UfU):  
[www.aarhus-konvention.de/](http://www.aarhus-konvention.de/)

Information on genetic engineering provided by the Federal Office of Consumer Protection and Food Safety:  
[www.bvl.bund.de/DE/06\\_Gentechnik/gentechnik\\_node.html](http://www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html)

Information provided by the Federal Ministry of Education and Research (BMBF) on biosafety research in the field of genetically modified plants:  
[https://www.bmbf.de/pub/Biologische\\_Sicherheitsforschung.pdf](https://www.bmbf.de/pub/Biologische_Sicherheitsforschung.pdf)

Information service on new developments in plant research:  
[www.pflanzenforschung.de/de/startseite/](http://www.pflanzenforschung.de/de/startseite/)

UVP portal of the Länder:  
[www.uvp-verbund.de](http://www.uvp-verbund.de)

## Article 7

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

The participation of the public during the preparation of plans and programmes relating to the environment was legally safeguarded through the transposition into national law of European Directives 2001/42/EC and 2003/35/EC, which, inter alia, bring European law into line with the provisions of the Convention on public participation in decision-making processes in environmental matters. At federal level, the provisions have been transposed by means of the enactment of the following legislation:

- Act Introducing a Strategic Environmental Assessment and Implementing Directive 2001/42/EC (Gesetz zur Einführung einer Strategischen Umweltprüfung und zur Umsetzung der Richtlinie



2001/42/EG – SUPG) of 25 June 2005. Through this legislation, the provisions on SEA, including those dealing with public consultation, and a list of plans and programmes for which SEA is mandatory, were integrated into the existing UVPG.

- Act Adapting the Federal Building Code to EU Directives (Gesetz zur Anpassung des Baugesetzbuchs an EU-Richtlinien – EAG Bau) of 24 June 2004, which, by adapting the existing rules on public consultation, implemented the SEA Directive in the sphere of area development planning.
- Act on Public Participation (Öffentlichkeitsbeteiligungsgesetz) of 9 December 2006. This introduced public participation for certain plans and programmes under EU law insofar as these do not already require an SEA under the SEA Directive, e.g. air quality plans or waste management plans.

Land law contains corresponding provisions for plans and programmes undertaken at Land level.

Under the SEA provisions in the UVPG, public consultation is undertaken in a manner similar to that applicable to EIAs (Section 42 (1) UVPG makes reference to Sections 18 (1), 19 and 22 UVPG); the same applies to transboundary public consultation (sentence one of Section 61 (1) UVPG makes reference to Section 56 UVPG).

By means of a notice, the public must first of all be provided with relevant information on the consultation process in conformity with the provisions of Article 6 (2) of the Convention. Furthermore, the draft plan or programme, environmental report and other relevant documents must be made available for public examination at an early stage for an appropriate period of no less than one month (Section 42 (2) UVPG). The places where the information is made available for examination must be determined in a way which ensures effective participation by the public concerned. The public concerned has the opportunity, within an appropriate period of no less than one month, to state its views. This ensures that the public affected or likely to be affected by the decision-making process, or which has an interest in the decision-making process, can look in detail at the plans and express a view at an early stage in the process. The outcome of this public consultation process must be given due consideration in the further procedure to establish or amend the plan or programme (Section 14k UVPG).

A similar procedure is envisaged for plans and programmes which fall within the scope of the Act on Public Participation, and for area development plans alongside the formal public consultation process (making available of documents for public examination). Under the Building Code (BauGB), too, the public must generally be consulted at an early stage; among other things, the public must be informed of the general objectives, purposes and likely impacts of the plans, and given an opportunity for the expression of views and discussion (Section 3 BauGB). In this regard, the EIA portals that various Länder also utilise for digital public participation in area development planning are noteworthy.

In this context, it should be noted that since February 2007 Germany has also been a Party to the Protocol on Strategic Environmental Assessment (SEA Protocol) to the Espoo Convention, which entered into force on 11 July 2010. Article 14 of the EU Water Framework Directive should also

be mentioned; this also provides for extensive public consultation, including the promotion of active participation, and is transposed by Section 83 (4) and Section 85 of the Federal Water Act (Gesetz zur Ordnung des Wasserhaushalts – WHG) of 31 July 2009. Similar provisions are included in Articles 9 and 10 of the European Flood Risk Management Directive and Article 19 of the Marine Strategy Framework Directive, which are transposed by Section 79 and Section 45i WHG.

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

In Germany, the preparation of policies relating to the environment, in the sense of political programmes or strategies, is not undertaken in accordance with a specific procedure in which the public could participate; stakeholders are involved in policy formulation as is appropriate.

In sustainability policy, in particular, public participation has become standard practice for drawing up progress reports. However, in the preparation of legislative procedures by the federal or Land governments which are intended to enshrine policies in law, there is scope for representatives of the public with appropriate expertise, notably the associations, to voice their opinions and discuss the draft legislation with the competent authority. Norms governing this consultation requirement are enshrined in the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien), for example. In addition, the draft legislation is often made available on the Internet for the purposes of public information even at this early stage. The same procedure also applies to the enactment of secondary legislation. In some cases, the law prescribes consultation with the groups concerned as mandatory (see also the comments on Article 8).

In environmental policy, many decisions are taken that have direct impacts on the living conditions of citizens. The BMU has therefore been striving for years to enhance the involvement of the public in issues of environmental policy relevance. The lifeworlds and views of citizens are taken into account in decision-making. To this end, the BMU has carried out an array of public participation procedures on diverse environmental policy topics:

- To mark the 23rd UN Climate Change Conference (COP 23) in Bonn, the BMU launched a youth dialogue. Some 200 young people debated the issues surrounding climate change. The outcomes were used to compile a youth report titled “Unser Klima! Unsere Zukunft!” (Our Climate! Our Future!). This contains the key recommendations and findings of the dialogue events and shall provide the foundation for developing Germany’s climate policy in a manner that does justice to the views of the young generation.
- The BMU set up an online dialogue forum from 10 October to 8 November 2018 to debate its Action Programme for Insect Conservation. In the debate about agricultural landscapes, protected areas, pesticide applications, soil and water conservation and light pollution, citizens contributed more than 27,000 assessments, more than 1000 comments and some 320 new proposals for measures. To involve young people in particular in the dialogue, a simulation game was conducted in the BMU; here 25 young people elaborated their own proposals on insect conservation, which were taken into account in the Action Programme.

- The elaboration of the third update to the German Resource Efficiency Programme (ProgRess III) similarly involved comprehensive public participation by means of a dialogue process which took the form of “workshops” and an online dialogue. The various recommendations were finally combined in a package of “citizen advice”. This was handed over to the Environment Minister on 8 November 2019 and was discussed with her.
- Based on the Federal Government's first Nitrogen Report in 2017, the BMU is currently developing an Action Programme for Integrated Nitrogen Reduction. This process was supported in 2019/2020 by a citizen dialogue, which was supplemented by a conference of delegates and an online evaluation of the measures formulated. The resulting package of “citizen advice” was handed over to the Environment Minister on 12 February 2020.
- A research project on “Citizen involvement and social participation in connection with the implementation of the National Programme on Sustainable Consumption” has been using moderated online dialogues since 2018 to determine how various forms of participation in sustainable consumption resonate among different target groups and which ones facilitate social participation. In the further course of the project, four “idea foundries” were carried out in 2019 and 2020 on the topics of housing, food, mobility and clothing. These resulted in jointly formulated solutions for ways to ease sustainable consumption for all sections of the population.
- The implementation and updating of the Climate Action Programme 2030 adopted by the Federal Government in October 2019 is to be accompanied by broad participation. To this end, the climate action alliance (Aktionsbündnis Klimaschutz) involving representatives of all social groups and of local authorities is to be continued.

The BMU has provided key impetus for the advancement and improvement of public participation through the following two research projects, among others:

- To safeguard the high quality of public participation procedures, the BMU has published its own guidelines titled “Gute Bürgerbeteiligung. Leitlinien für Mitarbeiterinnen und Mitarbeiter des Bundesministeriums für Umwelt, Naturschutz und nukleare Sicherheit”. These were elaborated under scientific guidance and according to scientific standards with input from citizens and BMU staff. They have been integrated into the BMU’s rules of procedure as guidance for the planning and performance of participation procedures.
- The competition titled “Ausgezeichnet! - Wettbewerb für vorbildliche Bürgerbeteiligung” serves the exchange on and showcasing of excellent examples of public participation. Following an initial competition in 2018 on the theme of “Public participation projects in ongoing programmes, strategies and legislative ventures”, the 2019 competition focused on “Mainstreaming public participation in environmental policy”. The award ceremonies for both competitions were embedded within an expert conference at which current developments in the field of public participation were presented and debated.

The Länder, too, has introduced effective instruments of public participation deployed when preparing environmentally relevant policies. In Baden-Württemberg, for example, a participation portal has been set up that ensures transparency and facilitates public involvement in the policy-

making process. Participation in environmental pricing is documented there, as is the already concluded participation procedure for the Land's integrated energy and climate action plan.

7. Obstacles encountered in the implementation of article 7.

No information was provided under this heading.

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

To support the implementation of the above-mentioned provisions of the UVPG, a research project was carried out with the aim of developing guidelines on strategic environmental assessment. These guidelines help ensure that the assessment process, including public consultation, is demanding in substantive terms and is conducted effectively.

For certain types of plans and programmes, e.g., area development planning, a number of research projects have already been carried out and guidelines produced. A selection is available on the following websites.

9. Website addresses relevant to the implementation of article 7.

National Sustainability Strategy of the German Federal Government:  
<https://www.bundesregierung.de/breg-de/themen/nachhaltigkeitspolitik/eine-strategie-begleitet-uns>

Information provided by the BMU:  
[www.bmu.de/themen/bildung-beteiligung/buergerbeteiligung/umweltpruefungen-uvpsup/](http://www.bmu.de/themen/bildung-beteiligung/buergerbeteiligung/umweltpruefungen-uvpsup/)

Guidelines on strategic environmental assessment:  
<https://www.bmu.de/download/leitfaeden-zu-uvp-und-sup/>

BMU: Environmental dialogue on the National Sustainability Strategy:  
<https://www.bmu.de/themen/nachhaltigkeit-internationales/nachhaltige-entwicklung/erfolgskontrolle-und-weiterentwicklung/>

BMU: Citizen participation:  
[www.bmu.de/buergerbeteiligung](http://www.bmu.de/buergerbeteiligung)

Information provided by the UBA:  
<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/beteiligung>  
<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen>

Internet site of the Association for the Assessment of Environmental Impacts (German EIA Association), which has also established a Working Group on Strategic Environmental Assessment:

<http://www.uvp.de/de/>

Information by the Federal Nature Conservation Agency (BfN) on assessment procedures in relation to the EU Habitats Directive: <http://ffh-vp-info.de>

Information provided by the BMWi:  
[www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html](http://www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html)  
[www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html](http://www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html)

Information provided by the BNetzA:  
[www.netzausbau.de/cln\\_1931/DE/Home/home\\_node.html](http://www.netzausbau.de/cln_1931/DE/Home/home_node.html)

Information provided by the Federal Institute for Geosciences and Natural Resources (BGR):  
[www.bgr.bund.de/DE/Home/homepage\\_node.html](http://www.bgr.bund.de/DE/Home/homepage_node.html)

Information provided by the Federal Maritime and Hydrographic Agency (BSH):  
[www.bsh.de/de/Meeresnutzung/Wirtschaft/Windparks/Windparks/Literatur.jsp](http://www.bsh.de/de/Meeresnutzung/Wirtschaft/Windparks/Windparks/Literatur.jsp)

Guidelines of the Land Mecklenburg-Western Pomerania for Municipalities, Planners and the Authorities, as well as for the Public, on Implementing Environmental Impact Assessments in Area Development Planning:  
[http://www.mv-regierung.de/wm/arbmb/doku/PR\\_inhalt\\_Umweltpruefung.pdf](http://www.mv-regierung.de/wm/arbmb/doku/PR_inhalt_Umweltpruefung.pdf)

EIA portal of the Länder:  
[www.uvp-verbund.de](http://www.uvp-verbund.de)

## Article 8

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

German environmental law provides for broad stakeholder participation prior to the adoption of secondary legislation. The stakeholder groups involved (in particular, representatives – to be selected by the authorities – of the academic community, environmental groups and other affected persons and participating businesses) are regularly consulted before the adoption of executive regulations; see, for example, the third sentence of Section 4 (1) and Section 51 BImSchG, Section 66 (6) UVPG, Sections 5 and 20 of the Federal Soil Conservation Act (Bundes-Bodenschutzgesetz – BBodSchG), Sections 8 and 68 of the Closed Substance Cycle and Waste Management Act (Kreislaufwirtschaftsgesetz – KrWG), and Section 17 of the Chemicals Act (Chemikaliengesetz – ChemG).

As regards the preparation of draft legislation, in general, the Joint Rules of Procedure of the Federal Ministries provide for consultation with associations during the preparation of drafts, as an element of regulatory impact assessment. The Federal Government's 2018 programme of work on reducing red tape and improving regulation (Arbeitsprogramm Bürokratieabbau und bessere Rechtsetzung 2018) further envisages creating a participation platform for all draft laws published by the Federal Government. Until this has been created, the federal ministries publish draft laws via their own websites. It was further decided that, for suitable types of projects, the need for action, potential approaches and their understanding of the underlying issues be discussed with the affected stakeholders before draft texts are elaborated and formulated in detail. In order to be able

to better appraise the practical viability and effectiveness of regulatory alternatives, the Federal Government will test these, in suitable cases, with affected citizens and companies and with the authorities concerned or self-governing bodies. The same applies accordingly for the Land level.

When it comes to the expansion of Germany's power grids, several federal acts govern public consultation at various planning levels. There is participation with regard to the plans, and with regard to the corresponding environmental reports (Scenario Plan, Grid Development Plan, Environmental Report). The plans pave the way for the draft Federal Requirements Plan Act (Bundesbedarfsplangesetz – cf. Sections 12a ff. EnWG).

In some cases, German law also allows the “general” public to participate in processes that lead to the enactment of secondary legislation. Such opportunities exist, for example, under Land nature conservation law in the designation of conservation areas, under Land water law in the designation of water conservation areas, and in some cases with regard to other protected areas, as well as under Land soil conservation law in the designation of soil contamination areas.

#### 11. Obstacles encountered in the implementation of article 8.

No information was provided under this heading.

#### 12. Further information on the practical application of the provisions of article 8.

No information was provided under this heading.

#### 13. Website addresses relevant to the implementation of article 8.

BMU:

<https://www.bmu.de/service/gesetze-verordnungen/>

BfN:

<https://www.bfn.de/themen/recht/rechtsetzung.html>

and

<https://www.bfn.de/themen/recht/rechtsetzung/anpassung-des-landesrechts.html>

BLANO joint working group of the Federal Government and the Länder for the North and Baltic Seas: Public participation in reporting on the implementation of the EU Marine Strategy Framework Directive:

<https://www.meeresschutz.info/oeffentlichkeitsbeteiligung.html>

BMWi: Information on public participation in grid expansion:  
[www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html](http://www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html)

Information provided by the BNetzA:  
[www.netzausbau.de/cln\\_1931/DE/Home/home\\_node.html](http://www.netzausbau.de/cln_1931/DE/Home/home_node.html)

Information provided by the German transmission grid operators:  
[www.netzentwicklungsplan.de/](http://www.netzentwicklungsplan.de/)

## 19. Greece

### Article 6

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

Laws 4014/2011 and 4042/2012 considerably contribute to the implementation of the article 6 objectives through the procedural simplification of the environmental permitting process of projects and activities, the criminal protection of the environment and the restructuring of the national system for waste management, giving emphasis to waste minimization, recycling, reduce and reuse in practice.

More specifically, Law 4014/2011 (OJG A' 209) aims at accelerating environmental permitting and licensing procedures, decentralizing competencies for environmental licensing, reducing bureaucratic and administrative burdens, enhancing transparency and promoting stakeholder participation in decision making. To this end, the following steps/tools are established:

- a. Standardization of the administrative procedure for the approval, renewal or amendment of the decision setting the environmental terms for the operation of activities and projects.
- b. Minimization of the number of competent Ministries involved in the permitting procedure.
- c. New classification of projects and activities based on their environmental impact and introduction of Standardized Environmental Specifications for the permitting of low-impact installations.
- d. Improvement of the administrative structure of environmental licensing services by establishing a single licensing authority at central level under the Ministry of Environment.
- e. Introduction of dispute resolution councils dealing with particular cases, both at central/Ministry of Environment level, as well as at regional level.
- f. Establishment of a Digital Environmental Registry enhancing public access to environmental information

The DER platform enables the online submission of Environmental Impact Studies for activities that belong to the A1 and A2 categories, as well as the monitoring of the process of issuing, renewal or amendment of the Environmental Conditions Approving Decisions and the Standard Environmental Commitments. The main users of DER are:

- the studier that uses the platform to submit the Environmental Impact Study and monitor the whole procedure
- the competent authorities that contact the environmental permit
- other bodies that are involved in the environmental permitting procedure
- citizens & environmental organizations that are offered the ability to be informed and to keep track of any environmental permitting procedure and its results

The benefits of the DER are:

- the automation of the environmental permitting procedures through the use of the online management system
- the improvement of the whole process with more qualitative and transparent procedures
- the simplification of the permitting procedure, the reduction of the time required for the monitoring and approval of the study, the reduction of bureaucracy and related costs

Secondary national legislation regarding article 6 of the Aarhus Convention is the following:

(a) Joint Ministerial Decision 48963/2703/5.10.2012 on content specifications of environmental permits for projects and activities category A of JMD 1958/13.1.2012 of the Minister of Environment, Energy and Climate Change (B-21), as applicable, in accordance with Article 2 § 7 of Law 4014/2011.

(b) Ministerial Decision 167563/EYIIE on the procedure and the environmental clearance criteria for projects and activities (OJG964/B/2013),

(c) Ministerial Decision no 1958/12 on the classification of projects and activities into categories/subcategories on the basis of their potential impact on the environment (OJG B/21/2012) & Ministerial Decision 3764/2016 (OJG 2471 B'), for amendment and codification of MD 1958/2016

(d) Ministerial Decision no 20741/12 for the modification and completion of Ministerial Decision no 1958/12 (OJG 1565/B/2012),

(e) Ministerial Decision 1649/45/2014 on the specification of the procedures of consultation procedure and information to the public and participation of the interested party in the public consultation procedures within the context of the environmental licensing of category A projects and activities as set forth by Ministerial Decision 1958/2012, in accordance with the provisions of Article 19 paras. 9 of Law 4014/2011 (OJG 1649/B/27.01.2014),

(f) Ministerial Decision 1070225/2014 on the specification of the contents of the environmental clearance files for category A projects as set forth by Ministerial Decision 1958/2012, in accordance with the provisions of Article 11 of Law 4014/2011 (OJG 45/B/15.01.2014)

(g) Ministerial Decision 15277/12/2012 relating to the specifications of the procedure for the incorporation of forest interventions into the AEPO (OJG 1077/B/12),

(h) Circular of the Ministry of Environment Energy and Climate Change no 27953/5.6.12 in connection with the operation of a special internet site for the posting of AEPOs in accordance with Article 19(a) of Law 4014/2011, Ministerial Decision 3764/2016 (OJG 2471 B'), for amendment and codification of MD 1958/2016

The provisions of the following legislation ensure that the public concerned is informed early in any environmental decision-making process: Law. 1650/86, Law 3010/2002, Law 4014/2011 and Ministerial Decision 1649/45/2014.



The Strategic Environmental Assessment is covered by the Joint Ministerial Decision 107017/28.8.2006, which is in accordance with the EU Directive 2001/42/EK for the assessment of plans and projects.

2. Obstacles encountered in the implementation of article 6.

Need for better cooperation among competent services regarding the inspections.

According to NGOs Greek law does not provide for early public participation, when all options are open and effective public participation can take place. Additionally, stakeholders' commentaries on the EIA report, submitted during the authorisation process for environmental permit, cannot be viewed by other members of the public throughout the procedure.

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

Through the website 'Open Governance' citizens can be informed on the important legislative initiatives of the Ministry of Environment & Energy and participate in public consultation (see more under article 8).

4. Website addresses relevant to the implementation of article 6.

[www.opengov.gr](http://www.opengov.gr) official site for public consultation.

## Article 7

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

Legislation and Information provided under this Article remain the same as it is in the Report of previous reporting cycle.

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

According to article 75 of Law 3852/2010 (OJG A' 87) Quality of Life Committees must be established, in every Municipality with a competence on environmental issues. The Quality of Life Committees shall submit an annual activity report in the areas of its competencies, which will be discussed and approved by the City Council. The Quality-of-Life Committees with a special decision taken by an absolute majority of its members may refer a matter that lies in its competencies to the City Council for the latter to decide, if this is deemed necessary by the particular severity of the matter at hand. According to para.10 of article 75, the decisions of the Committee are published on the Municipality's website.

According to articles 76 and 78 of Law 3852/2010 (OJG A' 87) a Consultation Committee in all Municipalities and Regional Administrations must be established, by decisions of the local council or regional governor respectively. These Committees are composed – among others- by representatives of the local society, scientific unions, and trade unions. Their sessions are open to the public. Apart from the abovementioned committees, online consultation is provided for by Law 3852/2010.

One of the main priorities of MoEE for the Programme Period 2014-2020 as far as Guidelines Development Strategy on environmental matters are concerned is the enhancement of institutions and mechanisms of environmental governance (connection between spatial and environmental planning, clarification of competencies on central, regional and local level, awareness and training, enhancement of access to environmental information and participation to the “civil society”.

The GSNEW of MoEE has conducted extensive public consultation on Water Management Resources Plans, which are available on its official website.

Each OP or ROP financed by ESI Funds, and which is likely to have significant effects on the environment is subjected to the Strategic Environmental Impact Assessment Study (SEIA) process before its adoption by the EU. The SEIA constitutes a precondition for the program’s approval in compliance with the Directive 2001/42/EC “on the assessment of the effects of certain plans and programs on the environment” and the Joint Ministerial Decision (JMD with n. 107017 (Government Gazette - FEK 1225/B/2006), which harmonized the Directive into National Law. During the SEIA process of the draft plan or program, the consultation process carried out by the public authorities and the public concerned in accordance with the JMD. The competent authority makes publicly available the Strategic Environmental Impact Assessment Study (SEIA) folder, before its adoption, to acknowledge and give to the public the opportunity to comment their views in writing or electronically, if they wish, via the website of MEE ([www.ypeka.gr](http://www.ypeka.gr)) or on the respective website of the competent regional authority. The competent consulting authority besides the electronic means, it may use any other appropriate means such as public hearings, interviews, open discussions, dialogue via internet, making the public participation meaningful. The conclusions are sent to the competent authority within 45 days by the delivery of the folder. In case that the pertinent authority considers that the implementation of a program could have significant effects on the environment in another EU Member State or at the request of a State in EU, which may suffer significant environmental effects by the implementation of a Greek program, the relevant authority must forward as quickly as possible the relevant documents of SEIAS to Member State concerned before adopting the SEIAS. Moreover, any additional information concerning transboundary environmental effects of the program’s implementation is forwarded to the other Member State including guidelines and measures to prevent, reduce or eliminate such effects. The transboundary consultation process with the other EU Member State and the public concerned is described in detail in the above JMD. In addition, the relevant authority ensures that the information referred to the program and any other relevant information related to the likely transboundary environmental effects, as well as the information concerning the envisaged measures to reduce or eliminate such effects are made available within a reasonable time to the public authorities and the public concerned. The above Executive Authority of MEE within the framework of its responsibilities, evaluates the annual reports of the environmental monitoring of the OP/ROP implementation as provided by the approved JMD of the approve Strategic Environmental Impact Assessment Studies of the respective OP/ROP for the period 2007-2003 and for the current period of 2014-2020. The evaluation results are made publicly available on the websites [www.eysped.gr](http://www.eysped.gr) and [www.ypeka.gr](http://www.ypeka.gr)

The current Action Plan of the National Biodiversity Strategy & Action Plan (NBSAP) (2014-2029) is scheduled to be revised in 2020 taking into account the results of a review recently issued by the Department of Biodiversity of the Ministry of Environment & Energy regarding its implementation in Greece during the time period 2014-2019. The new Action Plan (2020-2024) will take into consideration the goals of the new European Biodiversity Strategy 2020-2030 and the post-2020 biodiversity framework of the CBD as well as the views of experts on biodiversity and members of civil society.

A recent public procurement has been announced regarding the elaboration of a “Special Spatial Plan for the Mineral Raw Materials” which constituted a consistent request on behalf of the social partners and particularly of the extractive industry. The aim of the “Special Spatial Plan for the Mineral Raw Materials” was the development of a policy for the spatial arrangement of the extractive sector, based on the sustainable development principles, in order to encompass the main directions for the spatial planning of the extractive sector in accordance with the existing land use planning and to be harmonized with the National Strategy for the strategic planning and development of the country’s mineral wealth. The Special Spatial Plan for the Mineral Raw Materials should be finalized by the end of 2021.

Prior to their submission to the parliament, the drafts of the following legislation are posted on the consultation portal [www.opengov.gr](http://www.opengov.gr).

Law no 4512/2018 «Exploration and Exploitation of quarried minerals and other provisions» posted on the consultation portal in the time period 28.06.2017-19.07.2017, received 245 public comments.

Law no 4602/2019 «Exploration, Exploitation and Management of the geothermal potential of the Country», posted on the consultation portal in the time period 19.07.2018-09.08.2018, received 76 public comments.

#### 7. Obstacles encountered in the implementation of article 7.

Participatory processes can take a lot of time and money, affecting the timely implementation of the legislative act under public consultation (e.g., possible delays, potential changes in the plans). Another obstacle is limited public ability and willingness to participate as well as in some cases the large number of irrelevant information/ views.

In some cases, due to international and European obligations there is not enough time in order for the practice of four-week consultation to be followed by the public administration.

#### 8. Further information on the practical application of the provisions of article 7.

Law 2742/1999 on Spatial Planning and Sustainable Development (art.4) provides for the involvement of non-governmental organizations in environmental decision-making within the National Council for Planning and Sustainable Development and the information of the public on urban planning through the public consultation.

As part of the consultation for the formulation of the Development Strategy in the field of Environment of ESPA 2014-2020, the Executive Authority of MEE organized a development

conference, in May 2013, with the participation of a wide range of partners including environmental, social and economic partners, NGOs, research institutes, universities, bodies representing civil society and etc. The thematic sessions were held during the conference in order to better prepare the development strategy in the environmental sector addressed environmental issues such as resource management and protection (water, nature, soil), Energy, RES and climate change issues and entrepreneurship and innovation in the field of resource efficiency, energy and climate change. The results of the above-mentioned discussions, the comments and recommendations of the partners within the thematic meetings and the conclusions of the consultation process during the development conference are accessible to the competent stakeholders and the public concerned on the website of MEE [www.ypeka.gr](http://www.ypeka.gr).

All the above referred partners including environmental partners, NGOs, bodies representing civil society, etc., participate in the Monitoring Committees of OPs/ROPs of ESPA 2014-2020 in accordance with the art. 48 of CPR 1303/2013. The monitoring committee of each OP/ROP meets once a year and reviews the implementation of the program and the progress towards achieving its objectives including environmental objectives. In this regard, it considers the financial data, common and program specific indicators including environmental indicators and changes in the values of result indicators and progress towards quantified targets and milestones.

9. Website addresses relevant to the implementation of article 7.

[www.ypeka.gr](http://www.ypeka.gr)

[www.opengov.gr](http://www.opengov.gr)

[www.hellenicparliament.gr](http://www.hellenicparliament.gr)

## Article 8

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

In October 2009, the Greek Open Government Initiative was established in Greece in order to ensure the diffusion of information and to involve all citizens and stakeholders in the decision-making mechanism. A website has been created that gives the opportunity for participation on the consultation of draft laws, ministerial decisions etc.

- Opengov.gr has been designed to serve the principles of transparency, deliberation, collaboration and accountability and includes three initiatives:
- Open calls for the recruitment of public administration officials. Top level and mid-level openings in the public sector are available on the Internet. Applications are submitted on-line using a platform available on the opengov.gr website.
- Electronic deliberation. Almost every piece of Draft Laws by the government, are posted in a blog like platform prior to their submission to parliament.

Citizens and organisations can post their comments, suggestions and criticisms article-by-article.

As part of the voting process in the Greek Parliament, the legislative proposal will be preceded, among others with the public consultation document which should be taken into consideration by legislators. All relevant documents are published on the parliament's website.

#### 11. Obstacles encountered in the implementation of article 8.

Consultation legislative provisions published on [opengov.gr](http://opengov.gr) are used to not be accompanied with appropriate supporting material as an explanatory memorandum and a priori feasibility study. Additionally, consultation is non-compulsory for regulatory acts unless it is explicitly foreseen in the law.

Furthermore, according to NGOs there is no provision for multiple stages of public consultation. The notification part of the process is underdeveloped, since open hearings and conferences do not take place often.

#### 12. Website addresses relevant to the implementation of article 8.

[www.opengov.gr](http://www.opengov.gr)

<http://et.diavgeia.gov.gr>

<http://hellenicparliament.gr>

## 20. Hungary

### Article 6

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

*Application of Article 6 (public participation in decision making related to certain activities)*

Ákr. Section 10(2) provides that an Act or government decree may define the persons and entities who (which) are considered clients by virtue of the law in a specific type of case.

The Kvt. ensures that private individuals, legal entities and unincorporated organisations have the right to participate in the non-administrative procedure relating to the environment. The Kvt. stipulates that everyone has the right to draw the attention of the user of the environment and the authorities to environmental hazards, damage or pollution. The competent body must respond to a written request to this effect in writing within the time limit provided for by law, and must take action. In addition, Kvt. Section 98 (1) provides that associations established in the territory of the authority, which are not political parties or interest groups representing environmental interests, shall have the status of clients in environmental administrative procedures in the territory in which they operate.

Government Decree 187/2009 (10 September) on the establishment and management of an electronic database for the purpose of notification of the initiation of administrative proceedings

and on notification based on the database has been ineffective since 1 January 2018, but the competent authority has continued to ensure that NGOs are notified of the initiation of proceedings, giving them the opportunity to participate in the procedure.

The environmental protection authority holds public hearings in the cases regulated by the Kvt. and Government Decree 314/2005 (25 December).

If an organisation indicates that it wishes to participate in the procedure, the authority will examine its status as a client and, if it is found to be a client, will grant it the rights of a client. If the organization has made a statement the authority must practically inspect them, but in making decisions, shall not be bound by any statements.

The Ákr. does not regulate the institution of public hearings; therefore, the obligation for the environmental authority to hold public hearings is provided for in the sectoral legislation as follows:

- a public hearing must be held if the environmental protection authority requires the interested party to submit a full or partial review on the grounds that in the cases set out in Kvt. Section 67 (1) has not applied for a prior assessment and has started or is carrying out an activity subject to an environmental impact assessment or an IPPC licence without an environmental permit or an IPPC licence; (Kvt. Section 91/C (2) c))
- a public hearing must be held if the person concerned has started an activity subject to an environmental permit or an IPPC licence without such a permit and has carried out an assessment for the purposes of the assessment under Kvt. Section 77 (1) in the operating permit procedure; (Kvt. Section 91/C (2) b))
- in addition, a public hearing shall be held in the case specified in the Government Decree issued for the implementation of the Kvt. Such a situation is the obligation to hold a public hearing in the environmental impact assessment procedure specified in Section 9 (1) of Government Decree 314/2005 (25 December);
- pursuant to Kvt. Section 67 (2) “The environmental authority shall issue its decision based on the preliminary investigation within forty-five days; if the case requires a public hearing, the time limit for the administration of the case shall be sixty days. The environmental protection authority may extend the time limit for the preliminary assessment procedure in justified cases, taking into account in particular the specific characteristics, complexity, location or size of the activity.”

The possibility for the public to be informed has also been extended in that the law provides for a wider scope of public access to the decision and order terminating the procedure, by providing that the public interest information contained therein must be made available to anyone who so requests. Thus, the application for access to a decision not containing personal data and classified data is not bound to proof of lawful interest to the access of such data, and with a view to ensuring the enforcement of greater access to data of public interest, the authority is required to provide an extract of the document to the applicant that also contains data which are not accessible to the applicant.

*Article 6.1-10 (participation in the licensing of activity with a material effect on the environment)*

The activities listed in Annex I to the Convention are subject to EIA (environmental licensing) and/or the IPPC licensing procedure in Hungary. Both procedures are in line with the Directive 2003/35/EC.

Prior to the environmental impact assessment procedure, the framework of the geographical placement of investments likely to produce a material effect on the environment is provided by national, priority regional and country spatial planning. The consultation on draft legislation on spatial plans is open to the public, accessible via the internet and anyone can submit their views on the plans. (For details of the public rights granted under Government Decree 2/2005 (11 January) on the environmental assessment of certain plans and programmes (hereinafter: Government Decree 2/2005) during the adoption of plans and programmes subject to environmental assessment, see points 115-119.)

The detailed rules of the environmental impact assessment procedure are set out in the Kvt. and Government Decree 314/2005 (25 December) (for the purposes of this paragraph: Government Decree). In the cases of investments where the legislative power has deemed a shorter and simpler authorization procedure, non-standard regulations have been put into place regarding the environmental impact assessment during the reporting period for a wide array of investments. Such discrepancies are made available by the Act LIII of 2006 on the acceleration and simplification of investments deemed priority projects for national economic reasons and Section 30/B concerning the combined deployment process of Act LXXVII of 1997 on the protection and shaping of built environments.

Problems reported by environmental and nature protection NGOs:

NGOs have often expressed their concern that special procedures, in particular priority investments, represent a serious and continuing setback to the guarantee of participation rights and violate the spirit of the Convention. The main problem is that there is basically no restriction or supervision mechanism on what investment the government deems to be of national priority. And practice shows that these procedures are becoming more and more common, with the exception slowly becoming the rule.

Huta Environmental Association: It is proposed to mention the amendments to “Act XXIV of 2017 amending Act LXXVIII of 1997 on the shaping and protection of the built environment in connection with the extension of the simple notification to the non-commercial construction of residential buildings larger than 300 square metres” and “Government Decree 687/2020 (29 December) on the extension of the feasibility of construction works by simple notification during the state of danger”, adopted as emergency measures during the state of danger. The application of such amendments can have a significant impact on the built environment and its protection and the conservation of listed buildings. Pursuant to the Government Decree,

“The construction activities provided for in Étv. Section 33/A (2)-(3) may be carried out without a floor area limit on the basis of a simple notification. (3) Failure to comply with the restriction on

the floor area under Étv. Section 48 (2) b) bb)-bd) shall not render the construction activity unlawful.”

The scope of application of the said Act and Government Decree is not clear. It is also unclear in the Government Decree, what activities are covered by the construction activity without a floor area limitation, and the possibility of not complying with the floor area limitation. These can open up the door to potential abuses and harmful activities, and for avoiding or limiting licensing and public involvement. Let us hope that the amendments to the Government Decree will not remain in place after the state of danger.

The provisions of Article 6 are implemented in Hungary in the following manner.

The annexes to the Government Decree define the activities that are subject to an EIA by law, (Annex 1 of the Government Decree), and those that are subject to an EIA by case-by-case decision of the environmental authorities (Annex 3). These annexes cover a range of activities broader than laid down in the Convention or apply thresholds lower than those in the Convention.

To commence an activity subject to EIA, a so-called “environmental permit” has to be obtained, or where the activity also falls under the scope of the IPPC but out of the EIA rules, an IPPC licence has to be sought. In the latter case the rules of environmental impact assessment also prevail.

Early and effective information/participation is already ensured in the preliminary phase of the EIA procedure (screening) and - if asked by the environment utilizer - in the framework of preliminary consultations. Following the submission of the application and the preliminary assessment and consultation documents, the environmental authority (the authority responsible for the environment and nature protection in the relevant government agency) will publish a notice on its website. The content of the communication is determined by the general provisions of Ákr. Section 89 and the specific provisions of the Government Decree. This communication already contains all the information to the public that can be provided at this early stage and that is required by the Convention. At the same time, the Environmental Protection Authority will publish on its website the information required by Section 3 (3) of Government Decree 314/2005 (25 December), including the electronic access point of the complete permit application dossier and any subsequent additions to the dossier submitted in the context of the completion of the permit application.

The electronic copy of the preliminary assessment and consultation documentation, the original application for a permit as well as the public notice are also forwarded to the offices of the municipalities concerned, who have to ensure access to these documents at designated premises and have to publicize the project through posting bills or any other appropriate way. The public concerned may inspect the documents and submit comments in writing within 21 days of publication.

The environmental authority will consider the need for a public hearing.

Problems reported by environmental and nature protection NGOs:



According to the NGOs, a mandatory public hearing should already be foreseen at this stage, as it would ensure obtaining information about the planned facility as well as public participation in due time.

The environmental authority also grants access to additional information; when made available, access is granted to the hearing minutes, positions of administrative authorities and expert opinions.

The user of the environment may submit a request for preliminary examination to the environmental authority, even in case his planned activity corresponds the activities in Annex 3, but it does not reach the threshold specified in that or criteria contained therein are not met.

According to Annex 3 of the Government Decree, in case of transaction which does not reach the threshold set out in Annex 3 or the conditions of the activity laid down in that is not met, in cases provided for the government regulation, the environment protection authority (without preliminary examination procedures) investigates in different proceedings (eg. construction, water law) whether there will be any significant environmental effects or not.

If the environmental authority states that the expected environmental impact of the activity is serious, environmental permits are necessary based on the environmental impact assessment procedure.

Before reaching a decision, the competent authority and all other authorities involved in the procedure have to examine the merit of all comments received. The environmental authority shall publish its decision closing the procedure in accordance with the rules of the Ákr., the Kvt. and Government Decree 314/2005 (25 December). The decision must always contain information on the possibility of exercising the right to legal remedy, as required by the Ákr. Those who have obtained a right of appeal in the course of the procedure may apply for a judicial review of the decision within 30 days of the decision being notified, on the grounds of an infringement of the law.

Problems reported by environmental and nature protection NGOs:

In practice, impact assessments are rarely ordered on the basis of a decision by the authorities, significant environmental impacts are interpreted very narrowly by the authorities, and the precautionary principle has not been applied at all.

If the proposed activity is an Annex 1 activity or if an EIA is required due to the significance of the environmental effects, an EIA procedure will be carried out after the submission of the application and, if the environmental authority has carried out a preliminary assessment, an EIA prepared in accordance with the decision closing the preliminary assessment procedure. Pursuant to Section 3 (1) of Government Decree 314/2005 (25 December), the user of the environment – except in the case provided for in Section 1 (5) – shall submit a request for a prior assessment to the environmental protection authority if he intends to carry out an activity which

- a) is listed in Annex 3, or
- (b) is listed in both Annexes 2 and 3,

(c) is a related activity and the procedure provided for in Section 2/A has not been followed.

In the light of the above, there is no need for a preliminary examination procedure for the activities covered by Annex 1 of the Government Decree.

Commencement of the procedure is publicized by the competent authority by way of public notices on its website. The content of the communication is determined by the general provisions of the Ákr. and the specific provisions of the Government Decree. This communication contains all the information to the public required by the Convention in the authorisation procedure.

The environmental authority will publish data concerning the public hearing via advertisement and will forward it to be published to the clerks of all municipalities involved in the process. The notary will inform the environmental authority on the time and date of the publishing of the public advertisement. (Government Decree Section 9 (6)).

The electronic copy of the environmental impact study, the application, the public notice and the non-technical summary are also forwarded to the offices of the municipalities concerned that have to ensure access to these documents (Government Decree Section 8 (2)) at designated premises and have to publicize the project through bill posting or any other appropriate way. As per Government Decree Section 9 (8), comments may be submitted to the environmental protection authority or the notary of the relevant local authority. As per authority practice however, the concerned public may submit comments at any time during the process. The 30 days (at least) deadline binds the environmental authority on one hand because of Government Decree Section 8 (3) on the publication of announcements concerning procedure starts and on the other hand Government Decree Section 9 (7), that the publication of the notice on public hearings must be made at least 30 days before the hearing itself.

The public concerned may inspect the documents and submit comments in writing within at least 30 days of publication.

The environmental authority also grants access to additional information, enabling access to administrative authority positions, expert opinions and corrected information once these are made available.

If the data of public hearing concerned is known to all at the initiation of the investment, the launch notice contains it. In the environmental impact assessment procedure, the environmental protection authority holds a public hearing at least in the municipality where the installation is located, unless the activity is covered by military secrecy. Public hearings may be held at more than one location if there are more than one municipalities involved, or if the number of concerned parties makes this reasonable. If this causes no hindrance in the public procedure, the hearings may be held on official premises. The environmental authority will publish data concerning the public hearing via advertisement and will forward it to be published to the clerks of all municipalities involved in the process. The notary will inform the environmental authority on the time and date of the publishing of the public advertisement (Government Decree Section 9 (6)). The publication must be carried out at least 30 days before the public hearing (Government Decree Section 9 (7)).

If the environmental protection authority documents the public hearing by means of an audio or video recording pursuant to the Ákr. and Government Decree 314/2005, it shall publish the recording electronically. If a written minutes of meeting is prepared it must also be published in the same manner.

Before reaching a decision, the competent authority and all other authorities involved in the procedure have to examine the merit of all comments received. The reasoning of the decision has to provide a summary of the involvement of the public as well as the comments received. It shall publish its decision publicly in accordance with the rules of the Ákr., the Kvt. and Government Decree 314/2005 (25 December), and shall send it for publication to the municipalities participating in the procedure. The decision must always contain information on the possibility of exercising the right to legal remedy, as required by the Ákr.

In the environmental impact assessment procedure, the application, the environmental impact assessment and the decision of the public authority are actively disclosed to the public, with specific information to the public, as described in the previous paragraph, and the possibility of appeal is also provided as described there.

However, access to certain documents is restricted when they constitute a State or service secret or, based on the classification by the applicant, are considered as a business secret. Furthermore, there is no public participation in procedures subject to military confidentiality (defence projects).

Among the other documents of the procedure, the minutes of the public hearings and the decisions closing the procedure must be made public. In relation to other documents of the procedure, the minutes of public hearings and legal binding decisions need to be granted public access, while the public concerned needs to be granted access to other documents, such as expert opinions or documents containing material environmental information in terms of the decision.

Pursuant to Section 11/A (4) of Act CXVI of 1996 on nuclear energy, the OAH, as the licensing authority, shall hold a public hearing to obtain the public's opinion in licensing procedures required for the site investigation and assessment, site characterisation and suitability, construction, extension, commissioning, operation beyond the planned lifetime, modification, permanent decommissioning or closure of a nuclear installation and in licensing procedures required for the site investigation and assessment, installation, construction, operation, modification, closure, transition to active and passive institutional control of a radioactive waste storage facility. It publishes a notice of this at least 15 days in advance on its website, on its notice board and on the public administration portal <https://hirdetmenyek.magyarorszag.hu/>, and informs the relevant authorities. If a visual and/or audio recording is made of the public hearing, a written record of the recording shall be made available electronically.

According to the Espoo Convention on the Inspection of Transboundary Environmental Effects, signed in Espoo (Finland) on 26 February 1991, during an international environmental impact assessment process, the same right of participation is to be granted to the public of the affected Party as to the Party who makes the emission. In light of this, if Hungary participates as affected Party in an impact assessment made in another country for a locally planned investment, rules for public hearing and for written comments is derived from the issuing country's regulations. In these

procedures, the ministry responsible for the environment will ensure that the project documentation received from the issuing party is published and, if necessary, a public forum is held. Written comments on the documentation can be sent by post to the Environmental Protection Department of the AM or electronically to [espoo@am.gov.hu](mailto:espoo@am.gov.hu). The received comments, along with the official Hungarian standpoint are forwarded to the issuing party.

During the IPPC licensing procedure, public participation in the procedure takes place in accordance with a notice posted or otherwise published in the municipality where the installation is located and in the area adjacent to the installation site and in the area of influence of the release. Guidance on participation is also provided in the public notice issued by the environmental inspectorate on its own news board and website.

The public notice contains a brief description of the location and the nature of the planned activity, with particular attention given to the use of the best available technique and the description of the affected area. It must also specify how and when the original application can be consulted and must also contain a call for written comments that are to be submitted to the environmental inspectorate or the offices of the affected municipalities. It also contains the path to the petitions and appendixes published via the internet. The comments are forwarded by the environmental authority to the permit applicant, who may react to these comments. Before reaching a decision, the competent environmental authority, together with all other authorities involved in the procedure, has to examine the merit of all comments received. The legal and factual evaluation of the comments has to be summarized in the reasoning part of the resolution. The evaluation includes the factual assessment of the comments, their technical analysis and the legal conclusions.

The public is informed of the decision of the environmental authority through its publication, by both the environmental authority and the offices of the affected municipalities. The environmental authority is required to provide information upon request on the data it manages and ensure access to such data.

On 1 September 2011, the amended Evt. entered into force, which contains significant changes compared to the previous version. Subsequently, on 21 December 2017, the new Evt. Vhr. also entered into force. Many procedures have been simplified and more procedures are now subject to notification. For example, there is no need to initiate a separate forest plan amendment procedure to include other production standards for intensively growing species in natural and derived forests for the logging of these species, this can be done through an annual activity notification procedure.

According to Article 6.3-4 of the Habitats Directive, the Natura 2000 impact assessment to be carried out in the framework of forest planning shall be carried out in every case in accordance with the rules of procedure of Government Decree 433/2017 (21 December) on the procedural rules of certain forest authority procedures, notifications and official records (hereinafter, for the purposes of this chapter: Decree).

During the district forest planning, the forestry authority uses the data on the fauna occurring in the Natura 2000 area to assess the impact of forest management according to the forest plan on the conservation status of the species and habitat types on which the Natura 2000 site classification is based (Natura 2000 screening). Pursuant to Section 3 (4) of the Decree, the forestry authority shall

send the draft plan for the protected natural area and Natura 2000 site pursuant to Subsection (1) c) to the competent body responsible for the nature conservation management of the protected natural area concerned (national park directorate) by electronic means.

Pursuant to Section 3 (5) of the Decree, if a protected natural area or Natura 2000 site is involved in the district forest planning procedure, the competent body responsible for the nature conservation management of the protected natural area is automatically considered a client.

Access to data relating to protected natural areas or Natura 2000 areas located in the area of forest planning must be made accessible by the forestry authority to the body responsible for nature conservation management of the protected natural area having client status at least 30 days prior to the notice of the date of the preliminary hearing. In addition, the Decree also ensures the right of participation in the preliminary hearing of NGOs whose activity, as specified in their charter document or deed of foundation, is affected by the forest management in the area covered by the forest planning. This means that all stakeholders have the right to participate in the forest planning process.

EMLA Environmental Management and Law Association: We consider it a serious deficiency that the report reveals that because of the last two major amendments to the Forest Act, social participation has been completely excluded from forest planning procedures. This, made worse by the fact that the data of the National Forest Data Repository is non-public, practically it means that forest management has no social control, although this is playing a crucial role in protecting the environment.

*Article 6.11 (participation in the permitting procedure of genetically modified organisms).*

The permitting procedure of genetically modified organisms (GMOs) in Hungary is laid down by Act XXVII of 1998 on gene technological activities. Pursuant to relevant legal requirements the representatives of NGOs aimed at environmental health– and consumer protection – elected according to the procedure determined by them - participate in the Gene-technology Advisory Committee (hereinafter: GEVB). The activities of the committee are governed by Decree 128/2003 (19 December) of the Minister of Agriculture and Rural Development. Gene-technology authorities review permit requests for gene-technological activity with respect to the comments made by the GEVB. The gene-technology authority is not bound by the opinion of the GEVB.

The environmental protection, agricultural and industry gene-technology authorities involve the healthcare gene-technology authority as professional authorities during permit processes falling under national jurisdiction. The healthcare gene-technology authority involves the environmental protection, agricultural and industry grade gene-technology authorities as professional authorities during permit processes falling under national jurisdiction.

In permit processes falling under EU jurisdiction when national authority tasks are carried out by the competent gene-technology authority, it consults with the GEVB during the fulfilment of its tasks, excluding administrative matters.

The gene-technological authority has to publish the draft permit (without transport, export, import) on its website for public consultation, excluding data subject to commercial confidentiality,

intellectual copyright or patent. Comments on the draft permit may be submitted within 30 days of publication. These comments will be evaluated by the Gene-technological Advisory Committee within 10 days, and the competent authority has to reach a decision on the authorization within a further five days.

## 2. Further information on the practical application of the provisions of article 6.

Additional information on public participation in decision making related to certain activities (optional)

According to the amendment to Act LIII of 2006 on the acceleration and simplification of the implementation of investments of major importance for the national economy, which entered into force on 1 January 2020, the time limit for the administration of a case of major importance is 45 days in the case of a preliminary examination procedure, 60 days if a public hearing is required during the preliminary examination procedure, and also 60 days in the case of an environmental impact assessment procedure. Section 25/B b) of Government Decree 314/2005 (25 December) is no longer in force as of 10 June 2017, so the time for publication of the documentation in the environmental impact assessment procedure for investments of major economic importance is at least 30 days.

In Hungary, according to Government Decree 38/2012 (12 March) on strategic government management, public consultation is required during the preparation and adoption of strategic plan documents. According to this the strategic plans of the water administration sector were available for public consultation for many months in 2015, and a strategic environment assessment was also carried out. Discussions regarding the Kvassay Jenő Plan – National Water Strategy were available in written and electronic way.

Hungary's revised third River Basin Management Plan (VGT-3) for the period 2022-2027 is due by 22 December 2011. For the period up to 31 December 2020, it can be stated that the Roadmap and the Work Programme have been completed, on the basis of which the final Roadmap and Work Programme have been adopted and published. The discussion paper on the major water management issues (JVK-3) was then drafted and subjected to technical and public consultation. The adoption and publication of the final JVK-3 and the discussion paper are expected by the end of 2020.

Problems reported by environmental and nature protection NGOs:

The radical restructuring of the environmental (and other related, such as land protection, forestry, etc.) authority system and the almost complete dismantling of the system of specialised authorities has also made it questionable whether case law decision 4/2010 of the Curia on the legal status of NGOs as clients and its legal basis, Kvt. Section 98 are still applicable. The drastic reduction in the number of procedures entailing the involvement of environmental authorities has led to a decrease in the number of procedures where client's rights can be exercised on the basis of NGO participation. This (adversely) affects the quality and legitimacy of decisions.

Comment of the Deputy Commissioner for Future Generations

In the context of the application for establishing the status of a client of both environmental organisations and private individuals, and with regard to Article 9 of the Aarhus Convention, it is necessary to underline that Ákr. Section 116 (3) b) provided for the possibility of an independent appeal against the first-instance decision on the status of a client or on the succession. However, with effect from 1 January 2020, an appeal against a first-instance decision establishing the status of a client may only be lodged in cases where the decision is subject to appeal under Ákr. Section 116 (1) or (2). As a consequence of this amendment, the decision of the public authority on the application for a declaration of the status of the interested party can only be challenged under the rules of administrative lawsuits, following the provisions of the sectoral environmental law in force from 1 March 2020, which can even be considered a step backwards compared to the previous system of protection as regards the exercise of the public's right to participate.

3. Website addresses relevant to the implementation of article 6.

<https://ippc.kormany.hu/>

[www.euvki.hu](http://www.euvki.hu)

<http://www.lltk.hu>

<http://gmo.kormany.hu/gentechnologiai-eljarasokat-velemenyezo-bizottsag>

<http://www.nevjegyzeke.magyarorszag.hu>

## Article 7

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

The environmental assessment of plans and programmes likely to have a significant impact on the environment is regulated in general by the Kvt., and in detail by Government Decree 2/2005 and Government Decree 132/2010 (21 April) on the promulgation of the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context, adopted in Espoo on 26 February 1991, adopted in Kiev on 21 May 2003. This legislation is in line with the relevant EU directive, Directive 2001/42/EC[1]. Thus, the Hungarian regime covers all fundamental elements of the assessment cycle such as preparation of the environmental report, commenting by other authorities and the public, international consultations, and consideration of the comments and the findings of the consultation in the finalization of plans and programmes.

The applicable legislation requires that in case of plans and programmes with mandatory environmental inspection, the scope and methods of public consultation must be determined early in the procedure, upon the finalization of the scope and content of the assessment.

The public must be informed by the author of the plan or programme of the environmental report and the modalities of submitting comments. This information must be provided in the manner that best suits the size of the public concerned, from local media to national newspapers and internet

notices. The commenting period has to be at least 30 days. The opinions received have to be taken into consideration before the adoption of the plan or programme.

Problems reported by environmental and nature protection NGOs:

Although the possibility of commenting on plans and programmes does exist in theory, it must be mentioned that, according to Government Decree 2/2005, the creator of the plan or programme may designate the scope of the public concerned. This is an opportunity for abuses, especially in the cases of plans and programmes that were not directly created with an environmental protection theme, but still have a strong connection to environmental protection or may have impact on the field of environment. In cases where the person does not regard environmental protection NGOs as concerned parties, but only for example sectorial organizations (energy, forestry, and hunting), then public participation in the decision-making process may be eroded. For these cases, legal guarantees should be created, that do not exist today.

EMLA Environmental Management and Law Association: On the website for listing strategic environmental assessment issues

(<https://2015-2019.kormany.hu/hu/foldmuvelesugyiminitiszerium/hirek/strategiai-kornyezeti-vizsgalati-ugyek>) only listing relevance to foreign national plans, there is not been linking page for Hungarian SKV issues this makes the obtains of the information very difficult.

The summary of the national – and if relevant, international– comments received, their management and environmental assessment have to be attached to the final documentation of the plan or programme and plan that is tabled for adoption. Public access to the adopted plan and programme must be ensured. A final document must contain a summary on the preparation of the plan or programme with a record of the comments and their consideration. In addition, the summary should also be made public.

The Kvt. grants a general right to environmental civilian organizations to review any plans or programmes affecting them and bound to environmental assessment.

The Protocol to the Espoo Convention requires that the strategic environmental assessment of plans and programmes should also address significant transboundary environmental and health impacts. In practice, in these procedures, the ministry responsible for the environment ensures the publication of the plan or programme documents and the related environmental assessment provided by the issuing party and the involvement of the bodies responsible for environmental protection and the public in the procedure. Written reviews on the published data may be sent via e-mail to the Environmental Preservation Department of the Ministry of Agriculture's address at [skv@am.gov.hu](mailto:skv@am.gov.hu). The comments received will be forwarded by the ministry responsible for the environment to the issuing party (plan owner) together with the official Hungarian position on the work version of the plan or programme and the related environmental assessment.

Related websites from 2010 to 2014 and from 2014 to 2020:

<http://2010-2014.kormany.hu/hu/vidékfejlesztési-minisztérium/kornyezetugyert-felelos-allamtitkarsag/hirek/strategiai-kornyezeti-vizsgalati-ugyek>



The spatial plans are prepared on a national, high priority regional and country level and contain the spatial order of area use, the technical infrastructure networks and specific structures of national or regional relevance, as well as the zoning of areas under different forms of protection (natural resources, cultural heritage) and land use rules applicable to the zones. The spatial planning plans of the country and of the priority areas (Balaton Special Resort Area, Budapest Agglomeration) are adopted by an Act of Parliament, while county spatial planning plans are adopted by decree by the county government. The National Spatial Plan should be reviewed regularly, and then lower-level spatial and settlement plans should be brought into line with the national plan. The draft spatial plans are open to public comment, together with an environmental assessment as required by Government Decree 2/2005.

A strategic environmental assessment is always required before the adoption and modification of land-use plans. As such, the statutory requirements of environmental impact assessments (such as public participation) must be utilized during the preparatory and adoption stages.

Act LXXVIII of 1997 on the development and protection of the built environment also sets out general criteria and requirements to ensure that the quality of the state of the environment does not deteriorate as a result of urban planning and development.

Government decree 314/2012 (8 November) on settlement development concept, integrated urban development strategy, measures of urban planning and on certain legal instruments of urban planning defines that the consultation procedure of the settlement development concept, integrated urban development strategy and the measures with the habitants, with advocacy, civil and business organizations, and churches must take place according to the rules of partnership reconciliation. These rules are defined by the municipalities individually taking into consideration the regulations of the Act LXXVIII of 1997 and Government Decree 314/2012 (8 November) concerning publicity. Amongst the rules of partnership consultation the informing method and measures of the concerned participants, the documenting and registration methodology of the proposals, opinions; the justification method of the non-accepted proposals and opinions, their order of documentation and registers; the provisions assuring the publicity on the accepted concept, strategy and urban planning instruments must be specified.

An environmental assessment is also always prepared for the planning documents for the whole municipality, as required by Government Decree 2/2005. In the preparation of settlement planning instruments for a part of a settlement, the need for an environmental assessment may be decided on the basis of a case-by-case determination of the significance of the expected environmental impacts, pursuant to Section 1 (3) of Government Decree 2/2005. According to Section 3 of Government Decree 2/2005, it is the task of the body responsible for the design of the spatial planning plan and programme (the municipality) to prescribe an EIA or not taking into account the advancements in the planning process. Pursuant to Section 4 (2) of Government Decree 2/2005, the designer will ask for the opinion of the bodies responsible for environmental protection on the necessity of the EIA. Pursuant to Section 5 (2) of Government Decree 2/2005, the developer publishes its decision and the reasons for it in its official notice or by any other means suitable for informing the public, and, if it has a website, also on that website, and, if it has decided that an environmental assessment is not necessary and thus diverged from the opinion of the bodies

responsible for environmental protection received pursuant to Article 4, the fact of such deviation. (The designer must also inform the bodies responsible for environmental protection involved in the process of deciding on probable environmental effects of its decision and the reasons leading up to it).

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

The main bodies of institutionalized public participation are described under item 30. Among these bodies, outstanding role is played by the Hungarian National Council on the Environment (OKT) which, in accordance with the Kvt., is an advisory, reviewing and consulting body to the Government.

Problems reported by environmental and nature protection NGOs:

In practice, the National Environment Council does not receive from the ministries all the proposals it is asked to comment on, and especially not in time (before the Government's decision, according to the law) to perform its role of providing opinions, advice and proposals. The deadlines for the opinion (instead of the 30 days required by law) are generally so short that the OKT cannot fulfil its role as intended by the legislator: there is not enough time for the three groups of members (business, science, NGOs) to reach a consensual position. The proposals made by the OKT are rarely incorporated into the material reviewed. Despite explicit requests to this effect, the OKT does not receive any justification or feedback from the proposers, and there is no opportunity to discuss the Council's amendments. NGOs regret that the Council's role in practice is now marginal, significantly weakened compared to the original ideas, and its opinion is rarely taken into account by decision-makers.

Widespread, open public participation is enabled through public consulting. In addition to the formal consulting procedures relating to draft legislation, the ministry responsible for the environment prepares and submits for approval major draft environmental policy documents through extensive consultation.

The consultation process is facilitated by the AM strategic agreements that the ministry concludes with multi-organisational or interdisciplinary organisations. In 2019, the Ministry concluded strategic partnership agreements with several organisations related to the nature conservation sector, such as the Hungarian Ornithological and Nature Conservation Association, WWF Hungary, the Hungarian Association of Nature Conservationists and the Hungarian Museum of Natural History.

Problems reported by environmental and nature protection NGOs:

During the reporting period, and especially towards the end of the reporting period, opportunities for dialogue between NGOs active in a particular field and the ministries concerned, and for them to learn more about the government's position and to present the NGOs' proposals, were suddenly interrupted. For example, this was the end of a long series of regular and useful consultations between the Clean Air Action Group and the Ministry of Agriculture on air quality issues. We

propose to restore these opportunities to ensure public participation in environmental policy making.

The overall framework for Hungary's environmental policy goals and measures is provided by the National Environmental Programmes, which are renewed every 6 years. Currently, the implementation of the National Environmental Programme for the period 2015-2020 (4th National Environmental Programme), adopted by Decision 27/2015 (17 June) of the National Assembly, is underway. In addition, the preparation, planning and compilation of NKP4 and NKP5 for the period 2021-2026 was started in 2020, based on the provisions of Government Decree 38/2012 (12 March) on governmental strategic management.

The Kvassay Jenő Plan – National Water Management Strategy that serves as the framework strategy for Hungarian water management until 2030 and mid-long term action plan until 2020 was adopted in 2015. As a professional policy strategy, it separately deals with the question of “the improvement of relations between society and water (on individual, economic, and decision-making level as well)”. The task-group prepares duties – with reference to the obligations of the Aarhus Treaty and their fulfilment for the areas of:

- information;
- public education, teaching, training;
- social values
- social involvement and
- use of media

stating areas of intervention in order to improve them.

#### 6. Further information on the practical application of the provisions of article 7.

According to Kvt. Section 43, plans or programmes likely to have a significant impact on the environment, the development of which is required by law or by a parliamentary, governmental or local government decision, must be subject to environmental assessment including an environmental impact assessment (EIA) pursuant to Government Decree 2/2005 (11 January) on the environmental assessment of certain plans or programmes (hereinafter: Government Decree 2/2005).

A strategic environmental assessment had to be carried out in 2015 before the adoption of the national programme for the implementation of the national policy, as the national programme is covered by Government Decree 2/2005. Accordingly, once the domestic procedure was completed, and the environmental report was finalised, an international procedure was also launched.

Standpoint of the Deputy Commissioner for Future Generations:

The relevance of what is detailed in the Draft in relation to the application of Article 7 of the Convention is fundamentally influenced by the new procedural order, the so-called “priority

investment” practice, which has become almost universal. The existing regulation of priority investments under Act LXXVIII of 1997 on the formation and protection of the built environment (hereinafter: Étv.) overrides the general prevalence of the so-called “plan system” in the field of construction, as mentioned in the report, whereby plans defined at a lower level are regulated within the framework of higher-level legal sources, and fundamentally changes the possibility of public participation in planning and programme-making activities at the local level (urban development and planning). It should be noted that it might be worth reviewing whether it is justified to maintain this separate procedural regime in all current cases.

Pursuant to Étv. 4 (3a), the Government may individually determine the rules of construction, building requirements and specific spatial planning rules for certain investments, including investments of major national economic importance. In addition, the new OTrT. also amended Act XXI of 1996 on spatial development and planning (hereinafter: Tftv.), Section 8 of which provides that in these cases the provisions of the new OTrT. are not applicable either, i.e. the national rules on land use may be overridden.

The development plan system determines land use from the national level down to the level of individual plots, culminating in the national and priority regional spatial plans, followed by the county spatial plans, then the municipal level; the urban development and planning instruments and the cityscape protection. The planning system ensures that the public interest at the national level is “channelled” down to the level of individual sites, so that lower level plans can only regulate within the framework of higher level statutory plans, thus ensuring a balance between the public interest and legitimate private interests at different territorial levels. Priority investments in construction override this system, in that it is not the planning system (and the public interest it serves), but the individual decision of the Government that determines how, for what purpose and with what specific building requirements the land can be used. This is based on the very fact of designation of the investment, i.e. its declaration of priority, in which case a new public interest emerges which was not foreseen in the spatial and urban planning phase – and thus not even examined in context and not even subject to public consultation – and which “overrides” the general order.

Town and country planning instruments, such as the local building regulations and their annex, the regulation plan, are drawn up in a strictly bound order with guarantee procedural elements through the so-called “town and country planning procedures”. This procedure includes an environmental assessment at the planning stage and the obligation to involve the local population through the so-called partnership instrument, which, in addition to its guarantee character and content, also serves to implement the Aarhus Convention. All these assessments identify the impacts for the proposed area and the municipality as a whole. The procedure also involves interested public administrations, including those representing environmental and nature conservation interests.

The process described above, however, does not occur in the case of the construction highlights in question, or happens differently. The individual decision of the Government is a legislative act subject to the provisions of Act CXXX of 2010 on legislation (hereinafter: Jat.). Of course, in this case too, the legislator must assess the likely effects (Jat. Section 17 (2) ab)), however, they are far from being comparable – in terms of their detail and thoroughness – with the requirements of the

above-mentioned environmental assessment specifically related to urban planning, and do not guarantee the involvement of the population concerned to the extent and with the content of the partnership institution of urban planning procedures.

In addition, the assessment of the combined effects for the whole municipality – and ensuring public participation in this – is completely excluded, as it is not carried out in a general way, the legal act of assigning priority is only linked to the specific investment, revising the plans or cancelling the planning procedure. At the municipal level, other consequences of assigning priority include the jeopardising of the prevalence of the local environmental protection programme required by Kvt. Section 43 (1) b). As the requirements are also applicable to the whole municipality, their design and fulfilment are obviously fundamentally influenced by the use of a particular part of the municipality for other purposes or even just the “external” definition of its buildability with other parameters. All this affects the values protected by Article P of the Fundamental Law, the common heritage of the nation, as much as the application of Article 7 of the Convention.

#### 7. Website addresses relevant to the implementation of article 7.

[www.kormany.hu](http://www.kormany.hu)

[www.vizeink.hu](http://www.vizeink.hu)

[www.emla.hu](http://www.emla.hu)

[www.euvki.hu](http://www.euvki.hu)

### Article 8

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

The general rules concerning public participation in the preparation of legislative provisions are laid down by Act CXXXI of 2010 on public participation in the preparation of legislative provisions.

The Act requires Ministries to publish on their websites all draft legislative texts, concepts, and related proposals as well as their full explanatory documentation. Exemptions from this obligation are specifically listed in the Act.

The homepages of Ministries have to ensure that comments can be uploaded. The general deadline for comments is 10 working days, depending on the publication date means 12-14 calendar days at the longest, but in exceptional cases minimum 5 working day deadline is possible. Public comments have to be evaluated and a summary thereof has to be published on the same website that also contains the reasons for refusal.

In addition, the Kvt. explicitly sets out that environmental NGOs have a right to comment on any draft legislation on environmental matters. Upon a general request, the Ministry responsible for the environment sends individual invitations to NGOs to comment on particular legislative texts.

The National Council on the Environment has to be consulted on each draft bill and decree before adoption.

Problems reported by environmental and nature protection NGOs:

When it comes to drafting opinions on legislation, the OKT suffers from the same insurmountable workload of short deadlines as NGOs. It is an ongoing practice that the drafters of legislation do not provide the OKT with the minimum time required to issue an opinion, in violation of the law. This is also an important problem because the OKT is a body, so it can only fulfil its real function if it is given sufficient time to develop its position. The law allows the OKT to invite government actors to present draft legislation to the OKT plenary session on its own initiative, but in some cases there has been no response from the ministry requested, or only a refusal after a number of requests.

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

The 2012 report of the Commissioner and Deputy Commissioner for Fundamental Rights has dealt with the public participation in the procedure of the preparation of legislative provisions. (See: Report on the activities of the Commissioner and Deputy Commissioner for fundamental rights, 2012, pp. 186-187.)

EMLA Environmental Management and Law Association: It is not clear what is the relevance of a 2012 Ombudsman's report in a report of 2021, unless there has been no material since that to address the issue.

Standpoint of the Deputy Commissioner for Future Generations:

As I have already indicated above, there has been an unfortunate and growing tendency in recent years for draft legislation and draft strategies not to be submitted for public consultation. The drafts have therefore not been properly published on the dedicated website, making public consultation impossible on these drafts. In all cases of legislative consultation, I draw the attention of the proposer to the lack of public consultation and request that it be made up for by setting an appropriate deadline. We also observe a lack of consultation with environmental professional organisations, which is also regularly reflected in our opinions sent under Act CXI of 2011 on the Commissioner for Fundamental Rights.

Similarly, it is common for drafts to be submitted to the Office of the Commissioner for Fundamental Rights for an opinion at an unduly short time or not at all, contrary to the law, which also hollows out the right to an opinion.

10. Website addresses relevant to the implementation of article 8.

[www.kormany.hu](http://www.kormany.hu)

[www.emla.hu](http://www.emla.hu)

## 21. Iceland

### Article 6

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

(a) (i) and (ii) Iceland has implemented Directive 2011/92/EU on Environmental Impact Assessment (EIA) and Directive 2014/52/EU amending Directive 2011/92/EU, through the EEA Agreement, initially by Act No. 106/2000 on Environmental Impact Assessment (EIA act). Act No. 106/2000 has however now been repealed and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes.

As a part of the revision of former Act No. 106/2000 an analysis was performed on certain aspects of the legislation in Denmark, Norway, Sweden and Scotland concerning the environmental impact assessment process. The analysis revealed that the Icelandic act differed in some ways from the legislation in the other countries and more complex. The main goal of the revision of the former act was therefore to increase efficiency and to ensure in the best possible way public participation in the process. The new Act No. 111/2021 prescribes a somewhat simplified procedure including the usage of an electronic data system which is to be used by all competent authorities to provide information and publish decisions on whether a project is to be subject to an EIA, and all other relevant documents, opinions and decisions relating to EIA affairs. The system will be open to the public free of charge and used as a platform for public consultation.

According to the act all projects listed in Annex I to the Convention are either subject to an EIA or must be screened in order to determine whether they might have severe effects on the environment and should therefore be subject to an EIA. Act No. 111/2021 ensures the public and environmental NGOs a right to participate in the EIA process. Regarding proposed activities not listed in annex I of the Convention, Iceland has implemented Directive 2011/92/EU as amended including a threshold criteria for the projects listed in annex II of the Directive.

(b) According to Act No. 111/2021 the developer of a project that is subject to an EIA shall draft an Assessment Plan, which must be presented to the public. The National Planning Agency is required to inform the public of the project and the plan for the EIA work at an early stage. This gives the public a timely notification of the assessment report which is produced later in the process and introduced to the public and stakeholders for comments.

(c) According to Act No. 111/2021 the public is given minimum 6 weeks to comment on the assessment report. Where the National Planning Agency finds that a project shall not be subject to an EIA its decision can be appealed to the Environmental and Natural Resources Board of Appeal within one month.

(d) See above (b)

(e) See above (b)

(f) (i) During a screening process, the National Planning Agency shall consult with stakeholders and other relevant entities. The conclusion of the screening process shall be public information (article 20 of the EIA act). When a project is subject to the EIA act, the National Planning Agency shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report based on information provided by the developer. The information provided by the developer shall be available to the public and the National planning Agency shall consult the public before issuing an opinion on the scope and level of detail of information to be included by the developer in the environmental impact report (article 21 of the EIA act). The EIA report submitted by the developer shall be open for public comments for 6 weeks before the National Planning Agency issues an opinion on the environmental impact of the project (article 23 of the EIA act). A development permit shall be based on the opinion of the National Planning Agency and the authority issuing the permit shall lay out how the permit corresponds to the opinion of the National Planning Agency (article 27 of the EIA act).

(ii) See above (i). Furthermore, all the information listed in paragraph 6 shall be available to the public according to Act No. 140/2012 on Access to Information, unless some of the exemptions apply.

(g) See above (b)

(h) The deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process. This fundamental principle of public participation, that is that all comments are duly considered before a decision is made, has been reaffirmed in legal rulings on appealed decisions. This also follows from the fundamental rule of investigation stemming from the Administrative Procedure Act.

(i) According to the Administrative Procedure Act No. 37/1993 an administrative decision must be announced to all parties to the decision. According to Act No. 111/2021 a decision on whether a project shall be subject to EIA or not shall be presented to the public and according to the same act the National Planning Agency's Opinion on the EIA of a project shall be presented to the project developer and those who participated in the decision making process by sending in comments or other information and be accessible to the public on the Internet and prominently presented by The National Planning Agency. In practice all decisions and opinions of the National Planning Agency are published on the agency's website. Operation Permits are issued in accordance with Act No. 7/1998 on Hygiene and Pollution Control and regulation 550/2018 based on that act. The issuer of Operation Permits must make sure that applications for permits are accessible for the public. As soon as a permit has been drafted the draft must be made available for the public for comments, giving 4 weeks to comment. Once a decision has been made to issue a permit the permit shall be advertised by the issuer of the permit on its website. In the case of a development consent a decision to issue consent as well as the Opinion of the National Planning Authority, if the project was subject to an EIA, shall be published in the Icelandic Official Journal as well as in a national newspaper within two weeks from the decision of the issuer. The advertisement shall include information on the right to appeal the decision and relevant deadlines in doing so. Some projects that must undergo an EIA are subject to a building permit. Building permits are issued by the local authorities (municipalities) or the Iceland Construction Authority.



(j) This paragraph is implemented in Icelandic legislation by several acts of law. The general rule is that when operating conditions are reconsidered, same rules on public participation apply as when a new permit is issued.

(k) Act No. 18/1996 on Genetically Modified Organisms (GMOs) implements EU Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms. The Act sets out the administrative process for issuing permits for placing on the market and other deliberate release of GMOs. According to the act the public must be consulted before a permit to place GMO on the market is issued. The Environment Agency, which issues GMO permits, shall draft a summary of the application that shall be introduced to the public. The Environment Agency's Assessment Report shall also be made available to the public. Furthermore, the Environment Agency should hold public meetings or in other ways consult the public, as is necessary, before a permit is issued. The public has 30 days from the publishing of the summary to submit its comments.

As is said in (h) above, the deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process and this has been confirmed in administrative rulings. Public consultation is extremely important in decisions making regarding the environment, not only to ensure the public's right to express their views, but also to ensure that all relevant information has been gathered before a final decision is made. Public authorities are in many cases bound by deadlines described by law when making decisions but in other cases the authorities decide in each case what is a sufficient time for the public to be able to participate. In many cases extra time is given if requested. It is also up to public authorities to follow the law and take due account of the public consultation, but the general rule is that administrative decisions can be appealed and reviewed if necessary.

## 2. Obstacles encountered in the implementation of article 6.

Regarding article 6, paragraph 8, comments were received to Iceland's 1st implementation report and reiterated for the 2nd report regarding Article 12 of the Act No. 106/2000 on Environmental Impact Assessment. Article 12 stated that if a development does not commence within ten years of the opinion of the National Planning Agency on the environmental impact assessment being given, the relevant licensor shall request a decision from the National Planning Agency on whether the developer's environmental impact statement must be revised, in whole or in part, before development consent is granted. The comment states that this article hinders that due account is taken of remarks or information given by public since they could be more than 10 years old.

Act No. 106/2000 has recently been repealed and replaced by a new legislation, i.e. Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes. According to article 27 of the act, the developer must, when applying for a development permit, submit an analysis on whether the premises for the environmental impact assessment have changed. According to Article 28 of the Act the developer of a project or the relevant licensor can at any time request an opinion from the National Planning Agency on whether the developer's environmental impact statement must be revised, if they believe that the basis of the environmental

assessment report has changed. If the development does not commence within ten years of the opinion of the National Planning Agency on the environmental impact assessment being given, it is mandatory to request such an opinion from the National Planning Agency.

Comments were also received regarding a complaint before the Compliance Committee, cf. Communication ACCC/C/2019/168, concerning alleged breach of the Aarhus Convention, namely Articles 6, 8 and 9 concerning Icelandic legislation for intensive fish farming, Article 21(2)c of Act No 71/2008 on Fish Farming as amended by Act No 108/2018. In connection with that case, Case No 82787 before the EFTA surveillance Authority (ESA) was also mentioned, regarding complaint against Iceland concerning the application of Directive 2011/92/EC. Both cases are still pending.

In the case before the Compliance Committee the communicant alleged that Article 21(2)c of the Fish Farming Act violates Article 6 of the Aarhus Convention since the licensing procedure does not provide for a public participation before the licensing. In observations to the Compliance Committee the Icelandic Government explained i.e., that the only purpose of Article 21(2)c is to provide for an interim measure under the circumstances where an operating license for a fish farm operation has been annulled due to an error in the licensing procedure.

It was also alleged by the Communicant that the legislative procedure of Act No 108/2018 had not fulfilled the requirements of Article 8 of public participation. The Icelandic Government explained i.a. to the Compliance Committee that the Minister of Agriculture and Fisheries and the Parliament had recognized the urgency of the matter which had led to the decision not to make the draft bill open for comments.

The Communicant alleged as well that Article 21(2)c of the Act violates Article 9 of the Convention since operation licenses granted under that article cannot be brought before a review procedure. The Icelandic Government explained i.e., to the Compliance Committee that the purpose of licenses issued under Article 21(2)c is to prevent unnecessary loss of value and is only valid for a limited period of time. The temporary operation license was an interim measure, with limited durability, subject to strict conditions to either rectify the procedural error or bring the matter before a domestic court and scaled down operation.

In its observations to the Compliance Committee the Icelandic Government further stated its full commitment to meeting the obligations under the Aarhus Convention and welcomed the review and findings of the Compliance Committee in the matter and declared itself ready to propose adjustments in the legislation as needed.

According to a preliminary assessment of the Internal Market Affairs Directorate at ESA, dated 14 April 2020 (Case No 82787), Iceland has failed to fulfil its obligations under Article 2, 4 to 9 and article 11 of the EIA Directive 2011/92/EC on the assessment of the effects of certain public and private projects on the environment. The background to the case is the same as in the aforementioned case before the Compliance Committee. The granting of temporary operating licenses and temporary exemptions to hold operating licenses to two fish farms. The Icelandic Government granted the temporary operating licenses after the Judicial Committee in Environmental and Natural Resources declared the initial operating licenses invalid because of

flaws in the environmental impact assessments. Comments were received that Iceland has not yet repealed the Act, which is not in accordance with the Aarhus Convention.

In a response letter to ESA earlier this year the Icelandic Government provided an explanation of the Icelandic legislation in question. ESA was also informed of the Governments intentions to propose amendments to national law to minimise the risk of any discrepancies between national law and the Directive 2011/92/EC. Also that the Government had introduced a bill to Parliament where the first adjustment to national law was proposed taking into account the views of the Directorate, cf. the aforementioned Act No 111/2021. The Government informed ESA of the ongoing preparation to propose further amendments to the legislation during the next session of the Parliament to address the views of the Directorate.

Comments were finally received which stated that improvements had not been made concerning public participation in the revision of former Act No. 106/2000, cf. Act No. 111/2021 that was passed in Parliament earlier this year.

As stated before, the main goal of the revision of Act No. 106/2000 was to increase efficiency and to ensure in the best possible way public participation in the process. The new Act No. 111/2021 prescribes a somewhat simplified procedure including the usage of an electronic data system for public consultation.

### 3. Further information on the practical application of the provisions of article 6.

According to the Action Plan from 2018 the National Planning Agency is responsible for Actions 7 and 8 which concern public participation. Action 7 involves a study on the impact of public participation on decisions making concerning planning- and construction projects and action 8 involves preparing a work method to ensure public participation at an early stage in planning processes and processes concerning construction projects.

The study on the impact of public participation according to Action 7 was published on June 16, 2021 and is being reviewed in order to evaluate the preparation of a work method to ensure public participation in accordance with Action 8.

Action 9 of the Action Plan involves revision of Act No. 106/2000 on Environmental impact assessment, with the aim of improving public participation. Action 9 has already been completed and the Act has now been revised and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes.

### 4. Website addresses relevant to the implementation of article 6.

[www.skipulag.is](http://www.skipulag.is)

[https://www.skipulag.is/media/attachments/Samrad-vid-almenning-um-skipulagsmal\\_juni-2021.pdf](https://www.skipulag.is/media/attachments/Samrad-vid-almenning-um-skipulagsmal_juni-2021.pdf)

## Article 7

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

Iceland has implemented Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive) through the EEA Agreement, initially by Act No. 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes. Act No. 105/2006 has now been repealed and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes. In the Act the public is defined as one or more people, legal persons, organisations or groups. The Act applies to environmental impact assessment of plans and programmes, as well as any modification to them, that set out a framework for future development regarding issuing or consent of permits for projects listed in the Act.

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

According to Act No. 111/2012 on the Environmental Impact Assessment of Projects, Public Plans and Programmes, a proposal for a public plan or programme and an environmental impact assessment thereof shall be introduced to the public. The public must be given 6 weeks to look into the proposal and the assessment and submit its comments before the plan or programme is adopted. The proposal and the assessment must be introduced on the internet. Due consideration must be given to the environmental assessment as well as all comments submitted during the participation period.

7. Obstacles encountered in the implementation of article 7.

No particular obstacles have been encountered in the implementation of Article 7.

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

No further information.

9. Website addresses relevant to the implementation of article 7.

[www.skipulag.is](http://www.skipulag.is)

## Article 8

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

The goal of Action 6 of the Action Plan from 2018 is to insure a minimum of three weeks deadline as a main rule for consultation with stakeholders and the public concerning government bills (plans for legislation and draft bills), draft regulations (secondary legislation), plans and programmes. In case of an extensive and complex matter the aim is to keep the deadline at a minimum of six weeks.

The Government opened in February 2018 a new website ([samradsgatt.is](http://samradsgatt.is)) where plans for legislation, draft bills, secondary legislation, plans and programmes are published by all Ministries

and the public and other stakeholders encouraged to make observations and comments. Comments and observations are usually all published on the website. The Ministries also publish main responses to comments and observations.

In some cases Environmental NGOs are asked to appoint a representative in a working group/committee that is preparing the legislation in question (see chapter III, (c)). The Parliament has a separate consultation process with the public, NGOs and other stakeholders during the processing of legal bills in the Parliamentary committees.

According to Article 3 of Government Agreement on Preparation and Finalization of Governmental Bills and Proposals, dated 10 March 2017, it is required that the public is consulted on plans for legislation and its estimated assessment (samradsgatt.is). Governmental draft bills shall as well be open for the public and stakeholders to make comments and observations (samradsgatt.is) It is also required to give account of all relevant stakeholders in draft bills and how it affects them. One is also obliged to describe in the proposal the consultations process the proposal has had, comments that have been received and what affect the consultation had for legislative proposal. The Prime Minister's Office reads through all legislative proposal prepared by other ministries and ascertains that they are according to the aforementioned rules.

#### 11. Obstacles encountered in the implementation of article 8.

Comments were received regarding a complaint before the Compliance Committee, cf. Communication ACCC/C/2019/168, concerning alleged breach of the Aarhus Convention and Icelandic legislation for intensive fish farming, Article 21(2)c of Act No 71/2008 on Fish Farming. In connection with that case, Case No 82787 before the EFTA surveillance Authority (ESA), was also mentioned, regarding complaint against Iceland concerning the application of Directive 2011/92/EC. Both cases are still pending.

In the case before the Compliance Committee the communicant alleged i.e. that Article 21(2)c of the Fish Farming Act violates Article 8 of the Aarhus Convention concerning public participation. The Icelandic Government explained i.a. to the Compliance Committee that the Minister of Agriculture and Fisheries and the Parliament had recognized the urgency of the matter which had led to the decision to make an exception from the rule of public participation and not make the draft bill open for comments.

Further discussion of those cases can be found in Chapter XVI of this report.

#### 12. Further information on the practical application of the provisions of article 8.

No further information.

#### 13. Website addresses relevant to the implementation of article 8.

[www.althingi.is](http://www.althingi.is)

[www.umhverfisraduneyti.is](http://www.umhverfisraduneyti.is)

## 22. Ireland

### Article 6

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

The provisions of Articles 6 of the Convention fall within the competence of the European Union, Directive 2003/35/EC, providing for public participation in respect of the drawing up of plans and programmes relating to the environment.

The response to question XV provides detailed information on planning and EPA licensing consents (IPC and IED) (referred to below as ‘environmental licences’. Due to the nature of transposing legislation in Ireland it is not possible to provide the same level of detail on all consent systems in the word count provided for in the NIR. Other legislation which provides for public participation in accordance with the requirements of the EIA Directive includes:

section 32 of the Air Pollution Act 1987 (as amended) (provision of licenses);

sections 4 and 16 of the Local Government (Water Pollution) Act 1977 (as amended) (licensing of trade and sewage effluents; licensing of discharges to sewers);

sections 63 and 81 of the Water Services Act 2007 (as amended) (licensing of discharges to sewers; determination of an action as a licensing water services activity);

sections 34 and 40 of the Waste Management Act 1996 (as amended) (waste collection permits; grant of waste licenses);

sections 23, 26 and 29 of the Wildlife Act 1976 (as amended) (e.g. enforcement of protection of wild animals (other than wild birds); licenses to hunt otters or deer and to hunt or course hares; licenses to hunt with firearms);

sections 40, 48 and 49 Forestry Act 1946 (as amended) (felling licenses);

sections 2 and 3 Foreshore Act 1933 (as amended) (power for Minister to make leases / grant licenses for foreshore);

sections 8, 22, 26 and 40 Minerals Development Act 1940 (as amended) (prospecting licenses; licenses in respect of State acquired minerals; state mining leases; applications for ancillary rights licenses);

sections 8, 9, 13, 19 and 26 Petroleum and Other Minerals Development Act 1960 (as amended) (exploration licenses; petroleum prospecting licenses; petroleum leases; reserved area licenses; working facilities permits);

section 40 of the Gas Act 1976 (as amended) (restriction on construction and operation of pipelines by persons other than Bord Gáis Éireann)

Sections 37 and 42 of the Transport (Railway Infrastructure) Act, 2001.

Section 50 of the Roads Act, 1993.

(a)(i) Ireland has fulfilled its obligation under Article 6(1) of the Convention through a range of consent procedures (see above).

In terms of Planning consents, the following apply to -

permissions and consents pursuant to the Planning and Development Act 2000 (as amended);

Schedule 5 to the Planning and Development Regulations 2001 (as amended) (S.I. No. 600 of 2001) contains a list of developments automatically subject to an EIA if the relevant thresholds are reached or exceeded,

Section 172(1) of that Act requires that an EIA be carried out by a planning authority or An Bord Pleanála, as the case may be, in respect of a planning application where the proposed development is of a class set out at Schedule 5 to the 2001 Regulations and either-

equals or exceeds the relevant threshold, or

is sub-threshold but the planning authority or An Bord Pleanála determines that the proposed development is likely to have a significant effect on the environment, having regard to Schedule 7 of these Regulations which lays down the criteria for determining whether such developments are likely to have a significant effect on the environment for proposed activities listed in annex II, in accordance with Annex III of Directive 2011/92/EU as amended by Directive 2014/52/EU).

Environmental licences

section 83(2A)(c) of the Environmental Protection Agency Act 1992 (as amended by regulation 5(c) of S.I. No. 191/2020 - European Union (Environmental Impact Assessment) (Environmental Protection Agency Act 1992) (Amendment) Regulations 2020) (integrated pollution control licenses (IPC));

(ii)

The consolidated Environmental Impact Assessment Directive (Directive 2011/92/EU) sets out, in Annex III, guidance criteria which have been fully transposed into Irish legislation, in the Third Schedule to the European Communities (EIA) (Amendment) Regulations 1999 (S.I. No. 93/1999).

The EIA Guidance for Consent Authorities regarding Sub Threshold Development provides practical guidance for the competent/consent authorities in deciding whether or not a sub-threshold development is likely to have “significant” effects on the environment. The guidance is also of assistance to developers and EIA practitioners in forming an opinion on whether an EIA is appropriate to a specific sub-threshold development proposal.

In terms of Planning consents, the following applies to permissions and consents pursuant to the Planning and Development Act 2000 (as amended);

Article 103 of the Planning and Development Regulations 2001 requires the planning authority to request an EIAR in the case of sub-threshold development applications, where it considers the

development is likely to have a significant effect on the environment under the criteria listed in Schedule 7 of the Regulations. Other similar provisions apply to appeals and applications made direct to An Bord Pleanála.

#### Environmental licences

Section 83(2A)(c)(ii) of the EPA Act 1992, as amended, requires the Agency to carry out an EIA in respect of an application for a licence relating to an activity of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 that the Agency determines would be likely to have significant effects on the environment.

(b) Irish legislation pertaining to EIA requires notices to be published in a newspaper that is circulated in the relevant area and/or published on-line and/or in site notices.

#### Planning:

With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended), Article 17 of the Planning and Development Regulations 2001 (as amended) requires applicants to:

publish a notice of intention to apply for planning permission in a newspaper (article 18) and erect a site notice (article 19) two weeks before the making of the planning application.

Such notices include information that an application is being made in respect of the proposed development to the relevant authority, a description of the development, the type of permission being sought, the location of proposed development, where the application itself may be inspected, and that submissions/observations may be made to the relevant authority within the specified period.

Article 27 requires the local planning authority to publish a weekly list of planning applications received. Article 72 requires An Bord Pleanála to publish the same with respect to appeals and applications for approval made direct to the Board.

#### In the case of a planning application subject to EIA:

Article 98 requires that notices advertising the proposed submission of a planning application state that any Environmental Impact Assessment Report (EIAR) prepared will be submitted as part of the application, where relevant, and available for inspection during office hours at the offices of the authority, free of charge. Where an EIAR is not submitted with a planning application but subsequently required by a planning authority to be submitted, a newspaper notice must be published advising of the above in accordance with Article 105. The same requirement to advertise the submission of an EIAR and where the report may be inspected is also provided for in respect of planning applications made direct to An Bord Pleanála, for example under sections 37E, 175 and 181A in respect of Strategic Infrastructure Development or where the Board require an EIA to be carried out in respect of a planning appeal under Article 112.



Section 172B of the Planning and Development Act 2000 requires that proposed developments requiring EIA must be notified to the EIA Portal within the 2 weeks before making an application. The Department of Housing, Local Government and Heritage hosts the EIA Portal website established under section 172A of the Act which provides a central point for notification to the public on relevant applications for development consent that are subject to EIA. The EIA Portal provides brief summary of the development consent application and a link to relevant information and documents associated with the application made available on the website of the relevant authority responsible for approving/refusing the application. The EIA Portal website facilitates an early and effective opportunity for any person to participate in the decision making procedures where EIA is required.

Article 130A requires that a planning authority's or An Bord Pleanála's weekly list, as the case may be, indicate that a proposed development may have transboundary environmental effects, where that is the case.

#### Environmental licences

Sections 85 and 87 of the Environmental Protection Agency Act 1992 (as amended) require applicants for a licence, or the Agency when reviewing a licence, to publish and/or give notice of the licence application. The Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013), as amended by S.I. 190 of 2020, and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 (S.I. No. 283 of 2013), as amended by S.I. 189 of 2020, require an applicant to publish a notice in a local newspaper and erect a site notice (regulation 4) of their intention to apply for a licence and where relevant documentation can be obtained/viewed. Regulation 4 requires the Agency to publish the information specified in regulation 5 on its website for any license application which is required to be accompanied by an environmental impact assessment report (EIAR) – i.e. to publish on their website, ‘at the latest as soon as practicable’, the following information: the application notification; the EIAR; any further information, including reports and advice, relating to the EIA as may be furnished to the Agency in the course of the Agency’s consideration of the application; any opinion issued by the Agency on the scope of the EIAR; and a statement that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity.

(c) National transposing measures to ensure that timeframes for public participation procedures are reasonable and thus allow time for effective participation during environmental decision making, include, inter alia:

#### Planning

With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended): Article 29 provides that the public can make submissions / observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application.

Article 30 provides that the planning authority cannot make a decision on the application until after the 5 week public participation period has expired.

The applicant or anybody who participated in the public participation procedure has 4 weeks to appeal any decision of the planning authority to An Bord Pleanála (article 31(k)).

The same 5-week period for submissions/observations is provided for in respect of planning applications for approval made direct to An Bord Pleanála or within a 4-week period in respect of a planning appeal.

#### Environmental licences

Section 82(2A)(bi) of the EPA Act 1992, as inserted by the European Union (Environmental Impact Assessment) (Environmental Protection Agency Act 1992) (Amendment) Regulations 2020 (S.I. No. 191 of 2020) requires the Agency to make an electronic version of any determination as to whether the activity to which a licence or revised licence applied for relates should be subject to environmental impact assessment.

The Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 (S.I. No. 189 of 2020) and Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020 (S.I. No. 190 of 2020) require the Agency to specify on its website, by reference to the date on which information regarding the application is made available on its website, a period, which shall be not less than 30 days, within which submissions may be made to it in writing in relation to the likely effects on the environment of the proposed activity for any license application which is required to be accompanied by an environmental impact assessment report (EIAR).

Section 87(2) of the EPA Act 1992 requires the Agency to publish its proposed decision and where it is proposed to grant a licence or revised licence to state where a copy of proposed licence or revised licence may be viewed. This notification must be given to any person who made a written submission in relation to the application (amongst others). Section 87(5) provides that any person may, subject to compliance with certain requirements, object to the proposed determination within 28 days from the date the notification under section 87(2) is sent.

Under regulation 37(3)(l) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013), the notice of the final decision published by the Agency must state that leave for judicial review has to be instituted within 8 weeks of the date the final decision is made, in accordance with section 87(10) of the Environmental Protection Agency Act 1992 (as amended).

(d) As illustrated by the timelines outlined above, Irish environmental law provides for early public participation. In all instances there is a chance for the public to participate before any final decisions are made.

(e) The relevant legislative provisions in relation to Annex I activities do not require a person who wishes to participate in the consent process to demonstrate any particular personal impact or interest.

Prospective applicants who wish to apply for a licence for Annex I activities are required by the Environmental Protection Agency (Industrial Emissions) Licensing) Regulations 2013 (S.I. No. 137/2013), the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013), and the Planning and Development Regulations (S.I. No. 600/2001) to notify the public before they make an application. Methods of notification include electronic notification, the erection of site notices at prospective sites and publishing of notices in newspapers stating where the proposed activity may happen. The notifications include the name of the relevant competent authority, whether an EIAR is necessary and where a copy of the application or further information may be obtained.

(f)

(i) - (ii) Ireland has taken the following measures to ensure that the public have access to all information relevant to the decision-making procedure (available at the time of the public participation) before a decision is taken and in particular the information listed in Article 6(6)(a) – (f) through the following legislation:

#### Planning

With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended),

Section 38 of the Planning and Development Act 2000 requires that a copy of the planning application and of any particulars, evidence, environmental impact assessment report (EIAR), other written study or further information received or obtained by the authority from the applicant and a copy of any submissions or observations received in relation to the planning application must be made available for inspection by the planning authority. In accordance with the Planning and Development Act 2000 (Section 38) Regulations 2020 (S.I. No. 180 of 2020) and the planning authority must also make documentation available on its website. Any EIAR submitted must be made available online in perpetuity on its website as well as available for inspection at its offices.

Under Section 146, An Bord Pleanála is required to make relevant information in relation to the application available for inspection at its offices at its offices or online. In the case of an application accompanied by an EIAR, the documentation associated with the application must be both made available for inspection and placed on its website and the EIA submitted with an application on its website in perpetuity.

#### Environmental Licences

The Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 (S.I. No. 189 of 2020) and the Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020 (S.I. No. 190 of 2020) require the Agency – for any license application which is required to be accompanied by an environmental impact assessment report (EIAR) – to publish on its website, ‘at the latest as soon as practicable’ and make publically available at the headquarters of the Agency, the following information: the application notification; the EIAR; any further information, including reports and advice, relating to the environmental impact assessment as may be furnished to the Agency in the course of the Agency’s

consideration of the application; any opinion issued by the Agency on the scope of the EIAR; a statement that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity; a notification where it is the case, that it appears to the Agency that the activity the subject of the application would, or is likely to, have significant effects on the environment in another Member State of the European Union; and the proposed determination.

Article 94 and Schedule 6 of the Planning and Development Regulations 2001, regulation 11 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 (S.I. No. 283 of 2013), amended by the Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 (S.I. No. 189 of 2020), the Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020 (S.I. No. 190 of 2020) and the European Union (Environmental Impact Assessment) (Environmental Protection Agency Act 1992) (Amendment) Regulations 2020 (S.I. No. 191 of 2020), require an EIAR to contain information corresponding with the requirements of Article 6.6(a)-(f) of the Convention, which is implemented in EU law by Directives 2011/92/EU and 2014/52/EU (EIA) and 2008/1/EC (IPPC) (recast by the Industrial Emissions Directive (2010/75/EU ).

(g) 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;

#### Planning

As highlighted above, Article 29 of the Planning and Development Regulations 2001 provides that the public can make submissions/observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application. The same 5-week period for submissions/observations is provided for in respect of applications for approval made direct to the Board or within 4 weeks in respect of a planning appeal.

Article 76 of the Planning and Development Regulations 2001 makes provisions for the public to make submissions/observations at an oral hearing to consider a planning application.

#### Environmental licences

As set out above, the Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 (S.I. No. 189 of 2020), the Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020 (S.I. No. 190 of 2020) require the Agency to publish a statement on their website, in the case of every licence application for which an EIAR is required, stating that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity. Regulation 22(f) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations (S.I. No. 283 of 2013) provide that notifications of proposed determinations shall specify that an objection can be made against the

Agency's proposed determination and how and where this can be made and that a person making an objection may, within the appropriate period and in writing, request an oral hearing of the objection.

(h) The following legislation provides that due account of public participation is taken in decision-making:

#### Planning

Section 34(3)(b) of the Planning and Development Act 2000 (as amended) provides that the planning authority, and An Bord Pleanála on appeal, must when considering an application for permission, have regard to any written submissions or observations concerning the proposed development made to it in accordance with the permission regulations by persons or bodies other than the applicant, as "any submission or observation as regards the making of a decision to grant permission and which is received by the planning authority not later than 4 weeks after the first publication of the notice shall be duly considered by the authority". An Bord Pleanála must, in the case of applications for permission made directly to it, consider such submissions and observations duly made as part of its decisions (for example, in the case of certain Strategic Infrastructure Development applications under Section 37G(2)(a), Section 175(6)(a) and Section 181B(1)(a).

#### Environmental Licences

Section 83(3)(e)(ii) requires the Agency in considering an application for a licence or revised licence to have regard to "any submissions or observations made to the Agency in relation to the EIAR".

(i) Ireland has taken measures to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures, through the following legislation:

Planning Section 7 of the Planning and Development Act (as amended) requires each local authority to maintain a planning register of their final decisions and accompanying documents which is to be available for viewing at their principal office. Planning authorities are also required to make available and display the list for inspection on its website.

Article 31 of the Planning and Development Regulations 2001 requires the planning authority to notify any body or person involved in the public participation procedure of the decision taken. Under article 31(k) this notice indicates that anyone who participated in the public participation procedure has 4 weeks to appeal any decision of the planning authority to An Bord Pleanála (in accordance with section 37(1) of the Act).

Article 32 of the Planning and Development Regulations 2001 requires the planning authority to make available its planning decision at its offices and at local libraries, for public inspection, or by electronic means. It can also be published in a relevant newspaper and any other place the planning authority considers appropriate. For 8 weeks afterwards, a copy of the list shall be sent to anyone who requests it at a reasonable or no charge.

Article 72 requires An Bord Pleanála to maintain a register that includes appeals and applications for approval of the Board which have been determined.

Article 74 requires An Bord Pleanála to notify any person who made submissions or observations regarding its decision.

Section 146 of the Act requires An Bord Pleanála within 3 days of its decision make documents relating to the matter available for inspection and may make these available online. In the case of an EIA application, these documents must be made available online by the Board.

#### Environmental Licences

Regulations 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 (S.I. No. 283 of 2013) require the EPA to publish its final decision and the reasons for its decision.

Section 91 of the Environmental Protection Agency Act 1992 (as amended) requires the EPA to keep a register of licences at the Agency's headquarters. This register is also available from the Agency's website at [www.epa.ie](http://www.epa.ie).

(j) Where a consent or decision is reconsidered by the relevant competent authority Ireland has applied the provisions of Article 6(2) to (9) in the following manner:

#### Environmental Licences

Regulations 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 (S.I. No. 137 of 2013) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations (S.I. No. 283 of 2013) require the Environmental Protection Agency to publish its final decision and the reasons for its decision in respect of review of licences.

(k) Ireland is a Party to the Cartagena Protocol on Biosafety, which is implemented through a range of legislative measures, and EU law including:

Directive 98/81/EC on the contained use of genetically modified micro-organisms which was transposed into Irish law under the Genetically Modified (Contained Use) Regulations 2001 (S.I. No. 73 of 2001).

Directive 2001/18/EC, as amended, on the deliberate release into the environment of genetically modified organisms which was transposed into Irish Law as the GMO (Deliberate Release) Regulations (S.I. No 500 of 2003), as amended.

Regulation 1946/2003 on the transboundary movement of GMOs which is regulated in Ireland under the Genetically Modified Organisms (Transboundary Movement) Regulations 2004 (S.I. No. 54 of 2004).

## 2. Obstacles encountered in the implementation of article 6.

Submissions received raised issues with lack of online facilities for public consultations, particularly in the areas of planning. A number of projects are being developed to assist in this regard:

The ePlanning project which is currently being developed seeks to integrate the IT systems of the 31 planning authorities using a single online portal allowing for the online submission of planning applications, appeals, submissions and associated fees. Once fully rolled out, ePlanning will provide an online option for the public to engage with the planning system, in addition to the paper-based system.

An Bord Pleanála has introduced an online facility to accept public observations and fees relating to Strategic Housing Applications. The Board intends to use its experience with this pilot project to inform the development of similar facilities for other case types over the next two years. The Board is currently in the process of finalising development of a new upgraded website which will be more user-friendly and informative. The new website is currently scheduled to go live before the end of Quarter 1 2021. This will further help to improve communications and interaction between An Bord Pleanála and the public.

Fees for submissions were raised as a matter of concern. However, the fees for making submissions or observations on planning applications and appeals are set at levels intended to discourage frivolous or vexatious submissions, without deterring persons with genuine concerns or interest in proposed developments from making submissions. The fees are modest, compared to the cost for planning authorities and the Board in processing applications and appeals.

### 3. Further information on the practical application of the provisions of article 6.

The response to Question XV (b) to (j) lists in detail the legislative provisions which underpin the Article 6 requirements with respect to IPC licences and planning consents. Similar requirements are provided for in other EIA consent systems.

The requirements introduced into the above legislation include: notification requirements including transboundary notifications; notification of public participation; providing information on the final decision to the public; and provisions in relation to the alteration or replacement of an existing EIA project. These requirements have been introduced by the European Communities (Environmental Impact Assessment) Regulations 1989, and in amending regulations.

As discussed above any proposed determinations of licence applications and final licences granted by the EPA for Annex I activities are required to be published by the Agency on its website to ensure that any member of the public can comment on the licence application.

The information to be contained in the advertisement includes:

the name and address of the applicant or the licensee;

a description of the proposed activity;

the location of the premises to which the application or review relates, the date of the giving of the notification;

the manner in which the Agency proposes to determine, and when they have determined the final determination, the application or review;

where a copy of the proposed licence or revised licence or the proposed reasons for refusal, as the case may be, may be obtained;

that an objection which shall include the grounds for the objection may be made to the Agency within the appropriate period and

that a person making an objection may, within the appropriate period and in writing, request an oral hearing of the objection.

The information to be included in the licence application includes, inter alia:

whether an EIAR is required and, if it is, a copy of the EIAR submitted or, if it is not required, evidence, by way of a letter from the relevant planning authority or An Bord Pleanála that it is not needed, as required under section 87(1B)(b) of the Environmental Protection Agency Act 1992 (as amended) (S.I. No. 282/2012),

the plant, methods, processes, ancillary processes, abatement, recovery and treatment systems, and operating procedures for the activity,

the raw and ancillary materials, substances, preparations, fuels and energy which will be produced by or utilised in the activity,

particulars of the source, nature, composition, temperature, volume, level, rate, method of treatment and location of emissions, and the period or periods during which the emissions are made or are to be made,

monitoring and sampling points and an outline of proposals for monitoring emissions and the environmental consequences of any such emissions, details, and an assessment, of the impacts of any existing or proposed emissions on the environment as a whole, including on an environmental medium other than that or those into which the emissions are, or are to be, made,

the measures to be taken under abnormal operating conditions, including start-up, shutdown, leaks, malfunctions, breakdowns and momentary stoppages,

details of the proposed measures to prevent or eliminate, or where that is not practicable, to limit, reduce or abate emissions,

an outline description of the main alternatives to the proposed technology, techniques and measures which were studied by the applicant,

a description of the measures to be taken for minimising pollution over long distances or in the territory of other states, and

a non-technical summary of information provided.

The EPA has produced guidelines/flowcharts to assist the public in understanding the licensing process, including when and how to get involved in the public participation process. An example of these guidelines/flowcharts can be seen at:

- Industrial emissions / integrated pollution and prevention control flowchart



- Waste licence flowchart
- Waste water discharge flowchart
- Review of Waste Certificate of Registration Process - Local Authority
- Private Sector - Do I need a Waste Licence, Permit or Certificate of Registration
- Certificate of Registration Application Process - Local Authority
- Guidelines on the Information to be Contained in an Environmental Impact Assessment Report

4. Website addresses relevant to the implementation of article 6.

See relevant sections above.

## Article 7

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

The provisions of Article 7 of the Convention fall within the competence of the European Union, Directive 2003/35/EC providing for public participation in respect of the drawing up of plans and programmes relating to the environment. The provisions made by Ireland to ensure that the public have an opportunity to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7, have been enacted in accordance with European legislation in this area. Ireland has thus fulfilled its obligation under Article 7 through its implementation of Directive 2003/35/EC.

Strategic Environmental Assessment (SEA) legislation provides for strategic environmental consideration at an early stage in the decision making process and is designed to complement project based EIA. Irish legislation (European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004)) implementing the SEA Directive (2001/42/EC) provides for public consultation in relation to plans and programmes across 11 specific sectors, in development and local area plans, as well as regional economic and spatial strategies and strategic development zones. Provisions regarding public participation are laid down in set time frames (as required by Article 6(3)), at the beginning of the plan making process (as required by Article 6(4)) and submissions or observations shall be taken into account in the final decision (as required by Article 6(8)).

## Planning

In respect of land-use planning,

Article 13A, 13K , 14A of the Planning and Development Regulations 2001 (S.I. No. 600/2001) (as amended by S.I. No. 436 of 2004 and S.I. No. 201 of 2011) provide for the carrying out of Strategic Environmental Assessment (SEA) for development plans, variations to development plans and local area plans and variations of such plans considered by the planning authority likely to have significant effects on the environment having regard to criteria set out in schedule 2A.

Article 179A of the 2001 Regulations requires that all planning schemes for strategic development zones undergo SEA.

Article 15B requires that all regional spatial and economic strategies to be adopted by Regional Assemblies be subject to SEA.

The Planning and Development Act 2000 (as amended) provides for the publication of notifications of proposed plans or proposed amendments to plans in a newspaper circulated in the area of the public concerned before any plans/decisions are finalised, of:

Development plans and variations thereto (Sections 11 and 13);

local area plans and variations thereto (section 20);

regional spatial and economic strategies (section 24);

strategic development zones (section 169)

Articles 13F, 13O, 14F, 15E of the Planning and Development Regulations 2001 applies the above requirements with respect to a trans-boundary SEA in respect of land-use plans.

These provisions provide for public participation at the beginning of the plan making process (it is required to publish a notification of the proposals in one or more newspapers relevant to the area covered by the plan; this notice is required to state that it is proposed to make, amend or revoke a plan, where a copy of the proposal and the plan (where appropriate) may be inspected and that submissions or observations received during this time will be taken into consideration and also for public participation during the drafting of the environmental report, with further public notification requirements, and that an opportunity be afforded to the public to make submissions or observations on the draft reports before final decisions are made. Submissions or observations must be taken into account in the final decision.

Other sectors (non-land use planning)

In respect of the other sectoral plans, these provisions were set out by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004) as amended by the European Communities (Environmental Assessment of Certain Plans and Programmes) (Amendment) Regulations 2011 (S.I. No. 200 of 2011):

Article 9(1) requires an assessment to be carried out for plans and programmes in the following areas: agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.

Article 13 requires the competent authority to publish notice of the preparation/proposed amendment to the plan/programme in at least one newspaper with a sufficiently large circulation in the area the plan covers, stating where a copy is available for a minimum of 4 weeks and that the competent authorities are required to take submissions and opinions expressed during the consultation phase into account before a final decision is made.

Article 15 requires the competent authorities to take into account submissions and opinions expressed in the consultation procedures under articles 13 and 14 (Article 14 provides for transboundary consultations).

#### Other plans, programmes and policies relating to the environment

Furthermore, in practice, public consultations are held in relation to plans, programmes and policies relating to the environment. For example, see the public consultation pages on Gov.ie and the websites of DECC, DHLGH, EPA and Department of Agriculture, Food and Marine. Local authorities carry out public consultations on plans (e.g. local development plans) and strategies that may have an effect on the environment, see for example the consultation page of Cork County Council.

In addition, Public Participation Networks (PPNs) were introduced following the enactment of the Local Government Act 2014, resulting from the report of the Working Group on Citizen Engagement with Local Government. This report made recommendations on more extensive and diverse input by citizens into decision making at local government level. It recommended that PPNs be established in each local authority area to enable the public to take an active formal role in relevant policy making and oversight committees of the local authority. PPNs are now established in all local authority areas, supported by funding from the Department of Rural and Community Development and from local authorities.

PPNs are empowering local communities by enabling them to take an active formal role in relevant policy making across a range of areas of responsibility in each local authority area. This allows the diversity of voices and interests within a community to be facilitated and involved in decision making. All members of communities may access local government through these new arrangements. While PPNs have been established to accommodate public participation on policy making generally environmental groups form one of the three electoral colleges in each PPN (the others being social inclusion groups and community and voluntary groups).

The environmental college consists of member groups whose main aims and activities are environmental (i.e. ecological) protection and / or environmental sustainability. This gives environmental matters a great deal of prominence within PPNs. There are currently over 600 volunteer-led groups across the country registered with the environmental electoral college of their local PPN.

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

See previous answer regarding public participation with respect to policies.

The Cabinet Handbook states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also a requirement to conduct a Regulatory Impact Analysis (RIA) before any policies (both regulatory and non-regulatory) are officially adopted.

Ireland has adopted a two stage approach to RIAs where an initial preliminary RIA identifies which regulations should be subject to a detailed RIA. Both the screening RIA and the full RIA require the effects of any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders. The full RIA provides for broader access by the public to the consultation procedure.

The introduction of the RIA process in June 2005 provided that a RIA must be conducted by all Policy Review Groups proposing primary legislation or a significant regulatory change.

RIA Revised Guidelines – How to Conduct a Regulatory Impact Analysis state that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

The RIA guidelines explicitly state that consultation with the public should commence as soon as possible and the RIA should develop in response to the consultation.

In November 2016, DPER published Consultation Principles and Guidelines replacing the previous guidelines on consultation for public sector bodies [see XXIV for further information].

7. Obstacles encountered in the implementation of article 7.

Concerns around lack of public awareness of public participation were raised as part of the public consultation. However, figures on recent public consultations demonstrate that many members of the public do participate in public consultations e.g., the public consultation in respect of the Forestry Amendment Bill 2020 received 8,888 submissions.

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

See response to question XIX.

9. Website addresses relevant to the implementation of article 7.

See relevant sections above.

## Article 8

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

Ireland has developed the following national policy to ensure that efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8.

Regulatory Impact Analysis (RIA) is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves a detailed analysis to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side

effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.

The Cabinet Handbook states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also an official requirement to conduct a RIA before any policies (both regulatory and non-regulatory) are officially adopted.

While the Oireachtas (Parliament) is not required to hold public consultations when it considers draft legislation, although it regularly chooses to do so, either by a general call for submissions or by engaging with the most relevant stakeholders. Moreover, before the Government publishes a Bill, there is usually a consultation process. The relevant Department may publish a Green Paper setting out the Government's ideas and inviting opinions from individuals and organisations. Before a Bill is finalised, a general scheme of the Bill may be published. The general scheme of a Government Bill undergoes scrutiny by a parliamentary Committee before the text of the Bill is finalised. The relevant Committee may invite stakeholders to participate by attending meetings to discuss the general scheme of the Bill. At the end of the pre-legislative scrutiny, the Committee produces a report and lays it before the Houses of the Oireachtas. The report makes recommendations on the Bill based on the Committee's scrutiny. Documents laid before the Oireachtas are available to the public online. Private Members' Bills undergo a similar process of scrutiny by a parliamentary Committee only if they pass the second stage in the Lower House. Policy briefings of the research service of the Parliament include an appraisal of the ex-ante impact assessment prepared by the Government. The research service also prepares policy analysis in relation to private Members' bills. Statutory Instruments, made by Ministers under powers granted by Acts of the Oireachtas, are laid before the Houses of the Oireachtas, which have the power to annul them within 21 days.

### **Regulatory Impact Analysis**

As noted above, both stages in the Irish RIA process require any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders.

Guidelines and further details on the RIA process are included in the following:

Regulating Better - the Government White Paper which sets out 6 principles of better regulation: necessity, effectiveness, proportionality, transparency, accountability and consistency. Transparency involves empowering citizens by giving access to information which enhances their decision making abilities as consumers and as participants in the community and aims to provide maximum clarity and openness in the operation of government and public administration.

The introduction of RIA in June 2005 provided that all Government Departments and Offices must conduct a RIA on all proposals for primary legislation involving changes to the regulatory framework; on significant statutory instruments and on proposals for EU Directives and significant EU regulations published by the European Commission.

The RIA Revised Guidelines – How to Conduct a Regulatory Impact Analysis state that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

Consultation with the public is specifically provided for at both stages in the RIA procedure. The guidelines state that consultation should commence as soon as possible and the RIA should develop in response to the consultation.

As noted in the response to question XI (g) the RIA guidelines provide that RIAs prepared in line with the Government decision on RIA be published and that the published RIA contains the information which has been considered in the process of policy making.

As noted in response to question XX, the Department of Public Expenditure and Reform issued Consultation Principles and Guidelines for public sector bodies. This sets out some best practice guidelines in how a public consultation should be run. [See response to XI(g) for more information].

The 2016 Public Consultation Principles and Guidance are referenced with further additional measures designed to improve communications and engagement with the public, under Action 4 of Our Public Service 2020, the Development and Innovation Framework for Ireland's Public Service, published in 2017. These measures include:

- Public service organisations will continue to improve engagement with the public and businesses through mechanisms such as open policy debates, focus groups, seminars, social media and crowd-sourcing solutions from the public, academics, practitioners and experts. The knowledge gained from these platforms will assist the development and application of new approaches to policy design, evaluation, consultation and implementation.
- Public Participation Networks, which are now established in all Local Authority areas, will continue to be developed and strengthened to provide a mechanism for citizen engagement, ensuring that local voices are heard in decision making at local level.
- Public service organisations will continue to improve engagement with individuals on those services where better outcomes can be achieved by designing the service around the specific needs of the individual, building on work already undertaken in the health sector.
- Public servants will follow the 2016 Public Consultation Principles and Guidance. At central level a consultation website in line with Ireland's Open Government Partnership National Action Plan 2016-2018 will be developed to make consultations easier to access.
- Public service organisations will conduct regular customer surveys to identify areas where services could be improved and feed the results back to central government.

11. Obstacles encountered in the implementation of article 8.

N/A

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

Details of the programme for Government reform are provided at <http://per.gov.ie/government-reform/>. See relevant sections above.

### 13. Website addresses relevant to the implementation of article 8.

See relevant sections above.

## 23. Italy

### Article 6

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

(a) With regard to paragraph 1, measures taken to ensure that the provisions of Article 6 are applied for (i) permits concerning the activities listed in Annex I to the Convention and (ii) permits not concerning the activities listed in Annex I but having a significant environmental impact

Article 6, which ensures public participation in the authorisation procedure for certain specific activities, is mainly implemented in Italian Legislative Decree no. 152/2006 as amended by Italian Legislative Decree no 91/2014 (converted into Italian Law 116/2014) and Italian Ministerial Decree 30/03/2015 (regarding projects under the responsibility of the Regions and Autonomous Provinces). In fact, in part II Italian Legislative Decree 152/2006 regulates the procedures for the Strategic Environmental Assessment (SEA), the Environmental Impact Assessment (EIA) and the Integrated Environmental Authorisation (IEA) providing for consultation mechanisms with all social stakeholders.

The REACH regulation (EC no. 1907/2006) concerning the registration, evaluation, authorisation and restriction of chemical substances also establishes that citizens of the European Union can participate in the decision-making processes on chemical substances. This participation is guaranteed through the public consultation procedure followed by the ECHA (European Chemicals Agency) with an invitation to interested parties to express observations, opinions, proposals and comments at certain stages of the required procedure. Notices on current consultations (translated into Italian) are available on the portal [www.reach.gov.it](http://www.reach.gov.it). Furthermore, in order to broaden the awareness and involvement of citizens and stakeholders, starting in 2019 MiTE launched public consultations on the final ECHA opinions on restrictions and recommendations for the inclusion of substances of very high concern (SVHC) in Annex XIV of the REACH Regulation (substances requiring authorisation). These consultations are aimed at acquiring further useful elements for the definition of a national position on measures concerning bans and limitations of chemical substances (<http://consultazionireach.mite.gov.it/>).

In the case of plans or projects that may have a significant impact on a Natura 2000 site, the Impact Assessment procedure introduced by Article 6 of Directive 92/43/EEC (Habitats Directive) applies. Impact assessment is a prevention tool that analyses the effects of interventions in a dynamic ecological setting such as that of Natura 2000 sites. With the adoption of the National

Guidelines for Impact Assessments (OJ 303 of 28.12.2019), the methods of public participation and access to environmental information regarding the procedures referred to in art. 6, paragraphs 3 and 4 of the Habitats Directive were clarified.

(b) Measures to ensure that the public concerned are adequately, promptly and effectively informed of decision-making on environmental issues as envisaged in paragraph 2 Article 3-sexies of Italian Legislative Decree no. 152/2006 allows "access to information relating to the state of the nation's environment and countryside" regardless of the demonstration of a legally relevant interest and ensures public participation in the process of drawing up, modifying and reviewing proposals for plans or programmes related to the environment before decisions are taken on them.

Public awareness of Environmental Assessment procedures is ensured by the competent authority (MiTE or regional competent authorities), which for the duration of the public consultation phase envisaged by the regulation publishes on its website:

For the SEA procedure: announcement of commencement of the procedure, the proposal of the plan or programme and the environmental report.

For the EIA procedure: the main documents filed (preliminary project, preliminary environmental study), and the notice published in the press by the proposer in national newspapers and in a regional newspaper (for projects under state responsibility) or a regional or provincial newspaper for projects administered regionally).

For both procedures: the possibility of submitting observations. The authority is responsible for publishing a notice in the Official Journal of the Italian Republic or in the Official Journal of the region or autonomous province concerned.

Public awareness of Strategic Environmental Assessment (SEA) procedures is ensured by the competent authority (MiTE or regional competent authorities), which for the duration of the public consultation phase envisaged by the regulation publishes on its website:

- Announcement of commencement of the procedure, the proposal of the plan or programme and the environmental report.

- The procedure for submitting observations. The competent authority is responsible for publishing a notice in the Official Journal of the Italian Republic or in the Official Journal of the region or autonomous province concerned.

(c, d) Measures to ensure that the timing of public participation procedures complies with paragraph 3; with regard to paragraph 4, measures to ensure that public participation takes place at an early stage of the decision-making process. The timing for submitting observations changes based on the specific evaluation procedure, but is never less than 30 days: MiTE, or the competent regional authorities, may acquire and evaluate any observations received after the terms set by the law, consistent with the timing envisaged by Italian Legislative Decree



no. 152/2006 and subsequent amendments for the performance of technical and structural activities and for the expression of the final measure.

(e) With regard to paragraph 5, measures to encourage the prospective permit applicant to identify and involve the public, providing information on the objectives of its application prior to submission

In Italy, the evaluation processes for Community programmes in the 2014-2020 programming period presented an opportunity to develop procedures, methods of participation and, above all, forms of inter-institutional cooperation (surveys, questionnaires, meetings) that now constitute a solid foundation for administrations and that are also of great help for evaluation processes in other planning areas.

(f, g) With regard to paragraph 6, measures to ensure that competent authorities provide the public concerned with all information relevant to the decision-making process referred to in Article 6; with regard to paragraph 7, measures to allow the public to submit comments, information, analyses or opinions relevant to the proposed activity

The availability of technical and administrative documentation relating to environmental assessment procedures by the relevant competent authorities ensures public participation in decision-making processes. The participation procedures allow the public to present any observations or requests for information, analysis or opinions deemed relevant not just "in writing or, as the case may be, during hearings or public investigations in the presence of the applicant" as envisaged by the current text of Article 6 of the Convention, but also "electronically", in the manner established by Italian Legislative Decree no. 82/2005 as amended.

(h) With regard to paragraph 8, measures taken to ensure that the results of public participation are taken into due consideration in decision-making  
The results of the consultations must be duly taken into account and form an integral part of the plan, programme or project documentation. In fact, in accordance with the methods of the various procedures, the documentation must provide evidence of how such considerations have been taken into account. The comments presented by the public are made available online by MiTE and many Regions.

(i) With regard to paragraph 9, measures taken to ensure that the public is promptly informed of the decision  
The provision of the Environmental Impact Assessment process by the EIA/SEA Commission and the Decree on environmental compatibility is published in newspapers, in the Official Journal, or in the Official Journal of the Region and on the website of the competent authority.

(j) With regard 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 laid down in paragraphs 2 to 9 shall be applied, with appropriate amendments and where appropriate Public participation is also envisaged in the screening procedure aimed at defining whether or not the project or plan presented – or modifications and extensions thereto – may have a significant environmental impact, and therefore should be subject to an additional EIA/SEA procedure. Monitoring ensures a control of significant impacts on the environment deriving from the

implementation of the approved projects, the implementation of the approved plans and programmes and the verification of the achievement of the sustainability objectives established, and therefore makes it possible to identify any need for application of the provisions of para. 2-9. Monitoring is carried out by the relevant Authority in cooperation with the competent Authority, also working with environmental agencies and ISPRA.

(k) With regard to paragraph 11, measures taken to apply the provisions of Article 6 to decisions concerning the release of Genetically Modified Organisms (GMOs) into the environment In 2005, MiTE established the web platform called Italian Biosafety Clearing House (BCH) with the following goals:

Implement the obligations set out in the Cartagena Protocol on Biosafety, ratified by Italian Law no. 27 of 14 January 2004 on public awareness and participation (Article 20 of the Cartagena Protocol).

Implement the Aarhus Convention and the Almaty Amendment on GMOs; comply with European Union legislation (Directive 2001/18/EC) and Italian legislation (Legislative Decree no. 224 of 8 July 2003) on information and public consultation on GMOs.

## 2. Obstacles encountered in the implementation of article 6.

While public participation is envisaged and regulated at a legislative level, there are still weaknesses relating to the actual participation of the public in these decision-making processes. Above all there is a need for:

- An increased propensity to participate and cooperate.
- National guidelines on participation, partnership and consultation.

## 3. Website addresses relevant to the implementation of article 6.

Page on the MiTE website on EIAs and SEAs: [www.va.mite.gov.it](http://www.va.mite.gov.it)

MiTE page dedicated to IEAs: [www.aia.mite.gov.it](http://www.aia.mite.gov.it)

## **Article 7**

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

The text of Article 7 calls for the application not only of paragraphs 3, 4 and 8 of Article 6, but also of paragraph 7 of Article 6 (thus ensuring that the participation procedure allows the public to present any observations on plans, programmes and policies of an environmental nature in the same forms as those already envisaged in the previous Article 6 with respect to participation in decisions relating to specific activities).

Italian Legislative Decree no. 152/2006 and subsequent amendments (see in particular Italian Legislative Decree no. 128/2010) "Environmental regulations" transposes EU Directive 2001/42

and reorganises the Italian legislation on the environment, updating it with the regulations deriving from the relevant European directives. Part Two, Title II regulates the Strategic Environmental Assessment (SEA), which can be considered the primary instrument for public participation in decision-making processes.

At the local level, public participation is also promoted through numerous legislative and/or statutory provisions. One example is the Regional Law of Emilia Romagna no. 3/2010, art. 6 which establishes various instruments for promoting participation, for example through “a special annual session on the participation of the Legislative Assembly” and a “report on participation in the territory of the region”.

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

The term "policies" incorporates plans, programmes, strategic and regulatory documents that contribute to defining an orientation. Public participation in the preparation of environmental policies is promoted using the methods enumerated in the previous section and through online public consultations.

Between 2018 and 2021, MiTE launched numerous online consultations on strategies, programmes and action plans, such as the National Climate Change Adaptation Plan (PNACC), the Integrated National Energy and Climate Plan (PNIEC) (2019), the Long-term Strategy on Reducing Greenhouse Gas Emissions (2019) and the National Strategy on Sustainable Development.

PNIEC, an example of extensive consultations at the end of 2019, Italy sent the European Commission the Integrated National Plan for Energy and Climate (PNIEC) for the period 2021-2030 aimed at identifying national policies and measures to comply with European objectives on climate change and renewable energies. Preparation of the PNIEC involved the following: Online public consultation: started on 20 March 2019 using a dedicated online portal and ended on 5 May 2019. Expert consultation: outside experts such as independent authorities, concessionaires like TSO (TERNA, SNAM), distributors, research bodies and universities, independent experts and trade and workers' associations were invited to participate with 49 questions. Discussions with regions and local authorities: the PNIEC proposal was the subject of talks with the Regions and local authorities during the conference of state-regions-cities and local governments. Recommendations from the European Commission: Italy took an active part in all meetings of the technical group held between 2018 and 2019. Strategic environmental assessment: the two phases of consultation were carried out. Discussions with other member states: in 2019 consultations were launched with the neighbouring/interested countries – Slovenia, Hungary, Croatia, Austria and Malta – and continued afterwards.

National Strategy on Sustainable Development: in accordance with the provisions of Article 3 of Italian Law 221/2015, MiTE updates the Strategy after consulting with the recognised environmental associations. To update the National Strategy, the Ministry has already started consulting civil society during the preliminary phase of this work, consisting of an initial analysis and assessment of Italy's positioning with respect to the 17 objectives (SDGs) and the 169 targets of the 2030 Agenda.

The Italian Long-Term Strategy for decarbonisation (LTS), developed in cooperation with the Ministry of Economic Development, the Ministry of Infrastructure and Transport and the Ministry of Agriculture, Food and Forestry Policies, outlines the direction that Italy will have to follow for the next 30 years to ensure the decarbonisation of the economic and social system, seeking to arrive at "climate neutrality" by 2050. It was adopted in February 2021. The Strategy will have a profound and wide-ranging impact on the national socio-economic system, therefore several consultations have been organised:

October 2019: online public consultation in the form of a multiple-choice questionnaire, concluded in November 2019. Section 2 is addressed to civil society in order to learn about respondents' propensity to change their lifestyle and how they think their habits may be influenced by the transition to a low-carbon economy. Section 3 is aimed at experts working in the fields of industry, transport, agriculture and land use, sectors that will play an important role in the decarbonisation process. 61 completed questionnaires were collected, of which 28 came from citizens and 33 from private associations/companies. The sector of greatest public interest was transportation.

Sectoral technical meetings with trade associations, key players, environmental associations, trade unions, consumers and think tanks, in order to collect information, especially on technologies with greater potential for decarbonisation.

In 2016 the development of the National Plan for Adaptation to Climate Change (PNACC) was launched, and during 2017 and 2018 the contents of the draft PNACC were shared with state public administrations, regional and local institutions, research bodies and various stakeholders. Two electronic public consultations and a scientific review were carried out during the same period. After an examination by the Conference of Regions and Autonomous Provinces, a structured participatory process for the PNACC was initiated, like the one for the SEA procedure, and in June 2020 the request for the start of the verification of eligibility for the SEA of the PNACC was submitted to the competent Authority, thus resulting in a consultation with the Parties Competent in Environmental matters (PCE). The evaluation phase of the preliminary Report has now been launched and consultation on this phase is still open to PCEs. The public will be involved in the next phase of evaluating the Environmental Report.

Several Round tables are also planned to promote a discussion on environmental issues, such as the coastal erosion round table coordinated by ISPRA with CNR and the university network; the information and consultation round table with consumer associations on the REACH Regulation (see chapter III); the consultation round table on the National Biodiversity Strategy.

Also worthy of note is Directorial Decree no. 86 of 16/06/2015 that adopts the National Strategy for adaptation to climate change which in Art. 2, paragraph 2 calls for the establishment at MiTE of a "Permanent Forum for the promotion of information, training and decision-making capacity of the public and stakeholders" and a "National Observatory composed of local and regional representatives for the identification of territorial and sectoral priorities, as well as for the subsequent monitoring of the effectiveness of adaptation actions".

Similarly, the governance structure of the National Biodiversity Strategy calls for the establishment of a Joint Biodiversity Committee composed of representatives of central

administrations and autonomous regions and provinces, supported for technical and scientific aspects by the National Biodiversity Observatory composed of representatives of institutions, research bodies, protected areas of national and regional importance and scientific companies. Finally, the last body of the governance structure is the Consultation Round Table comprised of representatives of the main economic, production and environmental associations, thus ensuring the full and constant involvement of stakeholders in the process of implementing and reviewing the strategy.

#### 6. Obstacles encountered in the implementation of article 7.

In some cases, there was a delay in starting the evaluation process with respect to the planning phase. Furthermore, information on public consultations is not always adequately disseminated by administrations and there may not be clear feedback on the concrete impact determined by public participation on the decision-making process.

#### 7. Website addresses relevant to the implementation of article 7.

- Long-term Italian strategy on the reduction of greenhouse gas emissions: <https://www.mite.gov.it/notizie/cambiamenti-climatici-trasmessa-bruxelles-la-strategia-nazionale-di-lungo-periodo> and consultations: <https://www.mite.gov.it/comunicati/clima-al-oggi-la-consultazione-pubblica-sulla-strategia-di-lungo-termine>
- Integrated energy and climate plan: <https://www.mite.gov.it/comunicati/pubblicato-il-testo-definitivo-del-piano-energia-e-clima-pniec#:~:text=Roma,%2021%20gennaio%202020%20-%20E%20stato%20pubblicato,Sviluppo%20Economico,%20dell'Ambiente%20e%20dell'e%20Infrastrutture%20e%20Trasporti> and MiTE page dedicated to PNACC SEA consultations: <https://www.mite.gov.it/pagina/valutazione-ambientale-strategica-del-piano-nazionale-di-adattamento-ai-cambiamenti-climatici>
- Coordination of 21 local agendas: [www.A21italy.it](http://www.A21italy.it)
- Page on the MiTE website on EIAs and SEAs: [www.va.mite.gov.it](http://www.va.mite.gov.it)
- Sustainable Development Strategy: <http://www.mite.gov.it/pagina/la-strategia-nazionale>

### **Article 8**

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

Currently there is no institutional procedure governing public participation in the preparation of legislative acts at a national level, but mechanisms have been established that allow public involvement in legislative activities (e.g. during "parliamentary hearings" representatives of the public/associations are invited to comment on draft legislation under discussion at the level of the parliamentary committee, interested parties can also submit their comments "electronically", in the manner envisaged by Italian Legislative Decree 82/2005 and subsequent amendments).

Another tool used for public consultations, according to Italian Law 352/70, is that of "petitions" (in the form of a bill or complaint of common needs). These can be submitted by at least 50,000

citizens and are analysed directly by the relevant parliamentary committee or submitted to the government. Petitions can also be submitted at the local government level.

Moreover, all legislative proposals and information on ongoing parliamentary activities are published on the parliament's website ([www.parlamento.it](http://www.parlamento.it)). It is then possible to contact the members of parliament by email.

The direct democracy tool of the "referendum" is also widely used, usually to repeal a law. At the regional level, the founding by-laws of the regions and the autonomous provinces affirm the principle of public participation (both by individuals and by associations) in the legislative, administrative and governmental activities of the regional institutions (see for example the by-laws of the regions of Umbria and Bolzano). Finally, note that in the preparation of legislative measures, especially draft laws based on government initiatives, the impact analysis of the measure (introduced by Italian Law no. 246 of 2005) must specify the categories and the parties – public and private – addressed by the regulatory intervention, and, most importantly, the proposals and considerations of such parties must be taken into account through appropriate consultation procedures. An estimate of the information costs and related administrative costs to citizens and businesses that are introduced or eliminated must also be presented.

#### 9. Obstacles encountered in the implementation of article 8.

It is sometimes difficult for administrations to systematically activate direct participation processes that follow predictable and structured rules throughout the regulatory process. The fragmentation of associations – not always aggregated in second-level networks – multiplies the number of interlocutors and therefore reduces their representativeness.

#### 10. Further information on the practical application of the provisions of article 8.

River Contracts (RCs) and the establishment of the National Observatory of River Contracts

River Contracts or contracts for lakes, water tables, coasts and so on are instruments for the definition and implementation of action programmes shared between public and private entities through the signing of an agreement – the contract – that establishes the decisions taken through a participatory process.

Italian RCs started in early 2000s in Lombardy and then spread to Piedmont. Since 2007 they have extended to the rest of the country thanks also to the National Round Table of RCs (TNCdF) launched as part of the activities of the Coordination of 21 Local Italian Agendas, with the aim of promoting the knowledge and dissemination of this tool. In 2015 a working group coordinated by MiTE with ISPRA produced a methodological reference document "Definition and basic qualitative requirements of the RC". Pursuant to Article 68 bis of Italian Legislative Decree no. 152 of 3 April 2006, RCs "contribute to the definition and implementation of district planning tools at the basin and sub-basin level, such as voluntary strategic and negotiated planning tools that pursue the protection, correct management of water resources and the promotion of river territories, together with the protection against water risks, contributing to the local development of these areas". Given the considerable spread of RCs throughout the country, MiTE established a National Observatory of RCs (ONCdF) (referred to in the Decree of the Minister of the

Environment and Protection of Land and Sea no. 77 of 8 March 2018) in order to monitor their dissemination, helping to connect the various experiences and perform guiding and coordinating functions for the harmonisation of their application at a national level.

The ONCdF carries out training, support and communication on the subject and makes use of a National RC Platform (PNCdF) in order to ensure an ever-increasing monitoring of the processes, as well as a continuous exchange of good practices and information on the subject.

The RC is a good practice capable of contextualising public policies at the local level through a participatory and integrated management of water resources, with a "bottom-up" approach and the direct involvement of stakeholders who become active partners.

As part of the transposition of the EU directives on the "Circular Economy Package", the Ministry ensured participation of the public (stakeholders) through the publication of the preparatory documents and the comments submitted in this regard. To this end, a special email address was created for the submission of contributions, and a deadline was also set for their receipt.

In 2018 the Ministry also organised a General Assembly of the Consortia, an initiative aimed at starting a process of strategic-programmatic development open to stakeholders in order to define an adequate model of waste/resource management with a view to a circular economy.

## 24. Kazakhstan

### Article 6

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

On the basis of the subparagraph 4 of the paragraph 1 of Article 13 and the subparagraph 3 of the paragraph 1 of Article 14 of the EC, public has a right to participate in a government's decision making procedure on issues related to environment in the manner prescribed by the legislation of Kazakhstan;

Currently the following laws and regulations for the implementation of Article 6 of the EC in Kazakhstan are accepted and executed:

- EC (articles 17, 45, 46, 49, 57, 135);
- Instructions for the EIA (the decree of Ministry of Environment and Water resources on June 28, 2007 №204-p) as amended on 06/17/2016 number 253.
- On Approval of Rules of the state ecological expertise. Decree of the Minister of Energy of the Republic of Kazakhstan dated February 16, 2015 № 100. Registered in the Ministry of Justice of the Republic of Kazakhstan May 12, 2015 № 11021
- Rules for public hearings (Ministry of Environment and Water Resources decree number 135 of May 7, 2007 as amended on March 26, 2013 №50-Θ, as amended on 21/6/2016 number 260);

- Rules of access to environmental information relevant to the EIA procedure and decision-making on planned economic and other activities ( Ministry of Environment and Water Resources decree of July 25, 2007 N238-p) as amended by 21/6/2016 number 258;
- The list of economic activities, the projects of which are to be submitted to a public hearing (Decree signed by Minister of Energy on June 10, 2016 № 240)

In regard to paragraph 1: Law of the Republic of Kazakhstan "On amendments and additions to some legislative acts of Kazakhstan on environmental issues" on April 8, 2016 number 491-V made changes and additions to the Environmental Code of the Republic of Kazakhstan. In this connection, projects, according to which public hearing is required, were defined in Article 57-2 of the Environmental Code. Minister of Energy of the Decree № 240 of June 10, 2016 approved a list of economic activities, the projects of which are to be submitted to the public hearing.

In regard to paragraph 2:

The order of the State Ecological Expertise (SEE) is s determined by the authorized body in the field of environmental protection (Article 49 of EC), where expert councils of SEE are established. These councils are advisory agencies (Article 56 of EC). In accordance with Article 57 of the EC:

- i. Transparency of the state environmental review and public participation in decision-making on issues of environmental protection and management of natural resources is provided by the public hearings.
- ii. All interested citizens and public associations are given the opportunity to express their opinion during the SEE.
- iii. The conclusion of the state ecological examination is directed by the nature user to be uploaded to an Internet resource of the local executive body in the field of environmental protection within five working days of receipt by the nature user.
- iv. People have the right to challenge the conclusion of the state environmental review in accordance with the legislation of the Republic of Kazakhstan.
- v. When a decision on the conclusion of the state environmental review is made, all interested parties are given the opportunity to get information about the examination object.

The organization of public hearings during the state environmental impact assessment is referred to the competence of the relevant local executive bodies (Article 20 of EC) and is conducted in accordance with the rules for public hearings. According to Article 57-2, local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and decision-making process for this activity through the online resource, as well as using other means of informing twenty days prior to the public hearings.

The procedure for conducting public hearings is determined by the authorized body in the field of environmental protection. Law of the Republic of Kazakhstan from April 8, 2016, №491 added article 57-2 “On the public hearings” to the EC.

Conduct public hearings, necessarily on the projects:



- (i) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy according to the list determined by the authorized body in the field of environmental protection;
- (ii) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;
- (iii) that provide accommodation facilities on the lands of the state forest fund;
- (iv) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;
- (v) that provides nature activity in protected areas and the former Semipalatinsk nuclear test site;
- (vi) are the object of the state ecological examination, referred to in sub-paragraphs 1), 6), 8), 9) and 10) of paragraph 1 of Article 47 of this Code.

With regard to paragraph 3:

The legislation of the Republic of Kazakhstan determined reasonable deadlines for decision-making on public participation.

In accordance with paragraph 10 of the Rules of Holding Public Hearings Customer shall inform the concerned public at the state and Russian languages no later than twenty days prior to the public hearings. Paragraph 12 of the Rules states that the local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.

According to paragraph 13, the concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing. In accordance with paragraph 19, public hearings results are executed in protocol. The protocol is signed by the chairman and the secretary of public hearings and posted on the Internet web-site of the local executive body not later than seven working days after the public hearing.

The Rules for conducting public Hearings provide for conducting public hearings in the form of a survey. Paragraph 27 of the Rules stipulates that the responsible person of the local executive body together with the customer shall draw up a Protocol on holding public hearings in the form of a survey.

In accordance with paragraph 24, the customer publishes an announcement in the media about holding public hearings in the form of a survey in the state and Russian languages. According to the Rules of Conducting Public Hearings, the period of conducting public hearings in the form of a survey is at least 20 working days. Also, paragraph 25 of the Rules, the responsible person of the local executive body, in case of receiving comments and (or) proposals from the interested public, sends them to the customer. Further, the Customer analyzes the comments and / or suggestions received from the public. The responsible person of the local executive body together

with the customer shall draw up a Protocol on the conduct of public hearings. The Protocol reflects the comments and (or) suggestions from the interested public and the position of the customer on taking into account each comment and (or) suggestion, as well as information about the possibility of appealing the decision. The minutes of the public hearings are posted on the Internet resource of the local executive body no later than seven working days after the public hearings are held in the form of a survey.

Also, under article 67, the customer of the proposed activity is obliged to review the conclusions and recommendations contained therein within one month from the date of receipt of the public environmental assessment report and send their comments to the state environmental assessment body and the organizer of the public environmental assessment. The conclusion of the public environmental assessment should be considered during the state environmental assessment. The results of the review should be sent to the organizer of the public environmental assessment and to the authorized body in the field of environmental protection. The conclusion of the public environmental assessment can also be taken into account when making decisions by local executive bodies, financial organizations and the customer of the planned activity. The results of the public environmental assessment can also be taken into account when conducting a comprehensive non-departmental examination of projects (feasibility studies and design estimates) intended for the construction of buildings, structures and complexes, engineering and transport communications.

With respect to paragraph 4:

According to article 57-2 of the EC, public hearings are mandatory for projects that provide for:

- 1) the procedure in the fields of agriculture and forestry, mining and manufacturing, construction, transport, electricity, heat, water supply, sanitation, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;
- 2) placement of objects in water protection zones and strips and zones of sanitary protection of water supply sources;
- 3) placement of objects on the lands of the state forest fund;
- 4) logging on the lands of the state forest fund, including landscaping within the boundaries of localities;
- 5) the activities of the nature user in specially protected natural areas and the territory of the former Semipalatinsk nuclear test site;
- 6) activities at the objects of the state environmental expertise. They are specified in subparagraphs 6, 8, 9 and 10 of paragraph 1 of Article 47 of this Code.

The public environmental assessment is also provided for in Article 60 of the EC.

The new version of the EC provides for ensuring public participation at the earliest stage, when all opportunities are open to consider various options and when effective public participation can be ensured in accordance with the requirements of the AC.

With respect to paragraph 5:

At the moment, the legislation does not provide for measures to encourage nature users to hold public hearings on applications for permits,

With regard to paragraph 6:

The legislation does not provide for a fee for access to information related to the decision-making process.

With respect to paragraph 7:

The rules for conducting public hearings provide for the following procedures:

The customer agrees in advance with the local executive body on the time and place of the public hearings, the preliminary list of the interested public and justifies the most effective ways of informing it (announcements in the media, information sheets, stands, written appeals) (clause 8 of the Rules);

The local executive body agrees on the list of interested public, the method of informing, the time and place of holding public hearings, and determines the person responsible for holding public hearings (paragraph 9 of the Rules for Holding Public Hearings).

For public hearings in the form of open meetings, the customer publishes an announcement in the media about holding public hearings in the form of open meetings in the state and Russian languages no later than twenty working days before the public hearings (paragraph 10 of the Rules for Holding Public Hearings).

The customer sends an announcement about holding public hearings, project documentation for posting on the Internet resource of the local executive body (paragraph 11 of the Rules for Holding public Hearings).

Local executive bodies, twenty days before the public hearings, provide open access to environmental information related to the EIA procedure of the planned economic and other activities and the decision-making process for these activities through an Internet resource, as well as using other means of informing (paragraph 12 of the Rules).

The interested public submits comments and suggestions (if any) on the project documentation to the customer within 3 working days prior to the date of the public hearing (paragraph 13 of the Rules).

Article 65 of the EC establishes that public environmental expertise is carried out subject to the registration of the application of the organizer of the expertise. The application for registration of the public environmental expertise is submitted by its organizer to the local executive bodies of the territory of which the activity of the object of expertise is planned. Local executive bodies are

obliged to register or reject registration within ten working days from the date of submitting an application for conducting a public environmental assessment. An application for conducting a public environmental assessment, the registration of which was not rejected within the specified period, is considered registered. In case of rejection to register an application for a public environmental assessment, the local executive body informs the initiator and organizer of the public environmental assessment in writing with a reasoned justification of the reasons for the rejection.

With regard to paragraph 8:

In accordance with paragraph 9 of "Rules of the SEE" submissions on the SEE should contain the results of considering public opinion. At SEE, Customer provides a protocol of the hearing and the EIA project that is modified in accordance with the public opinion (in case of its qualified justification based on normative legal acts) and the comment on the suggestions of the public that the Customer finds irrelevant to be added to the project. Also, according to article 66, the results of the public environmental assessment are drawn up in the form of a conclusion of the public environmental assessment, which is of a recommendatory nature.

With regard to paragraph 9:

The conclusion of the state environmental expertise is sent by the nature user for posting on the Internet resource of the local executive body in the field of environmental protection within 5 working days after its receipt by the nature user.

After making a decision on the conclusion of the state environmental expertise, all concerned persons are given the opportunity to obtain information on the object of expertise (Article 57 of the EC). Disagreements in the implementation of the SEE are considered through negotiations or in court (Article 58 of the EC).

It should be noted that the minutes of the public hearings are advisory in nature and are not a decision of the authorized body.

With regard to paragraph 10:

In accordance with and p. 17, "Rules of the SEE", in case of the negative result with the "not approved", initiator modifies the material on the observations of the state ecological examination and submit them to re-state ecological expertise or rejects the proposed position.

With regard to paragraph 11:

In accordance with paragraph 5 of Article 12 of the Law "On Food Safety" (dated July 21, 2007 No. 301), the turnover of GMOs and biologically active food additives is allowed only after a scientifically based confirmation of their safety, which is carried out in accordance with the procedure established by law, and their state registration, in accordance with Article 34, before the establishment of a scientifically based confirmation of the safety of GMOs in food products, the level of their content in food products is not higher than that established in the European Union states. The domestic procedure for the ratification of the amendments to the AC with regard to

genetically modified organisms is being carried out. The ratification is scheduled for 2021 in accordance with the plan for the ratification of international treaties and agreements.

## 2. Obstacles encountered in the implementation of article 6.

In some cases, non-technical summaries are not provided during the organization and conduct of the hearings.

The current Rules for conducting the SEE do not contain procedural rules on public participation in the process of conducting the SEE.

Currently, the legislation does not fix the moment of public involvement at the very initial stage of the process of making environmentally significant decisions - the selection and reservation of a land plot for the planned economic activity.

The Land Code does not provide for public participation at this stage (Article 43, paragraph 1).

The discrepancy between the basic national legal norms of land legislation and the norms of environmental legislation-Chapter 6 of the EC and the Rules for conducting the SEE, may complicate the implementation of the provisions of paragraph 4 of Article 6 of the CA. The rules establish requirements for the composition and content of materials submitted to the SEE. In accordance with the Rules, the act of selecting a land plot, land management business are not in themselves objects of the SEE, these documents, together with other documentation, are submitted to the SEE. The documentation also does not mention the materials of documented public participation (protocols) at the stage of land plot selection as an integral part of the EIA.

At the later stages of the development of project documentation, all design decisions are already linked to the specific characteristics of a particular land plot. At the same time, the Customer has already spent significant amounts, human and time resources on the development of relevant documentation; on obtaining various approvals and conducting an EIA, including public hearings or other "public opinion accounting" - in accordance with paragraph 8 of the Instructions for conducting an EIA in the development of pre-planned, planned, pre-project and project documentation. At this stage, it is very difficult to "take into account public opinion" and change anything in the pre-project or project documentation submitted to the SEE.

In accordance with Article 136 of the EC, state bodies may engage individuals and legal entities on a voluntary basis to work to identify violations of environmental legislation. The authorized body in the field of environmental protection for the implementation of cooperation and interaction draws up a list of public associations, the charter of which provides for the functions of public environmental control. This rule may impose restrictions on public participation on the basis of the absence of an Authorized body in the field of environmental protection in the "list" and the need for "environmental control functions" in the charter. However, there is no list of public organizations that exercise public control, and the provisions of the EC on public environmental control and public environmental expertise are poorly implemented. In 2019, with the support of the OSCE office in Nur-Sultan, employees of the NGO-public Association Karaganda Regional Environmental Museum (hereinafter referred to as the Ecomuseum) implemented the project

"Improving the effectiveness of public environmental hearings as the main tool for implementing the requirements of the OK".

In accordance with Article 57 of the EC: "1. The publicity of the state environmental expertise and the participation of the population in decision-making on issues of environmental protection and the use of natural resources shall be ensured through public hearings."

In the course of the project, public hearings were monitored during the environmental assessment of EIA projects of various industrial and construction facilities, as well as online questionnaires were conducted for employees of state agencies and the expert community. The survey revealed the opinion of stakeholders on the effectiveness of the hearings and ways to improve the legislation on their conduct. Violations of the law were identified during the preparation and conduct of the hearings. As a result of the monitoring, the following typical violations of the law were found:

40-50% of hearings are held without the required participation of local executive bodies of regions and cities of republican subordination (Article 20 of the EC "Local executive bodies of regions and cities of republican significance" (MIO)). Instead, any other local executive bodies are invited – akimats of districts, cities of regional subordination, villages, rural districts, etc.

Accordingly, in 40% of M & E hearings:

- absent from the hearing;
- do not open hearings;
- do not organize or conduct the selection of the chairman;
- do not include public comments in the minutes;
- do not publish ads, project materials and protocols on their portals;
- do not involve interested state bodies.

\* 50% of hearings are held without the legal approval of the M & E department.

\* 20% of the hearings are held without an EIA report on the proposed activity, that is, without any provision of information during the hearings, as required by the Rules.

\* 30% of hearings are held with the provision of an incomplete report in violation of the requirements of Article 41 "Documentation of environmental impact Assessment". Among the typical violations-the lack of visual information about the exact location of the object, its coordinates, the distance to residential buildings, etc. There are no maps and diagrams of the mutual location of settlements and planned objects, which makes it impossible to understand their impact on the population and the environment. Information is often provided in an unadapted and difficult-to-understand form for the population, using highly professional language and specific terms.

\* 29% of hearings are held without publishing the minutes on the M & E portal.

\* 90% of the minutes of the hearing are the formal agenda of the hearing, limited to the wording "report submitted", "questions asked", "answers received". Public comments are not included in the minutes of the hearing, or are included in an altered form, distorting the essence of the issues. This practice prevents the public from obtaining reliable information about the impact of upcoming activities, and also prevents all comments from being taken into account when conducting an environmental assessment.

\* 40% of the hearings are held without mandatory publication of the EIA project materials on the M & E portal.

\* 65% of ads on M & E sites do not meet the requirements of the Rules. Incomplete data is specified, including: there is no Internet resource and / or e-mail of the customer, where comments and suggestions are accepted, or the address of the place where members of the public can get acquainted with the materials of the projects; the body conducting the state environmental expertise is not specified; the address of the Internet resource where the project documentation is posted, etc. is not published.

\* 40% of ads in the media are published with violations of the Rules – only in one language, all the information required by the Rules is not specified, including the body conducting the examination, the addresses where the project materials are published and the addresses for accepting proposals and comments, the name and contacts of the developers of the documentation, etc.

In addition, it has become a common practice to publish announcements about hearings in the media, which are published not at the location of the projected object, but sometimes several hundred kilometers away from it.

After monitoring the public's access to information about decision-making processes on the Internet resources of state bodies and taking into account the public opinion, the RSE IAC EP notes the following.

According to the results of monitoring of official Internet resources in local executive bodies in regions and cities of republican significance), violations were revealed:.

<b>Advertisements posted</b>	<b>Protocols posted</b>	<b>Violations according to announcements</b>	<b>Violations according to protocols</b>				
<b>2019</b>	<b>2020</b>	<b>2019</b>	<b>2020</b>	<b>2019</b>	<b>2020</b>	<b>2019</b>	<b>2020</b>
1780	1754	1632	1391	333	99	665	382

The results of the analysis show that systematic violations of the Rules are of a procedural nature and are repeated from year to year (violations of the terms of placing ads and protocols).

In connection with the introduction of the state of emergency in the Republic of Kazakhstan from March 16, 2020 to April 15, 2020, in accordance with Presidential Decree No. 285 of March 15, 2020 and with the subsequent extension of the state of emergency in the territory until May 11, 2020 (hereinafter referred to as the Decree), public hearings held in the form of open meetings had to be held in the format of videoconferencing (hereinafter referred to as VKS).

Monitoring of public hearings on the websites of local executive bodies (hereinafter referred to as M & E) for the period from March 16 to June 2020 revealed violations of non-compliance with the recommendations for holding public hearings in the VKS format.

Also, when conducting public hearings in the form of VKS, numerous complaints of participants about the inability to participate in the hearings were noted. Among them are such complaints as:

- technical problems when trying to join the VCS;
- lack of proper organization of the VCS process (presence of noise);
- unable to connect to the VCS, or waiting for a long time to connect.

Currently, the MEGNR is working on the creation of a single portal for posting announcements and protocols on planned and conducted public hearings. In this regard, the MEGNR has reached an agreement with the OSCE Program Office in Nur-Sultan to provide financial and expert support for the initiative to centralize announcements and minutes of public hearings on the platform of a Single Portal.

Work in this direction continues

### 3. Further information on the practical application of the provisions of article 6.

On April 8, 2016, changes and additions were made to the EC. According to article 57-2, the list of mandatory projects subject to public hearings is defined. The list of types of economic activities, the projects of which are subject to public hearings, was approved by Order of the Minister of Energy No. 240 of June 10, 2016. The list of types of economic activity is given in accordance with Appendix 1 of the AC.

By Order of the Minister of Energy No. 260 of 21.06.2016, amendments and additions were made to the Rules for Holding public hearings. Changes have been made to the procedure for holding public hearings. According to the current regulations, public hearings are held in the form of open meetings and in the form of a survey

Examples of the implementation in practice of this article of the convention are the results of a number of court proceedings that took place due to conflicts between members of the public, executive bodies and persons engaged in economic and other activities.

In the current activities, there are examples of non-compliance with the provisions of the convention of the actions of state bodies and commercial organizations. According to article 6, paragraphs 4 and 7, of the AC, public participation should be defined at all stages of the activity, including the earliest, as well as providing all possible opportunities for voicing comments,



analysis, or opinions that, in the opinion of the public, are relevant to the planned activity. Such opportunities were not provided during the consideration of the project for the construction of a branch of ForteBank JSC on the territory of the Densaulyk Square. The State Institution "Management of Subsoil Use, Environment and Water Resources of the Pavlodar region" did not fulfill its functions provided for by the OK and EC. For this reason, the NGO "ECOM" sent an application to the court to challenge the legality of the actions (inaction) of state bodies.

During the first meeting on July 22, 2019. The respondent of the State Institution "Department of Subsoil Use, Environment and Water Resources of the Pavlodar region" did not deny that the public had the right to participate in the decision-making. The hearings were supposed to be held, but citing some "legislative conflicts", the office was not able to ensure the holding of the hearings, which were supposed to take place on May 16, 2019. They were postponed indefinitely. JSC "ForteBank" refused to conduct them, notifying the appropriate authorities by making changes to the project. Later it turned out that the only change was the indication of the absence of green spaces.

The second defendant of the State Institution "Department of Housing and Communal Services, Passenger Transport and Highways of the city of Pavlodar" did not appear at the court session for a disrespectful reason, which is why it became necessary to hold a second meeting. On May 23, 2019, the Department of Housing and Communal Services, Passenger Transport and Highways of the city of Pavlodar provided the bank with a letter about the absence of green spaces on the land plot allocated for construction, which formed the basis for a positive conclusion of the expert examination carried out by Tan Expert LLP (the city of Pavlodar). Shymkent) without holding public hearings.

The representative of ForteBank JSC, invited by the court as a third party, also failed to attend the first court session.

Conclusion: The public was not provided with an opportunity to voice their opinion on the issue of preserving the quality of the healthy environment of the city of Pavlodar, which is an important issue. The existence of such an opinion was not taken into account and taken into account by the higher authorities.

A similar precedent, due to which damage was caused to residents, was the issuance of a sanitary and epidemiological conclusion for "U..." LLP by the Department of Public Health Protection of the city of Almaty. This conclusion did not comply with the norms of the Code "On the Health of the People and the Health System", the law "On Architectural, Urban Planning and Construction Activities in the Republic of Kazakhstan" and the requirements of the Sanitary Rules "Sanitary and epidemiological requirements for the establishment of a sanitary protection zone of industrial facilities".

As a result of the above-mentioned actions of the Department, local residents suffer from the activities of the enterprise that produces concrete, accepts, stores and sells cement. And on January 17, 2019, an application was submitted to the SMES to protect the interests of residents of Bokeikhanov Street in Almaty, the Ecological Society and an indefinite circle of persons. The

Department of Public Health Protection of the city of Almaty is involved as a defendant. All court sessions resulted in refusals to satisfy the complaint

Residents of Stepnogorsk, the villages of Aksu and Bestobe began to fight against the construction of factories, quarries and warehouses with waste containing polychlorinated biphenyls. Residents of the village of Aksu learned that another gold extraction plant will be built near the village. As it turned out, on August 3, 2018, the company held public hearings on the pilot development in Stepnogorsk, bringing together employees of Adelya Gold, Aksu Akim and several people from Stepnogorsk, without the presence of the residents of the village themselves. The residents were informed that all the documents and permits were available, and the mayor of Stepnogorsk signed that the hearings were held. In this regard, the residents of the village of Aksu, more than once offered the management of "Adelya Gold" LLP to hold new public hearings-already on the territory of the village and with the participation of residents. Residents believe that their rights to access and completeness of information were not sufficiently ensured before the public hearings in 2018.

In 2019, Forte Bank JSC, which received a lease of a part of the plot in the Densaulyk Square in Pavlodar, violated the terms of the contract by starting illegal demolition of green spaces. Citizens expressed indignation that 51 trees were cut down. Representatives of the initiative group blocked the way for cars loaded with felled trees to leave the square. The police officers who arrived at the scene did not reveal any violations of public order. Participants of the public association "Ecom" defended the park area, trying to find out the legality of the construction of a bank on the site of green spaces, environmentalists appealed to various authorities. According to the results of the conducted verification measures, it was established that the subject of the branch of ForteBank JSC does not have a positive conclusion of the state environmental expertise on the EIA of the working project "Construction of the branch of ForteBank JSC in the city of Pavlodar". Practice shows that officials first give up the land, and then try to hold public hearings on the demolition of trees. Although it should be the other way around. The housing and utilities department promised to hold public hearings in mid-May, but they were postponed for an unknown period.

In 2019, the President of Kazakhstan, Kassym-Jomart Tokayev, at a meeting on the socio-economic development of the city of Almaty, banned the construction of a resort on the territory of the Kok-Zhailau tract. This issue is under the direct control of the Head of State. On September 30, 2020, the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Territories" was signed, which provide for the return to the specially protected natural territories of reserve lands previously withdrawn from their composition for the construction of tourism facilities, water management facilities, the arrangement and operation of state border facilities, defense needs and not used for these purposes.

We note that the adoption of the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Areas" is the result of taking into account the opinion of effective public participation in decision - making on the Kok-Zhailau project.

#### 4. Website addresses relevant to the implementation of article 6.

[www.akorda.kz/](http://www.akorda.kz/)

[www.carecnet.org](http://www.carecnet.org)

[www.pravstat.prokuror.kz](http://www.pravstat.prokuror.kz)

[www.sud.gov.kz](http://www.sud.gov.kz)

[www.osce.org/astana](http://www.osce.org/astana)

<http://www.greensalvation.org/>

[www.iacoos.kz](http://www.iacoos.kz)

[www.ecogeo.gov.kz](http://www.ecogeo.gov.kz)

[www.energo.gov.kz](http://www.energo.gov.kz)

<http://ecogofond.kz/>

[www.upr.astana.kz](http://www.upr.astana.kz)

## **Article 7**

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

In accordance with paragraph 4 of Article 17 of the Law "On Access to Information" (No. 401-V of November 16, 2015), a number of works are being carried out. State bodies-developers of draft regulatory legal acts on the Internet portal of open regulatory legal acts, before sending for approval to the interested state bodies for public discussion, draft concepts of draft laws and regulatory legal acts are posted together with explanatory notes and comparative tables to them (in cases of amendments and (or) additions to legislative acts). Reports on the results of the public discussion are also posted on the Internet portal of open regulatory legal acts.

In addition, article 5 of the Law "On Public Councils" (No. 383-V of November 2, 2015) establishes Public Councils under ministries, bodies directly subordinate and accountable to the President, as well as under local government bodies. The purpose of the activity of public councils is to express the opinion of civil society on socially significant issues. Article 5 of the Law on Public Councils establishes the powers of Public Councils to:

- discussion of draft budget programs of the administrator of budget programs, draft strategic plans or programs for the development of territories, draft state and government programs;
- discussion of the implementation of the budget programs of the administrator of budget programs, strategic plans or programs for the development of territories, state and government programs;
- participation in the development and discussion of draft regulatory legal acts. They relate to the rights, freedoms and obligations of citizens, with the exception of draft regulatory legal acts of central and local executive bodies, as well as akims, which provide for the adoption of decisions on the establishment (cancellation) of a quarantine zone with the introduction of a quarantine regime in the relevant territory. On the establishment (removal) of quarantine and (or) restrictive

measures in cases provided for by legislation in the field of veterinary medicine, as well as the declaration of an emergency of a natural and man-made nature;

- development and submission to state bodies of proposals for improving legislation, etc.

In accordance with the Law "On Public Councils", the Public Council for Ecology, Geology and Natural Resources was established in August 2019 (Order of the Acting Minister No. 20-P of 04.09.2019).

The activities of the Public Council are regulated by the Constitution and the current legislation.

The Public Council consists of 22 representatives of non-profit and non-governmental organizations and 8 employees of the MEGNR. The Council has 4 commissions in the following areas: ecology, budget, strategic and regulatory, geology and water resources, forestry, fisheries and wildlife.

In 2019, three meetings of the Public Council were held: on September 12, November 19, and December 11.

In total, during 2019, the Public Council considered 105 draft NPA, of which 99 were approved and recommended for adoption, comments and suggestions were sent to the authors of 6 projects, and 5 projects are under consideration.

On December 21, 2020, the composition of the Public Council was expanded (31 representatives of non-profit and non-governmental organizations and 3 representatives of the Ministry) (Ministry Order No. 327-P of December 21, 2020).

In 2020, 2 meetings of the Public Council and the Minister's report to the Public Council were held.

A special section has been created on the MEGNR website, where information about the activities of the Public Council and minutes of meetings of its commissions are posted <http://ecogeo.gov.kz/ru>.

On January 2, 2021, the new version of the EC was adopted

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

The documents of the State Planning System in accordance with the approved State Planning System in the Republic of Kazakhstan (Government Decree No. 790 of November 29, 2017) include:

- (i) Development Strategy of Kazakhstan until 2050;
- (ii) Strategic development plan up to 10 years inclusive, Forecast scheme of territorial-spatial development of the country;
- (iii) National security strategy for 5 years or more than 5 years;
- (iv) Forecast of socio-economic development for 5 years;
- (v) State programs (at least 5 years);

- (vi) Strategic plans of state bodies for 5 years;
- (vii) Programs for the development of territories for 5 years;
- (viii) Development strategies for 10 years of national managing holdings, national holdings and national companies with state participation in the authorized capital.
- (ix) Concept for the transition to a "green economy"

In accordance with paragraph 78 of the System, a state program is being developed for the implementation of systemic reforms and tasks of the Strategic Development Plan, directions of the National Security Strategy by the interested state body. Further, the draft state program is posted on the Internet resource of the state body and the Internet portal of open data by the state body responsible for the development of the state program (except for information of a classified nature and for official use), for public discussion and is being finalized taking into account the proposals received (clause 81 of the System).

Clause 56 of the System, participants in the processes of the State Planning System are public authorities, legal entities with state participation, representatives of public, scientific and private organizations, individuals.

#### 7. Obstacles encountered in the implementation of article 7.

The National legislation lacks experience in conducting strategic environmental assessment of plans, policies, programs.

#### 8. Further information on the practical application of the provisions of article 7.

Public participation in the development of strategies, policies, programs is often advisory in nature.

#### 9. Website addresses relevant to the implementation of article 7.

[www.akorda.kz/](http://www.akorda.kz/), [www.ecogeo.gov.kz](http://www.ecogeo.gov.kz/), [www.energo.gov.kz](http://www.energo.gov.kz/), <http://ecogosfond.kz/>,  
[www.upr.astana.kz](http://www.upr.astana.kz/), [www.almatyeco.gov.kz](http://www.almatyeco.gov.kz/), [www.upr.akmo.gov.kz](http://www.upr.akmo.gov.kz/),  
[www.tabigat.aktobe.gov.kz](http://www.tabigat.aktobe.gov.kz/), [www.priroda.zhetisu.gov.kz](http://www.priroda.zhetisu.gov.kz/), [www.atyrau.gov.kz](http://www.atyrau.gov.kz/), [www.e-priroda.gov.kz](http://www.e-priroda.gov.kz/), [www.uralsk.gov.kz](http://www.uralsk.gov.kz/), [www.tbr.zhambyl.gov.kz](http://www.tbr.zhambyl.gov.kz/), [www.pr-resurs.kz](http://www.pr-resurs.kz/),  
[www.kostanay-priroda.kz](http://www.kostanay-priroda.kz/), [www.kyzylorda.gov.kz](http://www.kyzylorda.gov.kz/), [www.eco.mangystau.gov.kz](http://www.eco.mangystau.gov.kz/),  
[www.tabigatpv.gov.kz](http://www.tabigatpv.gov.kz/), [www.dpr.sko.gov.kz](http://www.dpr.sko.gov.kz/), [www.turkistan.gov.kz](http://www.turkistan.gov.kz/), [www.shymkent.gov.kz](http://www.shymkent.gov.kz/).

### Article 8

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

Legislation does not stipulate any discriminatory restrictions on the participation of natural and legal persons in the discussion and preparation of proposals concerning draft legislative and regulatory documents.

National legislation stipulates that all plans, programs and policies, including those related to environmental protection, are developed in accordance with the Government Decree “On approval of the state planning system of November 29, 2017 No. 790.

Clause 78 of the System establishes that a state program is being developed to implement systemic reforms and tasks of the Strategic Development Plan, directions of the National Security Strategy by the interested state body. Further, the draft state program is posted on the Internet resource of the state body and the Internet portal of open data by the state body responsible for the development of the state program (except for information of a classified nature and for official use), for public discussion and is being finalized taking into account the proposals received (clause 81 Systems).

Clause 56 of the State Planning System, participants in the processes of the State Planning System are public authorities, legal entities with state participation, representatives of public, scientific and private organizations, individuals.

Public participation in the development of documents of the State Planning System is regulated by the Law of April 6, 2016 “On Legal Acts.

The procedure for posting and public discussion of draft regulatory legal acts is determined in the Rules for the placement and public discussion of draft concepts of draft laws and draft regulatory legal acts on the Internet portal of open regulatory legal acts approved by Order of the Minister of Information and Communications dated June 30, 2016 No. 22 (hereinafter - the Rules ).

In accordance with the Rules, on the Portal of "electronic government" are placed draft normative legal acts (NLA) together with explanatory notes and comparative tables in Kazakh and Russian languages.

The term for public discussion of draft regulatory legal acts cannot be less than 10 working days from the date of their posting on the Portal. All received comments and proposals on the draft regulatory legal acts are published in the public domain.

The state bodies-developers of draft laws and regulations, within three working days after the end of the public discussion, consider the comments and (or) proposals of the public and make decisions on their acceptance or rejection, indicating the justification. After that, the State authorities form and publish a preliminary version of the report on the completion of the public discussion of projects.

Within 1 working day, after the publication of the draft report on the completion of the public discussion, an online public vote is held on the draft legal regulation submitted by the state body and on the comments and proposals submitted by the public.

After the completion of the voting, the state bodies-developers of the projects form and publish the final version of the report on the completion of the public discussion.

This report contains the following information:

- commented structural part of the regulatory legal act;

- text of comments and (or) proposals from the public;
- the text of the response of the state body;
- the number of votes "for" and "against" on the draft normative legal act, proposed by the state body, the developer;
- the number of votes "for" and "against" on the comments and proposals of the public on the draft law.

The Law of April 8, 2016 No. 491 Article 57 of the EC added new articles 57-1, 57-2, 166-1.

#### 11. Obstacles encountered in the implementation of article 8.

There are no obstacles encountered in the implementation of article 8.

#### 12. Further information on the practical application of the provisions of article 8.

The gaps and contradictions in the legislation identified as a result of the preparation of this National Report can serve as a good basis for public participation in the lawmaking process in accordance with Article 8 of the AC.

Private research is being conducted to assess the effectiveness of existing mechanisms to implement the provisions of the convention. During the preparation of the new edition of the draft Environmental Code, NGO employees made a number of proposals to improve national legislation.

- Elimination of the restrictive nature of the "List of types of economic activities, the projects of which are subject to public hearings" by adjusting to comply with the requirements of the AC;
- Detailing and strengthening of legislative requirements for the procedure for holding public hearings;
- Creation of a single Internet resource for materials of public hearings within the framework of e-government;
- Creation and transfer to the competitive environment of public services for the organization of public hearings by non-profit organizations;
- Introduction into legislation of repeated public hearings and legislative requirements for consideration and consideration of proposals from the public;
- Introduction into legislation of the concept and procedure for initiating public hearings at the request of the public;
- Introduction of mandatory public hearings in all types of environmental expertise;

Adjustment of the legislation regulating the compliance of PRTRs with the requirements of national and international legislation.

Many public organizations are engaged in the development of laws and regulations in the field of ecology. To date, they are participating in the discussion of Normative legal acts for the implementation of the environmental code in the new edition.

### 13. Website addresses relevant to the implementation of article 8.

[www.akorda.kz/](http://www.akorda.kz/), [www.ecogeo.gov.kz/](http://www.ecogeo.gov.kz/), [www.energo.gov.kz/](http://www.energo.gov.kz/), [http://ecogofond.kz/](http://http://ecogofond.kz/),  
[www.upr.astana.kz/](http://www.upr.astana.kz/), [www.almatyeco.gov.kz/](http://www.almatyeco.gov.kz/), [www.upr.akmo.gov.kz/](http://www.upr.akmo.gov.kz/),  
[www.tabigat.aktobe.gov.kz/](http://www.tabigat.aktobe.gov.kz/), [www.priroda.zhetisu.gov.kz/](http://www.priroda.zhetisu.gov.kz/), [www.atyrau.gov.kz/](http://www.atyrau.gov.kz/), [www.e-priroda.gov.kz/](http://www.e-priroda.gov.kz/),  
[www.uralsk.gov.kz/](http://www.uralsk.gov.kz/), [www.tbr.zhambyl.gov.kz/](http://www.tbr.zhambyl.gov.kz/), [www.pr-resurs.kz/](http://www.pr-resurs.kz/),  
[www.kostanay-priroda.kz/](http://www.kostanay-priroda.kz/), [www.kyzylorda.gov.kz/](http://www.kyzylorda.gov.kz/), [www.eco.mangystau.gov.kz/](http://www.eco.mangystau.gov.kz/),  
[www.tabigatpv.gov.kz/](http://www.tabigatpv.gov.kz/), [www.dpr.sko.gov.kz/](http://www.dpr.sko.gov.kz/), [www.turkistan.gov.kz/](http://www.turkistan.gov.kz/),  
[www.shymkent.gov.kz/](http://www.shymkent.gov.kz/).

## 25. Kyrgyzstan

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

National legislation regulates the participation of the civil sector in economic decision-making. The Constitution of the Kyrgyz Republic is the starting point under which rights and freedoms of activity are given to citizens and public associations.

According to the Law of KR "On environmental protection", the public has the right to conduct public environmental expertise, to participate in conducting inspections of compliance with environmental legislation, to demand prosecution of officials responsible for violation of environmental legislation, to receive information on planned construction of facilities, to submit claims and claims to enterprises, officials for compensation of damage, adverse impact on the environment.

One of the main principles of the Law of KR "On environmental expertise" is the principle of consideration of public opinion. Public environmental expertise is organized and conducted at the initiative of citizens, LSGs and public associations, registered in the established order. Public environmental expertise may be carried out independently from the state environmental expertise

According to the Land Code, citizens of the KR and public associations have the right to participate in consideration of issues on use and protection of lands, affecting interests of the population, through meetings, gatherings and other forms

The state bodies inform the population about withdrawal and allocation of land for location of facilities, the activities of which affect the interests of the population. The Law of KR "On Local Self-Government and Local State Administration" determines that local self-government is the



constitutionally guaranteed right and actual ability of local communities to manage local affairs through representative and executive authorities, as well as through direct participation of citizens.

The Environmental Security Concept of the Kyrgyz Republic (dated 23.11.07, OA No. 506), Regulation "On Approval of Standards for Certain Types of Specialised Expertise of Draft Laws in the Jogorku Kenesh" (dated 18.01.07) were adopted, as well as the Regulation "On Approval of the Standards for Specialised Expertise of Draft Laws in the Jogorku Kenesh" (dated 18.01.07). Decree JK #75-IV), Law "On streamlining the regulatory framework for business regulation" (21.02.08, #55), Law "On Local Self-Government" (15.07.11, #101), Law "On Local Public Administration", Law "On State Social Order" (05. 06.08. №162), the Law "On general technical regulation to ensure ecological safety" (12.03.09 № 151), the Law "On public private partnership" (22.02.12 №7), Presidential Decree "On improvement of interaction between state administration bodies and civil society" (from 29. 09.10 No. 212), Law of KR "On Regulations of Jogorku Kenesh of KR" (25.11.11 No. 223), PPCR "On approval of Regulations on the procedure of state environmental expertise in Kyrgyz Republic" (from 07.05.14 No. 248)

#### Article 6, paragraph 1

The CR applies the provision of the Convention regarding public participation in deciding on the appropriateness of allowing planned activities listed in the Annex. These procedures are legislated in the national legislation set out above. In addition, Kyrgyzstan, being a Party to the Espoo Convention, applies its provisions for objects with transboundary impact.

The development of an EIA is mandatory for project documentation for the facilities set out in Annex 1. The procedure for the development of an EIA is set out in the relevant instruction, which ensures public participation in public hearings on a particular site by regulation. Documents containing EIA materials are subject to state environmental expertise in SAEPP, without a positive conclusion, which does not allow implementation of the project. Public environmental impact assessment that is carried out at the initiative of the public, the conclusion has a recommendatory nature, its conclusions are taken into account in the preparation of the conclusion of the state environmental impact assessment. The procedure for state and public expertise is set out in legislation.

#### Article 6, paragraph 2

The public is informed about the planned activity as part of the EIA preparation, which is carried out at the very initial stage of activity planning. Prior to the development of the EIA, a declaration of intent is prepared and submitted to the local government for a decision on site selection.

According to the national legislation, any public is a stakeholder.

According to the KR legislation, public participation in the most important environmental decisions is mandatory. The regulation of the RFPO provides for encouragement, including of the public.

In accordance with the law "On access to information...", refusal to provide information, as well as other actions and decisions of responsible person, which violate requirements of this Law, at

the choice of the person requesting information, may be appealed to a higher official, ombudsman (Akyikatchy) of KR or in court in accordance with the legislation of KR.

Persons guilty of non-performance or improper performance of obligations to provide information shall be subject to criminal, administrative, civil, disciplinary or material liability in accordance with the legislation of the KR

#### Article 6, paragraph 3

As a rule, within 2 months prior to the hearing, information about the beginning of public hearings is placed in the media and local authorities. After the hearing, 1 month is given to submit comments.

#### Article 6, paragraph 4

Prior to decision-making, an EIA is carried out, which must include material for discussion of the proposed activity with the public. Public participation is mandatory at all stages of the EIA procedure.

According to the current legislation, the EIA materials to be submitted to SAEPF must contain the results of public discussions and the responsibility for these discussions and their timeliness lies with the initiator of the activity. The EIA materials, according to the adopted procedures, must contain alternative options of technologies and locations of facilities, which are also considered in discussions with the public. Media, websites and mailing lists are used by the project proponent to inform the public about the proposed activity.

Representatives of the public may be included in the State Ecological Expertise Commission.

#### Article 6, paragraph 5

The initiator of an activity carries out and is responsible for discussions with the interested public.

The initiator of an activity together with developers shall ensure public participation in the EIA process by informing the public about the planned activity and involving it in the EIA process, and participate in public hearings on the planned activity.

#### Article 6, paragraph 6

According to the national legislation, free access to site-specific information is provided. Restrictions in obtaining information exist if the information is a state or commercial secret subject to relevant laws.

According to Article 50 of the KR Law on Environmental Protection, public authorities may refuse to provide information on the environment if it would harm: international relations; military interests of the state; preservation of commercial secrets of enterprises; investigation of a criminal case. The refusal must include the reason for the refusal and the justification for it.

All other information falling under article 6(6) of the Convention shall be made available to the public concerned by the initiator of the activity.

There have been no cases where the entire set of EIA documentation has been classified for reasons of commercial confidentiality or protection of intellectual property rights.

#### Article 6, paragraph 7

Procedures for public hearings or deliberations provide for any public input on planned activities.

The methods of multi-stakeholder discussions play an important role. They depend on the stages of the EIA and the magnitude of the possible environmental impact of the facility.

According to the Law on Urban Planning and Architecture of the Kyrgyz Republic, it is mandatory to hold public hearings on planned design decisions and to take public opinion into account.

#### Article 6, paragraph 8

The results of public participation shall be recorded, collected, analysed, summarized and taken into account by the proponent of the activity, if sufficiently substantiated, and submitted together with the EIA materials to the SAEPP for the State Environmental Expertise.

There are no practical methods to take due account of public comments in cases where numerous comments have been received. But in practice, the reasoned comments of the public are taken into account. If the public indicates a breach of legislation, they may change from advisory to mandatory. Otherwise, the rules of criminal or administrative law ("act or omission ...") come into force.

Comments from the public that have already been received may be considered by other members of the public throughout the entire comment procedure.

#### Article 6, paragraph 9

According to the current legislation, the results of the State Environmental Expertise are made available to the public. The format of the SER opinion is to contain the reasons for its conclusions.

The part of the decision setting out the reasons shall contain references to factual, professional and legal arguments raised in the procedure.

#### Article 6, paragraph 10

According to the current legislation on conducting SEE, in case of any changes made by the initiator of the activity to the project, or in the course of its implementation, these changes are subject to repeated SEE and, therefore, it is possible to discuss them with the public again, all depending on the nature of the changes being made.

At the initiative of the NGO "NEER", the Government decree on the transfer of Lake Chatyr-Kul from the category of specially protected areas to the category of fishery areas was cancelled.

#### Article 6, paragraph 11

Kyrgyzstan has ratified the Cartagena Protocol and the relevant regulations are being prepared.

### 2. Obstacles encountered in the implementation of article 6.

There are untimely informing of the public on the planned activities, violations of the environmental legislation, including those limiting the rights of public participation in the decision-making process. For example, the Government's decisions to start construction of facilities with parallel projected activities without a positive opinion of the environmental expertise, without informing and participation of the public in the EIA procedure.

Absence of procedures for feedback from the public, i.e. informing about adopted public proposals.

Insufficient substantiation of project proposals proposed by the public.

The rights of the public in adoption of environmentally significant decisions are stipulated in many legislative acts, but they are largely virtual rights, as none of the legislative acts stipulates specific mechanisms of public influence on decision-making. The public can express its opinion, but the state authorities are obliged only to take it into account (unspecific wording), i.e. the elements of obligation are absent.

### 3. Further information on the practical application of the provisions of article 6.

State statistics bodies do not keep statistics on public participation in decision-making on specific objects.

Examples include: With the direct participation of non-governmental organizations, the Country Development Strategy was developed, which included a section on "Environmental Security"; the campaign to ratify the Stockholm Convention - carried out by the "Network for the protection of public environmental interests in the KR"; the NGO "NEE" (Kyrgyzstan) and EO "Green Salvation" (Kazakhstan) suspended the transboundary project to build the road Chyrkykty - Chon-Kemin without a positive opinion of the state ecological expertise; SAEPF together with NEE and Ecoforum of Kazakhstan conducted a transboundary EIA procedure for the Andash copper and gold mine; development of the National Forest Law Enforcement and Management Plan is a joint effort of SAEPF, local authorities, international organisations and NGOs; with support from Milieukontakt, a group of independent experts, including qualified specialists, NGO representatives and local residents, conducted a public environmental impact assessment of the EIA section developed by Based on the findings of the public environmental impact assessment, public hearings, a roundtable, a press conference and an eco-cafe were held; information leaflets were prepared and disseminated to the public; the public environmental monitoring of the environmental impact of petrol stations in the Moskovskiy District of the Chui Oblast was conducted by the public youth fund 'Impulse' with the support of the NGO Miliekontakt; recommendations were prepared on eliminating the identified environmental violations and improving the environmental situation at petrol stations in the District; the environmental impact assessment of petrol stations was conducted with the support of the NGO Miliekontakt.

There is a practice of NGOs holding and participating in public hearings. For example, in July 2016, the Dzherui gold mine held two meetings to discuss the EIA for the development of the deposit.

In the framework of the project "Elimination of Major Risks of Obsolete Pesticides in Kyrgyzstan", PF "Miliekontakt" together with its partners PF "Ekoi", PA "Bios", PA "Maternal and Childhood

Protection" conducted an inventory of old pesticide storage facilities in Osh oblast and repacked about 90 tons of obsolete pesticides according to international standards.

In 2009, "Miyekontakt" PF. PF "Miliekontakt" carried out research within the project to identify common understanding of all stakeholders on the benefits of using and introducing alternatives to DDT.

In 2010, Miliekontakt PF conducted a survey to identify a common understanding of the benefits of alternatives to DDT. PF "Miliekontakt" with the support of the Society on Personal Cooperation with Developing Countries implemented a project "Building of partnership relations between ecoNGOs and LSG bodies with public involvement in solving environmental problems at local level".

A number of public hearings, more than 40 seminars and trainings were held by Aarhus Centres in Bishkek and Osh 2014-2020.

NGO representatives are included in the National Council for Sustainable Development, interdepartmental and expert working groups.

4. Website addresses relevant to the implementation of article 6.

see section VI.

## Article 7

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

The Constitution of the Kyrgyz Republic establishes that the people of Kyrgyzstan are the bearer of sovereignty and the only source of state power in the republic. According to the Law of KR "On Environmental Expertise", programmes, projects, prospective plans, and development schemes are subject to expertise, including public expertise. In addition, according to the Law of KR "On Non-Profit Organisations", NGOs have the right to participate in the development of plans and programmes.

According to the Law of KR "On Urban Planning and Architecture", a citizen has the right to information on environmental, urban planning, social and economic condition of territories of settlements, on the development and status of implementation of programs, projects related to changes in the organization of territories and their development; to participate in the consideration and discussion of urban planning programs and projects affecting interests of collectives or individual citizens.

The EIA procedure provides for the development of EIAs preceding the plans, strategies and programmes; public participation is envisaged. In Kyrgyzstan, practically all environmental programmes under development are available for NGO participation in their development. Each program undergoes the procedures of consideration and coordination, receiving feedback and proposals before its approval.

Decrees of the President of the Kyrgyz Republic, laws of the Kyrgyz Republic, resolutions of the Government of the Kyrgyz Republic. At the departmental level the orders, decrees, board decisions are considered as the decisions "concerning the environment".

There is no distinction between definitions of plans, programmes and policies under national legislation.

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

According to the current legislation, there are practically no obstacles for civil society participation in development and implementation of programs and policies in the field of environmental protection, and these rights are implemented quite successfully on the rights of partnership. Almost all environmental programmes, plans and policies are developed with the participation of experts from NGOs and extensive coverage at all stages of the decision-making process.

7. Obstacles encountered in the implementation of article 7.

Insufficient funding makes programme design and implementation ineffective. Weak inter-agency coordination in programme design and implementation leads to duplication and ineffective implementation.

The feedback procedure is not worked out, the proposals coming from the civil sector are often unprofessional in nature and are not aligned with the state budget. Lack of civil sector initiative leads to a reflection of the interests of particular groups that are more interested and active.

At the republican level, the development of plans, programmes and strategies is more public than at the local level. This is connected to the economic situation and the weak capacity of the LSG structures.

In most cases, the principle of timely participation and informing the public is violated, which leads to socio-environmental conflicts in almost all areas of the country.

The discussion of draft NLAs through posting on the official websites of the ministries and departments does not yield much results.

The forms of taking public opinion into account in decision-making are not clearly defined.

The space of information exchange is separated from the space of decision-making.

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

With direct participation of NGOs the section "Environmental safety" of the Development Strategy of the country till 2010 was developed, and for the first time the issues of environmental safety were included into the priorities of development of the country; the projects of local action plans on environmental protection by local communities were developed and implemented. During development of Development Strategy of the country for 2009-2011, the Concept of Environmental Safety, the Concept and Program of Sustainable Development of ecological and economic system "Issyk-Kul", National Strategy for Sustainable Development, Program of

Transition to Sustainable Development, etc., representatives of NGOs were actively involved, and public hearings were conducted.

With the direct participation of NGOs, the draft Law of the Kyrgyz Republic "On protection of green spaces in residential areas of the Kyrgyz Republic" was developed, a mechanism for energy certification of buildings in addition to the Law of the Kyrgyz Republic "On energy efficiency of buildings" and other by-laws were developed.

NGO representatives are included in the National SD Council, interagency and expert working groups.

9. Website addresses relevant to the implementation of article 7.

See section VI.

## Article 8

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

CCP No. 559 of 30.09.14 "On Approval of the Methodology for Analysis of Regulatory Impact of Regulatory Acts on Business Entities".

According to the Law of the Kyrgyz Republic "On Environmental Protection", citizens have the right to participate in the development and implementation of environmental protection measures, including the legislative process. According to the Law of KR "On normative and legal acts", citizens and organizations may be involved as independent experts in conducting legal, financial, economic, environmental and other scientific specialized expertise of draft normative legal acts by the decision of law-making body.

According to the Constitution of the Kyrgyz Republic, the Criminal Code of the Kyrgyz Republic, the Civil Code of the Kyrgyz Republic, any form of discrimination is unacceptable in the Kyrgyz Republic. Any manifestation of discrimination is punishable by law.

There is no requirement for public participation at the conceptual stage of the legislative process.

Draft regulations and rules are not always posted on the Internet. The length of time given to members of the public to form their opinions varies.

Comments from the public received during the implementation of the participatory process under article 8 of the Convention are often forwarded to the legislative authorities.

There are no specific methods to promote public participation in the preparation by public authorities of directly enforceable regulations and other generally applicable legally binding rules which may have a significant impact on the environment.

The following NLAs were adopted: the Law "On Normative Legal Acts", the Law "On the Basis of Technical Regulation", the Law "On Optimisation of the Regulatory Legal Framework for Business Regulation", the Standards for Certain Types of Specialised Expertise of Draft Laws in

the JKR, the Regulation on the Procedure for Keeping the State Register of Normative Legal Acts of the KR, the PPCA "On Sources of Official Publication of Normative Legal Acts of the KR". In 2014-2016. - Laws of the KR "On Public Councils of State Bodies", "On the basis of administrative activities and administrative procedures", Regulations on the procedure of state environmental expertise in the KR.

Amendments were made to the Laws of the Kyrgyz Republic "General Technical Regulations on Environmental Safety in the Kyrgyz Republic", "On Local Self-Government", "On Local State Administration", "On Protection of Consumer Rights", "On Regulatory Legal Acts of the Kyrgyz Republic", "On the order of consideration of citizens' applications", "On State Statistics", "On state registration of legal entities, branches (representative offices)", the PPCD "On Public Chambers", etc.

In 2014-2016, amendments were made to "the procedure for consideration of citizens' appeals". - Amendments and additions were made to the Constitutional Law of the Kyrgyz Republic "On the Government of the Kyrgyz Republic", the Law of the Kyrgyz Republic "On Wildlife", the Forest Code, the Law of the Kyrgyz Republic "On Environmental Protection", the Law of the Kyrgyz Republic "On Protection of Ozone Layer", the Law of the Kyrgyz Republic "On Protection and Use of Flora", "On Access to Information under the jurisdiction of state bodies and local self-government bodies of the Kyrgyz Republic".

In accordance with Law No. 241 of 20.09.09 "On normative legal acts of KR" and "On optimization of legal framework for business regulation" draft normative legal acts aimed at regulating business activities must be accompanied by a statement - justification prepared on the basis of regulatory impact analysis.

Draft normative legal acts on ensuring constitutional rights, freedoms and obligations of citizens; legal status of public associations, mass media; state budget, tax system; environmental safety; combating offences; introduction of new types of state regulation of entrepreneurial activity should be subject to legal, human rights, gender, environmental, anticorruption and other scientific expertise. (Law on Normative Legal Acts of the Kyrgyz Republic).

Drafts of RLAs directly affecting the interests of citizens and legal entities, as well as those regulating entrepreneurial activity, are subject to public discussion through posting on the official website of the rule-making body, including information relevant to the subject of discussion. The rule-making body is obliged to accept, consider and summarise the proposals received from the participants of the public discussion. The resulting information is reflected in the explanatory memorandum to the draft NAP. The costs of organizing and holding a public discussion are financed from the funds of the entity preparing the draft regulatory legal act and other sources not prohibited by the legislation of the Kyrgyz Republic (Law "On Normative Legal Acts of the Kyrgyz Republic").

According to the amendments to the Law of the Kyrgyz Republic "On normative legal acts of the Kyrgyz Republic" the period of public discussion of draft normative legal acts is not less than one month and official publication of normative legal acts in incomplete form is not allowed, except for normative legal acts containing state and (or) military secrets.



In 2012 amendments were made to the Law of the Kyrgyz Republic "On Local Self-Government", that the right of local rulemaking (people's) initiative has at least one third of the members of the local community.

The Osh Aarhus Centre has held discussions of draft laws being developed in regions where there are problems with Internet access.

#### 11. Obstacles encountered in the implementation of article 8.

Due to insufficient funding, draft legislation is not always published in full in the media. Due to untimely information about drafts of legal acts being prepared, it is not possible for the public to participate in decisions on their adoption; as a result, laws require additions and amendments almost immediately after their adoption. There is practically no public review of legal acts. The adopted laws do not contain procedures or mechanisms of their implementation.

Since 2010, the form of government has changed from presidential to parliamentary (according to the new Constitution).

In connection with the ongoing reforms of the public administration system and redistribution of functions between the state bodies (PCRD of 10.02.12 No. 87), many of the NLAs require revision. There is insufficient involvement of the public in the process of making environmentally relevant public decisions.

#### 12. Further information on the practical application of the provisions of article 8.

A number of NAPs have been developed by public authorities in cooperation with NGOs, and an analysis of the regulatory impact of NAPs in the field of environmental protection has been carried out.

In 2010, the Ministry of Natural Resources developed a number of NLAs, including the draft Law on Amendments and Suspension of the Action of NLAs. The Ministry of Natural Resources developed a number of NLAs, including the draft Law "On Amendments and Suspension of Articles 20, 22, 23 of the Law of the Kyrgyz Republic "On Normative Legal Acts of the Kyrgyz Republic". These articles of the Law provide for legal and other scientific expertise, as well as the organization of public discussions of draft regulations. After active public intervention through public expertise, these regulations did not come into force.

Within the framework of the project "Supporting SAICM and implementation of GHS in the Kyrgyz Republic", implemented by the Ministry of Economy of the Kyrgyz Republic in partnership with the NGO "Independent Environmental Expertise", with the financial support of UNITAR, the CCPs of 22.04.15 were developed and adopted. No. 235 "On Approval of the Programme of the Government of the Kyrgyz Republic on Implementation of the International Hazard Classification and Labelling System for Chemicals in the Kyrgyz Republic and the Action Plan for its implementation for 2015-2017" and the PPCD dated 09.02.15 No. 43 "On Approval of the Regulation on Hazard Classification System for Chemicals/Mixtures and Requirements for Hazard Communication Elements: Labelling and Safety Data Sheet".

#### 13. Website addresses relevant to the implementation of article 8.

See section VI.

## 26. Latvia

### Article 6

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

Public participation is prescribed by the EPL, the Law on Pollution, the EIAL, CM Regulation No. 157 “Procedure for Strategic Assessment of Environmental Impact” of 23 March 2004, CM Regulation No. 83 “Procedure for Assessment of Environmental Impact of Proposed Activity” of 25 January 2011, CM Regulation No. 91 “Procedure for Issue of Proposed Activity’s Technical Regulations by Regional Environmental Board When No Environmental Assessment Is Required” of 17 February 2004, CM Regulation No. 1082 “Application Procedure for A, B and C Category Polluting Activities and Issue of A and B Category Polluting Activities Permits” of 30 November 2010, CM Regulation No. 532 “Regulations regarding the Procedures for Industrial Accident Risk Assessment and Risk Reduction Measures” of 19 July 2005, CM Regulation No. 300 “Assessment Procedure of Impact on European Specially Protected Nature Territories (NATURA 2000)” of 19 April 2011, CM Regulation No. 686 “Regulations on Contents and Preparation Process of Specially Protected Nature Territories’ Nature Protection Plan” of 9 October 2007, CM Regulation No. 711 “Regulations on Municipality Spatial Development Planning Documents” of 16 October 2012, the Spatial Development Planning Law, CM Regulation No.3 “Railway Construction Regulations” of 2 January 2008, CM Regulation No. 240 “General Regulations for Spatial Development Planning, Land Use and Building” of 30 April 2013, CM Regulation No. 331 “Proposed Construction Public Discussions Procedure” of 22 May 2007 (hereinafter in this section the above-mentioned acts are referred to with respective number).

National legislative acts also regulate cases, when proposed activities have a potential transboundary impact.

#### Article 6, paragraph 1

Articles 8 and 12 of the EPL stipulate that the public authorities take the measures required to timely provide the public willing to participate in decision-making with necessary information.

#### Article 6, paragraph 1 (a)

The requirements of the Convention’s Article 6 in Latvia are covered by two mutually connected procedures concerning decision-making on activities listed in the Convention’s annex I:

- a. The EIAL lists activities to be performed by the EIA process and details thereof, as does CM Regulation No. 83 on public involvement procedure;

- b. The Law on Pollution and CM Regulation No. 1082 set out the issuing procedure of polluting activities permits, including for public involvement in activities listed in the Convention's annex I.

#### Article 6, paragraph 1 (b)

Article 4 of the EIAL provides that EIA is also required, if international agreements or responsible authority requires so: (a) according to initial assessment results; (b) if one or more proposed activities influence one territory, considering aggregate and mutual impact.

CM Regulation No.300 prescribes special procedure for assessment of activities the implementation of which does not require EIA in accordance with the EIAL.

According to Article 27 of Law on Pollution, in cases listed by CM B category permit application (for waste incineration equipment and in cases when REBs conclude that the activity could have considerable negative environmental impact) is also publicly available for opinion on the issue of the permit.

Public involvement is provided for also in decision-making on construction, if the latter has considerable environmental impact (Art. 12, paras. 1 and 2 of the Construction Law). The procedure for organizing public discussions on construction if EIA is not necessary is set in CM Regulation No. 331.

According to Article 12 of the Construction Law a local government shall, prior to taking a decision regarding construction, ensure public discussion regarding the intended construction, if the construction:

- (a) substantially impairs living conditions of the population;
- (b) substantially reduces the value of immovable property; or
- (c) substantially affects the environment, but it does not require the EIA in accordance with the EIAL.

According to Article 13, paragraph 6 of the Construction Law within three days from receipt of the construction permit the construction client shall inform owners (holders) of the immovable properties bordering on the parcel of land where construction has been allowed about the received permit by sending written announcements via registered mail to their declared residence address or legal address. The construction client shall also place a construction board on the parcel of land.

#### Article 6, paragraph 2

Anyone is entitled to join public consultation and express his/her opinion. The project developer has an obligation evaluate public opinion on planned construction. According to EIAL and CM Regulation No. 83, prior to the project approval procedure, the public receives information on

- (a) Initial EIA results;
- (b) The EIA procedure application for the project;
- (c) The EIA report (available online and in paper form) and availability of it for proposals and public discussions;

(d) The ESB opinion on the report which is publicly accessible at the ESB website.

Information is published on the website of the project developer or its authorized representative and on the website of the municipality as well as in at least one municipality-published newspaper or other local newspaper. Owners (holders) of immovable properties bordering on the territory of the proposed activity are informed individually. ESB has created a list of NGOs that have expressed interest in information on new proposals.

Procedure for issue of polluting activities permit contains similar regulations with respect to public information and involvement issues covered by the Law “On Pollution” and CM Regulations No.1082. Information about category A or, in certain cases – B category, permit applications must be communicated:

- (a) Publicly – by providing information in the operator’s office and municipality as well as by posting the application on the website of State Environmental Service (SES);
- (b) Individually – by notifying owners (holders) of properties adjacent to proposed polluting activity site or those located in directly influenced area;
- (c) In the official publication and in at least one local newspaper;
- (d) On the Internet – on the operator’s website or on the respective REB website;
- (e) On new polluting activities – also in Latvian official or local radio;
- (f) The activity developer is obliged to organize a public discussion on the issue of the permit.

Local government in its website or local newspaper publishes information on commencement of public discussion on construction and informs about the opportunities of getting acquainted with the relevant information.

Article 6 of the EPL stipulates general rights of each private person, also associations, organisations and groups of persons in the environmental field. The public concerned has not been particularly defined.

If during the EIA process informing of the public has not been performed and a public discussion has not taken place in accordance with the procedures specified by the CM, the competent authority sends the final statement to the developer for revision, indicating the deficiencies to be eliminated, or assigns the initiator to ensure the informing of the public and a public discussion. Each person has the right to appeal any decision taken in accordance with the EIAL, also any activity or inactivity, if with this decision the rights of the public to information or participation in the process of EIA as specified in regulatory enactments have been violated or ignored. (EIAL, Arts. 20 and 26.)

Article 6, paragraph 3

Respective legislative acts provide for certain deadlines for public involvement in the processes of EIA and permit issuing.

During EIA, there are two notifications. There is a 20-day period for recommendations during the initial public discussion. During public discussion of the EIA report the public is entitled to submit recommendations or opinion within 30 days. Public discussion shall be organized not earlier than

seven days after the publishing of the notification in the newspaper and not later than 10 days prior to expiry of the deadline determined for the submission of proposals of the public.

During discussion of permit conditions, the public has 30 days from the notification of the publication day to submit written suggestions or opinions to the REB on the issuance of the permit or conditions thereof.

#### Article 6, paragraph 4

According to legislative requirements, during the EIA the public has the right to receive information and express its opinions twice - during the initial public discussion and final report public discussion stages. The public also has the right to express opinions during the public discussion of construction and polluting activities' permit.

Interested NGOs that have applied to the ESB are informed as soon as the EIA procedure is started. Adjacent land owners are notified and invited to individually express their opinions on proposed activities.

#### Article 6, paragraph 5

The developer is responsible for public information provision as well as discussions during the EIA and permit application assessment processes.

Before submitting a permit application operator should perform the EIA, including identification of information and consultation with the public concerned in accordance with the EIAL.

According to CM Regulation No. 91, NGOs interested in planned activities in certain territories can apply to the REB to receive updated information.

#### Article 6, paragraph 6

Respectively, the information supplied to the public authority is made publicly available in accordance with the ITL, the EPL, the Law on Pollution and the EIAL.

No cases are reported, when EIA documentation would be classified based on commercial confidentiality or intellectual property rights.

Access to this information is ensured by: (a) the EIAL requirement to provide respective information to public and particularly interested persons; (b) the Law on Pollution, which provides that the application submitted, and documents thereof are made publicly available (Art. 27); and (c) CM Regulation No. 1082, which states in addition what information should be made public, including information acquired after public information or after public discussion (Chapter III).

#### Article 6, paragraph 7

Both the EIA and the permit issuing procedures foresee the public's right to submit recommendations or opinions within the deadlines provided or during public discussions without

any restrictions (Law on Pollution, Arts. 27 and 28; CM Regulation No. 1082; EIAL; CM Regulation No. 83).

Every participant in the public discussion is entitled to submit his/her written opinion within 10 days following the meeting, which is attached to public discussion report.

The responsible authority has the right to return the EIA report and the obligation to demand public information and public consultation in case of absence.

#### Article 6, paragraph 8

According to legislative requirements, public opinions have to be assessed and duly incorporated in the EIA report. The EIA report shall include an overview of the public participation events and the recommendations submitted, indicating how the submitted recommendations have been considered.

The EPL (Art. 12, paras. 6 and 7) stipulates that public authorities in decision-making processes evaluate public opinion and countermeasure individual rights and interests to public gains and losses, observing sustainable development principles.

Following Article 3 of the EIAL decisions should be taken considering proposals received during public discussions. Article 22 of the Law reinforces that decision on acceptance of the proposed activity should be adopted considering also opinion of the public.

According to the paragraph 6 of Article 28 of the Law on Pollution, prior to issuing of a permit, the REB should evaluate the recommendations received during public discussion.

CM Regulation No.83 (subpara.26.10) provides that during public discussion, written proposals, the initial results of public discussion and results of the report should be gathered and evaluated.

During EIA and the permission-issuing process the developer should prepare and submit to responsible authority a report on the public discussion and its results, attaching the written proposals received.

Authority can obligate a developer to amend proposed activities considering public opinion expressed during discussions.

According to paragraph 48 of CM Regulation No. 1082, should the informed institutions or the public recommend a denial of the permit for polluting activities, the REB issues permit or passes motivated decision on denial to issue permit only after the operator has had at least 14 days to provide written explanation.

#### Article 6, paragraph 9

Article 20 of the EIAL provides that the responsible authority publishes notification in at least one newspaper issued by the local government or in another local newspaper notifying that the decision on the EIA final report has been issued, informing about opportunities for familiarization with both documents (available also at ESB website). Article 23, paragraph 2, obliges the responsible authority to post the decision within three days of its adoption on the authority's website (if there

exists one) and within five weekdays to submit it for publishing in at least one local government's newspaper or other local newspaper, indicating the public authority where the public may familiarize itself with the decision's contents, grounds and information on the public discussion process as well as measures to be taken in order to prevent or reduce the adverse impact on the environment.

Section VI of CM Regulation No. 1082 provides that in cases of public discussion, operator has eight days from the day when the REB has issued or prolonged the permit or amended the permit conditions to inform public of the polluting activity, by placing notifications at the site of planned polluting activity and at the respective municipality and by individually notifying the owners of adjacent properties and those directly affected.

#### Article 6, paragraph 10

The Law on Pollution and CM Regulation No. 1082 prescribe public participation options and procedure also in cases when the permit is prolonged or reviewed including if the competent authority has regarded amendment to the activity as significant. Amendment to the activity as a result of which operational indicators of the installation exceed indicators mentioned in annexes to the law is a significant amendment.

The EIAL and CM Regulation No. 83 also provide for public participation in cases where amendments are planned in activities listed in annex I (i.e. activities requiring EIA), should these amendments comply with certain milestones.

#### Article 6, paragraph 11

See Sections XXXIII to XXXVI of this report on Article 6bis and Annex Ibis of the Convention

#### 2. Obstacles encountered in the implementation of article 6.

Although Latvian legislation provides for a public involvement option in decision-making on environmental issues, people are not always aware of their rights and opportunities.

In view of the ECC, public participation in the EIA procedure is frequently hampered by low-quality EIA reports, for example, by insufficiently describing the expected impacts and by providing only superficial information during the public discussion meeting. If the report is improved at a later stage at the request by the ESB, not always it is separately discussed with the public.

#### 3. Further information on the practical application of the provisions of article 6.

ESB cooperation with NGOs, in particular informing the latter of applications received. Similar cooperation has been created between REBs and NGOs active in the region.

#### 4. Website addresses relevant to the implementation of article 6.

[www.varam.gov.lv](http://www.varam.gov.lv)

[www.vpvb.gov.lv](http://www.vpvb.gov.lv)

[www.pvd.gov.lv](http://www.pvd.gov.lv)

[www.em.gov.lv](http://www.em.gov.lv)

[www.videscentrs.lv/mc.gov.lv](http://www.videscentrs.lv/mc.gov.lv)

## Article 7

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

Legislation is in force to ensure obligations and procedures for public involvement in environmental planning and the programme drafting process. The following legislative acts were passed and improved: the EPL; the EIAL and CM Regulation No. 157 (passed 23 March 2004) “Procedure for Strategic Environmental Impact Assessment”; Development Planning System Law; section VI of the SASL; CM Regulation No.300 “Rules of Procedure of the Cabinet of Ministers” of 7 April 2009; the Spatial Development Planning Law; and CM Regulation No.711 “Regulations on Municipality Spatial Development Planning Documents” of 16 October 2012, where the procedure is detailed for public involvement in municipality territory planning; CM Regulation No. 240 “General Regulations for Spatial Development Planning, Land Use and Building” of 30 April 2013; CM Regulation No. 402 “Regulations on Spatial Development Planning Documents of Planning Regions” of 16 July 2013; CM Regulation No.597 “Procedures for Environmental Noise Assessment” of 13 July 2004; CM Regulation No.686 “Regulations on Contents and Preparation Process of Specially Protected Nature Territories’ Nature Protection Plan” of 9 October 2007; CM Regulation No.970 “Procedure for Public Participation in the Development Planning Process” of 25 August 2009; CM Regulation No.1178 “Regulations on the Development and Impact Assessment of Development Planning Documents” of 13 October 2009; CM Instruction No.19 “Procedure for the Initial Impact Assessment of a Draft Regulatory Enactment” of 15 December 2009. (Hereinafter in this section the above-mentioned acts are referred with respective number.)

The ECC has been established in accordance with Article 14 of the EPL, bringing together the representatives of environmentally active organizations and professional associations. Therefore, public authorities have an addressee, and know where to send or present drafts of documents.

The annual working plan posted on MEPRD homepage provides a listing of works planned, including projects for documents, with the deadline and responsible official.

Article 4 of the EIAL and paragraph 2 of CM Regulation No.157 details the planning documents requiring strategic EIA. Article 23.5 of the EIAL and CM Regulation No.157 (Paragraph 2, section V) detail the procedure for public involvement in strategic EIA.

The responsible authorities organize regular public activities, i.e. they explain public involvement procedures vis-à-vis the development of planning documents.

According to legislation planning should be done on three levels: national, regional and local. Currently, public rights are described in more detail at the local planning level, without any criteria for a person’s eligibility to participate.



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

The general attitude towards public involvement in environmental policy development is described by Article 8 of the EPL.

On 1 January 2009 the Development Planning System Law entered into force. The law refers also to development planning in the domain of environmental protection and its purpose is to promote sustainable and stable development of the State, as well as the improvement of the quality of life of population, by determining the development planning system. This law applies to the development planning in public authorities. In accordance with the participation principle incorporated in Article 5 of the law all interested persons (including NGOs) have a possibility to participate in the drafting of the development planning document.

CM Regulation No.300 contains provisions on NGO involvement in the development process of policy documents and legislative acts as well as the need for public discussion and authorizes NGO representatives to participate in meetings of the State Secretaries, where legislative acts and policy documents of all ministries are discussed.

The public is invited to express its opinions on any reviewed policy document available on the CM homepage after a hearing at the State Secretaries' Meeting. Public authorities are obliged to inform interested parties and to organize consultations on publicly sensitive issues according to the SASL, Article 48.

The procedure for involving the public in the strategic assessment is stipulated by CM Regulation No.157, Chapter V.

7. Obstacles encountered in the implementation of article 7.

Notwithstanding the adequate access to information the public not always is aware of its participation opportunities.

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

The strategic EIA procedure is the main implementation instrument of the Convention's article 7, practical implementation of which is incumbent upon the public authorities. At the same time, the public do not always make use of the opportunities to participate. Problems with the strategic EIA procedure frequently are related to low-quality strategic EIA reports. That deprives the public of understanding the significant environmental aspects of the relevant planning document.

Public environmental authorities include colleagues from NGOs in their working groups for drafting project laws or other normative acts with legally binding force.

9. Website addresses relevant to the implementation of article 7.

[www.mk.gov.lv](http://www.mk.gov.lv)

[www.varam.gov.lv](http://www.varam.gov.lv)

[www.vpvb.gov.lv](http://www.vpvb.gov.lv)

[www.pkc.gov.lv](http://www.pkc.gov.lv)

## Article 8

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

Article 13 of the EPL describes the early involvement of public or its representatives in the drafting and discussion of environmental legislative acts.

CM Regulation No.300 “Rules of Procedure of the Cabinet of Ministers” (entered into force 17 April 2009) contains provisions for NGO involvement in the development of policy documents or legislative acts. The requirement for inclusion of annotation with legislative drafts is included here; this also should cover potential environmental impact, as well as information on public involvement and opinion.

Representatives of NGOs as well as individual specialists in the field are often included in draft legislation work groups.

The deadline for comments on the initial draft is usually two weeks. If an NGO has submitted its opinion within the prescribed term, its objections should be assessed, or agreement must be reached in a coordination meeting.

Draft legislation is freely accessible on the websites of the ministries and the CM. Draft laws are available at Parliament’s website. Results of the public participation are submitted to the legislator in the form of annotation in case of draft regulatory enactments and in other appropriate form in case of draft development planning documents.

### 11. Obstacles encountered in the implementation of article 8.

Legislative acts sometimes should be drafted in a short time, therefore encumbering appropriate public participation and risking with the quality of the draft regulatory enactment. To solve this problem, the MEPRD workplan is published on the Ministry’s website and the personnel are advised to involve the public in the legislative process more actively by adequately hearing the interested parties etc.

### 12. Further information on the practical application of the provisions of article 8.

Governmental authorities, for example, MEPRD regularly cooperate with particular professional associations and NGOs, especially in the areas of waste management, packaging use and the movement of chemicals. Professional associations are involved not only in discussion of legislative acts, but also in their preparation. The MEPRD involves ECC in discussions on various draft legislation.

The State Chancellery ensures implementation of the memorandum of cooperation between NGOs and the CM, including regular meetings with representatives of NGOs on topical issues.

The obligation to annotate every legislative draft and to reflect adequately the results of public participation in draft development planning documents secures practical implementation of Article 8.

Explanatory seminars are organized on significant legislative initiatives, e.g., seminars have been organized by the Baltic Environmental Forum on legislative regulation and development thereof regarding chemical substances and products.

13. Website addresses relevant to the implementation of article 8.

[www.varam.gov.lv](http://www.varam.gov.lv)

[www.mk.gov.lv](http://www.mk.gov.lv)

[www.sacima.lv](http://www.sacima.lv)

[www.bef.lv](http://www.bef.lv)

[www.daba.gov.lv](http://www.daba.gov.lv)

## 27. Lithuania

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

The terms mentioned in Articles 2 and 6 of the Convention are also used in Lithuanian legislation. Article 7 of the Law on Environmental Protection defines the rights of the public concerned and, other natural and legal persons, including the right to participate in accordance with the established procedure, in the process of selection of the planned economic activity for environmental impact assessment (screening for EIA) and environmental impact assessment (EIA) processes, to require termination of the harmful effect of objects of economic activities on the environment and submit in accordance with the procedure laid down by law, proposals regarding the mandatory nature of EIA.

Article 8 of the Law on Environmental Protection provides for the duties of public authorities, including the duties to comply with or dismiss, on a reasoned basis, the proposals of citizens, the public concerned, other legal and natural persons concerning the issues of environmental protection; to inform the public about the issued permits specified in the law; ; to evaluate and take into account the public proposals regarding the mandatory EIA (when the screening for the EIA of the planned economic activity is carried out); evaluate and have proper regard to proposals of the public regarding the environmental impact assessment of the proposed economic activity; encourage citizens, the public concerned, other legal and natural persons to participate in the adoption and implementation of decisions in the field of environmental protection.

The 'public concerned' is understood as one or more natural or legal persons affected or likely to be affected by, or having an interest in, the taking of decisions, acts or omissions in the field of the

environment and protection thereof as well as utilisation of natural resources. For the purposes of this definition, associations and other public legal persons (with the exception of legal persons established by the State or a municipality or institutions thereof) established in accordance with the procedure laid down by legal acts and promoting environmental protection are in any case deemed the public concerned (Article 1 of the Law on Environmental Protection).

The specific terms (e.g. the term ‘public concerned’ used in the EIA process) used within the context of the rights of the public and the public concerned and particular social relationships are defined in the special legal acts such as the EIA Law, the Law on Territorial Planning, etc.

#### Article 6, paragraph 1

The activities listed in Annex I to the Convention are provided for in Annexes 1 and 2 to the EIA Law. Annex 1 lists the proposed economic activities subject to the EIA, while Annex 2 contains a list of activities subject to screening for the EIA.

At the end of 2017, amendments to the Law on EIA, separating the screening processes for the EIA and the EIA, became effective. The rights and responsibilities of the responsible authority and other entities have been redefined. More responsibilities are provided for the responsible authority. In addition, the public information procedures were further elaborated.

Where the planned economic activities are not subject to EIA procedures but the boundaries of sanitary protection zones are to be established or adjusted for these activities, an assessment of the public health impact (PHI) of such activities shall be carried out. The procedures, conditions, provisions for performance of PHI, public information and participation have been enshrined in the Description of the procedure for carrying out public health impact assessments not provided for in the Law on EIA, approved by Order No. V-474 of the Minister of Health of 13 May 2011 (Description of PHI procedure). The competent authority that has carried out the PHI shall decide on the feasibility of the proposed economic activity.

Article 6 of the Convention is applied to the granting of integrated pollution prevention and control (IPPC) permits. The granting of IPPC permits is regulated by the Law on Environmental Protection and the Rules on the granting, updating and revocation of integrated pollution prevention and control permits approved by Order No D1-528 of the Minister of Environment of 15 July 2013 (the IPPC Rules).

#### Article 6, paragraph 2

##### Screening for the EIA and EIA process

The EIA Law defines the terms ‘public’ and ‘public concerned’ as follows:

- (a) The public means one or more natural and/or legal persons, their associations, organisations or groups.
- (b) ‘Public concerned’ shall mean the public affected or likely to be affected by decisions, actions or omissions in the EIA sphere, or having an interest in the the EIA screening and the EIA process. For the purpose of this definition, public legal entities (except for legal

entities established by the state or municipalities or their bodies) promoting environmental protection shall be deemed to be the public concerned in all cases.

Public information and participation in EIA selection and EIA processes are regulated in detail EIA Law, description of the selection procedure for the EIA, Description of the EIA procedure. The Procedure in this legislation provides for the public information and participation procedures, timeframe, persons responsible for public information and assurance of participation, and lists the functions of such persons.

During the screening process for the EIA, upon receipt of the selection information, the responsible authority shall inform the public thereof by means of a notice on its website within 3 business days.

During the EIA process, the public is informed by the preparer of EIA documents and the responsible authority. The latter publishes information on its website within the deadlines set by legal acts, while the author of EIA documents publishes information on the prepared EIA programme, and the EIA report: on its website and/or on the website of the organiser of the planned economic activity, on the bulletin boards of the municipality(s) and the sub-municipal area (s) whose territories include the place of the planned economic activity; in the territory(s) of the municipality(s) in which the place of economic activity is planned, periodically published and distributed in a local newspaper and, if not allowed, in a regional or national newspaper. Information about the EIA programme (i.e. about the start of the EIA process) is also published on the municipality's website. At the initiative of the organiser of the proposed economic activity, the preparer of the EIA documents may additionally publish the information in other places of public focus (i.e. on bulletin boards of public organisations, shops, house owner associations) and informing the public in other ways (e.g. by e-mailing the information to public organisations or distributing it to the homes, by performing surveys). In addition, representatives of the interested public who have submitted proposals, information about the prepared EIA report and public familiarisation with the report are sent in writing or by e-mail.

The legal acts stipulate that if the public access to the premises of the municipality or sub-municipal area is restricted during the emergency situation and quarantine, the report is displayed online, on the website of the EIA document preparer, and where public awareness events cannot be postponed until the end of the quarantine, it is organised by means of online video streaming, ensuring live broadcasting and its recording, maintaining it and providing access to the responsible authority and review, and ensuring possibilities for participants to ask questions and hear answers. The public is informed in advance of the publication of the broadcast time and the broadcast link, which is intended to be made public by means of a live broadcast.

In accordance with the established procedures, the public is informed of the proposed economic activity in a proper and timely manner.

Where the public is of the opinion that the rights assured under this Convention have been infringed, i.e. the authorities have failed to comply with the information obligation or the provision of information has been inappropriate or untimely, the public may, in accordance with law, apply to: (a) the authority that has committed inappropriate actions or omissions with a request to

evaluate whether the responsible officials have performed the duties assigned to them by law; (b) the Seimas Ombudsmen; (c) an administrative disputes commission; (d) a court.

#### PHI process

The PHI procedure describes the concepts of the public concerned and other public information concepts and provides for alternative ways of notifying the public: paper press, neighbourhood bulletin board, electronic space, deadlines for the provision of information, a list of mandatory information on the planned economic activity.

#### Granting of IPPC permits

The IPPC Rules stipulate that an application for the granting of an IPPC permit has to contain non-technical information comprehensible to the public and identify the most important aspects of the proposed activity. The public must have the possibility to make comments and proposals which are to be taken into consideration when taking the decision on the granting of a permit. The public concerned has the right to appeal against a decision taken by the competent authority. These provisions ensure effective public participation in the process of the granting of IPPC permits.

#### Article 6, paragraph 3

#### Screening for the EIA and EIA process

The terms of public information and participation are established in the Law on the EIA and the Description of Procedure on the EIA Screening and EIA:

- I) Screening for the EIA:
  - a. upon receipt of the screening information, the responsible authority shall inform the public within 3 working days at the latest, providing opportunities to submit proposals within 10 working days at the latest;
  - b. the responsible authority shall make the adopted screening finding and, where applicable, the supplementary screening information available to the public on its website no later than 3 working days from the date of its adoption.
- II) EIA; The interested public may submit comments on the planned economic activity before the EIA is taken:
  - (a) EIA programme; on publishing an EIA programme, a minimum timeframe of 10 working days is recommended for making the EIA programme available to the public and for allowing the public to submit proposals;
  - (b) EIA report; the EIA report is published no later than 10 working days before a public hearing, during which the public is entitled to have access to the EIA report and information relating to the proposed economic activity. Upon receipt of the EIA report, the responsible authority shall inform the public thereof within 3 working days, and shall set a deadline of 10 working days for the submission of comments and proposals. The responsible authority shall inform the public within 3 working days about the decision made regarding the impact of the planned economic activity on the environment.

## PHI process

The description of the PHI procedure sets deadlines for public information and participation in the PHI process:

- (i) The PHI report and information on the planned economic activity shall be published no later than 10 working days prior to the scheduled public presentation meeting of the PHI report. During this period, the public may get familiar with the published information, submit comments and proposals to the draftsman of the PHI report.
- (ii) The public has the right to submit comments and proposals to the preparer of the report within 10 working days after the public presentation of the report.
- (iii) The National Public Health Centre shall publish information on the decision on its website within 10 working days after the decision on the possibilities of the planned economic activity has been made.

## Granting of IPPC permits

On receiving an application for the granting of an IPPC permit, the Environmental Protection Agency informs the public accordingly within five working days.

The public concerned has the right of access to information for at least 15 working days from the date of publication of the information on an application received. The public concerned may submit comments and proposals for an application and the granting or updating of a permit from the date of publishing a notice on the receipt of the application.

## Article 6, paragraph 4

In accordance with national legislation, early public participation is ensured in the initial stage when all opportunities are still open.

The public shall be informed of the screening information received and of the possibility to submit proposals for screening information within 3 working days of receipt of this information by the responsible authority. The public is also informed about the EIA programme, which is prepared at the initial stage of the EIA procedures.

The IPPC Rules stipulates that the competent authority – the EPA – shall ensure that the public concerned are given early and effective opportunities in both the granting of a permit for new installations and updating a permit.

## Article 6, paragraph 5

Legislation has no requirement to encourage operators of the proposed economic activity to identify the part of the public concerned and begin a discussion before the commencement of the procedures.

In view of the established national practice, future applicants implement early public information and identify the public concerned in the event of a headline-making proposed activity (an activity of national importance, especially important for a particular region, etc.).

## Article 6, paragraph 6

### Screening for the EIA and EIA process

The public may have access to all information related to the planned economic activity, which is subject to screening due to the EIA or the EIA procedures. The responsible authority shall publish the following information on its website:

- I. Screening for the EIA: information regarding the organiser of the planned economic activity and his contact details; name and location of the planned economic activity; screening information; it shall be indicated that the responsible authority may submit comments within a specified term, request for additional information; information on the adopted screening conclusion;
- II. EIA: EIA programmes of the proposed economic activity and the approved EIA programmes; the EIA reports of the proposed economic activity received; EIA decisions.

The preparer of the EIA documents publishes the following information:

- i. EIA programme and informs about the possibilities to submit proposals. The notification shall include: the organiser of the planned economic activity and his contact details; EIA document preparer and his contact details; name and location of the planned economic activity; EIA subjects who will provide conclusions on the programme according to their competence and the responsible authority that will approve the programme; final due date for submission of proposals; an active online link is indicated on the website of the preparer of the EIA documents of the published programme or the organiser of the planned economic activity.
- ii. EIA report, opportunities to get access to the EIA report, to provide comments on the planned presentation of the EIA report to the public (time and place). The notification shall include: the organiser of the planned economic activity and his contact details; EIA document preparer and his contact details; name and location of the planned economic activity; EIA subjects who will provide conclusions on the report in accordance with their competence and the responsible authority that will make a decision; Website address of the preparer of the EIA documents or the organiser of the planned economic activity with a specific active link to the published report; place (s) where the report is made available, deadline for availability.

### PHI process

The preparer of the PHI report shall publish the PHI report, by specifying the following the notice: the organiser of the planned economic activity and his contact details; the author and his contact details; the name and location of the planned economic activity; a description of the planned economic activity; where, from when, until when the report is publicly displayed; where and when the public presentation meeting will take place; to whom (indicate the address of the preparer of the report) and in what ways (in writing, by e-mail, etc.) the proposals from the public can be submitted prior to the public presentation of the report; the decision-making authority and its contact details.



The responsible authority – the NPHC– publishes on its website: an acknowledgment of receipt stating the following: the organiser of the planned economic activity, the preparer of the report and their contact details; date of receipt of the application (submission) of the applicant (organiser of planned economic activity or the author of the report); the decision-making authority and the legal act establishing the procedure for making a decision regarding the possibilities of the planned economic activity; name, address, description of the planned economic activity; information where the report submitted by the applicant for examination or a summary thereof is publicly available.

#### Granting of IPPC permits

The responsible authority, the EPA, shall publish on its website a notice of the application received for issue of the IPPC permit stating the following: the name and address of the economic entity (installation) to which a permit is to be granted or updated, and information on the activity planned to be carried out at the installation; where (the EPA address and website), when (the hours and date by which the information will be made available) and when the application received will be made available; the name of the authority taking the decision on the granting or updating of a permit, from which information can be obtained and to which comments or questions can be submitted, and to whom, how and by when proposals and comments on the granting or updating of a permit should be submitted; information on consultations with an EU member state, where such consultations are held; information on the possible nature of the decision on the granting or updating of a permit; data on measures of public participation and consultations applied (where the information was published, and where the submitted proposals and the granted permit are made available).

#### Article 6, paragraph 7

#### Screening for the EIA and EIA process

The public has the right to submit comments and proposals throughout the EIA screening and the EIA process. Proposals need not be motivated. During the screening process for the EIA, the interested public may submit comments and proposals to the responsible institution in writing, by e-mail. During the EIA process, the interested public has the right to submit comments, proposals, opinions, information, analysis to the preparer of EIA documents, EIA subjects and the responsible institution in writing, by e-mail, orally (during the public consultation of the EIA report).

The drafter of EIA documents registers all proposals received from the public throughout the assessment process in accordance with the established form, evaluates them, prepares their reasoned evaluation and replies by providing motivation in writing to representatives of the public concerned who have submitted the proposals. The reasoned evaluation of proposals from the public is an integral part of the EIA report, which is displayed publicly and made available to the public.

EPA stakeholder proposals received before the approval of the programme and stakeholder proposals received after the approval of the programme, which are not included in the evaluation of the public proposals made during the preparation of the programme, as they were submitted after the final due date for submission of proposals, forward them in writing to the preparer of the

EIA documents, by informing the representatives of the interested public thereof. The preparer of the EIA documents shall register all received proposals of the interested public submitted after the deadline for submission of proposals and evaluate them with arguments during the preparation of the report, and replies to the members of the public who have submitted proposals in writing stating that the proposals will be evaluated during the preparation of the report.

Representatives of the public may make proposals and comments also at a public presentation of an EIA report.

Before taking a decision, the responsible authority examines the reasoned assessment of all proposals of the interested public performed by the EIA document preparer, invites the representatives of the public and other participants in the process to a meeting for consideration of their proposals together with other participants in the EIA process. Upon arrival to the consideration of proposals, they may access to the protocol on the consideration of proposals on the EPA website.

#### PHI process

The public has the right to submit comments and proposals throughout the PHI process in writing, by e-mail, orally during the public presentation of the PHI report.

#### Granting of IPPC permits

The public concerned may submit to the EPA comments and proposals for an application and the granting or updating of a permit from the date of publishing a notice on the receipt of the application. A period of at least 15 working days is set for submitting comments. Comments received are subject to publication, registration and evaluation. Representatives of the public who have submitted comments are informed of the evaluation results in writing.

#### Article 6, paragraph 8

#### Screening for the EIA and EIA process

EPA shall take into account the proposals received from the public concerned: 1) before adopting the conclusion of the screening for the EIA; 2) before approving the EIA programme; 3) when examining the EIA report; 4) taking into account the proposals of the interested public before making a decision.

In the cases where the responsible authority has received proposals from the public concerned, they shall consider those proposals with the representatives of the public concerned before taking a decision.

#### PHI process

The author of the report must draw up a documented evaluation of the public proposals (indicating the date of receipt of the public proposal, the full name (company name of the legal person) and address of the person who submitted the proposal, the public's proposal and the circumstances, the evidence on which the proposal is based, assessment of the public proposal, indicating whether it

is justified or not) and no later than 30 working days after their receipt in writing to inform the public who made the proposals in writing is to how their proposals were assessed. The author of the report must amend the report in the light of the public proposals which were assessed as justified in the reasoned evaluation of the public proposals.

All documents related to public information (publication in the media, copies of documents confirming the dispatch of registered letters, data on exhibiting the report for public access, minutes of the meeting of public awareness of the report, copies of public proposals, responses to public proposals, public proposals assessment document), are attached as annexes to the report and are considered by the NPHC.

#### Granting of IPPC permits

The IPPC Rules stipulate that the EPA shall register comments and proposals received from the public, analyse and evaluate them prior to taking the decision on the acceptance or rejection of an application. Written information on the results of analysis of comments and proposals from the public is supplied by the EPA to representatives of the public and the operator that have submitted the proposals (prior to taking the decision on the granting/updating or not granting/not updating a permit).

#### Article 6 paragraph 9 Screening for the EIA and EIA process

The competent authority shall publish the conclusions of the screening and, where applicable, the supplementary information on the screening on its website.

Within three working days from the adoption of the decision on the effect on the environment of the proposed economic activity, the competent authority must publish that decision on its website.

#### PHI process

The NPHC publishes a notice on its website regarding the decision made on the possibilities of planned economic activity.

#### Granting of IPPC permits

The EPA publishes on its website decisions on the issuance, amendment and revocation of permits.

#### Article 6, paragraph 10

National legislation stipulates that the requirements of Article 6 of the Convention apply when reconsidering the implementation conditions of a particular activity.

#### Article 6, paragraph 11

The information on the implementation of the Convention in the field of GMOs is provided at the implementation of Article 6 bis and Annex I bis.

### 2. Obstacles encountered in the implementation of article 6.

The NGO SOS Šilutės Medžiai, whose main activities include the protection of the environment and cultural values, stated that it had encountered restrictions on the rights guaranteed by the Aarhus Convention in the scope of application of the Law on Plantations. It expressed a concern about the indifference and inactivity of local government institutions. The association has named several projects (street reconstruction, landscape management) in which it sought to participate, but the association's right to participate in the initial decision-making stage, the right to receive information related to the decision-making process was restricted; the local authority unjustifiably rejected the comments submitted by the association, did not consider some of the proposals or rejected them without providing any arguments.

Representatives of the public and NGOs are concerned that the involvement of the public in the decision-making process is formal. They claim that they have encountered cases when information about projects is presented in a confusing form, project presentations are prepared at a time inconvenient for the population, and the public is informed about project presentations in an inappropriate and untimely manner. For these reasons, the public has no opportunity to participate in public deliberations. According to the public representatives, the state control in this area is ineffective.

The Lithuanian public is facing the limitation of the rights laid down in Article 6 in a transboundary context. A mere 50 km away from Lithuania's largest city, the capital Vilnius, Belarus is building a nuclear power plant in Astravets. The greatest concern around this project arises from the facts that the public was not and is not being informed properly of the processes related to the selection of a construction site for project of the Astravets nuclear power plant, development of this project and it has failed to obtain detailed explanations to the questions raised. Another concern is compliance of this project with the requirements of international legislation, especially in the field of nuclear safety, and the assessment problems that arise. After the failure to resolve the existing problems by cross-border negotiations, on 25 March 2015 Lithuania appealed to the Compliance Committee of the Aarhus Convention concerning compliance of Belarus' actions with Article 3, paragraph 9 and Article 6, paragraphs 2 to 4, 6 and 8 in the development of the Astravets nuclear power plant project.

The Astravets NPP and the possibility to participate effectively in decision-making are long-term, continuous and confirmed by decisions of international experts and parties to the relevant conventions. July 2018 The European Nuclear Safety Regulators Group (ENSREG) has published a review report on stress tests of the Belarusian NPP, which identifies safety concerns and makes recommendations for their elimination. Despite the calls from Lithuania and the European Commission, it took more than a year for Belarus to prepare and publish a plan to address the safety deficiencies identified during the stress testing process. Lithuania raises concerns about the timely implementation of the international review of this plan and of the measures outlined in the plan. The Espoo Convention in February 2019 found that Belarus had infringed Article 4(1) of the Espoo Convention (improper preparation of environmental impact assessment documentation, inadequate assessment of site alternatives), Article 5 (a) (inadequate consultation with affected countries) and Article 6(1), (incorrect final decision), without justifying the choice of site selected in the final decision. The finding of these violations in terms of content is closely related to

Lithuania's complaint to the Compliance Committee of the Aarhus Convention regarding the violation of the rights of the Lithuanian society enshrined in the Aarhus Convention in the planning and implementation of the Astravets NPP project.

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

Maastricht recommendations were translated into Lithuanian in the end of 2019. The text of the Recommendations in English and Lithuanian is published on the MoE website. Information on the translated recommendations and an invitation to follow them were sent to the interested state institutions.

The statement of the Aarhus Convention Compliance Committee on the application of the Aarhus Convention during the COVID-19 pandemic and economic recovery was translated into Lithuanian in 2020. The text of the statement in English and Lithuanian is published on the MoE website.

4. Website addresses relevant to the implementation of article 6.

Ministry of the Environment – am.lrv.lt

EPA – gamta.lt

Lithuanian Geological Service – lgt.lt

Ministry of Health – sam.lrv.lt

National Public Health Centre – nvsc.lrv.lt

**Article 7**

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

The basis for public participation in the preparation of plans and programmes relating to the environment is laid down in the Law on Environmental Protection and the Law on Territorial Planning. Legislation implementing these laws and stipulating the provisions of public participation includes:

- a) the specification of the procedure for public participation in strategic environmental assessment of plans and programmes and information of assessment entities, European Union member states and other foreign states;
- b) the Regulations on public information, consultations and participation in decision-making on the planning of territories;
- c) the Procedure for public information and participation in the preparation of plans and programmes for climate change management, ambient air and water protection and waste management approved by Order No D1-381 of the Minister of Environment of 26 July 2005.

Under the Law on Environmental Protection, ‘plans and programmes’ are understood as national-, regional- or local-level planning documents (action plans and programmes, development plans (programming documents), plans and programmes for the development of branches of the economy, strategies, conceptions, territorial planning documents, etc., including the plans and programmes which are co-financed by the European Community) which are drafted, approved and/or adopted according to the legal acts currently in force or in implementing public administration within one’s remit and whose implementation consequences may be of importance for the environment, including complete or partial modifications to such plans and programmes.

The Procedure for the SEA of plans and programmes does not provide for a detailed procedure for public information and participation but makes references to the implementing legislation. A different procedure for public information and participation is established where planning documents for territories and planning documents other than those for territories are harmonised.

In accordance with the Specification of the procedure for public participation in strategic environmental assessment of plans and programmes and information of assessment entities, European Union member states and other foreign states, the publicity procedures of a draft plan or programme (of planning documents other than those of territories) and assessment consists of:

- (a) a public notice on the decision of the organiser to carry out or not to carry out an assessment of a plan or programme;
- (b) the availability of a plan or programme assessment report and a draft plan or programme to the public;
- (c) publicity procedures in cross-border consultations;
- (d) information on an approved plan or programme.

In accordance with the established procedures, the organiser of the preparation of plans and programmes, after consultations with assessment entities, will publish (on the website and in the press), within 10 working days, the information on whether the SEA will be carried out or not. Where the SEA is not carried out, the organiser has to justify such a decision.

Where the SEA is carried out, no later than 20 working days before a public hearing, the organiser will publish on the website and in the press the information on: where, when and until when a draft plan or programme and the assessment report will be made available to the public (the address and time is indicated, and the timeframe must be at least 20 working days); where in particular a draft plan or programme and the assessment report are published on the website of the organiser (the link or rubric are indicated); to whom, by when and in what form (e.g., in writing or by email) proposals can be made concerning a draft plan or programme and the assessment report; when a public hearing will be held at the place of an authority that has organised the preparation of a plan or programme (or at another place specified in the notice), at which the public will be familiarised with the assessment report and the draft plan or programme.

During a period of at least 20 working days, the public can submit comments and proposals for a draft plan or programme being development and the assessment report.

The organiser evaluates proposals received from the public and informs the public at a hearing on how account has been taken of the comments received before the hearing. Within 10 working days after the public meeting, respond in writing to the members of the public who have submitted proposals, on the assessment of their proposals.

Documents of public consultations (certificates of evaluation of proposals from the public, minutes of a public hearing, a list of participants and information on notices) are an integral part of the SEA report.

When preparing planning documents for territories and carrying out their assessment, public information and participation in this process is based on the procedure laid down in the Regulations on public information, consultation and participation in decision making on the planning of territories. The publicity of the preparation of planning documents for territories includes the following procedures:

- (a) provision of information to the public on the beginning of planning of territories and planning objectives and the programme of planning operations indicating whether the SEA will be carried out; where no SEA is carried out, the reasons are specified about why the SEA was not carried out;
- (b) acquaintance with the prepared planning documents for territories and their assessment reports;
- (c) consultations with competent organisations or the public concerned;
- (d) submission and examination of proposals;
- (e) public hearing on planning documents for territories.

On November 7, 2018, the Government of the Republic of Lithuania adopted amendments to the Regulations on Public Information, Consultation and Participation in Decision-Making. Additional requirements have been introduced for the preparation of spatial planning documents by a simplified procedure for publicity procedures.

In 2018, at the initiative of the MoE, recommendations for public involvement in urban planning processes have been developed, to enhance the responsibility of municipalities, developers and others for public involvement in urban development processes – in the spatial planning, in the design of buildings, in the design of public spaces, in organising architectural competitions. The recommendations are based on the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters and foreign best practice.

In accordance with the Procedure for public information and participation in the preparation of plans and programmes for climate change management, ambient air and water protection and waste management, the public must be provided an opportunity to have access to plans and programmes during a period of at least 20 working days from the date of publication of the information on a plan or programme subject to preparation, modification or updating. During this period, the public is entitled to submit comments and proposals that are entered in a register of an established form. Motivated replies are provided to rejected proposals within 10 working days from the final due date for the submission of proposals. The program shall be notified to the public within 10 working days of the approved plan. The reasons are also provided on which decision

making was based in the preparation, modification or updating of the specified plans and programmes, and statistical information on public participation is supplied (the number of natural and legal persons that submitted proposals, and the number of these proposals taken or not taken into account).

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

The right of the public to participate in the formation of policies related to the environment is ensured by providing opportunities for representatives of the public to take part in the activities of different committees, commissions or working groups that decide issues relating to environmental policies.

For example, in accordance with the Law on Angling, an angling council is established that makes proposals to the Ministers of Environment and of Agriculture on issues relating to angling. This council consists of representatives of anglers' associations as well as representatives of the media in the field of angling. Pursuant to the Law on Protected Areas, the public may propose the establishment of new protected areas or adjust their boundaries.

The implementation of this right is also ensured by public participation in the legislative process (see the information on the implementation of Article 8).

On 13 August 2019, the Minister of the Environment by Order No. D1-458 approved the Recommendations of the main directions of Lithuanian urban policy and their implementation (hereinafter the LUP). The LUP recommendations envisage four directions of urban policies, one of which is the vitality of society and communities, and social and cultural aspects. The aim is for the interest groups involved in the implementation of this urban policy to take responsibility for the implementation of the LUP directions – to monitor changes in the environment and seek to strengthen the sustainable development of territories, to seek cooperation, to share good practices and experience, and to contribute to the dissemination of information and knowledge. Cooperation with different interest groups and the public is highlighted as one of the key aspects of achieving sustainable urban and urbanized development.

7. Obstacles encountered in the implementation of article 7.

Public activity is intensifying due to the planning and development projects of urban areas; however, the involvement of municipalities is too slow. Municipalities seek to comply only with official legislation that sets minimum requirements for public involvement. In some cases, these requirements do not meet public expectations, and municipalities seek not to extend the process of public engagement due to a lack of financial, human resources and knowledge.

During the preparation of plans and programmes, the media does not always provide the public with accurate, detailed information on the environmental improvement measures proposed in draft plans or programmes, which, in some cases, leads to public dissatisfaction with the policy being formulated.

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



In the preparation of plans and programmes at the national level, public consultations are used in practice, during which the planned actions for the improvement of the state of the environment are presented. For example, in 2018, before re-publicising and submitting the draft National Air Pollution Management Plan to the relevant institutions for coordination, a public seminar was organised (the invitation was distributed online) to present the measures proposed in this project and argue their need from a health point of view.

Two public consultations took place during the preparation of the National Energy and Climate Action Plan (NECAP). From 13 March 2018 until 15 May 2019 the public was invited to submit proposals for the NECAP measures and a draft version of its content (consultations were published through a dedicated national consultation platform E.pilietis). Following the public consultation and the implementation of the NECAP Commission's recommendations, the NEKS project was adjusted and on 13 November 2019 submitted for the second time for public consultation through the E.pilietis national consultation platform and presented at various events of the climate change week on 22-29 November. The public consultation ended on 4 December 2019. During the events of the Climate Change Week, science, consulting and NGOs and other organisations were invited to participate in a public discussion of the draft plan measures to discuss agricultural challenges and opportunities for meeting climate targets. The measures were also presented to the National Climate Change Committee, which included the social partners.

#### 9. Website addresses relevant to the implementation of article 7.

Ministry of the Environment – [am.lrv.lt](http://am.lrv.lt)

TAIS - <https://e-seimas.lrs.lt/portal/documentSearch/lt>

Lithuanian Geological Service – [lgt.lt](http://lgt.lt)

### Article 8

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

In Lithuania, the public is assured the right to participate in the legislative process. No special provisions are envisaged that relate to public participation in the adoption of regulations related to the environment.

In accordance with the Law on Legislative Framework adopted in 2014, legislation means a process covering the submission of legislative initiatives, drawing up of draft legal acts and adoption, signing and publication of legal acts. Legislation in Lithuania, inter alia, is guided by the principle of openness and transparency meaning that legislation should be public and that legislative solutions relating to general interests may not be taken without the knowledge of the public or public participation; also that the national policy objectives, the need for legal regulation and the entities taking part in legislation must be known, and the public and interest groups must be provided conditions to make proposals for legal regulation at all stages of legislation; and that the entities who initiated the preparation of draft regulations, drew up draft regulations and carried out the evaluation of the expected effect of legal regulation have to be known. The purpose of

public consultations is to ensure openness and transparency in legislation, to get feedback from the public on the issues of legal regulation and their solutions, to allow the public to influence the content of a draft legal act and to better assess the positive and negative consequences of the envisaged legal regulation and the costs of its implementation, to submit proposals relating to the legislative initiatives and draft legal acts published in the ISLA, as well as to the monitoring of legal regulation carried out. The Law on Legislative Framework stipulates that the public must be consulted in due time and on essential issues (effectiveness of consultation), also to the extent necessary (proportionality of consultation).

The duty of public consultations in fact is implemented through the publication of draft regulations on the ISLA where parties concerned can make their comments and proposals. Entities engaged in the preparation of regulations must transfer to the ISLA and publish those proposals that have been submitted not to the ISLA. An entity preparing a draft regulation takes all proposals submitted into consideration.

The right of the citizens' legislative initiative and the procedure for its implementation are regulated by the Law on the Citizens' Legislative Initiative.

The procedure for the implementation of the right to petition guaranteed under the Constitution of the Republic of Lithuania is laid down by the Law on Petitions. The law stipulates that, in exercising the right to petition, a person may, in accordance with law, apply to the Seimas, the Government or municipal authorities, in particular a municipal council and the director of a municipal administration. An applicant is a citizen of the Republic of Lithuania not younger than 16 years or a foreign national permanently residing in the Republic of Lithuania, or a group of them who have drawn up and submitted an application (petition) in accordance with this law.

#### 11. Obstacles encountered in the implementation of article 8.

Obstacles include low activity of the public in the legislative process and the delayed submission of comments. Lack of general legal knowledge, legislative knowledge, lack of public awareness and citizenship in the legislative field, sluggishness.

#### 12. Website addresses relevant to the implementation of article 8.

TAR: <https://www.e-tar.lt/portal/>

## **28. Luxembourg**

### **Article 6**

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

At the international level, Luxembourg

- is a contracting party to the Espoo Convention on transboundary impact assessment and has ratified the two related amendments and the protocol on strategic environmental assessment,
- is a Contracting Party to the Aarhus Convention and has ratified the Protocol on Pollutant Release and Transfer Registers.

As a Member State of the European Union, Luxembourg is obliged to transpose and implement the relevant Community legislation and more particularly the amended Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment as well as Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) as well as Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending the Directive on the assessment of the effects of certain projects on the environment, with regard to public participation and access to justice, Directives 85/337/EEC and 96/61/EC. The installations and projects covered by the EIA and IED Directives largely overlap.

The text transposing the "IED" directive will be applied before the end of the first half of 2014; this text adapts the ineffective provisions of the amended law of 10 June 1999 on classified establishments.

The above-mentioned directives are applied as follows:

The amended law of 10 June 1999 on classified establishments makes the activities of Annex I subject to a class 1 authorisation regime which falls within the remit of the minister responsible for the environment and the minister responsible for the health and safety of workers and staff of the establishment. This authorisation system concerns, among other things, all installations and projects covered by Directives 85/337/EEC and 2010/75/EU, the scope of which goes beyond that of the Aarhus Convention, without prejudice, however, to the so-called transport infrastructures and land consolidation discussed below.

The following guiding principles make it possible to assess the conformity of Luxembourg legislation with Article 6(1) to (11) of the Aarhus Convention

The said law requires the submission of an application file based on standard forms made available to applicants for authorisation. This file contains relevant information on, among other things, the identity of the applicant, the nature and location of an establishment, the installations and processes to be used, the nature and scale of the activity, water abstraction, discharges into the air, soil and water, noise emissions, waste production and management, the production, consumption and use of the various forms of energy, an environmental impact statement containing the data needed to identify and assess the main effects of the emissions on the environment, the proposed measures to mitigate and prevent risks to the environment, including the techniques and technologies used, the measures planned for monitoring emissions into the environment, a non-technical summary of the data concerned, the environmental impact assessment and, for "IED" establishments, the main alternatives, if any, studied by the applicant, in summary form.

In addition to the relevant plans and maps, the application file also includes the opinions of the administrations involved in the file, whose opinion must be requested, as well as other reports and opinions available to the Administration that it deems essential for its decision.

Finally, the application file for authorisation is specified - as far as the so-called FDI establishments and/or establishments subject to an environmental impact assessment are concerned - as to the nature of the possible decisions and supplemented by a draft decision when it exists.

The said law provides that a grand-ducal regulation determines the establishments of class I for which the minister having the environment in his attributions is empowered to prescribe to the applicant for authorisation an environmental impact assessment due to their nature, their characteristics or their location. The Grand-Ducal regulation specifies the nature of the information to be provided by the project owner in the context of this assessment as well as all the related procedures. The assessment identifies, describes and evaluates in an appropriate manner, according to each particular case, the direct and indirect effects of the establishment concerned on the environment.

The Act introduces a procedure and time limits for decision-making in the examination of applications for authorisation. The related disputes are the subject of formal discussions between the applicant and the Administration and, if necessary, of a summary procedure before the administrative court with a view to determining the final status of the file.

The said law introduces for the said establishments a public enquiry procedure including the posting of a notice - for fifteen days and in the commune of establishment - indicating the object of the request for authorisation or the proposal for revision of the authorised emission limit values, including new details concerning the so-called "IED" establishments and a simultaneous publicity by way of press (at least four daily newspapers printed and published in Luxembourg). The minutes of the public enquiry contain the written and oral observations of all the interested persons who presented themselves as well as the opinion of the college of burgomasters and aldermen of the commune or communes concerned.

The said law provides for notification of decisions to authorise, update, refuse or withdraw authorisation to the applicants for authorisation or operators and, for display purposes, to the municipal authorities on whose territory the establishment in question is located. In addition, the public is informed of the decisions taken by posting them in the municipal building for a period of forty days; a copy of the authorisations issued is kept in the municipality and can be consulted freely there; persons who have submitted observations during the public enquiry are informed by registered letter that a decision to authorise or refuse has been taken and that this decision will be publicised; individual information may be replaced by the insertion of a notice in at least four daily newspapers printed and published in Luxembourg. Decisions on the authorisation, updating or refusal of authorisation for so-called FDI establishments and for establishments subject to an environmental impact assessment shall indicate, after examination of the concerns and opinions expressed by the public, the reasons and considerations on which the decision is based, including information on the public participation process.

The Act contains provisions relating to transboundary cooperation. Thus, when a Class 1 establishment project is likely to have significant effects on man and/or the environment of another State or when a State likely to be significantly affected requests it, the application file, including the assessment of the effects, shall be transmitted to that State as soon as possible and at the latest at the time of posting and publication of the application. In the framework of the bilateral relations of the two States, it shall be ensured that the authorities and the public concerned of the State in question have the possibility to communicate their opinion if possible during the public enquiry and before the public authority makes its decision and the decision on the application for authorisation is communicated to the State in question.

The said law also introduces an appeal for reconsideration for the benefit of approved ecological associations. The latter are deemed to have a sufficient interest to act.

The amended Grand-Ducal regulation of 7 March 2003 on the assessment of the impact of certain public and private projects transposes the amended directive 85/337/EEC into national law. It introduces an automatic impact assessment for Annex I establishments and a case-by-case assessment for Annex II establishments, the thresholds set therein being indicative.

The so-called transport infrastructures are covered by the law of 29 May 2009 concerning 1. the transposition into Luxembourg law of Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment; 2. the amendment of the law of 22 May 2008 on the assessment of the effects of certain plans and programmes on the environment; and 3. the amendment of the law of 19 January 2004 on the protection of nature and natural resources

A grand-ducal regulation of 7 November 2007 sets the content, conditions and procedures for carrying out the impact study required for the regrouping of rural property.

The aforementioned laws and regulations, adopted in particular in transposition of the corresponding EC directives, thus respect the letter and the spirit of the Aarhus Convention and the Espoo Convention.

## 2. Obstacles encountered in the implementation of article 6.

There are no particular obstacles to be noted in this area, although the rules and procedures are widely known and accepted.

The majority of appeals against authorisation decisions concern the nature, scope and extent of the prescribed authorisation conditions.

As far as cross-border cooperation is concerned, the limited number of cases involved implies a practice of bilateral or multilateral information and consultation which is of a "pragmatic" nature, but which does not at present require the establishment of strict rules and procedures.

## 3. Further information on the practical application of the provisions of article 6.

For example, the above-mentioned Act of 10 June 1999 establishes an advisory committee which includes representatives of approved environmental associations, and which has the specific task

of discussing and deciding on general problems that may arise in the context of implementing the Act.

4. Website addresses relevant to the implementation of article 6.

The main WEB addresses are

[www.emwelt.lu](http://www.emwelt.lu).

<http://www.developpement-durable-infrastructures.public.lu/fr/index.html>

There is a wide range of environmental information and links to other more specific sites.

## Article 7

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

At the international level, Luxembourg has ratified the Kyiv Protocol on strategic environmental assessment.

As a Member State of the European Union, Luxembourg is required to transpose and implement the relevant Community legislation and more particularly Directive 2001/42/EC relating to the assessment of the effects of certain plans and programs on the environment.

The aforementioned directive is applied by a law of 22 May 2008 with the same title.

This law provides in particular

- that the environmental assessment is carried out, ex officio or on a case-by-case basis, by the authority responsible for the plan or program and before it is adopted or submitted to the legislative and regulatory procedure

- that a report on the environmental impacts is drawn up, in which the probable significant impacts as well as the reasonable alternative solutions are identified, described and assessed,

- that the draft plan or program – before it is adopted or submitted to the legislative or regulatory procedure – is made available to the public in the following manner: publicity on electronic media and in the press of the subject of the project and the report, publicity on electronic media which may be supplemented by information meetings convened by the authority responsible for the plan or programme; possibility for the public to simultaneously consult the complete file at

said authority for thirty days and therefore the possibility for all interested parties to make observations and suggestions by means of the electronic medium or to send their written observations directly to the responsible authority at the latest within forty-five days following the start of the publication. In addition, the file is forwarded to other authorities with specific environmental responsibilities for their position.

- that a copy of the draft report is sent to another Member State likely to be affected, before the plan or program is adopted or submitted to the legislative and regulatory procedure. In the context

of bilateral relations, it will be ensured that the authorities and the public concerned in this State are informed and have the opportunity to communicate their opinion within a reasonable time and that the decision taken on the project is communicated to this State,

- that the public and other authorities with specific responsibilities for the environment are informed of the adoption of a plan or programme, publicity being carried out electronically and by publication in at least four printed and published daily newspapers in Luxembourg.

- that an action for annulment may be brought by interested persons, including approved environmental associations which are in this case deemed to have a personal interest, against decisions relating to the carrying out or not of an environmental assessment and the terms of reference for the environmental impact report.

Mention should also be made of Directive 2003/35/EC providing for public participation in the drawing up of certain plans and programs relating to the environment and, amending as regards public participation and access to justice, directives 85/337/C33 and 96/61/EC.

Information and consultation of the public - in particular through advertising on electronic media, which may be replaced by information meetings, and through the press and therefore the possibility for interested parties to consult the file and to share their observations and suggestions - have been introduced into the legislative and regulatory provisions, particularly with regard to waste management, air quality management and water management (general plan and sectoral plans for waste management, plans or programs for air quality improvement, nitrates action programme).

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

In Luxembourg, public participation in this area generally takes place informally through information and awareness sessions and brochures, press releases and conferences and regular contact between the public authorities and environmental associations through example. Appropriate information is also available to the public through the government program, including the report on the state of the nation issued annually by the Prime Minister, and policy debates in the Chamber of Deputies. There are no particular obstacles to overcome in this area, the procedures being transparent and easily accessible.

The aforementioned law of May 22, 2008, is applied in particular in the context of the development of municipal development plans drawn up on the basis of the law of July 28, 2011, amending the amended law of July 19, 2004, concerning municipal development and urban development and amending 1. the amended municipal law of December 13, 1988, 2. the amended law of December 28, 1988, regulating access to the professions of craftsman, merchant, industrialist and certain liberal professions, 3. the amended law of 19 January 2004 concerning the protection of nature and natural resources, 4. the law of 19 December 2008 relating to water.

#### 7. Obstacles encountered in the implementation of article 7.

N/A

#### 8. Further information on the practical application of the provisions of article 7.

The law of June 25, 2005 relating to the coordination of the national sustainable development policy established a High Council for Sustainable Development as well as an interdepartmental commission for sustainable development. The mission of the High Council is in particular to encourage the broadest participation of public and private bodies as well as that of citizens in the achievement of objectives relating to sustainable development and to issue opinions on all measures relating to national development policy. sustainable.

The mission of the interdepartmental commission is, in particular, to draw up and monitor the national plan for sustainable development.

The aforementioned law of 22 May 2008 established an inter-ministerial committee responsible for assisting the minister responsible for the environment in the performance of his tasks.

9. Website addresses relevant to the implementation of article 7.

The main WEB addresses are as follows:

[www.emwelt.lu](http://www.emwelt.lu).

<http://www.developpement-durable-infrastructures.public.lu/fr/index.html>

There is a whole series of environmental information and references to other more specific sites.

## Article 8

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

In Luxembourg, the Memorial is the tool for publishing Grand-Ducal laws and regulations.

Draft laws and Grand-Ducal regulations are submitted for opinion in particular to the professional chambers concerned and notified for all practical purposes, if necessary, to ecological associations.

The discussion of bills within the Environment Committee of the Chamber of Deputies allows consultation with the private sector and environmental associations.

11. Obstacles encountered in the implementation of article 8.

There are no particular obstacles to be noted in this area, while the procedures for compulsory consultation of the professional chambers are strictly followed, often even before the referral of a legislative or regulatory project to the Council of Government.

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

N/A

13. Website addresses relevant to the implementation of article 8.

The main WEB addresses are as follows:

[www.emwelt.lu](http://www.emwelt.lu).



<http://www.developpement-durable-infrastructures.public.lu/fr/index.html>

There is a whole series of environmental information and references to other more specific sites.

## 29. Malta

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

The principle of non-discrimination is provided for in Article 45 of the Constitution of Malta, which states that ‘no law shall make any provision that is discriminatory either of itself or in its effect’. Therefore, the national provisions on public participation in decisions on specific activities must be interpreted in terms of Article 45.

With respect to paragraph 1, measures taken to ensure that:

A. The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

B. The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

The Industrial Emissions (Integrated Pollution Prevention and Control) Regulations (S.L. 549.77) provides for public participation with regards to the permitting of installations falling within scope of these Regulations, both during the processing of application and the final decision making process. With regard to other environmental permits, specific stakeholder consultations may be carried out in certain cases depending on the envisaged impacts.

In addition, the Development Planning Act (Cap. 552) provides for public participation in decision-making for any development irrespective of whether it requires an environmental impact assessment (EIA) or otherwise. In particular the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide more detailed provisions regarding public participation inter alia. The Environmental Impact Assessment Regulations (EIA Regulations) (S.L. 549.46) also call for public participation as shall be explained below.

Therefore, the provisions of article 6 are applied both to decisions on activities that fall within annex I and those that do not.

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

These requirements are provided for in the Industrial Emissions (IPPC) Regulations (S.L. 549.77), whereby Regulation 18 states that ERA must ensure that the public concerned are given early and effective opportunities to participate – more details are then provided in Schedule 4.

As regards planning applications, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) obliges the Executive Chairperson (established under the Development Planning Act [Cap. 552]) to ensure that information about the applications are available online, and on the actual site, at an early stage in order to allow for members of the public to make representations.

As regards EIAs, public consultation is carried out during scoping (terms of reference) and the review stage (Regulations 16, 19, 20). Public consultation during the scoping stage is issued through a notification published on the ERA's website (EIA Portal) informing the public that a proposal is subject to an EIA, also inviting the public to submit issues to be included in the EIA terms of reference within 30 days from the issue of such notification. Such notifications include the details of the proposal including a Project Description Statement (PDS) as requested in the EIA Regulations (S.L. 549.46). One or more scoping meetings may be held with the Local Council, NGOs and entities of Government. Once the EIA Report is received, it is issued for public consultation for 30 days. The public is notified through an advert in the press as well as on the ERA webpage (EIA Portal). For Category I projects, and other projects not listed in Category I as the Authority deems fit, a public hearing is convened in the locality where the development is being proposed. The public is once again notified through adverts in the press as well as through a notification on the ERA website (EIA Portal). For a public meeting, the public is notified at least 15 days before the meeting. Further comments by the public can be submitted up to 7 days following the public meeting. All information relevant to the EIA and the decision-making is made available to the public.

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

Time limits for public participation are listed in the relevant legal instruments listed below and there is a practice to authorise an extension of the consultation period if reasonable.

The Industrial Emissions (IPPC) Regulations (S.L. 549.77) provide for a 30 day or (15 day in cases of minor changes to an application or similar decisions) time frame;

The Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide for a 15 day time frame in the case of summary procedures, i.e. specific types of development applications falling within the provisions of Schedule 2 therein; and a 30 day time frame for all other cases (including those which required an EIA) – though such periods may be shortened to seven days in urgent cases.

The EIA Regulations (S.L. 549.46) provide for the opportunity for the public to make comments during the 30 days' public consultation on terms of reference for the environmental impact assessment, during the public consultation on the EIA report (of not less than 30 calendar days), prior to the public hearing (see above), during it, and up to seven days after it.

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

See answers provided above.

With respect to paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

As per the Industrial Emissions (IPPC) Regulations (S.L. 549.77) Schedule 4, the public consultation process shall be initiated through a notice in at least one local newspaper and on ERA's website, and ERA may also require the operator to organise one or more public meetings as part of the public consultation process. In addition, supplementary procedural measures include matters such as the identification of relevant stakeholders.

A list of Development consent applications received by the Planning Authority is found on the Department of Information's website. A link is also provided on the Planning Authority's website. Applications are also advertised by means of a notice affixed on site; in the case of major applications, as listed in Schedule 1 of Legal Notice 162 of 2016 the applicant may also be requested to place additional adverts in local newspapers and to hold consultations in relation to such applications. In addition, as per Regulation 2 of the EIA Regulations (S.L. 549.46), a definition of the 'public concerned' is provided in order to guide prospective applicants to identify such stakeholders and initiate discussions at an early stage.

With respect to paragraph 6, measures taken to ensure that:

A. The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

B. In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), this requirement is catered for under Regulation 18 and Schedule 4. The PA also makes planning applications and related information available online for effective public access. The provisions of paragraph 6 are also catered for in the EIA Regulations (S.L. 549.46).

With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), the procedure is specifically regulated under Schedule 4. During the public consultation any person may make representations and or request for clarifications on the applications.

Regulation 11 of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), allows any person to declare an interest in any development application and make representations to the PA by any means of communication, written or electronic, in the

Maltese or English language, and must include an electronic address. The EIA Regulations (S.L. 549.46) provide for the opportunity for the public to submit comments to the Authority during the 30 days' public consultation on the terms of reference for the environmental impact assessment (Regulation 16), during the public consultation on the EIA report (of not less than 30 calendar days) (Regulation 19), prior to the public hearing, during it, and up to seven calendar days after it (Regulation 20).

With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), Schedule 4 provides that the results of the consultations must be taken into due account in the taking of a decision and furthermore, Regulation 18 states that the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision must be published. Article 72(2) of the Development Planning Act (Cap. 552) also states that in its determination upon an application for development permission, the Planning Board shall have regard to representations made in response to the publication of the development proposal. In relation to EIAs, this requirement is catered for in Regulation 21 of the EIA Regulations (S.L. 549.46), whereby the submissions, comments, enquiries and requests submitted by the public shall be collated into a report by the Authority for the appropriate follow-up. Additionally, as per Regulation 23 of the EIA Regulations, the Authority shall give due regard to the comments received in its own final assessment.

9. With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77) this is catered for by Regulation 18(2) which requires the competent authority to make the decision publicly available online. Under Regulation 6(6) of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), the Executive Chairperson shall establish the publication date of the decision which shall not be later than fifteen days from such decision; and the proposal together with the name of the applicant and a note as to whether the application has been approved or refused shall be published on the websites of the competent authority and the Department of Information.

With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

The abovementioned rules relating to the Industrial Emissions (IPPC) Regulations (S.L. 549.77) apply to a decision on granting, reconsideration or updating of a permit. As per Article 71(8) of the Development Planning Act (Cap 552) and regulations 5(4) and 12(6) of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), when material changes in the application are proposed, or fresh/revised drawings or documents are submitted, those who had previously made representations on the original proposal are informed and are allowed to make comments. Under the EIA Regulations (S.L. 549.46), if there are any

requested changes or extensions of a development which would result in significant adverse effects on the environment, the operator may be required to undertake a fresh EIA or an update thereof (Regulation 24). In addition, the procedures, where relevant must be followed, including public consultation.

With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

As regards the deliberate release of genetically modified organisms, this is regulated by the Deliberate Release into the Environment of Genetically Modified Organisms Regulations (S.L.549.60), whereby the public is given the opportunity to make representations and comments on any proposed release as per Regulations 9 and 12.

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007

#### Paragraph 1: Activities falling under article 6

Does national legislation or practice apply the procedures of article 6 of the Convention exclusively to decision-making requiring an environmental impact assessment (EIA) or also to other types of decision-making?

Public participation is catered for under various other pieces of legislation and is therefore required for other activities and decision-making that do not require EIAs, such as within the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13), in which the public may make representations on any planning application (whether it required an EIA or not), and as regards applications relating to Projects of Common Interests (as per EU Regulation (EU) no 347/2013) or the Seveso III Directive (Directive 2012/18/EU transposed through the Control of Major Accident Hazard Regulations [S.L. 424.19]) whereby the public must be given the right to participate in the application process.

Public participation is also included in the decision-making process under the Industrial Emissions (IPPC) Regulations (S.L. 549.77).

With respect to development applications, planning regularisation procedures and summary planning procedures were introduced in May 2016 through the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13). For the regularization procedure (which does not require an EIA), an application needs to be submitted which is published on the Government Gazette and is subject to public consultation. With respect to the summary procedure, most relevant applications were previously processed through the Development Notification Order procedure and were not published for public consultation. Through the summary procedure, applications are now published on the Government Gazette and Department of Information website, have a site notice affixed to the site and the public is allowed to submit any comments/objections generally within 15 days.

The Flora, Fauna and Natural Habitats Protection Regulations (S.L. 549.44) envisages the involvement of the public within the Appropriate Assessment (AA) procedure (through regulation

19 therein), as well as when the competent authority is assessing the re-introduction of species. In fact, the competent authority shall carry out any re-introduction only after proper consultation with the public concerned (as per regulation 29).

In case a number of consecutive decisions are required in order to permit a proposed activity listed in annex I (e.g. a planning permission, a construction consent, an environmental permit, a mining license), does the legislation require public participation only in relation to one of such decisions (which one?), some of them (which ones?) or all of them?

Public participation is a requirement for: planning applications under the Development Planning Act (Cap. 552), EIAs under the EIA Regulations (S.L. 549.46) and environmental permits under the Industrial Emissions (IPPC) Regulations (S.L. 549.77).

#### Paragraph 2: Notification of the public concerned

Does the national law define the public concerned and, if so, how?

National legislation provides a definition of the ‘public concerned’ in the EIA Regulations (S.L. 549.46): "the public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures relevant to these regulations; and also includes non-governmental organisations that promote environmental protection and that meet the relevant requirements at law’.

Are any special measures taken to encourage public participation in the most significant environmental decision-making cases?

The PA makes use of social media in order to encourage public participation in certain major cases. To encourage the public to participate in EIAs, in addition to the standard measures applicable to all projects subject to an environmental assessment (advertises in the press, on ERA’s website and on the government’s online public consultation platform ([https://meae.gov.mt/en/Public\\_Consultations/Pages/Home.aspx](https://meae.gov.mt/en/Public_Consultations/Pages/Home.aspx))), one or more scoping meetings may be convened with the Local Council, NGOs and entities of Government, and for Category I projects a public hearing is convened in the locality where the development is being proposed. A public hearing may also be held for Category II projects if ERA considers that a public hearing should be held.

What is the legal effect of failing to duly notify the public concerned?

In all cases, if the responsible authority fails to duly notify the public concerned, this may nullify the procedure. As per Regulation 34 of the EIA Regulations (S.L. 549.46), any omission related to any matter regulated under the EIA Regulations may be challenged by any aggrieved person before the Environment and Planning Review Tribunal, which operates in accordance with the rules and procedures laid down under the Environment and Planning Review Tribunal Act.

#### Paragraph 3: Time frames for public participation

How much time is usually allocated for public consultation? Is there a minimum period prescribed by law?

What are the time frames for:

notifying the public about the availability of the relevant information?

the public to access the relevant information, form its opinion and submit its comments?

notifying the public about the commencement of public hearings?

Schedule 4 of the Industrial Emissions (IPPC) Regulations (S.L. 549.77) sets the periods for consultation applicable to installations covered by the directive. More specifically, the timeframe for public consultation shall be thirty days for the procedures described in Regulation 18(1)(a) to (d) and shall be fifteen days in all other cases where the competent authority deems consultation necessary, provided that where the application for reconsideration of a permit in accordance with Regulation 18(1)(e) includes a request for a substantial change, the timeframe for public consultation shall be thirty days. Moreover, the competent authority may also require the operator to organise one or more public meetings as part of the public consultation process.

The Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provide for a 15 day time frame in the case of applications falling within the provisions of Schedule 2 therein, and a 30 day time frame for all other cases (including those which required an EIA) – though such periods may be shortened to seven days in urgent cases as may be indicated in the publication of the application on the website of the Department of Information.

In the case of EIAs, the EIA Regulations (S.L.549.46) in Malta provide various opportunities for public participation, i.e. at the scoping stage and at the review stages of the process. Members of the public are allowed 30 days to submit any issues they wish to see included in the EIA Terms of Reference. The public is given a 30-day period to comment on the Environmental Impact Assessment report. In addition to the latter, a public hearing is called for projects falling under Category I of Schedule I of the EIA Regulations, unless the Authority considers that a hearing should be held for other projects, for which the public has an additional 7 days after the public hearing, to comment on the Environmental Impact Assessment report. For the public meeting/public hearing, the public cannot be notified less than 15 days prior to the meeting.

#### Paragraph 4: Early public participation

Does the law clearly identify specific stage(s) of a decision-making procedure at which the public notification shall take place?

Is public participation provided for in the screening and/or scoping phase of an EIA procedure?

Does public participation in a decision-making process for proposed activity which is subject to an EIA take place at a stage when alternatives are still open?

The Industrial Emissions (IPPC) Regulations (S.L. 549.77) also set various mechanisms for public participation as defined in Regulation 18.

As regards planning applications, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) provides for public notification in the following cases:

upon a request for the planning permission as discussed above, upon any change of plans or documents provided by the applicant, after the decision notice is taken, and in cases of a request for a reconsideration of a decision, the date of the sitting is provided.

Public participation is provided for in the scoping phase of the EIA procedure. The Authority may also convene one or more scoping meetings for the Local Councils and NGOs.

#### Paragraph 5: Encouraging prospective applicants to enhance public participation

What is the developer's role in organizing public participation during the decision-making procedure?

In the case of IPCC the competent authority may require the operator to organise one or more public meetings as part of the public consultation process (Schedule 4 of the Industrial Emissions (IPPC) Regulations [S.L. 549.77]).

The developer is requested to organise the public hearing held at the review stage of the EIA process to encourage public participation in accordance with the EIA Regulations (S.L. 549.46). This stage happens before the actual decision-making session called by the PA.

The decision-making session where the PA Board determines a development planning application is open to the public and the role of the developer is for his/her architect and the EIA Coordinator (where an EIA has been undertaken) to present the case and EIA findings.

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

Have there been cases where a complete set of EIA documentation was classified on the basis of commercial confidentiality or intellectual property rights?

During the period under review, there were no complete sets of EIA documentation that were classified on the basis of commercial confidentiality or intellectual property rights.

#### Paragraph 7: Public comments

What role do multilateral discussion techniques (e.g. public hearings, clarification meetings) play in the environmental decision-making procedures?

Schedule 4 of S.L. 549.77 provides that the competent authority may require the operator to organise one or more public meetings as part of the public consultation process in the case of IPCC.

With respect to planning applications under the Development Planning Act (Cap. 552), the public is requested to submit its comments in writing. Comments received by the public are assessed as part of the application and presented to the decision-making body during the decision-making process. During Planning Board meetings, interventions from the public are made at the discretion of the Chairperson, however it is standard practice that members of the public are given the chance to make their observations to the Board.



In the case of EIAs, a public meeting/hearing is held at the review stage of the EIA process to encourage public participation in accordance with the EIA Regulations (S.L. 549.46). This stage happens before the actual decision-making session called by the PA.

MEUSAC, as the government agency responsible for managing the consultation process between stakeholders and government on EU-related matters, frequently engages citizens on environmental affairs. Throughout the years from 2016 – 2019, MEUSAC frequently engaged citizens through dedicated consultation meetings, where stakeholders were given the opportunity to understand better what EU proposals were on the table, their national impacts, and would then be able to provide their feedback on such proposals. It would be particularly important to hear the views of different sectors of the economy on environmental issues, ranging from civil society organisations to industry leaders.

In 2020, MEUSAC adopted a new approach to social dialogue across the board, including on environmental issues. Rather than having a single meeting for stakeholders to provide feedback, MEUSAC is now organising one-to-one meetings with stakeholders, as this provides stakeholders with a better environment to air their views. Such feedback is compiled in a policy paper. Nevertheless, MEUSAC still explores the possibilities of having more varied meetings between stakeholders, as such events provide the opportunity for diverging views to be discussed.

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

Are there practical techniques for taking due account of public comments in cases where many comments have been received? Are there legal regulations to this end?

Can public comments which have already been submitted be viewed by other members of the public throughout the commenting procedure?

The IPPC process pursuant to the Industrial Emissions (IPPC) Regulations (S.L. 549.77) ensures that any comments received from the public are answered by the Authority and the operator of the IPPC facility and where necessary conditions arising from concerns raised are included in the permit issued to the installation. In addition, Regulation 18 states that the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision must be published.

With respect to representations made upon any planning application, the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) oblige the PA to reply to the individual by electronic means. In the case of EIAs, relevant comments made by the public during the scoping stage are taken into account by the Authority during the drafting of terms of reference to the EIA. Comments received during the review stage and after the public hearing are replied to by the EIA Coordinator and are included as an Addendum to the Environmental Impact Assessment Report. For the comments to be included in this report, these have to reach ERA by the stipulated deadline. These submissions are made publicly available.

#### Paragraph 9: Information about the decision

Does the reasoning part of the decision refer to the factual, professional and legal arguments raised in the procedure? If not, can such omissions be challenged under the procedure referred to in article 9, paragraph 2 of the Convention?

Under the Industrial Emissions (IPPC) Regulations (S.L. 549.77), Regulation 18 states that the reasons on which the decision is based must be published, and these would include an explanation of how the results of public consultation were taken into account, as well as more technical points as listed in Regulation 18(2).

Article 33 in the Development Planning Act (Cap. 552) obliges the PA to keep and make available for public inspection a register/s of applications for development permissions, its decisions on such applications and other decisions relating to building regulations. Furthermore, any person shall have access to that part of the file containing ‘decisions relating to development permissions issued by the Authority together with the relative plans and documents including the reasons for the grant of such permissions or refusal’.

Regulation 30 of the EIA Regulations (S.L. 549.46) obliges the competent authority to follow the provisions of the Development Planning Act and other permitting legislations and their subsidiary regulations with respect to procedures for notification, public participation and availability of information to the public, in relation to development consent decisions.

Omissions may be challenged under Regulations 11A and 12 of the Freedom of Access to Information on the Environment Regulations (S.L. 549.39) and more generally under the Articles 11 and 47 in the Environment and Planning Review Tribunal Act (Cap. 551). As a last resort one may appeal under Article 469A of the Code of Organization and Civil Procedure (Cap. 12).

Paragraph 10: Public participation in reconsideration or updating of the decision

What kinds of changes in the operating conditions of an activity falling within the scope of paragraph 1 of article 6 qualify as significant and therefore lead to a new decision-making procedure where public participation should be provided for?

A change in operating conditions of IPPC installations requires a variation of the permit, which in turn requires public consultation procedures as regulated by the Industrial Emissions (IPPC) Regulations (S.L. 549.77).

As regards development planning applications, the kinds of changes in operating conditions that qualify as significant (and therefore lead to a new decision-making procedure where public participation should be provided for) are listed in Regulation 2 of the Development Planning (Procedure for Applications and their Determination) Regulations (S.L. 552.13) under the definition of ‘material changes’.

Regulation 23 (3) of the EIA Regulations (S.L. 549.46), Schedule IA provides that if the Authority is of the opinion that the environment context of the project or situation on site has materially changed after the completion of an EIA, the Authority may require an updated EIA, including any additional documentation, or a fresh EIA in line with the normal procedures prescribed in the regulations and the associated public consultation procedures.

## 2. Obstacles encountered in the implementation of article 6.

During the consultation phase of this report, certain public bodies have indicated that public participation is not conducted on permitting procedures handled by them due mainly to the fact that they will be operating under very tight timeframes and the decision-making is often highly technical and operational and as such does not have effects on the environment.

Furthermore, NGOs held that, at times, they experienced lack of appropriate consultation on large-scale projects during the development phase and lack of consideration by the relevant competent authority of the comments provided by such NGOs.

## 3. Further information on the practical application of the provisions of article 6.

No such cases arose during the period under review.

## 4. Website addresses relevant to the implementation of article 6.

<https://era.org.mt/era-topic-categories/environmental-permitting/>

<https://era.org.mt/era-topic-categories/environmental-impact-assessment/>

<https://era.org.mt/#e-Tools>

<https://eris.eraportal.org.mt/>

<https://www.pa.org.mt/consultation>

## **Article 7**

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

The public is given the opportunity to participate in the preparation of plans, programmes and policies relating to the environment by virtue of the following pieces of legislation: the Environment Protection Act (Cap. 549), the Development Planning Act (Cap. 552), the Strategic Environmental Assessment Regulations (SEA Regulations) (S.L. 549.61) and the Plans and Programmes (Public Participation) Regulations (S.L. 549.41). The relevant definitions have been transposed through the aforementioned Acts and Regulations, and they are all non-discriminatory as they provide all members of the public equal rights of participation.

Under Article 45 of the Environment Protection Act (Cap. 549), ERA is required to draw up the National Strategy for the Environment as per Article 45, which is a strategic governance document setting the policy framework for the preparation of plans, policies and programs issued under this Act or under any other Act for the protection and sustainable management of the environment. During the preparation or review of the Strategy, the Minister responsible for Environment shall make known to the public the matters intended for consideration and shall provide adequate opportunities for individuals and organisations to make representations (within a time frame of at least six weeks). The Strategy, together with a statement of the representations received and the responses made to those representations, are then published.

ERA may also publish subsidiary plans, defined as: a plan that deals with a specific environmental policy or matter setting out detailed specifications for its implementation, as per Article 48; as well as more detailed plans and policies as per Article 50. Article 51 stipulates the procedure for that preparation of review of such plans. The procedure involves informing the public of the matters the Authority intends to consider and providing for public consultation on such preliminary issues, known as the 'Intent and Objectives' stage. Public consultation for a period of at least six weeks is also provided for after the draft plan has been prepared and published. A second public consultation may also be required in instances where changes are made to the draft plan which do not arise from the submissions received in the first public consultation. The plan is formally adopted by ERA after taking into consideration all the representations submitted to it. All submissions, together with ERAs replies are published on the ERA website (<https://era.org.mt/legislation-policy/national-environmental-policies/>).

The Development Planning Act (Cap. 552) contains similar provisions as regards the preparation of the Spatial Strategy for Environment and Development and other subsidiary plans. The former is a strategic document regulating the sustainable management of land and sea resources covering the whole territory and territorial waters of the Maltese Islands; whilst the latter include subject plans, local plans, action plans or management plans and development briefs. Articles 44 and 53 state that public consultation must be provided for during the preparation of the plan, as well as after the draft has been published in a similar manner as that described above.

Furthermore, provisions for public participation are included in the SEA Regulations (S.L. 549.61) for plans and programmes undertaken by public authorities which are likely to have significant environmental effects.

The above Regulations define "the public" as one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups. In addition, the said Regulations define "make available to the public" as meaning publishing in the Government Gazette or in at least one daily newspaper in the English language and in the Maltese language, a notice indicating where the document may be viewed or acquired; the price of the said document shall not exceed the cost of its printing and distribution. This with a view to ensuring access to documentation to all interested stakeholders without barriers.

According to these Regulations, there are opportunities for the public to be constantly informed and to comment during the Strategic Environmental Assessment (SEA). Responsible authorities are obliged to ensure that their conclusions on the need, or otherwise of an SEA, are made available to the public. Moreover, legislation also requires that the draft plan or programme and the environmental report prepared are made available to the public. In so doing, the public is given an early and effective opportunity within an adequate time-frame, which shall not exceed sixteen weeks from the publication of the plan or programme and its environmental report, to express its opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure. In order to reach out to the public affected or likely to be affected by, or having an interest in, the decision making (e.g. those promoting environmental protection and other organisations concerned), the notice of availability of the plan or programme and the environmental report shall be published in at least

the Government Gazette together with specific details of where the documentation is available and how comments can be submitted and by which date. As a matter of good practice, responsible authorities are also advised to make the Plan or Programme available on their website. Moreover, the Screening Report is generally made available on the SEA Focal Point website.

In concluding the SEA process and communicating the decisions taken, the responsible authority is obliged to ensure that, when a plan or programme is adopted, the public is informed and the following items are made available:

- (a) the plan or programme as adopted;
- (b) a statement summarising how environmental considerations have been integrated into the plan or programme and how the environmental report prepared, the opinions expressed and the results of consultations have been taken into account and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with;
- (c) the measures that have been decided concerning monitoring.

In addition to the above, the Plans and Programmes (Public Participation) Regulations (S.L. 549.41) provide for public participation in the drawing up of specific plans and programmes that relate to waste, water and air as specified in the Schedule therein. The competent authority (ERA) must ensure that the public is given early and effective opportunities to participate in the preparation, modification or review of the specified plans or programmes. ERA must take into account the results of the public participation when making its decision and must inform the public of the final decisions along with the reasons and considerations upon which those decisions are based, including information about the public participation process

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007

- What are the most important differences between definitions of plans, programmes and policies according to the national legislation (e.g. in scope, in details, in binding force)?
- Which types of strategic decisions are considered to be “relating to the environment”?

National legislation defines "plans and programmes" as plans and programmes, including those co-financed by the European Community, as well as any modifications to them: (a) which are subject to preparation and, or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and (b) which are required by legislative, regulatory or administrative provisions.

Environmental assessments are carried out for all plans and programmes, (a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or (b) which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.

In all cases the following criteria are taken into account in order to ensure that plans and programmes with likely significant effects on the environment are covered by an SEA namely:

- i. The characteristics of plans and programmes, having regard, in particular, to:
  - a. the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources
  - b. the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
  - c. the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
  - d. environmental problems relevant to the plan or programme,
  - e. the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
- ii. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:
  - a. the probability, duration, frequency and reversibility of the effects
  - b. the cumulative nature of the effects,
  - c. the transboundary nature of the effects,
  - d. the risks to human health or the environment (e.g. due to accidents),
  - e. the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
  - f. the value and vulnerability of the area likely to be affected due to:
    - i. special natural characteristics or cultural heritage,
    - ii. exceeded environmental quality standards or limit values,
    - iii. intensive land-use,
    - iv. the effects on areas or landscapes which have a recognised national, Community or international protection status.

The SEA Regulations in Malta are subsidiary regulations under the Environment Protection Act (Cap.549) as the parent act which defines "environment" as meaning the whole of the elements and conditions, natural or man-made, whether together or in isolation, and in particular: (a) the air, water, land, soil and sea, including their bedrock, aquifers and subsurface features; (b) all the layers of the atmosphere; (c) all biodiversity; and (d) the landscape and its features.

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

Articles 45-46 and 48-52 of the Environment Protection Act (Cap. 549) and Articles 38, 44, 45, 46 and 53 of the Development Planning Act (Cap. 552) provide for public participation in the formulation of plans and policies as described above. The development and revision of subsidiary plans and policies under the Environment Protection Act (Cap. 549) involves at least two opportunities for the public to submit representations: on the intent and objectives of the policy and on the draft policy. These opportunities are of not less than 2 weeks and 6 weeks respectively.

Such public consultations are always available online ERA and may also be published on printed media or circulated directly to relevant stakeholders and ERA subscribers on a case-by-case basis. ERA also regularly holds public meetings as part of such consultations. In addition, where various environmental policies are required under national legislation relating to the EU acquis, provision for public participation is required under the separate pieces of legislation (e.g. the Water Policy Framework Regulations (S.L. 549.100), transposing Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, and the Flora, Fauna and Natural Habitats Protection Regulations (S.L. 549.44), transposing Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora and so on).

Other public bodies also conduct public consultation in the development of plans and policies that may affect the environment, although not specifically obliged to through their relevant legislation. For example, MAFA often carries out consultation sessions in both Malta and Gozo with moderators and stakeholders on draft policies and measures that are being proposed by the Ministry. Public meetings are also organised by MAFA in order to update the public on the eventual progress of such measures, or to inform the public of new strategies, why these are required, and the changes needed at the national level.

The Authority for Transport in Malta has also conducted targeted consultations with selected stakeholders on certain policies, e.g. local stakeholders were consulted on the National Marine Pollution Contingency Plan in its drafting phase; and also with respect to the recent promulgation of the Oil and Hazardous and Noxious Substances Pollution Preparedness, Response and Co-operation Regulations which establish, in accordance with the provisions of the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC Convention) and the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS Protocol), a regulatory framework for the applicability of the said Convention and Protocol and give force of law to the National Marine Pollution Contingency Plan. During the period under review, consultation started being carried with respect to the forthcoming implementation of Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC. A SEA and various public consultation exercises were carried out on the Transport Master Plan 2016-2025. The outcome of public consultation, that is, the listing of the issues raised along with the Authority's responses were published in tabular format on its website.

Similarly, the Energy and Water Agency carries out public consultations for policies and plans drafted by the said Agency. In this respect, the issues are first identified, the measures considered, and the plan drafted. Consultation is carried out throughout various stages. Firstly, public consultation is carried out when the issues and potential measures are identified and publicised by the Agency, and the draft plan or policy is then issued for public consultation for a specific time period. If major changes to the proposed policy or plan are considered necessary, the relevant document is re-issued for consultation again. Internal records of the feedback received, and the actions undertaken to address this feedback are kept by the Agency.

7. Obstacles encountered in the implementation of article 7.

In general, despite using various media and platforms, some entities indicate a low response rate, requiring a considerable increase in effort and resources and a more strategic approach in attempting to reach the public and relevant stakeholders and gain feedback. In some cases, despite reaching out through various platforms (website, use of MEUSAC, and social media), other options were resorted to.

For instance, ERA adopted a combination of one-to-one meetings and sector-approached consultations on selected issues (e.g. Natura 2000 site management, particularly marine protected areas), combined with online meetings and traditional methods and modern media.

Similarly, the Energy and Water Agency adopted a more sectoral approach to consultations, e.g. holding focused consultation sessions with specific stakeholders. This sectoral approach is considered to be more effective to engage with stakeholders on the specific topics which are of interest to that particular sector.

Similarly, MAFA held that the receipt of relevant feedback is at times lacking and therefore it is important to hold awareness-raising campaigns, as this provides the public with a background needed in order to participate in consultations.

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

N/A

9. Website addresses relevant to the implementation of article 7.

<https://environment.gov.mt/en/sea/Pages/whatIsSea.aspx>

<https://era.org.mt/legislation-policy/national-environmental-policies/>

<https://era.org.mt/public-consultations/>

<https://era.org.mt/era-topic-categories/strategic-environmental-assessment/>

<https://www.pa.org.mt/consultation>

## Article 8

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

Under the Environment Protection Act (Cap. 549), ERA exercises a standard quality procedure to ensure the effective transposition of EU and international legislation and regulations. This procedure acknowledges consultation as a crucial factor in bringing EU and international binding obligations into national law. From the onset, a transposition time plan is prepared, outlining the key stakeholders that shall be affected by the transposition of the regulations coming into force, and what type of consultations need to be carried out. This identification process is in line with the definitions of article 2 (4 & 5) of the Aarhus Convention, since it identifies the public concerned that shall be directly influenced through the decisions of these environmental regulations.



A mailshot of the regulations is sent to stakeholders together with the regulations. These are made available on the ERA website and on the MEUSAC website. This ties in with the non-discrimination requirement in article 3 of the Aarhus convention, since all relevant stakeholders are involved in the decision-making process of environmental obligations without prejudice or discrimination.

All subsidiary legislation under the Environment Protection Act (Cap. 549) undergoes a public consultation period of not less than 4 weeks in line with Article 55 of the Act. Such public consultations are always made available online and may be published on other media, or through consultation meetings, on a case-by-case basis.

Under the Development Planning Act (Cap. 552), legally binding regulations shall be made by the Minister after consultation with the PA. A draft of the said regulations must be issued for public consultation, thereby allowing any person a minimum of two weeks to make representations to the Minister stating how in his opinion the proposed regulations could be improved to reach their ultimate aim. The regulations open for public consultation are published on the PA website (<http://www.pa.org.mt/public-consultation>). Development orders under article 55 of the Development Planning Act (Cap. 552) are also issued for public consultation for a period of two weeks. These orders will amend or establish subsidiary legislation relating to development notification orders or similar and are therefore legally binding.

Other public bodies also conduct public consultation on draft regulations, although, with a difference to the above, there is no formal obligation requiring this in their respective Acts. For instance, the Authority for Transport in Malta, the Malta Resources Authority and MAFA have conducted public consultation on draft national legislation that could have external effects and that may affect the environment. In such cases, public consultation is advertised through, inter alia, the authority's website and also through specific organisations in a particular field, for example the Malta Maritime Forum and the Association of Shipping Agents. The public bodies may also involve MEUSAC to aid in the consultation and will organise consultation meetings with stakeholders. Notably, certain authorities have held that when the text of the legislation serves to directly transpose EU legislation, no consultation is carried out due to the lack of possibilities to amend such legal texts.

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/L.4 20 February 2007

- Are there any requirements for public participation at the conceptual stage of the legislative procedure?

Regulations under the Environment Protection Act (Cap. 549) and the Development Planning Act (Cap.552) are drawn up by the relevant Ministers after consultation with ERA and PA respectively. The draft regulations are then published for public consultation and stakeholders are invited to submit their comments to the authority. In the case of regulations under the Environment Resources Act (Cap. 549), after the closing of the consultation phase, all comments forthcoming from the public are gathered into a single document and made available on the authorities' website. Due to the relevance that environmental legislation may have on industry and/or NGOs, such key

stakeholders may be specifically identified and requested to offer substantial feedback, particularly at the onset prior to the legislation being drafted. All public consultation exercises are published on the Government's main portal for public consultations. ([https://meae.gov.mt/en/Public\\_Consultations/Pages/Home.aspx](https://meae.gov.mt/en/Public_Consultations/Pages/Home.aspx)).

- What are the time limits given to the members of the public to form their opinion?

Timeframes for public consultation on draft regulations are not less than four weeks, as provided for in Article 55 of the Environment Protection Act (Cap. 549).

Consultation on draft regulations and development orders under the Development Planning Act (Cap. 552), allows any person a period of at least two weeks to make representations stating how in his opinion the proposed regulation could be improved to reach their ultimate aim.

- Are there specific techniques for facilitating public participation in the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment (e.g. public committees, advisory bodies with NGO members)?

The draft regulations are presented to advisory bodies, public committees and NGOs through bilateral meetings, public consultation or information sessions as well as through mailshots that are sent by MEUSAC as noted above on a case-by-case basis.

- Are drafts regulations and rules available through the Internet?

Draft environmental rules and regulations together with the consultation brief are available during public consultation phases through the ERA website (<https://era.org.mt/public-consultations/>) and the main Government public consultations portal ([https://meae.gov.mt/en/Public\\_Consultations/Pages/Home.aspx](https://meae.gov.mt/en/Public_Consultations/Pages/Home.aspx)). They are also made available on the MEUSAC website (<http://www.meusac.gov.mt/aboutconsultation?l=1>) in cases of transposition of EU Directives.

The draft regulations and development orders under the Development Planning Act are uploaded on the PA website ([www.pa.org.mt](http://www.pa.org.mt)) and the public consultation portal of the Ministry for Social Dialogue and Consumer Affairs and Civil Liberties ([https://socialdialogue.gov.mt/en/Public\\_Consultations/Pages/Home.aspx](https://socialdialogue.gov.mt/en/Public_Consultations/Pages/Home.aspx)).

- Are the public comments received in the course of the participation process under article 8 of the Convention communicated to the legislature?

As regards consultations undertaken by ERA, responses to the comments received from the public consultation, along with a summary of the outcome, are prepared by ERA and are provided in line with the procedure adopted through the ERA website and the Government public consultation portal. If MEUSAC aided with the consultation procedure, it will also prepare a policy paper which would include a summary of the process and recommendations to the drafter. All comments from the consultation are considered and, where possible, these are taken on board.

In general, once laws have been finalised, they are presented to the Maltese Cabinet of Ministers for final approval together with a memo and an impact assessment form. This accompanying documentation specifically requests information on the public consultation process, what methods of consultation and communication have been engaged, the feedback received, as well as whether all relevant stakeholders have been approached and made fully aware of the implications of such laws coming into force.

#### 11. Obstacles encountered in the implementation of article 8.

The Malta Resources Authority held that the main obstacle to effective public participation is that regulations tend to be very technical and may not be easy for the general public to understand and be able to contribute effectively to the process. Furthermore, there may be a general lack of public knowledge of the EU processes and the fact that, at times, the national legislator is bound by what is contained in EU legislation.

MAFA noted that besides the importance of public consultation, coordinated and fruitful consultation between public bodies and ministries is also vital.

#### 12. Further information on the practical application of the provisions of article 8.

The two week time limit as established by the Development Planning Act (Cap. 552) for public consultation is at times extended when requested to do so by ENGOS.

#### 13. Website addresses relevant to the implementation of article 8.

<https://era.org.mt/topic/public-participation/>

<https://era.org.mt/public-consultations/>

<https://www.pa.org.mt/consultation>

[https://meae.gov.mt/en/Public\\_Consultations/Pages/Home.aspx;](https://meae.gov.mt/en/Public_Consultations/Pages/Home.aspx;)

[https://meusac.gov.mt/consultation/;](https://meusac.gov.mt/consultation/)

## **30. Montenegro**

### **Article 6**

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

Transposition of public participation in making decisions on specific activities referred to in Article 6 of Aarhus Convention shall be ensured through a number of regulations, mentioned in Article 5.

Describe the transposition of the relevant definitions in Article 2 and the non-discrimination requirement in Article 3, paragraph 9.

Answer:

As in Article 4

Also, and in particular, describe:

(a) With respect to paragraph 1, measures taken to ensure that:

(i) The provisions of Article 6 are applied with respect to decisions on whether to permit proposed activities listed in Annex I to the Convention;

Answer:

Article 7, paragraph 1 of the Law on Environmental Impact Assessment defines that the Government Regulation determines: projects which require an assessment study and projects which may require assessment study. The competent body decides on the need for impact assessment study in each individual case for projects for which a study may be required.

In the Regulation on the projects which require environmental impact assessment, projects for which environmental impact assessment must be conducted are defined in List I of this Regulation, and projects which may require environmental impact assessment are defined in List II of this Regulation.

Article 6 of the Law on Industrial Emissions stipulates that the types of activities, plants and limit capacities within every type of activity for which a permit is issued are determined by a regulation of the Government.

The Regulation on types of activities and plants, for which integrated permit is issued, defines types of activities, plants and limit capacities within every type of activities for which integrated permits are issued.

(ii) The provisions of Article 6 are applied to decisions on proposed activities not listed in Annex I which may have a significant effect on the environment;

Answer:

Please refer to provisions of Article 7 paragraph 1 of the Law on Environmental Impact Assessment. In the Regulation on the projects which require environmental impact assessment, projects for which environmental impact assessment must be conducted are defined in List I of this Regulation, and projects which may require environmental impact assessment are defined in List II of this Regulation.

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

Answer:

Article 5 of the Law on Environment defines the principle of access to information and participation of public according to which everyone shall have the right to be informed about

environmental status and to participate in the process of decision-making whose implementation could affect the environment. The data on the status of environment shall be public. Article 72 of this law also stipulates that the state administration bodies, administration authorities, and local administration authorities are in charge of environmental protection affairs. They are obliged to timely inform the public and public concerned on the decision making procedures in issues pertaining to the environment which relate to the following: strategic assessment of the effects of plans and programmes on the environment; assessment of effects on the environment; procedures for issuing the licence for integrated prevention and pollution control by approving the functioning of new or existing plants; strategies, plans, programmes and other documents in the field of environment, and other issues related to environment in accordance with special regulations.

For all projects which are planned and executed, and which may have substantial environmental impact, provisions of the Law on Environmental Impact Assessment prescribe, inter alia, that the competent authority shall inform interested public in regards to giving opinion within the procedure of deciding on the environmental impact assessment for the project, Article 13 paragraph 1; deciding on the requirement for defining the scope and contents of the elaborate (Article 16 paragraph 4 and paragraph 8); deciding on the requirement for issuing approval for the elaborate (Article 20 paragraph 1 and Article 24 paragraph 5).

The Law on Industrial Emissions stipulates that the competent authority informs the interested bodies, organizations and the public about the content of the request for issuing of an integrated permit; on the draft permit and the possibility to review supporting documents; on the decision on issuing a permit, i.e. denying the request for issuing a permit (Articles 12, 13, 16).

The Law on Environmental Impact Assessment, Article 29, regulates the matter of informing other states about trans-boundary impact, i.e. if a project can have a substantial environmental impact in another country or if requested by the country whose environment may be significantly affected, the authority responsible for environmental protection matters shall notify another country as soon as possible, and not later than the deadline stipulated for informing its public.

The Law on Industrial Emissions, Article 31, stipulates that if operations of a plant may have a significant negative impact on the environment of another country, or if requested by the country whose environment may be significantly affected, the authority competent for environmental protection matters delivers information to another country for consideration.

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

Answer:

Requirements relating to public participation prior to making administrative decisions that allow activities that are likely to have a significant impact on the environment are defined in the Law on Environmental Impact Assessment (Article 13, 16, 20, 21 and 24). In the Law on Industrial Emissions, provisions on time limits for public participation are provided in Articles 12, 13, 16.

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

Answer:

Please refer to Articles 13,16 and 20 of the Law on Environmental Impact Assessment and Article 12 of the Law on Industrial Emissions.

(e) With respect to paragraph 5, measures taken to encourage prospective applicant to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer:

The Law on Environmental Impact Assessment and the Law on Industrial Emissions stipulate that the competent authority shall before each stage in the process inform the public and public concerned about the planned implementation of the project or activity in order to timely provide opinions and suggestions. Notification is made by at least one local or daily newspaper that is published in the area that will be affected by the planned project, as well as through electronic media. The competent authority shall, when deciding at each stage, consider the opinions of interested bodies and organizations and the public, and take them into account when deciding.

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

(i) The competent public authorities give the public concerned all information relevant to the decision making referred to in Article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Answer:

Please refer to provisions of Articles 13, 16, 20, 24, 28,29, 31 of the Law on Environmental Impact Assessment.

Also refer to provisions of Articles 12,13, 16, 26, 31 of the Law on Industrial Emissions.

(g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

Answer:

The Law on Environmental Impact Assessment stipulates, inter alia, that the competent authority shall inform interested public about giving opinions in the procedure of deciding on the need for impact assessment study ( Article 13 paragraph 1) procedure of deciding upon the request for defining scope and contents of the elaborate (Article 16 paragraph 4 and paragraph 8); deciding upon the request for approval of the elaborate (Article 20 paragraph 1 and Article 24 paragraph 5).

The Law on Industrial Emissions stipulates that the competent authority shall inform interested authorities, organisations and public to give opinions on contents of the request for issuing

integrated permission; about draft permission and opportunities to review supporting documents; (Articles 12, 13, 16).

The competent authority shall, when deciding at each stage, consider the opinions of interested bodies and organizations and the public, and take them into account when deciding.

(h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Answer:

Please refer to Article 14 and 24 of the Law on Environmental Impact Assessment and Article 13 and 16 of the Law on Industrial Emissions.

(i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Answer:

Please refer to Article 24 of the Law on Environmental Impact Assessment and Articles 13 of the Law on Industrial Emissions.

(j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

Answer:

The Law on Environmental Impact Assessment, Article 25, stipulates that a decision on the EIA study approval, as well as a decision that no EIA study is required ceases to be valid if the project leader fails to obtain building permit or apply for the start of construction of the facility or approval or consent for the execution of the project within two years from the date of obtaining of the decision.

Article 26 of the Law on Industrial Emissions stipulates that auditing of the permission must be performed every five years following its issuing.

(k) With respect to paragraph 11, measures taken to apply the provisions of Article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

The Law on Genetically Modified Organisms, Chapter VI, regulates the matter of intentional introduction of GMO into the environment. Also, Article 32 defines that before the intentional introduction of GMOs, products containing, consisting of or deriving from GMOs into the environment, the applicant shall obtain the approval of the administration body competent for environment protection (Nature and Environment Protection Agency). Before issuing an approval, the Agency may request the applicant to submit additional data. The applicant may in the

application refer to the data or results of intentional introduction of GMOs into the environment from other application that has been submitted to the administration body competent for environmental protection if such data are not designated as a secret or if it has obtained written consent of the applicant in question. Provision of Article 33 stipulates that the administration body competent for environmental protection shall decide on the application within 90 days from the day the complete application was received. The administration body shall enter the applicant that has been approved for intentional introduction of GMOs, products containing, consisting of or deriving from GMOs into the environment, in the register of issued approvals for intentional introduction into the environment and shall issue a decision on entry in the register to the applicant within eight days from the day of such entry. Article 34 prohibits introduction of GMOs into the environment in the protected areas, in the areas intended for organic production of agricultural products, and in the areas for development of eco-tourism. Also, provision of Article 35 stipulates that the applicant shall, in the course of the procedures for approving introduction of GMOs into the environment, without delay notify the competent body of any change in the requirements that are relevant for risk assessment, unintentional change or new information and it shall provide for more strict measures with the purpose of protecting human health and the environment, which are indicated in the application. When administration body competent for environmental protection gains knowledge of the information which may have significant effect on the assessment of risk to human health and the environment, it shall evaluate such information, make them accessible to the general public, and order the applicant to adjust the conditions of intentional introduction of GMOs into the environment or cancel the intentional introduction of GMOs and products containing, consisting of or deriving from GMOs into the environment. If, in the course of the procedure of introducing GMOs into the environment, the GMO business operator suspects that the level of risk is higher than the one that was estimated, it shall without delay cancel the introduction of GMOs into the environment and notify the administration body (Agency). Article 36 stipulates that the GMO business operator shall submit to the administration body competent for environmental protection the report on the progress of intentional introduction of the GMOs into the environment within 60 days from the day of introduction and, within the deadlines specified in the approval, submit interim reports in written or electronic form.

## 2. Obstacles encountered in the implementation of article 6.

The existing institutional and other capacities of competent local self-government authorities are necessary to build them in the future, in order to achieve satisfactory implementation of Article 6.

Dissatisfaction of citizens regarding the choice of location where the implementation of certain projects is planned, which are subject to environmental impact assessment (e.g., construction of small hydroelectric power plants).

## 3. Further information on the practical application of the provisions of article 6.

Pursuant to the Law on Environmental Impact Assessment and the Law on Integrated Prevention and Control of Environmental Pollution / Law on Industrial Emissions, the Nature and Environmental Protection Agency regularly conducts a public hearing in the process of issuing environmental approval and integrated permit.



In 2017, the Agency conducted a total of 86 procedures of impact assessment, of which:

- For 56 projects, the environmental approval to the impact assessment study was issued,
- For 12 projects, it was decided that there is no need for an impact assessment,
- For 14 projects, procedure was suspended,
- For 1 project, the assessment was not provided,
- 3 were delegated to the local authority competence,
- 35 cases were pending and transferred to 2018.

In 2018, the Agency conducted a total of 73 procedures of impact assessment, of which:

- For 56 projects, the environmental approval to the impact assessment study was issued,
- For 11 projects, it was decided that there is no need for an impact assessment,
- For 1 project, procedure was suspended,
- 5 decisions on rejection of the request for approval issuance,
- 31 cases were pending and transferred to 2019.

In 2019, the Agency conducted a total of 123 procedures of impact assessment, of which:

- For 68 projects, the environmental approval to the impact assessment study was issued,
- For 51 projects, it was decided that there is no need for an impact assessment,
- For 3 projects, procedure was suspended,
- 1 was delegated to the local authority competence,
- 38 cases were pending and transferred to 2020.

By September 2020, the Agency conducted a total of 62 procedures of impact assessment, of which:

- For 37 projects, the environmental approval to the impact assessment study was issued,
- For 25 projects, it was decided that there is no need for an impact assessment.

In accordance with Article 4, paragraph 3 of the Law on Environmental Impact Assessment, projects serving the national defence purposes are not subject to the impact assessment procedure.

Pursuant to the Law on Integrated Prevention and Control of Environmental Pollution, the Agency:

- in 2017, issued 3 decisions on rejecting requests for the issuance of an integrated permit, while 4 requests were transferred into 2018;
- in 2018, issued 3 decisions for the issuance of an integrated permit, while 2 requests were transferred into 2019;
- in 2019, issued 1 decision for the issuance of an integrated permit and 1 decision on rejecting requests for the issuance of an integrated permit.

Pursuant to the Law on Industrial Emissions, which was adopted during 2019 and based on which integrated permits are issued, the Agency by September 2020: ex officio, initiated an audit procedure for 4 integrated permits, 1 request for the issuance of an integrated permit was rejected as disorganized and 1 decision on termination of the integrated permit was issued.

On March 23, 2019, in Montenegro, a workshop was held on the implementation of the Strategic Environmental Assessment (SEA) Directive and the Environmental Impact Assessment (EIA) Directive in Montenegro. The goal of the workshop was to introduce the requirements of the European Union regarding the implementation of SEA and EIA directives, the experience in implementing these directives in Slovenia, models of cooperation at local and national level, and defining plans and recommendations for implementing these directives in the future. The workshop was attended by representatives of 13 local self-governments in Montenegro, representatives of competent institutions, who had the opportunity to get more specific suggestions on improving the implementation of the SEA and EIA directives in practice on specific examples and in direct communication with the expert. The workshop was organized within the Strengthening Capacities for the Acceleration of EU Accession of Montenegro project, funded by the Norwegian Ministry of Foreign Affairs and implemented by the United Nations Development Programme - UNDP in Montenegro, in partnership with the European Integration Office - EIO.

4. Website addresses relevant to the implementation of article 6.

<http://www.mrt.gov.me/>

<http://www.epa.org.me/>

<http://www.mrt.gov.me/rubrike/zakonska-regulativa>

<http://www.mrt.gov.me/rubrike/dozvole>

<http://www.mrt.gov.me/rubrike/spi>

<http://www.epa.org.me/index.php/dokumenti/izdate-dozvole>

<http://www.epa.org.me/index.php/dokumenti/>

<http://www.epa.org.me/index.php/dokumenti/izvjestaji-2>

<http://www.epa.org.me/index.php/dokumenti/regulativa>

[http://www.epa.org.me/index.php?option=com\\_content&view=article&id=388:izvjestaj-o-stanju-zivotne-sredine-na-bazi-indikatora&catid=87](http://www.epa.org.me/index.php?option=com_content&view=article&id=388:izvjestaj-o-stanju-zivotne-sredine-na-bazi-indikatora&catid=87)

<http://www.epa.org.me/index.php/dokumenti/obavjestenja-eia>

<http://www.epa.org.me/index.php/dokumenti/javna-knjiga-eia>

<http://www.epa.org.me/index.php/dokumenti/obavjestenja-sea>

<http://www.epa.org.me/index.php/component/content/article/87-azzs/281-proaktivni-pristup-informacijama>

<http://www.ozon.org.me/category/arhus-info-centar/>

<https://arhus-centri.org.me/>

website address local authority responsible for environmental protection

## Article 7

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

Transposition of provisions on public participation in the course of preparation of plans and programmes relating to environment referred to in Article 7 of the Aarhus Convention is ensured through a number of regulations in MNE:

- Constitution of Montenegro (“Official Journal of MNE”, no. 01/07,38/13)
- Law on Environment (“Official Journal of MNE”, number 52/16,73/19)
- Law on Environmental Impact Assessment (“Official Journal of MNE”,no 75/18)
- Law on Industrial Emissions (“Official Journal of MNE”, no. 17/19)
- Law on Strategic Environmental Impact Assessment (“Official Journal of RMNE”, no. 80/05, “Official Journal of MNE”,no 59/11,52/16),
- Law on Nature Protection 54/16,18/19)
- Forest Law (“Official Journal of Montenegro”, no. 74/10,47/15)
- Law on Waters (“Official Journal of MNE”, no. 27/07, 32/11, 47/11...84/18)
- Law on Game and Hunting (“Official Journal of MNE”, no.52/08, 48/15)
- Law on Protection from Noise in Environment (“Official Journal of Montenegro”, no. 28/11, 1/14)
- Law on Genetically Modified Organisms (“Official Journal of Montenegro”, no. 22/08)
- Law on Waste Management “Official Journal of MNE”, no. 64/11,39/16)
- Law on Air Protection (“Official Journal of MNE”, no. 25/10,43/15)
- Law on Spatial Planning and Construction of Structures (“Official Journal of MNE”, no. 64/17, 44/18, 63/18, 11/19,18/20)
- Law on Prohibition of Discrimination (“Official Journal of MNE”, no. 46/10,18/14)
- Decree on the Election of NGO Representatives to the Working Bodies of the State Administration Bodies and Conducting Consultation in Preparation of Laws and Strategies (Official Gazette of Montenegro, no. 41/18).

Article 7 of the Law on Strategic Environmental Impact Assessment provides the following definitions: plans or programmes; strategic environmental impact assessment of plans or programmes; strategic assessment report; public; interested public, interested authorities and organisations.

Please refer to provisions of Article 8 of the Constitution of Montenegro and Articles 1 and 2 of the Law on Prohibition of Discrimination.

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

Article 5 of the Law on Strategic Environmental Impact Assessment stipulates that the strategic assessment shall be carried out for plans or programmes when there is a possibility that their implementation shall cause significant impacts on the environment. The strategic assessment

elaboration is mandatory for all plans and programmes in the area of agriculture, forestry, fishery, hunting, energy, industry, including mining, transport, tourism, regional development, telecommunications, waste management water management, coastal zone management, urban and spatial planning or land use planning, laying down the framework for future development of projects that are subject to environmental impact assessment elaboration in accordance with the special act, as well as for plans and programmes which, considering the area within which they are carried out, could affect the protected areas, natural habitats and preservation of wildlife. The decision on the need for strategic impact assessment for plans or programmes which envisage the use of smaller areas at local level or in case of minor changes to plans or programmes which do not require the prescribed process of adoption, and for plans or programmes not stated, shall be made by the authority competent for preparation of the plan or programme in compliance with criteria stipulated by this Law in order to establish whether substantial environmental impacts are likely to take place. Strategic assessment shall not be performed for plans and programmes intended for the country's defence, for plans of mitigation and removal of consequences of natural disasters and for financial and budgetary plans.

Article 10 of the Law prescribes that the competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA based on the previously obtained opinion of the competent environmental protection authority, competent health care authority and other authorities and organisations concerned. The competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA simultaneously with the decision on preparation of plans or programmes. We would also like to point out that the Law on Spatial Planning and Construction of Buildings defines that if the strategic environmental impact assessment is to be prepared for a planning document, in compliance with separate regulations, decision on this shall be made simultaneously with making the decision on drafting of the planning document (Article 31), and Article 42 stipulates that the report on strategic environmental impact assessment shall be placed for public hearing along with the placement of the planning document for public debate.

The Law on Strategic Environmental Impact Assessment regulates participation of the public in the phase of deciding upon approval to the Strategic Impact Assessment Report. Article 19 of this Law defines that the competent authority for preparation of plans or programmes (and implementation of strategic assessment) shall inform the public and the public concerned about the methods and deadlines for public inspection into the contents of the SEA Report and method of submission of opinions, as well as about the time and venue of public debate holding. The public debate cannot be held sooner than 30 days from the date of announcement to the public and the public concerned, and shall be carried out by the competent authority responsible for preparation of plans or programmes. As per provisions of Article 20, the competent authority responsible for preparation of plans or programmes shall compile the report on participation of authorities and organisations concerned and about the public debate within 30 days from the date of the public debate completion, and it shall include opinions submitted during the public debate in regards to the Strategic Impact Assessment Report and it shall include the rationale for all the accepted or rejected opinions. Further on, pursuant to Article 21 of the Law, the competent authority responsible for preparation of plans or programmes shall submit the Strategic Environmental

Impact Assessment Report to the competent environmental protection authority for approval, along with the report on participation of authorities and organisations concerned. If implementation of a plan or a programme may have a negative impact on the environment of another country, or if another country whose environment may be significantly endangered requests so, the competent state administration authority responsible for environmental protection shall submit, in the shortest period and not later than the date its own public is informed, information about the plan or the programme to the other country for consideration within the procedure of participation of stakeholders and organisations and public.

The Law on Spatial Planning and Construction of Structures provides the obligatory implementation of prior public participation, in the initial, earliest phase of drafting of planning documents, so the interested public can be introduced with the goals and purpose of the planning document and possible planning solutions. Organizing public hearings on the draft of planning document provides active participation of the public and interested users of space, which ensures maximum transparency in spatial planning. In accordance with this Law, transparency of data in the process of construction of facilities is also provided. Every act issued upon request for urban-technical conditions, as well as construction and use permit are published on the websites of local government bodies and the Ministry, which ultimately means full monitoring of these processes in all local self-governments, i.e. the Ministry, by all of interested public.

Also refer to the provisions of the following laws:

Law	on	Air	Protection,	Article	42
Law	on	Nature	Protection,	Article	50 and 51
Law	on	Protection from	Noise in	Environment,	Article 16 and 18
Law	on	Forests,	Article	16,	17 and 47
Law on Waters, Article 3, 30 and 31.					

#### 7. Obstacles encountered in the implementation of article 7.

Within the procedure of drafting of the planning document, interested users of space are given opportunities to submit initiatives for planning of certain segments on individual locations by submitting a request to the Ministry through the survey of users of space or during public debate.

Participation of public in drafting of planning documents contributes to the quality of documents and, at the same time, to raising awareness of importance of spatial planning.

Increasingly strong emphasis is placed on public participation. Citizens are becoming aware that by participating actively in public debates, by giving comments and opinions, they become active partners in the process of drafting of planning documents and thus contribute to addressing matters of personal and public interest as well.

Public debates for national planning documents which last for 30 days are published in printed media; the draft plan with strategic assessment is reviewed; electronic version of the plan is put on the website of the Ministry; round tables take place.

#### 8. Further information on the practical application of the provisions of article 7.

In accordance with the Law on Strategic Environmental Assessment, based on the submitted requests, the Nature and Environmental Protection Agency issued the following:

- 4 approvals to the report on strategic environmental impact assessment in 2017,
- 11 approvals to the report on strategic environmental impact assessment and 1 decision on rejection in 2018,
- 9 approvals to the report on strategic environmental impact assessment in 2019,
- 7 approvals to the report on strategic environmental impact assessment until September 2020.

In the procedure of reaching plans and programmes, the relevant authority for the preparation of the plan or programme ensures public participation by:

- Publishing on the website the draft of plan or programme with report on strategic environmental impact assessment, with an invitation to provide objections, opinions and comments.
- Informing the public and public concerned on the manner and deadlines for the insight in the reports on strategic assessment and provision of opinions, as well as the time and place of public hearings.
- Provided opinions are taken into account when decisions are made in the strategic assessment procedure, with the explanation of all opinions, accepted or not. Pursuant to the Law on Spatial Planning and Construction of Structures, the Plan and Technical Documentation Register, which is run by the Ministry, has been established, at the web address: <http://www.planovidozvole.mrt.gov.me/>. The register is a single database of valid planning documentation on the territory of Montenegro and technical documentation based on which the construction permits are issued. This web page enables the interested public to see the published documentation through free access to the Portal or through assigning certain user roles. The implementation of this web page enables a simple search by any criteria (planning document / investor, cadastral parcel, urban parcel, etc.) and at the same time represents a "library" of plans and projects.

9. Website addresses relevant to the implementation of article 7.

See internet addresses under Article 6.

## Article 8

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

Please refer to the provisions of Article 7, 67, 68 and 72 of the Law on Environment.

The Decree on the Election of NGO Representatives to the Working Bodies of the State Administration Bodies and Conducting Consultation in Preparation of Laws and Strategies that provides consultation with bodies, organizations, associations and individuals (interested public)

in the initial phase of drafting laws and strategies was adopted in 2018. This Decree stipulates that consultation of the interested public is not shorter than 15 days, while the public debate on the text of the draft law or strategy lasts from 20 to 40 days. The public invitation for participation in the public hearing is published on the website of the Ministry and the e-Government portal.

This Decree stipulates that during the public hearing, the Ministry takes care that the premises where the public hearing is organized are accessible to disabled persons. If the text of the draft law / strategy that is the subject of public debate, directly refers to the rights, obligations and legal interests of persons with hearing and speech disorders, i.e. persons with impaired vision, the Ministry will enable the public hearing to be conducted using sign language, i.e. the text of the draft law / strategy, will be available in audio or Braille.

After completing the public hearing, the Ministry prepares a report on the public hearing, which contains information about proposals and suggestions which were accepted and the proposals and suggestions that were rejected, with an explanation of reasons for acceptance / rejection. An integral part of the report on the public hearing is a report on consultations with the interested public and a report on the Inter-ministerial consultations, if they are carried out during the public hearing. The report is public. This Decree specifies the manner and procedure for cooperation between the ministries and other state administration bodies and non-governmental organizations, in addition to the criteria and procedure for the election of NGO representatives in working groups and other bodies established by the state administration

#### 11. Obstacles encountered in the implementation of article 8.

Relatively low public interest in participating in the procedure of preparation of regulations.

#### 12. Further information on the practical application of the provisions of article 8.

Article 8 of the Aarhus Convention envisages that each party shall “strive” to promote effective public participation in the procedure of adopting regulations that may have a significant effect on the environment. While the provision does not use imperative in terms of obligations of public authorities, it should be interpreted for the benefit of public participation. The term “regulations” should be interpreted broadly and it includes both laws and by-laws which may have a significant effect on the environment. Measures that should be taken in order to provide for public participation include: setting reasonable timeframes for various phases of deciding, publishing and otherwise presenting publicly draft documents and including public in the decision-making process through public debates, whether directly or through consultative representation bodies.

In order to ensure participation by the public and non-governmental organizations in the preparation of laws, policies and other documents, the Ministry (as well as other ministries) regularly:

Issues public invitations to NGOs to propose candidates in the composition of the working group for drafting the proposal of law or other subordinate legislation;

Organizes public hearings when drafting laws, and strategic planning documents, etc;

Publishes texts of draft regulations on the website of the Ministry, eGovernment Portal and Aarhus Centers, with a call for the submission of objections, comments and suggestions.

In order to ensure participation of the public and non-governmental organizations in the procedure of preparation of laws, strategies and other acts in the field of environment in 2017, the Ministry issued 8 public invitations to NGOs to propose candidates for participation: in drafting of the Law on Environmental Impact Assessment; Proposal of regulations on detailed content of dossier and register of chemicals; Proposal of regulations on the manner of classification, packaging and labelling of chemicals and certain products in accordance with the Globally Harmonized System for Classification and Labelling of the UN; Proposed list of classified substances; Proposal of the regulation on criteria for identification of a substance as persistent, bioaccumulative and toxic and very persistent and very bioaccumulative substance; Proposal of the regulation on detailed conditions regarding personnel, space and equipment for professional use, i.e. for performing the activities of production, trade, use and storage of biocides; Radon protection strategy proposal with the Action Plan for the period 2018-2022; Proposal of the regulation on limit values for the presence of hazardous substances in certain parts of electrical and electronic products, as well as on the label on the type and manner of waste management which generates from these products. In this period, NGOs applied for one public call (for the drafting of the Proposal of the Law on Environmental Impact Assessment).

In 2018, the Ministry issued a total of 10 public invitations to NGOs to propose candidates for the working group for participation in drafting of: Proposal of Strategy for Chemical Management with Action Plan for 2019-2022; Proposal of National Implementation Plan for the Stockholm Convention; Proposal of Decree on prohibition and restriction of use, putting on the market and production of chemicals that represent an unacceptable risk to human health and the environment; Proposal of the Law on Industrial Emissions; Proposal of the Law on Amendments to of the Law on Integrated Prevention and Control of Environmental Pollution; Proposal of the Law on Alien and Invasive Alien Species of Plants, Animals and Fungi; Proposal of the Law on Protection from Negative Impacts of Climate Change; Proposal of the Law on Establishing a Framework for Marine Environmental Protection; Proposal of the Law on Waste Management; Proposal of amendments to the National Waste Management Plan in Montenegro for the period 2015–2020. In this period, NGOs applied for 5 public calls (for the drafting of the Proposal of the Law on Alien and Invasive Alien Species of Plants, Animals and Fungi, Proposal of the Law on Protection from Negative Impacts of Climate Change, Proposal of the Law on Waste Management, Proposal of the Law on Establishing a Framework for Marine Environmental Protection, Proposal of amendments to the National Waste Management Plan in Montenegro for the period 2015–2020).

In 2019 the Ministry issued 2 public invitations to NGOs to propose candidates for participation in drafting of regulations in the field of environment: Proposal of the Law on Water Services and Proposal of the Regulation on Types of Activities and Facilities for Which an Integrated Permit is Issued (there were no registered candidates). 4 public consultations were organized, as follows: Public consultations of interested NGOs in support of establishing the List of Invasive Alien Species of Union concern and mapping their distribution; Public consultations of interested NGOs for the implementation of educational campaigns aiming to protect the environment; Public



consultations of interested NGOs in support of development of Action Plans for the most endangered species that must be developed within the EU Directive on the Conservation of Natural Habitats and Wild Fauna and Flora; Public consultation on the Draft of the Sixth National Report according to the Convention on Biological Diversity.

In the period January-October 2020, the Ministry issued 6 public calls for non-governmental organizations to propose candidates for the working group, for: a member of the National Coordination Body for monitoring the implementation of the Action Plan of the Radon Protection Programme for the period 2019-2023; Proposal of Decree on the amount of fees, method of calculation and payment of fees due to environmental pollution; Proposal of the Law on Amendments to the Law on Hydrometeorological Affairs; Proposal of the Law on Amendments to the Law on Hydrographic Activity and Proposal of the National Plan for Drought and Cooperation with UNCCD and Proposal of Decrees and Regulations based on the Law on Protection from Negative Impacts of Climate Change. NGOs applied for two public calls (for drafting of the Proposal of the National Plan for Drought and Cooperation with UNCCD and Proposal of Decrees and Regulations based on the Law on Protection from Negative Impacts of Climate Change). A public hearing was also organized for the Draft of the Action Plan for Meeting the Final Criteria in Chapter 27 - Environment and Climate Change, in the period 29.07-28.08.2020.

Public participation is also provided in the procedure of declaring protected natural resources, by organizing public hearings for the Proposal of the Act on declaring an area protected and the Protection Study for a protected natural resource. During 2017, with the participation of the public, two areas in Montenegro were declared protected: Dragišnica and Komarnica Nature Park, and the Natural monument of the Cijevna Canyon.

During the declaration of Ulcinj Salina as a protected area, the Ministry, based on the identified shortcomings of the Draft of the Protection Study from 2015, initiated the preparation of a comprehensive Protection Study. After consultations with the European Commission, on 13.02.2017, the Agreco Consortium (Vienna), along with 3 EU experts started the implementation of the Finalization of the Protection Study for Ulcinj Salina project funded by the European Integration Fund. The Ministry coordinated the implementation of project activities by forming an Administrative Board, consisting of representatives of all identified relevant institutions: Ministries, the Commercial Court, the Ministry of Agriculture, Forestry and Water Management (formerly the Ministry of Agriculture and Rural Development), the Ministry of Finance and Social Welfare (formerly the Ministry of Finance), the Ministry of Economic Development (formerly the Ministry of Economy), the Office for European Affairs (formerly the Ministry of European Affairs), the Nature and Environmental Protection Agency, the Public Enterprise for National Parks of Montenegro, the Municipality of Ulcinj, the NGO Centre for Protection and Research of Birds (CZIP), Ltd Euro-fond, as well as the EU Delegation to Montenegro. The project was completed at the end of November 2017 with the preparation of a comprehensive Protection Study of the Ulcinj Salina, which addressed all issues of importance for this site.

The Municipality of Ulcinj conducted a public hearing on the Proposal of the Decision on the declaration of Ulcinj Salina a Nature Park and the Protection Study, which lasted from December

26, 2018 to January 1, 2019. At the session of the Municipal Assembly of Ulcinj, held on June 24, 2019, the Ulcinj Salina was declared a protected area - Nature Park. Ulcinj Salina was declared a wetland of international importance on July 1, 2019 and was included in the List of Ramsar Wetlands of International Importance

In 2019, two more areas in Montenegro were declared protected: Zeta River Nature Park, as well as Komovi Nature Park in the Municipality of Kolašin, for which a public hearing was also conducted during the adoption of the act of declaration and Protection Study.

A good example of public participation in the process of drafting regulations was in the process of drafting the Proposal of the Law on Ionizing Radiation Protection, Radiation and Nuclear Safety and Security, which lasted two years (2018 and 2019), given the complexity of the matter regulated by this law and for which an intensive public hearing was conducted, as evidenced by the Report on the conducted public hearing, which is a public document. During the drafting of the Law Proposal and during the public hearing, two round tables and a public forum were held. Prior to the start of work on the regulation, the Ministry sent a public invitation to non-governmental organizations to appoint a representative for the Working Group that worked on the drafting of this regulation, to which no non-governmental organization responded.

The text of the Draft Law was posted on the website of the Ministry, Aarhus Centres and the e-Government portal, inviting citizens, professional and scientific institutions, state bodies, professional associations, NGOs, media and other interested organizations and communities to get involved into public hearing and give their proposals, remarks and suggestions on the text of the Draft Law.

During the Public hearing on the Proposal of the Law, interested parties submitted 130 remarks and 2 comments, of which 35 were accepted, 29 were partially accepted and 66 remarks were not accepted. The reason for not accepting the remarks was that they were already an integral part of the text of the Proposal of the Law or that they were not in accordance with the Directives and international standards. Within the Public hearing, several meetings were held with representatives of institutions and members of the Working Group that worked on the drafting of the Proposal of the Law. During the drafting of the Proposal of the Law, the opinions of all competent institutions, organizations and professional associations were obtained and submitted to the Government of Montenegro during the consideration of the material. The Proposal of the Law with the Report on the conducted public hearing was determined at the session of the Government of Montenegro held on January 16, 2020, after which it was sent to the Parliament of Montenegro for consideration and adoption, which process is ongoing.

In order to better inform the interested public on issues of ionizing radiation protection, radiation and nuclear safety and security and radioactive waste management, the Ministry, in cooperation with the Nature and Environmental Protection Agency and representatives of the non-governmental sector, will develop a Communication Strategy for Ionizing Radiation Protection under the auspices of international donors, which will include the method of communication, target groups, form of organization, topics to be presented, holders of activities, creating brochures and other publications, etc.

### 13. Website addresses relevant to the implementation of article 8.

Ministry of Ecology, Spatial Planning and Urbanism: <http://www.mrt.gov.me/>

Nature and Environment Protection Agency: <http://www.epa.org.me/>

Parliament of Montenegro: <http://www.skupstina.me/>

Official Journal of MNE: <http://www.sllistcg.me>

[http://www.mrt.gov.me/rubrike/javna\\_rasprava](http://www.mrt.gov.me/rubrike/javna_rasprava)

<http://www.mrt.gov.me/rubrike/spi>

<https://www.euprava.me/eparticipacija/lista-javnih-rasprava>,

<http://www.epa.org.me/index.php/dokumenti/izdate-dozvole>

<http://www.epa.org.me/index.php/dokumenti/>

<http://www.epa.org.me/index.php/dokumenti/izvjestaji-2>

<http://www.ozon.org.me/category/arhus-info-centar/javne-rasprave/>

## 31. North Macedonia

### Article 6

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

The Law on Environment is the principal piece of legislation regulating the participation of the public in the process of making decisions on activities listed in Article 6 of the Aarhus Convention.

The following bylaws are related to public participation:

Environmental impact assessment (EIA)

- Decree and Decree on amendment the decree which determine the projects and the criteria based on the need for conducting the procedure for environmental impact assessment. (Official Gazzete on RNM, Nb. 74/05, 35/06).
- Rulebook on information that should be included in the notification/intention for realization of project and the procedure for determination of the need for environmental impact assessment of the project. (Official Gazzete on RNM, Nb. 33/06).
- Rulebook on the content of the study for environmental impact assessment of project implementation. (Official Gazzete on RNM, Nb. 33/06).
- Rulebook on the form, content, procedure, and the way of preparation of the report on the adequacy of the study for environment impact assessment, as well as the procedure for

authorization of the persons from the list of experts for environmental impact assessment, who will prepare the report. (Official Gazzete on RNM, Nb. 33/06).

- Rulebook on the content of the announcement of the notification for the intention to implement a project, the decision on the need for environmental impact assessment of the project, the study on environmental impact assessment of the project, the report on the adequacy of the environment impact assessment study and the decision for approving or rejecting the implementation of the project, as well as the way of public consultation. (Official Gazzete on RNM, Nb. 33/06).

#### Integrated pollution prevention and control (IPPC)

- Decree which determine the activities of the installations for which an integrated environmental permit is issued, i.e a permit for compliance with the operational plan and a time schedule for submitting a request for a permit for compliance with the operational plan. (Official Gazzete on RNM, Nb. 89/05).
- Rulebook on the procedure for issuing a permit for compliance with the operational plan. (Official Gazzete on RNM, Nb. 04/06).
- Rulebook on the procedure for obtaining a B-integrated environmental permit. (Official Gazzete on RNM, Nb. 04/06).
- Rulebook on the procedure for obtaining A-integrated environmental permit. (Official Gazzete on RNM, Nb. 04/06).

#### Genetically modified organisms (GMOs)

- Rulebook on content on information for realization of risk assessment since of intentional release of GMOs. (Official Gazzete on RNM, Nb. 148/09).

The EIA Procedure is defined in Law on Environment and relevant bylaws. Subject of environmental impact assessment are the projects which due to their nature, scope, or location of their implementation, could have a significant impact on the environment. The assessment is performed compulsorily, based on criteria that determine the need to assess the environmental impact, as well as on other generally specified projects that could have a significant impact on the environment. The need to assess the environmental impact is determined by examining each specific case based on the nature, the size and the location in accordance with the stipulated criteria and considering the latest scientific and technical knowledge and decisions in the regulations that specify the lowest limits of emissions in the environment.

The state administration body competent for issues in the field of environment is obliged:

- to publish the notice on the investor's intent to perform a project, in two national daily newspapers and on the website of the state administration body competent for issues in the field of environment.
- to publish the decision on determination of the need of environmental impact assessment in two national daily newspapers, on the website and on the board in the state administration body competent for issues in the field of environment.

- to announce that the EIA study is prepared and available to the public in two national daily newspapers, on the local radio and TV station, while the non-technical report is published on the website of the state administration body competent for issues in the field of environment.
- to publish the report on the adequacy of the EIA study, in two national newspapers and on the website of the state administration body competent for issues in the field of environment.
- to publish the decision on approval or disapproval of the project realization in two national daily newspapers, on the website, as well as on the board in the state administration body competent for issues in the field of environment.
- to announce the time and place of the public hearing regarding the EIA study and to ensure availability of information that is required for the public to participate in the public hearing, in two national daily newspapers and on the local radio and TV stations.

At the request of a foreign country, the information listed above are available to the competent authorities of the foreign country, in accordance with the Espoo Convention.

The Law on Environment provides that within seven days from the day of receipt of the request for issuance of an integrated environmental permit, the Ministry of Environment and Physical Planning is obliged to publish the request in two daily newspapers that are available on the entire territory of the RNM and on its website, as well as within 15 days from the publishing of the request, to provide to the public an access to the available information required for formation of opinions and attitudes, in accordance with the provisions of this law. Any person, the state authorities, as well as the municipalities, the City of Skopje, and the municipalities in the city of Skopje, can submit their opinion in writing, to the Ministry of Environment and Physical Planning within 30 days from the day of publication of the application of integrated environmental permit. The Ministry of Environment and Physical Planning is obliged to consider the opinions when issuing the permit.

The units of the local self-government provide public participation and access to all relevant information, in the procedure for issuance of B integrated environmental permits. Within 30 days from the publication of the request for issuance of an integrated permit, the affected public can submit their opinions and attitudes in writing.

In process of issuing the A-integrated environmental permit, the Ministry of Environment and Physical Planning is obliged, within the A integrated environmental permit, to indicate which of the opinions and the attitudes that are delivered by the public have been considered, and which have not been considered, and the reasons for this. At the request of the affected public, the investor is obliged to organize a public hearing.

Among other things, the law is based on the principle of non-discrimination. According to the Constitution of the Republic of North Macedonia, the citizens are equal in their freedoms and rights regardless of sex, race, skin color, national and social origin, political and religious beliefs, property, and social status.

The intentional release of genetically modified organisms (GMOs) in the environment is regulated in chapter 5.1 Intentional release of GMOs or a combination of GMOs in the environment in the Law on Genetically Modified Organisms. According to Article 34 of the Law, any notifier, before performing intentional release into the environment must submit a notification to the Ministry of Environment and Physical Planning, which specifically contains technical documentation that includes information required for assessing the risk because of the intentional release of GMOs and risk assessment.

Within five days from the day of receipt of the complete notification, the Ministry of Environment and Physical Planning is obliged to publish a short summary on the website and to publish it in two daily newspapers on the territory of the Republic of North Macedonia. The public can deliver its opinion within 30 days from the day of publication. The Ministry is obliged to provide public access to the data of the notification, the risk assessment, the report on assessment of GMOs and other information accompanying the notification. When issuing the permit, the Ministry is obliged to consider the timely submitted opinions and comments. Within 90 days from the day of receipt of the complete notification, the Ministry of Environment and Physical Planning issues a permit for intentional release of GMOs or with a decision it rejects the notification if the requirements for intentional release of GMOs have not been met.

2. Obstacles encountered in the implementation of article 6.

- The pandemic Covid 19 has slowed the preparation of EIA studies, procedures, and the public participation in decisions regarding environmental issues.
- Required financial resources,
- Lack of capacities of all relevant entities in the process,
- Increase of the personal capacity of the Ministry of Environment and Physical Planning to provide public participation in the realization of projects, especially when it is necessary to conduct a national and cross-border procedure for assessment of the environmental impact, because it is necessary to provide sufficient time to the public to obtain information and to prepare for efficient participation during the decision-making regarding the environment.
- The existing institutional and other capacities of the MoEPP and the competent local self-government bodies are not sufficiently developed; therefore, it is necessary to implement the measures aimed at their strengthening. The reactions of citizen's associations indicate that insufficient capacity, especially at the local level, is often taken advantage of to push less than well-argued studies through and obtain permits.
- Low public participation in the EIA procedures at the local level. The absence of the obligation to inform the public concerned about the assessments in writing may be one of the factors contributing to that. Certain non-governmental organizations states that participation of public is low because decisions are adopted regardless of the adequate comments.
- The most frequent obstacles and problems in the implementation of regulations related to public participation in decision-making affecting environmental impact assessments are insufficient public participation due to being uninformed, uninterested, late inclusion

during the case after the deadlines for the right to complaint have expired, as well as lack of trust in the work of the competent body regarding the protection of their interests.

### 3. Further information on the practical application of the provisions of article 6.

In accordance with the Law on the Environment and the appropriate by-laws, the Ministry of Environment and Physical Planning conducts the obligations from the provisions on public participation in the decision-making process. The public is informed as early as in the initial stages i.e., in the stage of planning of the activities, which means adoption of legislation, plans, programs, strategies, projects, permits and procedures for assessing the environmental impact. In addition, at the request of the stakeholders, public hearings are organized, whereby in accordance with the legal obligations, the results of the public participation are taken into consideration.

In the reporting period, 38 public hearings have been realized regarding the Environmental Impact Assessment.

### 4. Website addresses relevant to the implementation of article 6.

[www.moepp.gov.mk](http://www.moepp.gov.mk)

Environmental Impact Assessment Studies | МЖСПП ([moepp.gov.mk](http://moepp.gov.mk))

Minutes of public hearings| МЖСПП ([moepp.gov.mk](http://moepp.gov.mk))

## Article 7

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

The Law on Environment is the principal piece of legislation regulating the participation of the public in the process of preparation of plans and programmes relating to the environment listed in Article 7 of the Aarhus Convention.

The following bylaws are related to public participation in the process of preparation of plans and programmes relating to the environment:

Strategic environmental assessment (SEA)

- Decree on the strategies, plans and programs, including the changes of those strategies, plans and programs, for which procedure for assessment of their impact on the environment and health of the people is obligatorily (Official Gazzete on RNM, Nb. 153/07).
- Decree on the criteria based on which decisions are made on whether certain planning documents could have a significant impact on the environment and human health (Official Gazzete on RNM, Nb. 144/07).
- Decree on the content of the strategic environmental assessment report (Official Gazzete on RNM, Nb. 153/07).

- Decree on public participation in the preparation of regulations and other acts, as well as plans and programs in the field of environment (Official Gazzete on RNM, Nb. 147/08).

The public participation in the preparation of plans and programs relating to the environment is regulated by the Law on the Environment, Chapter 9, Planning of environmental protection which regulates the public participation in the procedure for adoption of planning documents, preparation of regulations and public participation in the procedure. Article 61 of the Law provides the obligation of the state administration authorities and the authorities of the units of the local self-government in the preparation, adoption, amendment or revision of plans and programs to inform the public through notices or other appropriate means to enable the public to participate in the decision-making on plans and programs. These issues are further governed by the Decree on public participation during the preparation of regulations and other acts, as well as plans and programs related to the environment.

The Chapter Assessment of the environmental impact of specific strategies, plans and programs in Article 65 of the Law, defines all planning documents that are prepared in the fields of agriculture, forestry, fishing, energetics, industry, mining, transport, regional development, telecommunications, waste management, water management, tourism, physical and urban planning and land use, wherewith a basis is created for execution of projects for which assessment of the environmental impact is performed or of all planning documents that regulate the management of protected areas declared by law or may affect these areas, and a strategic assessment is conducted. The strategies, plans and programs for which a strategic assessment is conducted, are provided in the Decree for strategies, plans and programs, including the amendments to such strategies, plans and programs for which a mandatory procedure is conducted for assessment of their impact on the environment and the human health.

Before starting the procedure for adoption of the planning document and within five days from the completion of the environmental report, the authority that is preparing the planning document publishes information that refer to the draft planning document and the environmental report, along with information on the procedure for public participation. The authority is obliged to simultaneously deliver the draft planning document and the environmental report to the state administration authority competent for matters related to the environment. The state administration authority competent for matters related to the environment, and the authorities affected with the implementation of the planning documents, the legal entities and natural persons, and the public, can express their opinion regarding the draft planning document and the environmental report, to the authority that prepares the planning document, within 30 days from the day of delivery, that is, publication of the information regarding the documents. In the preparation of the planning document, the authority is obliged to consider the obtained opinions regarding the draft planning document and the environmental report, for the purpose of which it prepares a special report.

In accordance with Article 93 of the Law on the Environment, in an event of cross-border cooperation, the state administration authority responsible for matters related to the environment, in cooperation with the competent authority of the affected country, is obliged to create conditions for provision of information to the public and for obtaining opinions and comments from the affected public of the affected country, as well as for the national public, in accordance with laws



of the Republic of North Macedonia. The information obtained from the affected country, along with the comments from its public, will be considered by the state administration authority that is competent for matters related to the environment, when making the decision for approval of the project implementation.

If the state administration authority that is competent for matters related to the environment receives a notification from another country that it has learned that a project would be implemented in the Republic of North Macedonia which might have significant cross-border impact, and the affected country was not informed about such project by the Republic of North Macedonia, in accordance with this law, it is obliged, if it estimates that cross-border impact exists, to include the other country in the procedure of assessment of the environmental impact in accordance with this law.

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

The public participation in the preparation of the planning documents is established by several legal acts, and regarding all strategic, planning and program documents. These documents are adopted in two stages: draft and proposal stage. The draft documents are published, and a public and expert hearing regarding their content is organized. The opinions, comments and suggestions obtained from the hearing shall be considered in the completion of the document's text, which is delivered as a Proposal, for final adoption.

Most used ways to involve the public as early as in the initial stage of preparation of the documents, is through their involvement in the working groups and regular publication of the planning documents on the website of the Ministry of Environment and Physical Planning, as well as through holding public hearings regarding the planning document.

#### Law on Ambient Air Quality

Article 33, Reporting and participation of the public, from the Law on Ambient Air Quality, refers that the Mayor of the municipality and the city of Skopje are obliged to take all measures to inform the public and to provide access to information and participation in the preparation and adoption of the planning documents: Air quality plan and Short-term action plan in accordance with the procedure established by the Law on Environment which refers to the adoption of planning documents.

#### Law on nature protection

Principle of public participation - the public has the right to free access to information on the state of nature, the right to timely reporting on damage to nature and the activities undertaken to eliminate the damage, as well as the right to participate in decision-making regarding nature protection (Article 7, Principles of nature protection)

Article 156, Participation of the public in deciding on issues in the field of nature protection, of the Law on Nature Protection, ensures participation of the public in the preparation of regulations and documents arising from the provisions of this law, and especially for: acts for declaring

protected area, spatial planning documentation for a protected area, management plans for a protected area, plans and projects for the use of natural resources that have an impact on nature. The public is informed by public announcement or individual notification to the interested subjects for the act or activity that can affect the state of nature. Public notification is mandatory in the cases prescribed by this law.

The National Strategy for Nature Protection is adopted in a procedure that ensures public participation in decision-making (Article 159, Law on Nature Protection).

The five-year plans for nature protection and the one-year programs for nature protection are prepared and adopted by the state administration body competent for issues in the field of nature protection, in a procedure that ensures public participation, and with previously obtained consent from the state administration body responsible for performing on matters in the field of nature protection. (Article 160, Law on Nature Protection).

#### Law on protection against environmental noise

(Article 18, Public participation in planning the protection against environmental noise) During the preparation of the noise action plans, the competent bodies shall organize a public debate where all interested parties may take part: state administration bodies, legal entities and natural persons, public institutions, scientific and expert institutions, citizens' associations, urban communities, municipalities, City of Skopje and the municipalities in the city of Skopje, as well as other interested parties. The bodies competent for preparation of the action plans for environmental noise, prior to the public debate, shall enable a public insight in the draft proposals of the action plans for environmental noise in duration of 30 working days. They shall inform the parties through the media: by publishing an announcement in at least one newspaper distributed throughout the territory of the Republic of North Macedonia and/or - in other appropriate manner, about the place where the insight in the proposed noise action plans can be performed, together with the information on the procedure for public participation, as well as about the manner, place and date of the public debate. The competent bodies for adoption of noise action plans shall be obliged, during the preparation of the plan document, to take in consideration the public opinion and to prepare a separate report which shall be an integral part of the documentation for adoption submitted to the competent body for their adoption. The manner of information publishing and the public participation in the procedure for preparation of the noise action plans and the manner of preparing the report from the public debate shall be carried out in accordance with the provisions on strategic assessment of the impact on the environment of the Law on Environment.

#### Law on waters

(Article 5, Principles of sustainable water resources management)

Principle of public participation and access to information - the public should have access to all information related to the water status and water resources management, and especially to the information needed for its participation in the procedure for decision making pertaining to the water resources management.

Principle of stakeholders' participation – the competent bodies shall be obliged to ensure that the interests of all stakeholders are taken into consideration in the procedure for adoption of regulations, strategic, planning and program documents, and decisions related to the water resources management.

(Article 35, Announcement of the application and participation of the public in the procedure for issuance of a permit)

The state administration body competent for issues in the field of environment, within a period of seven working days as of the day of receipt of the application, shall be obliged to announce the application in at least one daily newspaper accessible throughout the territory of the Republic of North Macedonia and on its website. The state administration body competent for issues in the field of environment, shall be obliged to provide the public with access to the information necessary for forming the opinions and attitudes, in accordance with the Law on Environment. The public may state its opinions and comments in relation to the application within a period of 15 days as of the day of announcement.

(Article 62, National Water Strategy)

The participation of the public in the procedure for adoption of the National Water Strategy shall be conducted under the conditions and in the manner determined in the Law on Environment.

(Article 64, Preparation, revision and updating of the Water Resources Management Basis and informing and consulting with the public)

The participation of the expert public in the preparation of the water resources management basis shall not replace the procedure for participation of the public in the adoption of the planning documents determined in accordance with the Law on Environment.

(Article 66, River basin management plans) regulates public participation in preparation of plans.

(Article 223, Council for River Basin Area Management). In these Councils are nominated and participated at the working meetings representatives from non-governmental organizations.

Law on genetically modified organisms

(Article 12, Public consultations, and notifications)

The public and the citizens' associations can submit their opinion on the notification on receiving a license for limited application of GMO, the notification on receiving a license for intentional release of GMO in the environment, and the notification on receiving a license for releasing GMO products on the market to the state administration body competent for issues in the field of environment, 30 days from the day of publication.

The state administration body competent for issues in the field of environment shall be obliged to enable the public and the citizens' associations to insight into the notification data, including the emergency cases plan, the report on GMO product assessment, the opinion received from the

Scientific Committee on GMO, opinions received by other competent bodies, as well as other information following the notification.

The manner and procedure for public participation in issuing licenses for limited application of GMO, intentional release in the environment, placement of GMO products on the market as well as other information related to GMO application shall be prescribed by the Minister on the state administration body competent for issues in the field of environment. In the process of issuing a license for limited application of GMO, license for intentional release of GMO in the environment and/or license for releasing GMO products on the market, the state administration body shall take into consideration only promptly submitted opinions and comments.

#### Law on waste management

(Article 20, Waste Management Program) The waste management program is adopted by the state administration body competent for issues in the field of environment, which is obliged to make it available to the public.

(Article 118, Obligation to inform the public) The state administration body competent for issues in the field of environment, the mayor of the municipalities and the city of Skopje are obliged to inform the public during the year about the current state of waste management, the achieved progress, the future and directions for improving the state of waste management and make a comparison and assessment of the current and past state of waste management.

#### Law on Spatial and Urban Planning

Spatial and urban planning determines the basic principles in the process of spatial planning and arrangement, including public participation in the procedure for adoption and implementation of plans.

#### 7. Obstacles encountered in the implementation of article 7.

Strengthening of the administrative and the financial capacities of all relevant entities in the process.

Public participation in designing strategic state documents and processes related to drafting laws, by-laws and rule books is not at a satisfactory level.

The role of the media, namely, media coverage of environmental issues is also unsatisfactory.

#### 8. Further information on the practical application of the provisions of article 7.

In the reporting period several procedures for strategic assessment of the environmental impact were conducted:

- Strategic environmental assessment for the regional waste management plan for the Polog planning region.
- Strategic Environmental Assessment for the Energy Development Strategy in the Republic of Northern Macedonia until 2040
- Strategic Environmental Assessment for the National Transport Strategy (2018-2030)

- Strategic environmental assessment for the National Action Plan for Combating Desertification in the Republic of North Macedonia
- Strategic environmental assessment for State Urban Planning Documentation for determining the construction plot with purpose G1 - heavy industry for exploitation of mineral raw material copper on the locality Borov Dol, in the Municipality of Stip, the Municipality of Radovish and the Municipality of Konce
- Strategic Environmental Assessment for the Regional Waste Management Plan for the Skopje Region
- Strategic Environmental Assessment for the Regional Waste Management Plan for the Vardar Region
- Strategic Environmental Assessment for the Regional Waste Management Plan for the Pelagonija Region
- Strategic Environmental Assessment for the National Strategy for Nature Protection 2017-2027

The public was involved in the strategic environmental assessment procedure for the above documents.

9. Website addresses relevant to the implementation of article 7.

[www.moepp.gov.mk](http://www.moepp.gov.mk)

Department for spatial planning | МЖСНП ([moepp.gov.mk](http://moepp.gov.mk))

## Article 8

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

To preparation of laws and during their modification and amendment, an assessment of the regulation's impact is mandatorily conducted in the Republic of North Macedonia. The procedure for assessment of the regulation's impact is stipulated in the Law on the Government of the Republic of North Macedonia, the Rules of Procedure of the Government of the Republic of North Macedonia, and with a methodology for assessment of the regulation's impact. For this purpose, the web portal of an electronic register of regulations ([www.ener.gov.mk](http://www.ener.gov.mk)) is established, where all draft texts of laws and their modifications and amendments are published. In parallel with the draft texts of the laws, a report on the implementation of an assessment of the regulation's impact is published, which contains opinions and comments submitted according to the draft texts of the regulations. The public may deliver all their notes to the Ministry of Environment and Physical Planning, or it may place them in the portal. The draft texts of the laws are mandatorily published on the website of the Ministry of Environment and Physical Planning.

11. Obstacles encountered in the implementation of article 8.

- Strengthening the capacities of the central government entities for implementation of the procedure for assessment of the regulation's impact.

- Raising public awareness and promoting the IAR as a tool for public participation in the adoption of laws.
- Strengthening of human and financial capacities of all relevant entities in the process at central and local level. The technical equipment is at a low level to be able to provide constant access to information.
- Relatively low interest of the public to participate in the procedures related to drafting legislation.
- Insufficient knowledge of the public concerned as to how, when and to whom to submit their opinions.

#### 12. Further information on the practical application of the provisions of article 8.

The Ministry of Environment and Physical Planning, furthermore within the projects where the regulations and the strategic documents were being prepared, as well as for the other regulations and documents, strives to provide transparency through the following forms: questionnaires, conducting public opinion surveys: quantitative and qualitative survey, organizing workshops on the draft-texts of the laws, etc. These workshops involve representatives from government and state institutions, units of the local self-government, public enterprises, representatives from the industry i.e. the Economic Chamber of the RNM, other private-legal responsible persons, non-governmental organizations, scientific and professional organizations, and the obtained valid comments were incorporated in the draft and proposal laws.

#### 13. Website addresses relevant to the implementation of article 8.

[https://www.moepp.gov.mk/?page\\_id=1091](https://www.moepp.gov.mk/?page_id=1091)

[www.ener.gov.mk](http://www.ener.gov.mk)

## 32. Norway

### Article 6

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

Article 112 of the Constitution entitles the public to information about measures that have been planned or commenced, and thus lays down the principle that the environmental impacts of projects should be assessed in advance. The phrase “the public” is interpreted broadly.

Article 6 of the Convention is essentially implemented through the provisions of the Public Administration Act that lay down a general requirement to notify and inform the parties to a case, the provisions on environmental impact assessment in the Planning and Building Act, the Act relating to petroleum activities and the appurtenant Petroleum Regulations, the provisions in the

Svalbard Environmental Protection Act and the appurtenant Regulation on environmental assessments and delimitation of the land use planning areas in Svalbard, and the provisions on permits in the Pollution Control Act and the appurtenant Pollution Regulations. There are also provisions on public participation in connection with the establishment of protected areas under the Nature Diversity Act and the Svalbard Environmental Protection Act, protection under the Cultural Heritage Act and applications for licences for electrical installations under the Energy Act and measures pursuant to the Water Resources Act and Act relating to Regulation of Water Courses, which partly refer to the Planning and Building Act and the Pollution Control Act, partly supplement these Acts. The development of plans pursuant to the Planning and Building Act shall be publicly announced, and participation shall be provided for. In the event of procedural errors, the decision may be appealed pursuant to the Public Administration Act.

(a)-(j) Paragraphs 1 to 10

Most of the activities to which article 6 of the Convention applies come within the scope of the provisions on environmental impact assessment in the Planning and Building Act, and require a permit pursuant to the Pollution Control Act and its Pollution Regulations, and permit and impact assessment pursuant to the Svalbard Environmental Protection Act and its Regulations on impact assessment. These provisions comply with the requirements of the Convention on public participation.

EU Directive 2010/75/EU concerning industrial emissions and Directive 2011/92/EU of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment have both been incorporated into the European Environment Agency (EEA) Agreement and have been implemented in Norwegian law. Thus, the activities listed in annex I to the Convention are explicitly listed in the law. Directive 2003/35/EC on public participation has also been incorporated into the EEA Agreement and is considered to be in accordance with Norwegian legislation.

As mentioned earlier, it is an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is permitted pursuant to law or regulations. Chapter 36 of the Pollution Regulations (not available in English) deals with procedures for issuing discharge permits. It requires the authorities to ensure that the public have an opportunity to express their opinions on applications. It also states that prior notification of a proposal must give an account of what the proposal involves and contain any other information necessary to enable those who receive the notification to submit comments on the case. The parties, public bodies and authorities, and organizations representing relevant public interests shall be notified directly before a decision is made and be given an opportunity to make their opinions known within a specified deadline (sections 36-6 and 36-7). If the application concerns an activity listed in Appendix I to Chapter 36 of the Pollution Regulations (see annex I of the Industrial Emissions Directive) and in other cases of importance for an indeterminate number of people, the Ministry shall, before making a decision, give the general public an opportunity to express an opinion within a time limit that should not normally be shorter than four weeks. A public hearing may be dispensed with in accordance with section 36-9, second paragraph, litra a and b, of the Pollution Regulations if issuing a permit is urgent for environmental reasons, if a permit is required

to solve an acute problem or weighty social needs, or if the decision will only have a minor impact on the environment.

A notification must be published in a way that is suitable for drawing public attention to the matter, and the documents in the case have to be made available. The costs of this are to be paid by the person who is applying for or who holds a permit. The Norwegian Environment Agency regularly posts notifications on its website. Any comments received are public. It is not unusual for either the recipient or the sender to publishes such answers on the Internet in addition. Decisions on applications shall make it clear how the comments received were evaluated and how much weight was attached to them (section 36-17 first paragraph litra d)). According to section 36-18, the pollution control authorities shall publish their decisions.

Article 6, para. 10, which requires that the general public be given opportunities for participation when licences and permits are reconsidered or updated, has been implemented through section 26 of the Impact Assessment Regulations of 21 June 2017 No 854 (not available in English). The Pollution Control Act and the Pollution Regulations also implement this provision. Section 36-1 of the Pollution Regulations makes it clear that the provisions also apply to the alteration of permits. A public hearing may be dispensed with in accordance with section 36-9, second paragraph, litra a and b, of the Pollution Regulations if issuing a permit is urgent for environmental reasons, if a permit is required to solve an acute problem or weighty social needs, or if the decision will only have a minor impact on the environment.

## 2. Obstacles encountered in the implementation of article 6.

No specific obstacles have been encountered.

## 3. Further information on the practical application of the provisions of article 6.

NOAH – an organisation working for the protection of the rights of animals - express the opinion in their consultative statement that Section 18, third paragraph of the Nature Diversity Act and Sections 23 and 35 of the Wildlife Act, by stating that exceptions from strong protection of endangered species or otherwise forbidden hunting methods are not individual decisions subject to appeals, hinder the public from contesting the exceptions and are therefore not in line with the Aarhus Convention.

These exceptions are only applicable to the implementation of removal of wildlife, salmonides and freshwater fish by the competent authority on its own initiative and for specific purposes pursuant to Section 18 paragraph 3 of the Nature Diversity Act. It follows from the Public Administration Act that such decisions by the authorities are not individual decisions subject to appeal. The provisions in the Nature Diversity Act and the Wildlife Act are only meant to clarify this. The definition of individual decisions in the Public Administration Act is inter alia based on an assessment of where legal safeguards in administrative procedures are most needed. Particular considerations are applicable in the environmental field. Decisions with environmental impacts may be of importance for many people even though they are not decisive for the rights and obligations of anyone. The question of how to protect the need for legal safeguards in the field of



environment in the best possible way is a concern in administrative procedures in this field in general and not in the field of game management in particular.

4. Website addresses relevant to the implementation of article 6.

<https://lovdata.no/dokument/NLE/lov/1967-02-10>

<https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/>

<https://www.regjeringen.no/en/dokumenter/nature-diversity-act/id570549/>

<https://lovdata.no/dokument/NLE/lov/1978-06-09-50>

<https://www.regjeringen.no/en/dokumenter/pollution-control-act/id171893/>

<https://www.regjeringen.no/en/dokumenter/svalbard-environmental-protection-act/id173945/>

<https://www.regjeringen.no/en/dokumenter/regulations-relating-to-environmental-im/id512069/>

<https://www.regjeringen.no/en/dokumenter/pollution-control-act/id171893/>

<https://www.npd.no/en/regulations/acts/act-29-november-1996-no2.-72-relating-to-petroleum-activities/>

<https://www.npd.no/en/regulations/regulations/petroleum-activities/>

[https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act\\_no\\_82\\_of\\_24\\_november\\_2000.pdf](https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act_no_82_of_24_november_2000.pdf)

[https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act\\_no\\_17-of\\_14\\_december\\_1917.pdf](https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act_no_17-of_14_december_1917.pdf)

## Article 7

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

The Planning and Building Act lays down that the public must be involved in decision-making processes for plans to which the Act applies. Section 5.1 and 5.2 of the Act requires the planning authorities to actively provide information and accommodate at an early stage of the planning process, and to give individuals and groups the opportunity to play an active part in the planning process. The Act and national guidelines for children and youth in planning processes (not available in English), especially emphasizes the need to accommodate information to and participation of these groups as stakeholders and representatives of the sustainability perspective. Updated guidance on the participation of these groups in planning and building processes is available (not in English). The regional and local councils for elderly people, people with disabilities and youth established pursuant to Section 5-12 of the Local Government Act (no updated version in English) have the right to express their views on matters concerning the groups they represent. Central government plans, municipal master plans and local development plans shall as a general rule be subjected to two thorough public hearings, once at the beginning of the process and then again when a draft plan has been proposed. The same requirements apply pursuant

to Section 50 of the Svalbard Environment Act. The provision on accommodating participation applies to anyone who proposes plans, whether public organs or private entities or persons.

As regards plans under the Planning and Building Act with substantial consequences for the environment, directive 2001/42/EC is applicable. The directive has been made part of the EEA-Agreement and has been incorporated in Norwegian law through the provisions on environmental impact assessment in the Planning and Building Act in combination with provisions in the regulation relating to environmental impact assessment.

In addition to binding plans for land-use planning purposes under the Planning and Building Act, there are many other programmes and general decisions that can determine the framework and terms for later individual decisions. The Instructions for Official Studies and Reports laid down by the government apply to work carried out by or commissioned by central government agencies. To ensure that public participation is also possible in decision-making processes concerning more strategic programmes relating to the environment, this principle has been incorporated into section 20 of the Environmental Information Act. The phrase “plans and programmes” includes everything from municipal land-use plans and cultural heritage plans to national action plans for specific sectors. The plans need not have legally binding effect. The provision applies to national, county and municipal authorities.

According to subsection 1 of Section 20 of the Environmental Information Act, administrative agencies shall, in connection with the preparation of plans and programmes relating to the environment, make provision for participation by the public in these processes and ensure that there are real opportunities to influence the decisions that are made. One way of complying with this requirement is to hold meetings to brief the public concerned. Another is to provide relevant information on the Internet. Information must be provided at a stage when there is still a real opportunity to influence the decisions that are made, i.e. as a general rule, early in the process. The time limits set must give organizations sufficient time to familiarize themselves with the subject matter and discuss the matter internally. The environmental impact of plans and programmes need not be significant for the provision to be applicable (see the use of the phrase “relating to the environment”). The term “environment” is intended to cover at least the same scope as in Article 2 (3) (a) of the Convention.

In the case of plans or programmes that may have a significant impact on the environment, subsection 2 of section 20 of the Environmental Information Act lays down that as a general rule, a public hearing shall be held well before a final decision is taken. It was considered logical to impose stricter requirements for plans or programmes that will have a more serious environmental impact. An assessment of whether a proposal will have a significant impact must be made on a case-to-case basis. If the proposal involves pollution, waste, energy, resource use, land use, transport or noise, the impact will generally be considered to be significant. An account of the environmental impact of the proposal shall be available at the hearing. In special cases, a public hearing may be dispensed of, see section 20, subsection 2.

Decisions taken on proposals to which this section applies must be made public. The grounds for a decision must make it clear how the requirements of the section have been met and how comments and other input from the public have been evaluated.

The provisions of section 20 of the Environmental Information Act do not limit the right to public participation in decision-making processes pursuant to other legislation.

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

See answer to question 19 above.

7. Obstacles encountered in the implementation of article 7.

No specific obstacles have been encountered.

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

National guidelines operationalizing procedures and possibilities set out in the Planning and Building Act have been developed. Among these are guidelines on children and youth in planning, registration of childrens paths (by Norsk form and Statens kartverk) and guidelines on participation in planning (also in english).

The development of methods and tools for contribution and participation in planning pursuant to the Planning and Building Act promotes the practical implementation of Article 7. The Act and its sustainability perspective provides a framework for interplay between society and environment based on several dimensions of development such as health and quality of life. The authorities responsible for health cooperates with authorities responsible for transport, environment and planning respectively, and municipalities selected as pilots for an effort concerning local environment, which tries out methods for an improved knowledge based decisionmaking foundation in planning. Digital and map-based registration methods have also been developed. They focus on different behaviour in different areas as basis for decision inter alia in planning of environment friendly behaviour.

The environmental organisation Sabima is critical to the proposed changes in the Planning and Building Act and central planning guidelines for differentiated management of the coastal zone along the seaside. In their opinion, should these proposed changes be adopted, they will limit the planning processes and public participation in the development of decision impacting upon the environment, while making it easier for the municipalities to give dispensations for activities.

The requirements for municipal master plans and zoning plans follow from Sections 11-1 and 12-1. These requirements also apply to coastal zones, regardless of central planning guidelines. In the proposal for revised planning guidelines that was submitted to public hearing on the 5th of June 2020, it is stated in chapter 6 which applies to all zones, that the municipalities are obliged to actively clarify land use in the coastal zone through planning. The proposal for revised guideles is not considered to impact upon Norway's compliance with its obligations under the Aarhus Convention.

NOAH – an organisation working for the protection of the rights of animals - criticizes the transfer in January 2018 of the responsibilities for management of wildlife species that may be hunted from the Ministry of Climate and Environment to the Ministry of Agriculture and Food. They argue that the transfer without prior consultation or notification to environmental organisations or the general public has led to privileged participation by economically motivated groups such as farmers, hunters and land owners in the development and implementation of policies in this field. They mention the development of two action plans as examples; The action plan for commercial development on the basis of wildlife species that may be harvested and The action plan against wild boar 2020-2024, and call for guidelines for the development of such plans and programmes.

The Action plan for commercial development on the basis of wildlife species that may be harvested was developed by a working group as an input to agriculture negotiations. The content of the document is primarily a description of possibilities for commercial development and is not considered as a plan as described in Article 7 of the Convention. The Action plan against wild boar 2020-2024 was developed by the Norwegian Environment Agency and the Norwegian Food Safety Authority, in collaboration with invited NGO's. NGO's representing specific animal interest was not represented. The Action plan against wild boar 2020-2024 has not been submitted to public hearing or otherwise made accessible for input from the public. However, the legal measures mentioned in the Action plan has been or will be subject to public hearing. The Ministry of Agriculture and Food will pay increased attention to the Environmental Information Act and the Aarhus Convention.

9. Website addresses relevant to the implementation of article 7.

<https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/>

Regulations on Impact Assessments (not available in English)

<https://www.regjeringen.no/en/dokumenter/svalbard-environmental-protection-act/id173945/>

<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>

[https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance\\_Notes\\_on\\_the\\_Instructions\\_for\\_Official\\_Studies.pdf](https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance_Notes_on_the_Instructions_for_Official_Studies.pdf)

## Article 8

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

Norway has a long tradition of encouraging public participation in the preparation of legislation and of taking into account the comments that are received. Chapter VII of the Public Administration Act contains provisions on the procedures to be followed in the preparation of regulations. Section 37 lays down a general requirement for administrative agencies to clarify a case as thoroughly as possible before a decision is made, and the second paragraph of this section requires public consultation. This provision requires that public and private institutions and organizations that the regulations concern or whose interests are particularly affected shall be given an opportunity to express their opinions. Opinions should also be obtained from others to the extent

necessary to clarify all aspects of the case. These provisions are intended to ensure that decisions are taken on the best possible basis, and that all those whose interests are affected by the regulations have an opportunity to express an opinion and to have this taken into account when the legislation is drawn up. Section 38 of the Public Administration Act lays down that regulations must be published in the Norwegian Law Gazette, and they are also published electronically on Lovdata's website. The Instructions for Official Studies and Reports contain more detailed rules on the preparation of acts and regulations and procedures for public consultation. According to these rules, the time limit for public consultation should not normally be less than three months. This is to ensure that as many people as possible are given the time and opportunity to prepare their comments on draft legislation.

If major changes in the legislation are being considered, a committee is often appointed to review various options and their consequences, and to propose new legislation on the basis of its review. Each committee is made up of experts drawn from the public authorities, NGOs and other bodies with the necessary expertise. It produces a report (in the series Official Norwegian Reports), and the relevant ministry organises a public consultation process.

Section 20 of the Environmental Information Act, discussed above under the implementation of article 7, applies to the preparation of legislation as well as to plans and programmes. Please see the previous section.

#### 11. Obstacles encountered in the implementation of article 8.

No specific obstacles have been encountered.

#### 12. Further information on the practical application of the provisions of article 8.

The reader is referred to the general text above.

#### 13. Website addresses relevant to the implementation of article 8.

<https://lovdata.no/dokument/NLE/lov/1967-02-10>

[https://lovdata.no/info/information\\_in\\_english](https://lovdata.no/info/information_in_english)

[https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance\\_Notes\\_on\\_the\\_Instructions\\_for\\_Official\\_Studies.pdf](https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance_Notes_on_the_Instructions_for_Official_Studies.pdf)

<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>

## 33. Poland

### Article 6

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

Pursuant to the Act on Provision of Information about the Environment, everyone has the right to submit comments and proposals in proceedings that require public participation. The administrative authorities competent to issue decisions are obliged to properly provide the possibility of the participation of the public before issuing or amending such decisions.

The established procedures shall apply to decisions on projects listed in Annex I to the Convention and in Annex II to the Directive 2011/92/EU.

Pursuant to the Act on Provision of Information about the Environment, ecological organisations which, relying on their statutory objectives, declare willingness to participate in certain proceedings requiring public participation, participate in such proceedings as a party if they carry out statutory activities in the field of environmental or nature protection for a minimum of 12 months prior to the date of initiation of such proceedings. An ecological organisation has the right to appeal against a decision taken in a public participation procedure if this is justified by the statutory objectives of that organisation, including where it did not participate in a given public participation procedure conducted by an authority of first instance. Filing an appeal shall be equivalent to expressing a desire to participate in such a procedure. In the appeal proceedings, the organisation participates as a party.

An ecological organisation can challenge a decision in a public participation procedure before an administrative court if this is justified by the statutory objectives of that organisation, including where it did not participate in the public participation procedure in question.

#### Article 6, paragraph 1.

The rules for carrying out environmental impact assessments are set out in the Act on Provision of Information about the Environment. Particular types of projects for which assessments shall be carried out are listed in the Regulation of the Council of Ministers of 10 September 2019 on projects likely to have a significant impact on the environment (Journal of Laws of 2019, item 1839).

The EPL provides that the operation of an installation which, due to the type and scale of its activity, may cause significant pollution of specific natural elements or the environment as a whole, requires an integrated permit. The types of installations that may cause significant pollution of particular natural elements or the environment as a whole are specified. They are currently defined by the Regulation of the Minister of Environment of 27 August 2014 on types of installations that may cause significant pollution of particular natural elements or the environment as a whole (Journal of Laws of 2014, item 1169).

The Act on Provision of Information about the Environment stipulates that public participation shall not be carried out with respect to projects carried out in closed areas if public involvement could have an adverse impact on the objectives of state defence and security.

#### Article 6, paragraph 2.

Pursuant to the Act on Provision of Information about the Environment, before issuing or amending a decision requiring public participation, the authority competent to issue such a decision shall, without undue delay, announce to the public information on:

- the commencement of an assessment of the environmental impact of the project,
- the initiation of proceedings,
- the subject of the decision to be issued in the case,
- the authority competent to issue the decision and the authorities competent to issue opinions and make arrangements,
- the possibility of familiarising with the necessary documentation of the case and the place where it is displayed for inspection,
- the possibility to submit comments and proposals,
- the manner and place for submitting comments and proposals, indicating at the same time the 30-day deadline for their submission,
- the authority competent to consider comments and proposals,
- the date and place of the administrative hearing open to the public, if any,
- the proceedings on transboundary environmental impacts, if any. The term "announce to the public" shall be understood as:
  - making the information available on the website of the Public Information Bulletin of the authority competent in the matter,
  - announcement of the information, in the usual manner, in the seat of the authority competent in the matter,
  - announcement by means of a notice, in the usual manner, in the place of the planned project,
  - where the seat of the authority competent in the matter is situated in a municipality other than the municipality with jurisdiction over the subject matter of the proceedings, also by announcement in the press or in the usual manner in the locality or localities with jurisdiction over the subject matter of the proceedings.

The necessary documentation for the case includes: the application for a decision together with the required attachments, as well as the decisions of the authority competent to issue the decision required by law and the positions of other authorities, if such positions are available within the deadline for submitting comments and applications.

Article 6, paragraph 3.

The deadline for submitting comments and applications to the planned decision requiring public participation is 30 days.

Article 6, paragraph 4.

As indicated in the explanations to Article 6, paragraph 2, the public participation procedure starts even before the decision is issued.

Article 6, paragraph 5.

The legal provisions do not impose on the public authorities, nor on the investors an obligation to examine the scope of the public interest or to grant information prior to submission of the application. However, some investments are covered by various types of plans resulting from the law. These plans allow the public concerned to become acquainted with potential investments long before the procedure for issuing a permit for their implementation begins.

Article 6, paragraph 6.

Information on the application and the accompanying documentation is available through publicly accessible data lists (vide explanations on Article 5, paragraph 2). Pursuant to Article 33(1)(5) of the Act on Provision of Information about the Environment, the necessary documentation of the case shall be made available for inspection at the place indicated by the authority competent to issue the decision.

Article 6, paragraph 7.

Comments and proposals may be submitted by anyone in writing, orally into the record and by means of electronic communication without signing them using a safe electronic signature.

Ecological organisations that by invoking their statutory objectives, report a desire to participate in a specific proceeding requiring participation of the public, if they perform statutory activities with regard to environmental or nature protection for at least 12 months before initiation of this procedure, participate in such proceedings as a party.

An ecological organisation has the right to file an appeal against a decision issued in a proceeding requiring public participation, if it is justified by the statutory objectives of this organisation, and also in the event when such organisation did not participate in specific proceedings requiring participation of the public, conducted by the first instance body; filing an appeal is equivalent to declaring willingness to participate in such proceeding. In the appeal proceedings the organization participates having the rights of a party.

Article 6, paragraph 8.

The authority conducting the proceedings examines the comments and requests, and in the substantiation of the decision, provides information on the public participation in the proceedings and on how and to what extent the submitted comments and requests submitted in connection with the public participation have been considered.

Article 6, paragraph 9.

The authority responsible for issuing the decision announces to the public information about the issuance of the decision and the possibilities of familiarising with its content.

Pursuant to the CAP, a decision should contain: an indication of a public administration authority, the date of issuance, an indication of a party or parties, reference to the legal basis, a decision, a factual and legal justification, an instruction as to whether and in what manner an appeal may be lodged against it, a signature stating the forename and surname and an official position of the person authorised to issue the decision. A decision which may be challenged before a common



court or appealed against before an administrative court should also contain an instruction on the admissibility of bringing an action or a complaint and the amount of the fee for the action or the entry of a complaint or objection against a decision, if they are of a fixed nature, or the basis for calculating the fee or entry of a relative nature, as well as the possibility for the party to apply for exemption from the costs or grant a right to assistance.

The Act on Provision of Information about the Environment provides that a decision on environmental conditions requires justification. In addition, the Act lists the necessary elements of such a decision. These include, inter alia, information on the conducted proceedings requiring public participation and on how and to what extent the comments and proposals made in connection with public participation have been taken into account. The act also provides that the justification of the environmental decision should include information on how and to what extent have been considered:

- the findings contained in the report on the impact of the project on the environment,
- the arrangements and opinions of the authorities referred to in Article 77(1) of the Act,
- the results of the proceedings on transboundary environmental impact, if carried out, and the justification of the position referred to in Article 82(1)(4) of the Act (position on the necessity to carry out an environmental impact assessment of the project and proceedings on transboundary environmental impact as part of the proceedings on the issuance of certain subsequent decisions).

Article 6, paragraph 10.

An environmental impact assessment with public participation is also required when amending an environmental decision.

Article 6, paragraph 11, Article 6a, Annex I a.

The provisions of the CAP determine the issue of making information available to parties in connection with the pending proceedings. The provisions of the Act on Provision of Information about the Environment concerning the public participation procedure provide for making information available in connection with the proceedings conducted by the authority. Pursuant to the CAP, the application of the above- mentioned procedure is required when issuing certain administrative decisions, such as the integrated permit, decisions issued under the Act of 22 June 2001 on Microorganisms and Genetically Modified Organisms (Journal of Laws of 2020, item 322), hereinafter referred to as the "GMO Act", or with respect to decisions on environmental conditions. The provisions that the Amendment to the Aarhus Convention on Genetically Modified Organisms contains are also reflected in the provisions of the GMO Act. At the same time, Article 14a of the GMO Act precisely defines the information on GMOs that shall be made available. The public has the right and opportunity to become acquainted with the application and documentation. This is done through the GMO registers that operate on the website of the Ministry of Climate and Environment.

## 2. Obstacles encountered in the implementation of article 6.

There are incidental cases where administrative authorities do not properly inform the public about proceedings requiring public participation.

As regards the method of notifying the public about conducted proceedings, objections are sometimes raised by the content and type of communicated information, applied channels of communication and the deadline for notification. The authorities often do not apply all the methods of notification required by the provisions of law, thus limiting the circle of recipients of the notice and potential participants of the proceedings.

NGOs indicate that, in their opinion, Article 6 of the Convention has not been fully implemented into Polish law in the Act of 18 July 2001 on Water Law (Journal of Laws of 2020, item 310, as amended), hereinafter referred to as the "Water Law". They claim that water permits issued under this Act do not sufficiently ensure public participation in decision-making. This particularly applies to non-governmental organisations. They point in particular to the lack of possibility to appeal against water permit approvals.

As regard the Article 6(5) of the Convention, the NGOs claim that there are no provisions in Polish law that oblige or encourage potential applicants to examine the scope of the public interest or to provide information about the planned project.

NGOs indicate that the provision of Article 33(2) of the Act on Provision of Information about the Environment contains a closed catalogue of documents about which the administration authority notifies before issuing and amending of a decision. According to non-governmental organisations, this catalogue should be open.

According to NGOs, it is wrong that Article 38 of the Act on Provision of Information about the Environment does not include a requirement for the authority to inform about the issuance of the decision immediately. In practice, they have to use the access mode to information about the environment. In addition, NGOs point out that the authorities, when informing the public about the commencement of the development of a document, often immediately start public consultations on the draft document also. According to NGOs, this is a violation of Article 39(1) of the Act on Provision of Information about the Environment. However, it should be noted here that the development of a document does not fall under the category of public participation in decision-making. This remark seems to apply to strategic documents for the development of which public participation is provided for, in particular in the area of strategic environmental impact assessments.

The problem for NGOs is that the legislation does not specify how they are admitted to the proceedings. Therefore, they are sometimes not aware that they can act as a party once they have sent their notification.

According to NGOs, their comments and requests submitted during the proceedings were rarely reflected in the adopted decisions. In addition, according to these organisations, the responsible authority often fails to attach to the adopted document a justification containing information about public participation in the proceedings and how all comments and requests submitted in relation to public participation have been taken into account and incorporated. In the opinion of non-

governmental organisations, often an authority does not inform the public about the adoption of a document and the possibility to familiarise with its content, justification, and summary.

Non-governmental organisations indicate that there are problems with the lack of information about proceedings being conducted, especially at the level of regional and local administration. In their opinion, information about conducted proceedings often appears with a delay or is provided in an indefinite or generally inaccessible place (this applies both to the websites of offices, including public information bulletins, as well as information boards). The concept of "usual places" as those where such information should appear raises numerous problems as regard the efficient notification of procedure participants.

In the opinion of NGOs, the provisions of the Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) are incompatible with the Aarhus Convention. In their view, this makes the Polish regulations implementing Directive 2010/75/EU also incompatible with this Convention. Currently, the case ACCC/C/2014/121 - European Union is pending before the Aarhus Convention Compliance Committee (ACCC). The case concerns public participation in decisions on amendments to integrated permits. According to NGOs, in order to ensure compliance with the Convention, the scope of public participation in issuing integrated permits should be extended to situations where a permit should be amended following an examination which takes place at least once every 5 years, or where there has been a change in the best available techniques which allows emissions to be significantly reduced without entailing excessive costs, or where this results from the need to adapt the operation of the installation to changes in environmental regulations.

NGOs consider it necessary to introduce screening for decisions on planned non-Annex I projects likely to have a significant effect on the environment. The requested screening would have the purpose of demonstrating whether public participation in decision-making would be required for planned projects. In particular, according to NGOs, this applies to permits for gas and dust emissions to the air issued under the EPL, water permits, and water law assessments referred to in Article 388 of the Water Law<sup>2</sup>, as well as decisions repealing bans on species protection of plants, animals and fungi issued under the Nature Conservation Act<sup>3</sup>.

NGOs raise the fact that in Poland the Act on Provision of Information about the Environment specifies precisely in Article 3(1)(11)(c) the elements of the notice addressed to the public. With a proper interpretation of this provision, the requirement of "appropriate" notification about the planned project is fulfilled. However, the Act on Provision of Information about the Environment does not prescribe that the notification must be "effective". According to NGOs, this sometimes results in the authorities taking a mechanical approach to posting notices to the public, without much thought as to whether the notices have a chance of being noted by interested persons. Unregulated in the Act on Provision of Information about the Environment is also the issue of "timely" notification of the public, i.e., the dates on which the announcements should be posted. In this regard, NGOs claim that they still encounter a situation in which the deadline for submitting comments and applications is counted from the day the notification is

<sup>2</sup> Act of 20 July 2017 on Water Law (Journal of Laws of 2020, item 310).

3 Act of 16 April 2004 on Nature Conservation (Journal of Laws of 2020, item 55).

posted or from the following day (while it is not always known on which day the notification has been posted, especially when it has been posted on the notice board).

Pursuant to Article 6(3) of the Convention, procedures allowing for public participation must provide for a reasonable timeframe for particular stages of such participation (informing the public, preparation by the public to participate, submission of comments and proposals). Meanwhile, in Poland, only one period is specified - 30 days for submitting comments and proposals, which according to non-governmental organisations may sometimes turn out to be too short.

Social organisations point out that a comprehensive analysis of the legal system in which the procedure for implementing projects requiring public participation takes place does not in practice boil down only to the procedure for issuing a decision requiring public participation.

NGOs point to the lack of opportunities for public participation in proceedings to prolongate geological concessions. Especially, they draw attention to Article 72(2)(2) of the Act on Provision of Information about the Environment, at least as regards points (j), (k), (l), which exclude such proceedings from the obligation to carry out an environmental impact assessment.

### 3. Website addresses relevant to the implementation of article 6.

www.gdos.gov.pl - General Directorate for Environmental Protection, www.nik.gov.pl - Supreme Audit Office.

## Article 7

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

The Act on Provision of Information about the Environment states that the administrative authorities competent for preparing draft documents in cases where legal regulations require providing the possibility of public participation, shall ensure the possibility of public participation accordingly before adopting these documents or amending them.

The following projects require a strategic environmental impact assessment:

- i. a draft concept of the national spatial development, the study of conditions and directions of the municipality spatial development, the spatial development plan, and the development strategy, setting the framework for the subsequent implementation of projects likely to have a significant impact on the environment,
- ii. policies, strategies, plans and programmes in the field of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism, and land use, developed or adopted by

administrative authorities, setting a framework for the subsequent implementation of projects likely to have a significant impact on the environment

policies, strategies, plans and programmes other than those listed in points 1 and 2, whose implementation may have a significant impact on Natura 2000 areas if they are not causally related to the protection of Natura 2000 areas or do not result from that protection.

A strategic environmental impact assessment is also required in the case of changes to the draft documents referred to above and in the case of their amendment if, in agreement with the competent authority, the authority preparing the project establishes that the implementation of the provisions of the given document or its amendment may cause a significant impact on the environment. In specific cases it is possible not to carry out an assessment, and thus not to conduct a public participation procedure.

A strategic environmental impact assessment is also required for draft documents other than those mentioned above and for draft amendments to such documents, if, in agreement with the competent authority, the authority preparing the project establishes that the implementation of the provisions of the document or its amendment may have a significant impact on the environment. When requesting an agreement, the authority preparing a project shall attach information on the environmental conditions. The authority preparing a project shall make a written statement on the need to conduct a strategic environmental impact assessment or not. The position shall require a justification, including information on environmental considerations.

A strategic environmental impact assessment shall not be required for draft documents referred to in point 139(1) and (2) and for draft amendments to such documents, as well as for projects referred to in point 141:

- i) that are prepared exclusively for national defence or civil defence purposes,
- ii) that are financial or budgetary, except for a project the implementation of which may have a significant impact on a Natura 2000 site.

The authority preparing draft documents referred to in point 139(1) and (2) and draft amendments to such documents may, after agreement with the competent authority, refrain from carrying out a strategic environmental impact assessment if it determines that implementation of the provisions of such document or its amendment will not have a significant impact on the environment, including Natura 2000 sites. The authority preparing a draft amendment to the documents referred to in point 139(3) may also, after agreement with the competent authority, refrain from carrying out a strategic environmental impact assessment if it determines that implementation of the provisions of such amendment will not have a significant impact on Natura 2000 sites.

Pursuant to the Act on Provision of Information about the Environment, the authority preparing a draft document requiring public participation shall, without undue delay, announce information on:

- the intention to prepare a draft document and its subject matter,
- the possibility of familiarising with the necessary documentation of the case and the place where it is available for viewing,
- the possibility of submitting comments and proposals,

- the manner and place of submitting comments and proposals, indicating at the same time at least 21-day deadline for their submission,
- the authority competent to consider comments and proposals,
- the proceedings on transboundary environmental impact, if any,

Special provisions, inter alia, the Act of 20 July 2017 on Water Law (Journal of Laws of 2017, item 310, as amended) set other, longer deadlines for comments on drafts of certain plans and programmes. In the case of flood risk management plans, drought mitigation plans or river basin management plans, the deadline for submitting comments is 6 months.

The principles of law-making in Poland require ensuring public participation during the legislative process. In the case of draft acts and regulations, it is mandatory to conduct public consultations and an assessment of the effects of regulations, pursuant to the principles of the governmental legislative process regulated in Resolution No. 190 of the Council of Ministers of 29 October 2013 on the Rules of Procedure of the Council of Ministers (Polish Official Gazette of 2016, item 1006, as amended). Also relevant in this respect is the Act of 7 July 2005 on Lobbying Activity in the Law-Making Process (Journal of Laws of 2017, item 248), hereinafter referred to as the "Lobbying Act".

The law requires the participation of NGOs in many advisory bodies, including those playing a role in the decision-making process related to the development of environmentally relevant plans and programmes, such as the State Council for Nature Conservation and the GMO Committee. Representatives of NGOs are also invited to the bodies deciding on the allocation of financial resources for the development of environmentally relevant plans and programmes.

The deadline for submitting comments on a draft document requiring public participation is at least 21 days.

The public participation procedure starts even before the development of a document requiring public participation, as pursuant to Article 39(1) of the Act on Provision of Information about the Environment, the body preparing the document shall, without undue delay, announce to the public the commencement of the development of the draft document and its subject.

The authority preparing a draft document requiring public participation shall consider comments and proposals and shall attach to the adopted document a justification containing information on the public participation in the procedure and on how the comments and proposals submitted in connection with public participation have been taken into account and considered. In addition, the authority must inform the public about the adoption of the document and about the possibility of reading its content, justification, and summary.

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

The obligation to carry out a strategic environmental impact assessment, in which public participation is ensured, also applies to the development of policies.

6. Obstacles encountered in the implementation of article 7.

NGOs consider that for some plans and programmes "of environmental importance", a public participation procedure is not required in Poland. They point primarily to forest management plans drawn up under Chapter 4 of the Act of 28 September 1991 on Forests (Journal of Laws of 2020, item 1463), long-term hunting breeding plans and annual hunting plans drawn up under Chapter 3 of the Act of 13 October 1995 on Hunting Law (Journal of Laws of 2020, item 67), annual plans of inspection activities of the Inspection of Environmental Protection, referred to in Article 5(4)(2) and Article 5a of the IEP, annual plans of inspections concerning observance of regulations on prevention of industrial incidents and accidents.

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

Public participation in the preparation of plans, programmes and policies is widely used in public administration, which results from the obligation of public consultation.

The Minister of Climate and Environment ensures public participation in the development of plans, programmes, and policies for which public participation is required. In addition, the Minister of Climate and Environment, to the extent allowed by national and supranational regulations, ensures public participation in making strategic decisions with regard to international agreements concluded by the Republic of Poland.

In addition to the opportunity to submit written and electronic comments, interested NGOs and business organisations are also consulted. The comments submitted are considered. Information on the results of the consultation is available in the project documentation and on the office's website. It is also sent to interested partners.

Public participation is guaranteed, at various levels, in the development of plans, programmes, policies and strategies for environmental education, Natura 2000 management and the conservation of endangered species.

The General Directorate for Environmental Protection has introduced an Information and Communication Platform (PIK) to support the development of conservation tasks plans for Natura 2000 areas, including the implementation and handling of public consultations.

Public participation in the development of various types of strategic documents is also ensured, inter alia, by all central administrative authorities developing documents of strategic nature for which a strategic environmental impact assessment is carried out.

#### 8. Website addresses relevant to the implementation of article 7.

[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) - Ministry of Climate and Environment, <https://www.gov.pl/web/klimat> - Ministry of Climate and Environment, [www.gdos.gov.pl](http://www.gdos.gov.pl) - General Directorate for Environmental Protection (GDEP),

<http://projekty.gdos.gov.pl/plany-zadan-ochronnych-platforma-informacyjnokomunikacyjna>

- Information and Communication Platform (PIK) operated by GDEP.

### **Article 8**

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

Both the general provisions concerning establishment of legal acts and the Act on Provision of Information about the Environment provide for public participation in establishing executive regulations and other generally binding norms. The public, including non-governmental organisations, must be informed about planned solutions - at what stage the project is, what are its subsequent versions and what comments have been submitted to it. Public participation in the process of preparing normative acts is guaranteed by a number of legal acts, as well as voluntarily adopted practices (good legislative practices) concerning the implementation of the general principle of public consultations by central administration authorities, self-government administration and the Sejm.

The principles of public participation in the process of drafting government documents, in particular draft normative acts, are indicated in the Lobbying Act, as well as in the regulations on the organisation of government works. Offices are obliged, among others, to publish programmes of legislative work or draft legal acts together with justifications and an assessment of their effects.

Acts governing the functioning of local government at all levels provide for consultations with residents on issues important to the area and define the procedure and principles for conducting consultations.

Representatives of NGOs have the right to participate in the meetings of parliamentary committees and subcommittees. NGOs that are known to be interested in a particular topic are invited to delegate their representatives. Other organizations may apply for participation of their representatives in the meeting. In practice, NGOs actively participate in the meetings of the majority of parliamentary subcommittees preparing draft legislation by asking questions, commenting on analyses, and presenting proposals for new solutions.

10. Obstacles encountered in the implementation of article 8.

No difficulties in implementing this provision of the Convention have been identified or reported.

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

The Ministry of Climate and Environment applies three main methods of consultation of draft legal acts:

- (a) simultaneously with inter-ministerial arrangements, draft acts are sent for consultation to interested entities (administrative authorities other than competent ministers, trade unions, employers' organisations, entrepreneurs' organisations and other industry organisations, and NGOs). Drafts are also consulted with representatives of self-governments, and with the self-governmental side of the Joint Commission of Government and Local Authorities,
- (b) draft legislative acts together with their justification and impact assessment are made available on the website of the Government Legislative Process ([www.rpl.gov.pl](http://www.rpl.gov.pl)) with information on the deadline for submitting comments and the address of the person in charge of the case. After considering the comments, the Ministry prepares a summary of



the comments with an explanation of those cases in which the comments have not been accepted,

- (c) if necessary, other forms of consultation, such as debates or seminars to which stakeholders are invited or to which admission is free, are also used.

Representatives of some NGOs constantly participate in meetings related to the legislative process at the Sejm. At their request, a number of solutions have been adopted into the legal system.

12. Website addresses relevant to the implementation of article 8.

<http://orka.sejm.gov.pl/projustall6.htm> - the Sejm's website containing draft legal acts,

<http://www.senat.gov.pl/k7/pos/pracet.htm> - the Senate website containing draft legal acts,

<http://legislacja.rcl.gov.pl/> - Government Legislation Process,

<https://www.prezydent.pl/> - the President of the Republic of Poland.

## 34. Portugal

### Article 6

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

### Article 6, paragraph 1

#### Environmental impact assessment

As mentioned in previous reports, efforts have been made, by means of the EIA procedures for specific projects, to continue ensuring the effective participation of citizens in decision-making processes with regard to specific activities and promoting their right to consult and access information on the environment. The entities responsible for managing these public participation processes are APA and the CCDR, with various other public bodies participating depending on the type of project and its implementation location. These procedures can be found on the APA website at <https://apambiente.pt/avaliacao-e-gestao-ambiental/avaliacao-de-impacte-ambiental>.

The current legal EIA framework is established by Decree-Law No. 151-B/2013 of 31 October, amended and republished by Decree-Law No. 152-B/2017 of 11 December, which transposes into domestic law Directive no. 2014/52/EU, of the European Parliament and of the Council, of 16 April, on the assessment of the effects of certain public and private projects on the environment. Decree-Law no. 151-B/2013 also reflects the commitments undertaken by the Portuguese Government under the Convention on EIA in a Transboundary Context (Espoo Convention), approved by Decree no. 59/99 of 17 December. Decree-Law No. 152-B/2017 of 11 December, entered into force on 1 January 2018.

It should be noted that one of the changes made by Decree-Law No. 152-B/2017 of 11 December, was an increase in the period of Public Consultation in comparison with that established in Decree-

Law No. 151-B/2013 of 31 October. (cf. Article 15). In line with the previous legislation, it confirms that interested members of the public are entitled to participate in the public consultation (cf. article 28 - article 31).

#### Environmental Impact Assessment (EImpA)

EimpA is a process that requires periods of public consultation, and is legally framed by the following legislative instruments:

Decree-Law 215-B/2012 of 8 October is applicable to power plants that use renewable energy sources. In this case the EimpA is coordinated by the respective CCDR. In this context, the compulsory public consultation, provided for in point 5 of article 33 S of said diploma, is 20 days;

Decree-Law No. 49/2005 of 24 February, which implements the first amendment to Decree-Law No. 140/99 of 24 April (subsequently also amended by Decree-Law No. 156-A/2013 of 8 November), establishes that “the actions, plans or projects not directly related to the management of a site on the national list of sites, a site of Community Interest, a special conservation area or a special protection zone, and which are not necessary for that management but likely to affect this area significantly, individually or in combination with other actions, plans or projects, should have their environmental impacts assessed in relation to the conservation objectives of the said zone”. According to article 10(7) of the Decree-Law, this procedure is preceded, where appropriate, by public consultation.

Since 2015, public participation procedures on behalf of both EIA and AIncA can be found on the PARTICIPA.PT portal <https://participa.pt/>.

#### Environmental Noise Assessment and Management

Under Decree-Law No. 146/2006 of 31 July, amended and republished by Decree-Law No. 136-A/2019 of 6 September, which transposed Directive 2002/49/EC relating to the assessment and management of environmental noise, noise action plans drawn up by the competent authorities for large transport infrastructures are submitted for the approval of APA after having been subject to the public consultation process carried out under the terms of the Convention.

#### Chemicals

The REACH and CLP Regulations envisage, in many cases, the sharing of information among stakeholders and the European Chemicals Agency (ECHA), set in motion by the ECHA referring to proposals for:

Testing on vertebrate animals for harmonised classification and labelling,

The identification of substances of very high concern (SVHC),

Recommendation of the inclusion of substances in Annex XIV (list of substances subject to authorisation),

Authorisation requests and

Proposals for restrictions (inclusion in Annex XVII).

#### Prevention of Serious Accidents

Decree-Law No. 150/2015 of 5 August transposes Directive 2012/18/EU into domestic law and establishes the framework for the prevention and control of major incidents involving hazardous substances, and the limiting of their consequences upon human health and the environment. This statute revokes Decree-Law No. 254/2007 of 12 July, amended by Decree-Law No. 42/2014. The main change introduced is the adaptation of Annex I, which provides for the categories of substances to the classification system for substances and mixtures defined by Regulation (EC) No. 1272/2008, of the European Parliament and of the Council of 16 December 2008 (CLP).

The installation and alteration of establishments covered by this legislation is subject to the issuance of an opinion by the APA on the Location Compatibility Assessment (ACL).

In the case of establishments subject to EIA, this procedure is integrated in the EIA procedure and public participation is made through public consultation, in accordance with EIA legislation.

In the case of establishments whose projects are not covered by EIA, the ACL provided for in article 8 of Decree-Law No. 150/2015 of 5 August, is a procedure for prior assessment of the installation of new establishments and substantial changes to existing establishments. Its objective is to monitor the installation of new establishments and alterations to existing ones, so that adequate distances are maintained between establishments and vulnerable elements of the territory. Therefore, construction or alteration of the establishments covered can only start after the issuance of a decision by the APA attesting to the compatibility of the location. This procedure provides for a public consultation period of 15 working days (article 11), integrated into a total period of 50 working days for the APA to issue a decision on the assessment of location compatibility.

#### Participatory Budgets (PB)

PBs are democratic participative procedures whereby public investment projects can be presented and decided upon. They constitute a new form of governance based on direct participation of citizens, the identification of local problems and needs, the definition of priorities, and the implementation and monitoring of projects.

This type of participatory procedure and the involvement of the general public have become more widespread, particularly at a local level. The Participatory Municipalities Network (RAP), created on 3 December 2014 as part of the Portugal Participa project, emerged in a context of developing and strengthening of citizen participation mechanisms at the level of local authorities. As a collaborative structure, it aims to promote meeting points between different initiatives, encourage an exchange of experiences, expand public visibility and institutional recognition and build cooperation between different areas of local governance. On the <http://portugalparticipa.pt/> website, up-to-date news is provided of the various PB that are taking place, mainly those carried out at a municipal and parish level.

In 2017 and 2018, for the first time, a national PB took place - the “Portugal Participatory Budget” (cf. <https://opp.gov.pt>). This initiative won an award at the GovInsider Innovation Awards 2018 in the category of Best Citizen Engagement.

In 2018, the first “Portugal Young People’s PB” was started (cf. <https://opjovem.gov.pt/>), aimed at citizens aged between 14 and 30; further Young Peoples’ PBs followed in 2019 and 2020, with subsequent editions already in preparation.

#### Article 6, paragraphs 2 to 6

The current legislation for EIA, SEA, IPPC, GMO, Environmental Noise Assessment and Management, etc., provides that the public concerned is informed in an effective, timely and appropriate manner from the beginning of the decision-making process; that the deadlines are reasonable; that such run when all options are open, the public concerned is identified and it is provided the requested information free of charge. State Administration bodies at national, regional and local levels have been modernised in order to reach citizens more effectively and efficiently, who in some way, directly or indirectly, are expected to be affected by interventions with a territorial impact. In this sense it is customary to resort to traditional public notices, advertisements in newspapers and websites, more recently using "social media" and other forms of communication under the scope of Web 2.0.

The Ministry responsible for environmental policies, aware of the need to achieve greater involvement from citizens in the processes of public participation and, consequently, in decision-making regarding environmental issues that concern the general public, from July 2015 made the PARTICIPA.PT portal (cf. <http://participa.pt>) available to the public. The purpose of PARTICIPA.PT is to (i) facilitate the access of citizens and stakeholders to consultation processes, (ii) encourage informed participation; (iii) improve process management efficiency. It is an innovative initiative where, for the first time, all public consultation processes are concentrated by the Ministry responsible for environmental policies in a single place of consultation. The existence of this portal, where the processes in public consultation are available, permitted simpler, more agile and more efficient participation.

#### Article 6, paragraphs 7 to 10

As already mentioned, public participation in decision-making processes relating to environmental matters in Portugal was significantly improved from 2015 onwards with the creation of the PARTICIPA.PT portal, where all processes in public consultation launched in Portugal are made available (cf. <http://participa.pt>). This portal is used to notify the public, either by consultation of the website or directly via e-mail, of the opening of all processes (or just those of interest, previously selected by theme or geographical area), and gives access to all documents under consultation. Interested parties can freely issue their thoughts and opinions and find out the final decision and how any contributions received were duly taken into account.

Where concerns are raised and not dealt with, complaints can be filed with the Ombudsman with regard to public participation for the protection of well-being and quality of life among the local population, in relation to projects that present risks to the environment. At times, the reasons for

the options taken - namely regarding the location of activities and routes - do not appear to be sufficiently clear in a preliminary analysis. In such cases, the Ombudsman questions the authority that is coordinating the procedure, seeking to identify the reasonableness of the decisions taken, the grounds upon which they have been taken and the consideration given to concerns and proposals presented in public consultation, in order to assess whether the participation was effective or a mere formality. To give an example: following the investigation of a complaint with regard to a project to expand a quarry, the Ombudsman concluded that the overall impact of the project had not been properly assessed in the public consultation phase by stakeholders, as the true scale of the project had not been made known; the lack of complete information hindered the effective participation of interested parties. A recommendation was made to the Government that the practices in terms of environmental impact assessment should be improved (Recommendation No. 1/A/2017, available at <http://www.provedor-jus.pt/>).

Article 6, paragraph 11

See Chapters XXXIII - XXXVII (Genetically Modified Organisms).

At a local level, the response to the questionnaire carried out among the municipalities indicates that, of the 81 respondents, almost all of them state that if there is any activity/intervention that has a significant impact on the environment - at the initiative of the municipality, or other public or private entities - the general public is informed and/or duly consulted in advance (article 6 of the Convention). Likewise with plans, programmes and policies (article 7 of the Convention), although with less expression, and with the creation of regulations and other normative instruments at the municipal level (article 8 of the Convention). Information is disseminated fundamentally by means of the respective websites and associated social networks, in addition to the traditional public notices. The method of participation is based on the mechanisms established for this purpose at a municipal level: municipal meetings, public executive meetings, decentralized meetings, and meetings created as a result of the processes themselves, in addition to traditional mail or e-mail.

## 2. Obstacles encountered in the implementation of article 6.

Nothing to report on this item.

## 3. Further information on the practical application of the provisions of article 6.

Between 2017-2020 the most relevant data relating to the PARTICIPA.PT portal have been:

958 public consultations created;

8,080 submissions made;

6,853 actively registered participants:

476 participants with group registration;

6,377 participants with individual registration;

410,263 hits on the website.

With regard to Genetically Modified Organisms (GMOs), no notifications were submitted to APA in the period between 2017 and 2019-2020, for deliberate release of GMOs into the environment under Decree-Law No. 72/2003 of 10 April.

4. Website addresses relevant to the implementation of article 6.

[www.apambiente.pt](http://www.apambiente.pt)

<http://participa.pt>

## Article 7

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

The Strategic Environmental Assessment (SEA) is a tool to support decision making that seeks to promote sustainable development. In accordance with national and Community legislation it contributes to the integration of environmental considerations into the preparation and adoption of plans and programmes with the involvement of public and environmental authorities.

Portuguese SEA legislation, which arises from the transposition of Directive 2001/42 and dates from 2007, is very flexible, focusing on procedural transparency and the responsibilities of the entities that develop plans or programmes. The Ministry responsible for the Environment assumes a regulatory role, while APA's role is to monitor the implementation of legislation and disseminate information, ensuring dialogue with the European Commission.

Public participation in the preparation of plans and programmes is formally ensured by the corresponding national legislation. Decree-Law No. 232/2007 of 15 June, amended by Decree-Law No. 58/2011 of 4 May, outlines the institutional reference framework for SEA at national level. The option was taken in relation to land management instruments (IGT) to maintain the pre-existing procedures under the land management and urban planning policy, adjusting them to the requirements of the SEA through Decree-Law No. 80/2015 of 14 May, which establishes the legal regime of IGT, defines and regulates the public participation process for each type of instrument, as well as access to information under the policy of land and urban planning.

Participation is open to the general public, including - in addition to associations and NGOs - all citizens "who may somehow have an interest or be affected" by the approval of plans and programmes or for future approval of projects encompassed by such.

The public consultation lasts at least 30 days and is advertised by electronic means of communication, including by publication on the website of the entity responsible for preparing the plan or programme and by publishing adverts in at least 2 successive issues of a regional or national newspaper, when the scope of the plan or programme warrants such.

During the duration of the consultation, the draft plan or programme and the respective environmental report are available to the public at the locations indicated by the entity responsible for its preparation and in the municipalities of the area covered, or the CCDR in the case of national plans. Electronic means of publication may also be used if this is standard practice.

Approved plans or programmes, accompanied by the respective Environmental Statements are available to the public on the web pages of the entities responsible for their preparation. The results of further evaluation and control are also available to the public in the same way, at least on an annual basis.

APA is responsible for the overall processing of information relating to environmental assessment. It holds a primary position in the dissemination of information on SEA through the website <https://apambiente.pt/index.php/avaliacao-e-gestao-ambiental/avaliacao-ambiental-estrategica>.

A Good Practice Guide for Strategic Environmental Assessment was published in 2007, which includes recommendations that the communication strategies adopted ensure active involvement by different target groups that may be strategic in the successful implementation of the plan or programme. This guide was revised and updated in 2012 based on the experience of the first years of implementation of the legal framework, having focused on presenting practical aspects to promote good practices in order to contribute to improving SEA quality.

The website also contains the Environmental Statements (cf. <https://siaia.apambiente.pt/AAEstrategica>), and other technical guides and examples of good practice (cf. <https://apambiente.pt/avaliacao-e-gestao-ambiental/guias-e-modelos>).

The first assessment of the SEA in Portugal, published by APA in December 2010 highlights the strengths and weaknesses of the enforcement of the law and the implementation of the recommended good practices. The most interesting findings show that in environmental assessments conducted at the beginning of the enforcement of national legislation the concern was to meet the legal requirements, but this did not always translate into good practices. In this field APA has been developing initiatives to promote good practices and improve articulation between entities, based on the conclusions of subsequent reports that have been prepared (cf. <https://apambiente.pt/avaliacao-e-gestao-ambiental/balanco-da-aplicacao-da-aae>).

The PARTICIPA.PT portal (see reply to article 6) also provides for public consultations within the scope of the SEA. The balance of public participation in SEA processes, from the moment this platform was made available, is positive.

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

Several examples of public discussions of strategies, plans and programmes in the period covered in this report are presented:

Strategies and plans in the areas of energy and climate change

- Roadmap for Carbon Neutrality (RNC2050)

The transition to carbon neutrality is an ambitious challenge requiring the extended and participative involvement of the whole of society, which is why the preparation of the RNC2050 was based on a broad process of involvement of all sectors and the mobilization of Portuguese society.

This involvement took place throughout the different phases of the process, in particular the construction of the macroeconomic scenarios that serve as the basis for the entire prospective modelling. It allowed for the collection of contributions from various institutions and national experts, and gave rise to the three scenarios considered. Cycles of technical workshops were conducted that allowed us to understand the role of the circular economy in the future of different sectors, as well as to inform on the modelling work in the development of some of the main assumptions and trends (this cycle included sectorial workshops on Mobility, Forestry, Agrifood, Construction, Cities, Energy, Waste and Wastewater). Thematic events around the decarbonization of society were held, which included public sessions focusing on the themes of Mobility, the role of Forests in decarbonization, Energy Transition, Fair Transition and Sustainable Financing.

After the public presentation of the preliminary results of the RNC 2050, the formal process of public consultation was initiated, which took place over a period of about 3 months via the Participa portal (<http://www.participa.pt/consulta.jsp?loadP=2428>). Various documentation was made available for this purpose. This public consultation received around 83 submissions.

At the same time, public sessions were promoted for the joint presentation of these results and of the preliminary version of the National Integrated Energy and Climate Plan (PNEC 2030), in order to provide general public awareness of these two key instruments of energy and climate policy, and to invite contributions and comments which could potentially lead to further improvement of the works. These sessions took place across the country.

- National Energy and Climate Plan (PNEC 2030)

The public discussion of the PNEC 2030 began with the holding of a public presentation session in Lisbon. Subsequently, several joint presentation sessions of the PNEC 2030 and the RNC2050 were held throughout the country, which aimed to promote debate around the main issues on Energy and Climate over the coming decades.

There were also sessions dedicated to specific themes, attended by specialists from a wide range of study areas, to seek solutions for the fulfilment of national goals and objectives associated with the themes involved.

The Public Consultation process was then carried out over a period of 30 days via the online PARTICIPA.PT portal (cf. <https://participa.pt/pt/consulta/plano-nacional-de-energia-e-clima-2030>), with contributions having been received through the “Participa” platform and other channels, such as e-mail and official letter. This public consultation received around 59 submissions

- Infra-national Adaptation Strategies and Plans

A significant part of the territory is currently covered by municipal and/or inter-municipal Adaptation Strategies/Plans (NUTS3). This progress was due to the replication of the work carried out as part of the ClimAdaPT.Local Project (completed in 2016), which marked the start of large-scale infra-national adaptive management. In this Project, a reference method was established for the creation of these strategies (27 were produced), with several events involving communities and



local agents, as well as the training of local technicians. ClimAdaPT.Local has provided guidance manuals that support nearly all infra-national adaptation strategies in place and in preparation.

- Climate Change Adaptation Action Programme (P-3AC)

The definition of the lines of action of the P-3AC resulted from the screening and prioritisation of the various adaptation measures listed in the sectorial, municipal and inter-municipal planning exercises. For this purpose, the ENAAC 2020 Coordination Group reviewed and collected submissions from the constituent members of the various sectoral working groups (made up of different types of sectoral stakeholders). The P-3AC was also submitted to public consultation and was the object of an opinion from the Scientific Panel of ENAAC 2020, thus ensuring wide-ranging consideration in the preparation of this reference instrument.

- National Strategy for Hydrogen

The National Strategy for Hydrogen (EN-H2), approved by RCM No. 63/2020 of 14 August, aims to promote the gradual introduction of hydrogen as a sustainable and integrated cornerstone of a broader strategy for transition to a decarbonised economy and carbon neutrality in 2050 (cf. <https://www.portugalenergia.pt/setor-energetico/bloco-4/> and <https://www.portugal.gov.pt/pt/gc22/comunicacao/comunicado?i=conselho-de-ministros-aprova-estrategia-nacional-para-o-hidrogenio>). A period was established to hear public opinion, given the strategic and transversal nature, and the impact of EN-H2. This comprised a public consultation which took place between 22 May and 6 July 2020 (cf. <https://participa.pt/pt/consulta/en-h2-estrategia-nacional-para-o-hidrogenio>). At the same time, in-depth dialogue was held with the main players in the sector, with a view to consolidating the main objectives of this Strategy, in particular with regard to the targets for the incorporation of hydrogen in the various sectors (six sessions to discuss the strategy were organised with representatives from the sectors of Innovation and Development, Industry, Transport, Energy and Training, Qualification and Employment).

Portuguese NGOs active in diverse thematic areas, such as the environment, cooperation for development, human rights and local development, have also given increasing importance to the issue of climate change, contributing to greater awareness and information among citizens and monitoring the actions of companies, public bodies and policy decisions in this field.

On the understanding that promoting conversations on the theme of climate change among citizens and civil society is one of the fundamental steps for the success of climate policies, each year the APA has issued invitations with a view to including representatives from civil society in the official Portuguese delegation to the Conference of Parties as part of the UN Framework Convention on Climate Change. These invitations have been sent to platforms and confederations representing civil society organisations in the fields of environment, development support and entrepreneurship. This initiative not only contributes to the greater awareness of these bodies on the theme of climate change, but also provides better information, aimed specifically at target audiences and also the general public, on the work which is ongoing at the heart of the United Nations Framework Convention on Climate Change.

Strategy for Air

The National Air Strategy (ENAR 2020), approved by Council of Ministers Resolution No. 46/2016 of 26 August, aims to improve air quality for the protection of human health, the quality of life of citizens and the preservation of ecosystems.

During the ENAR 2020 drafting process, a number of consultations were held with entities with specific responsibilities, namely DGAE, DGEG, DGS, GPPA of the Ministry of Agriculture and the Sea, IMT, as well as the regional bodies with competences in the area of air (CCDR and DRA). In the phase for gauging measures, stakeholders were consulted on the ENAR 2020 proposal and on the set of actions that will contribute to Portugal achieving the objectives and targets for emissions and air quality by 2020. ENAR 2020 was publicly presented on 20/04/2015 and public discussion took place until 11/05/2015. The comments and suggestions collected during this period, included in the public consultation report, were analysed and considered in the corrections and improvements made to the final documents.

#### Water resources plans and programmes

The Water Law (Law No. 58/2005 of 29 December, republished by Decree-Law No. 130/2012 of 22 June), supplemented by Decree-Law No. 77/2006 of 30 March, and other regulatory instruments, transpose to national law Directive No. 2000/60/EC, of the European Parliament and of the Council, of 23 October (the Water Framework Directive - WFD), governing the way in which the planning and management of water resources should be developed <https://apambiente.pt/agua/lei-da-agua>. The following programmes and plans are to be highlighted in the period covered in this report:

- The main goal of the National Programme for the Efficient Use of Water 2012-2020 (PNUEA) is to promote efficient water use in Portugal, especially in the urban, agricultural and industrial sectors, helping to minimise the risk of water shortage and to improve environmental conditions in water resources without jeopardising the needs and the quality of life of populations, as well as the socio-economic development of the country. It associates the improvement of water use efficiency with the consolidation of a new water culture through which this resource is increasingly valued not only for its relevance to human and economic development but also for the preservation of the natural environment, in a perspective of sustainable development and respect for future generations. It also aims to achieve the reduction of the pollutant loads returned to water resources and the reduction of energy consumption, aspects that are highly dependent on water use. <https://apambiente.pt/agua/programa-nacional-para-o-uso-eficiente-da-agua>;
- The River Basin Region Management Plans (PGRH) are tools for planning water resource management aimed at the environmental, social and economic protection and enhancement of water in river basins integrated into river basin districts. Their creation is under the responsibility of APA - <https://apambiente.pt/agua/planos-de-gestao-de-regiao-hidrografica>. The planning of water resource management is structured in six-year cycles, under the WFD and the Water Law. The first PGRHs drafted under this framework were in force for the period 2009 to 2015. At the end of December 2012, the creation of the 2nd cycle of the PGRH began. Council of Ministers Resolution No. 52/2016 of 20 September, republished by Council of Ministers Resolution No. 22-B/2016 of 18 November, approved

the River Basin Region Management Plans of Mainland Portugal for the period 2016-2021. The process of reviewing the PGRHs relating to the 3rd planning cycle, which will be in force between 2022 and 2027, and of which the provisional version will be put to public participation in early 2021, began in 2018 with the preparation of the schedule and programme of works, which were made available for public participation between 22 December 2018 and 22 June 2019. The second phase of public participation, relating to the identification of the QSiGA, took place between 22 December 2019 and 15 September 2020. All information on the various stages of public participation in the WFD planning cycles that have already taken place or are in progress are available on the APA website. It should be noted that in each planning cycle, public participation involving all interested parties for a period of at least 6 months is encouraged in three phases of the planning of each PGRH. The WFD and the Water Law establish that all documents relevant to the preparation, review and updating of the PGRHs are made available to the public, with specific periods of participation at determining phases of the process, so that the final version of the various documents includes all of the submissions received, as follows:

- 1st Phase: Schedule and Programme of Works
- 2nd Phase: Significant Water Management Issues (QSiGA)
- 3rd Phase: PGRH Provisional Versions
- The National Water Plan (PNA) defines the national strategy for integrated water management and establishes the main options of the national water policy and the principles and rules governing this policy to be applied by the river basin region management plans, and by other water planning instruments. After a process of public participation that took place between 21 July and 21 August 2015, Decree-Law No. 76/2016, of 9 November, approved the PNA under the terms of paragraph 4 of article 28 of the Water Law, approved by Law No. 58/2008 of 31 May. It created the Inter-ministerial Commission for the Coordination of Water - <https://apambiente.pt/agua/plano-nacional-da-agua>.
- The Flood Risk Management Plans (PGRI) constitute a sectorial and also a specific plan for flooding in the Areas of Significant Potential Risk of Floods (ARPSI). PGRIs aim to reduce risk by reducing potential harmful consequences for human health, economic activities, cultural heritage and the environment. The implementation of the Flood Risk Assessment and Management Directive (DAGRI) comprises three phases:
  - 1st Phase: Preliminary Flood Risk Assessment (APRI);
  - 2nd Phase: Preparation of Flood Zones and Flood Risk Maps (CZICRI);
  - 3rd Phase: Preparation and implementation of PGRI.

Implementation of the DAGRI is carried out in six-year planning cycles.

The first cycle of implementation of the DAGRI began in December 2011, with the first phase taking place in 2013 to identify the ARPSI, the second phase in 2015 with the preparation of CZICRI relating to the 22 ARPSI previously identified, and the third phase with the preparation and implementation of the PGRI, which were approved in 2016 and will remain in force until 2021.

In 2018, the 2nd cycle of DAGRI implementation began via the 1st APRI phase, with a survey and analysis of flood events occurring between 2011 and 2018, to allow the reanalysis of the ARPSIs identified in the previous cycle and definition of new ARPSIs. The APRI was launched for consultation and public participation over a period of 30 days, from 26 November 2018 to 26 December 2018. 63 ARPSIs were identified in mainland Portugal, 47 of which are of river origin and 16 of coastal origin.

In 2019, the CZICRIs were prepared and revised for the 63 ARPSIs. The 2nd cycle PGRI are under development; their preliminary version should be complete by June 2021, and following public consultation the final version of the PGRI will be published.

DAGRI anticipates that the documents pertaining to the three phases of each planning cycle will be made publicly available and that the participation of all interested parties in each of the phases is encouraged.

Documentation on this process is available on the APA portal (cf. <https://apambiente.pt/agua/planos-de-gestao-dos-riscos-de-inundacoes>).

- The Public Water Reservoir Management Plans (POAAP), Estuary Development Plans (POE) and Coastal Management Plans (POOC) are special land use plans that, through the Basic General Law of Public Policy on Land, Spatial Planning and Urban Management (Law No. 31/2014 of 30 May) and the new legal framework for instruments of territorial management (Decree-Law No. 80/2015 of 14 May), became Special Programmes, which are submitted to public discussion as part of their planning process. Throughout the preparation of the new programmes, the relevant information is made available to all stakeholders via the APA website, and the current status of development of the different plans, including the public consultations, may be checked at <https://apambiente.pt/agua/planeamento-e-ordenamento>.

Internationally, the management of shared basins is governed by the Convention on Cooperation for the Protection and Sustainable Use of the Waters of the Portuguese-Spanish River Basins, signed by the two countries on 30 November 1998, and hereinafter known as the Reservoirs Convention. It aims to define the framework for cooperation between the two countries for the protection of surface and ground waters and the terrestrial and aquatic ecosystems directly dependent on them, and the sustainable use of water resources of the Portuguese-Spanish river basins (cf. <https://apambiente.pt/agua/convencao-de-albufeira-cooperacao-luso-espanhola>). Four specific working groups were set up under the Commission for the Implementation and Development of the Convention (CADC). The most significant of these was Exchange of Information and Public Participation, due to its importance in the context of the Aarhus Convention, in addition to a secretariat for technical support.

The National Water Council (CNA) is the independent consultative body of the Portuguese Government for the planning and sustainable management of water, created by Decree-Law No. 45/94 of 22 February. The structure and operating means of the Council were redefined by Decree-Law No. 84/2004 of 14 April. Represented on the CNA are the Public Administration, the municipalities and the most representative national scientific, economic, professional and non-

governmental organisations in the various uses of water, ensuring the involvement and coordination of the government and civil society (cf. <http://conselhonacionaldaagua.weebly.com/>). The main objective of the CNA is to rule on the preparation of plans and projects with special emphasis on the uses of water and water resources, providing a forum for discussion of the management of national water resources policy and the strategic options for its implementation, from an integrative perspective of the environmental values and the sectoral and territorial economic interests. The CNA discussed and approved in plenary, between 2017 and 2020:

- Removal of obsolete hydraulic infrastructure;
- Luso-Spanish Reservoir Convention;
- Water quality in the Tejo river basin;
- The 2017 drought in the context of adaptation to climate change;
- Drought risk management plans;
- Implementation of the Water Framework Directive;
- Reuse and circular economy in the water sector. The National Strategy for the Reuse of Treated Wastewater;
- Water and rivers of the future;
- The contribution of hydroelectricity as part of the Roadmap for Carbon Neutrality;
- Coastline Programmes.

The Hydrographic Region Councils (CRH) are consultative bodies which provide support to the APA on matters of water resources, for the hydrographic basins included in the respective areas of jurisdiction, pursuant to the provisions of paragraph 1 of article 8 of the Decree-Law No. 56/2012 of 12 March. They represent users related to the consumptive and non-consumptive use of water in the respective river basin, as well as technical, scientific and non-governmental organisations representing the uses of water in the river basin. The powers of the CRH are established in Ordinance No. 37/2015 of 17 February.

Strategies, plans and programmes for the coastal zone.

- The National Strategy for Integrated Coastal Zone Management (ENGIZC) establishes the strategic framework for the global, integrated and participatory management of the coastal zone, in order to guarantee sustainability conditions for its development. Provides the framework for the development and implementation of plans, programmes and strategies with a focus on the coastal zone. Presents the vision for 2029 to achieve a harmoniously developed and sustainable coastal zone, based on a systemic approach and enhancing the value of its resources and identity assets based on scientific knowledge and managed according to a model that articulates institutions, coordinates policies and instruments and ensures the participation of the different actors involved. The strategy development process started in 2006 with the preparation of the document "Bases for the Integrated Coastal Zone Management Strategy", which was opened to public discussion in early 2006 and disclosed in 2007. ENGIZC was also the subject of a public discussion process. The strategic environmental assessment of ENGIZC was developed based on the principles defined in

Decree-Law No. 232/2007 of 15 June. ENGIZC was approved by Council of Ministers Resolution No. 82/2009 of 8 September.

- Law no. 31/2014 of 30 May was published in 2014, which establishes the general bases of the public policy of soils, land use and urban development planning, which classifies the coastal programmes, as special programmes, as instruments of national scope. Article 3 enshrines citizens' participation as a general principle, strengthening access to information and their intervention in the procedures for drafting, implementing, evaluating and reviewing land programmes and plans. Article 49 establishes the right to information and participation. Decree-Law No. 80/2015 of 14 May develops the bases of the public policy of soils, land use and urban development planning, defining the coordination system of national, regional, inter-municipal and municipal scope of the land management system, the general legal scheme for land use and the system of preparation, approval, performance and assessment of land management instruments. Article 5 states that all stakeholders have the right to be informed about land management policy and, in particular, about the preparation, approval, monitoring, implementation and assessment of the land programmes and plans.
- The Litoral XXI Action Plan recognises that information is essential for the construction of a responsible and participatory society, whether to increase participatory processes in coastal management where the involvement, consultation and participation of different local agents and the population contribute to a constructive debate of ideas and concrete actions, or for the success of policies in the area of environmental education, in particular the National Strategy for Environmental Education for the period 2017-2020 (ENEA 2020). It reinforces the importance of internalizing a culture of planning which promotes the informed, active and responsible participation of citizens and institutions. Within the framework of the National Strategy for Environmental Education (ENEA 2020), it acknowledges the relevance of valuing the territory, where the central theme of "The Coast" is essential to promote a more rational and resilient approach to spatial planning by the citizens who live in this narrow and fragile strip of national territory.
- The new Coastal Zone Programmes (POC) for the Ovar-Marinha Grande and Alcobaça-Cabo Espichel sections of coastline, approved by RCM no. 112/2017 of 10 August and no. 66/2019 of 11 April, respectively, were submitted to public consultation via the PARTICIPA.pt portal, and are available on the APA website. The Management Regulations for these sections, published by Notices no. 11506/2017, of 29 September and no. 12492/2019, of 6 August, were also submitted for public discussion. A strategic environmental assessment of these programmes was carried out, based on the principles defined in Decree-Law No. 232/2007 of 15 June and the provisions of the new Legal Framework for Territorial Management Instruments approved by Decree-Law No. 80/2015 of 14 May.

#### Strategy, plans and programmes for the sea

- The National Strategy for the Sea (ENM 2013-2020) is the public policy instrument that presents the vision of Portugal for the period 2013-2020 in relation to the development model based on the conservation and sustainable use of marine ecosystem resources and

services, indicating a long-term path to smart, sustainable and inclusive economic growth based on the maritime component. It revised and updated the first version of the ENM 2006-2016 (RCM No. 163/2006 of 12 December), "taking into account the increase of national interest for the Ocean as a strategic vector, as well as the paradigm shift, marked both internally and externally, by an institutional context geared to sustainable development". The implementation of ENM 2013-2020 is being applied through the Mar-Portugal Plan, which includes a set of Action Programmes and Projects covering a wide range of domains, which has been periodically updated [http://www.dgpm.mam.gov.pt/Pages/ENM\\_2013\\_2020\\_jan.aspx](http://www.dgpm.mam.gov.pt/Pages/ENM_2013_2020_jan.aspx). In this Plan, IPMA seeks to be the central element through the production of knowledge and innovation in the areas of marine natural resources (living, non-living and energy resources) and the various uses of the ocean (activities and services with economic value, including aquaculture). During 2019, programmes of thematic workshops on the ENM Review were carried out for the period 2021-2030, in an open, participatory and wide-ranging process, involving contributions from all interested parties. These workshops were held in various parts of the country in an attempt to decentralize such events, and an extended period of public consultation took place, from January to the end of 2020 (cf. <https://www.dgpm.mm.gov.pt/consulta-publica-enm2030> and <https://participa.pt/pt/consulta/consulta-publica-relatorio-do-2-ciclo-das-estrategias-marinhas-da-dqem>).

- Law No. 17/2014 of 10 April was published in 2014, which establishes the bases of the Policy for Planning and Management of the National Maritime Space. Article 12 of that law enshrines the information and participation rights of all stakeholders in the process of preparation, alteration, revision and suspension of the instruments for the planning of the national maritime space. Decree-Law No. 38/2015 of 12 March develops Law No. 17/2014 of 10 April, specifically in article 7 on the right to information and article 8 on the right to participation. The terms of participation in the preparation of the Situation Plan (article 17) and public consultation of the proposed contract for management (article 32) are also defined in the scope of the allocation plans. This law also makes the Situation Plan (article 13) subject to environmental assessment, under the terms of law, and makes the Allocation Plans equivalent to projects, for the purposes of applying the legal scheme for environmental impact assessment (article 23).
- Aquaculture production area of Central Portugal - public participation processes between 24 March and 11 April 2014, pursuant to paragraph 5 of Ordinance No. 4222/2014 of 21 March.
- Aquaculture production area of Tavira - public participation processes between 24 March and 11 April 2014, pursuant to paragraph 5 of Ordinance No. 4223/2014 of 21 March.

#### Waste plans and programmes

National waste management plans are drawn up by the National Waste Authority (ANR) - APA is currently the ANR - and approved by Council of Ministers Resolution, after hearing the entities that make up the Waste Management Monitoring Committee (CAGER - <https://apambiente.pt/residuos/comissao-de-acompanhamento-da-gestao-de-residuos-cager>) in

the case of the National Waste Management Plan (PNGR) and the Non-Urban Waste Management Plan (PGRNU); and after hearing the National Association of Portuguese Municipalities (ANMP) in the case of the Urban Waste Management Plan (PGRU). Once approved, the national waste plans and respective waste prevention programmes are made publicly available on the ANR website <https://apambiente.pt/index.php/residuos/planeamento>.

- The National Waste Management Plan (PNGR) is a tool for planning waste management policy setting strategic objectives of national scope and establishing the guiding rules to be defined by specific, necessarily more detailed, sectoral plans for waste management policy (cf. <https://apambiente.pt/residuos/plano-nacional-de-gestao-de-residuos-pngr>). The drafting of the PNGR 2014-2020 was accompanied by an environmental impact assessment procedure, which resulted in an Environmental Report. Both documents were under public consultation for a period of about a month and a half. 11 contributions from individual citizens, associations, public and private entities were received, which are compiled and analysed in the Public Consultation Report. Opinions were requested of entities with specific environmental responsibilities in 2 separate stages of the environmental assessment, in accordance with current legislation. The specific waste management plans implemented by the 2014-2020 PNGR in each specific area of activity, and whose validity has expired, have to date been subject to an environmental assessment procedure. This PNGR is currently being updated for the 2020-2030 period. As part of this, documents pertaining to its preparation have been shared on the PARTICIPA portal; in particular, those developed within the Consultative Committee, created by Order no. 4242/2020 which determines the preparation of the PNGR 2030 Plan and the Strategic Plan for Urban Waste (PERSU 2030). As a result of this information being available, eight submissions were received, consisting of suggestions, comments and observations from companies, associations and confederations, which, once their relevance had been assessed, were included in the draft Plan.
- The preparation of the PERSU for the 2014-2020 period (PERSU 2020) (cf. <https://apambiente.pt/residuos/plano-estrategico-para-os-residuos-urbanos-persu>) was accompanied by an environmental assessment procedure. Both the PERSU 2020 Plan and the respective Environmental Report underwent public consultation in 2014. The entities that constitute the Plan's Monitoring Committee were asked for an opinion on the progress of the environmental assessment and on the preparation of the draft Plan. PERSU 2020 was approved in 2014 and can be viewed at <https://apambiente.pt/residuos/antecedentes>. Recognising the level of ambition reflected in the new European targets for landfill waste, reuse and recycling of municipal waste, recycling of packaging and reduction of plastic, as well as the new target for landfill, it became imperative to take measures to realign the strategic approaches of PERSU 2020, implemented in PERSU 2020+. This plan focused on a prospective dimension in view of the targets set by the EU, joining up strategic adjustments in various domains, in particular with regard to technical and management models, once it had been subject to public consultation. The submissions received in this area, together with the respective public consultation report, can be accessed via the PARTICIPA portal (<https://participa.pt/pt/consulta/?loadP=5602>). PERSU 2020+ was



approved by Ordinance No. 241-B/2019 of 31 July 2019. The PERSU for the 2020-2030 horizon is currently being prepared. Documents relating to its preparation, which will be accompanied by an environmental assessment procedure, have been made available on the PARTICIPA portal.

- The Urban Waste Prevention Programme (PPRU) 2009-2016, approved by Ministerial Order No. 3227/2010 of 22 February, was made available in advance on the APA website to collect opinions, in addition to direct consultation with various bodies holding responsibilities in the area of waste. It was consequently reassessed after analysis of the submissions received. The new PPRU for the 2020-2030 period is included in PERSU 2020-2030.
- The Strategic Plan for Non-Urban Waste (PERNU) (cf. <https://apambiente.pt/residuos/plano-estrategico-para-os-residuos-nao-urbanos-pernu>) for the 2020-2030 period is also being prepared, and an environmental assessment procedure has been initiated. A preliminary version of the draft Plan was made available on the PARTICIPA portal, and submissions received in this area are currently being analysed.
- In 2020, in view of the obligation, introduced by a review of the 2018 EU Waste Framework Directive, either to implement selective biowaste collection networks or start separating and recycling biowaste at source throughout the country, the Biowaste Strategy was created by the Secretariat of State for the Environment. Its main objectives were to (i) enable a transition to the selective collection of biowaste and use of installed capacity for composting and anaerobic digestors, progressively replacing undifferentiated waste sources; (ii) promote the use of compost resulting from the recovery of biowaste, and (iii) encourage installation of equipment which would allow the recovery of bio gas issued from anaerobic digestors. This Strategy was subject to an extensive consultation, bringing together a set of submissions on the issue (cf. <https://apambiente.pt/residuos/estrategia-dos-biorresiduos>).

#### Biodiversity and nature conservation strategy, plans and programmes

- The National Strategy for the Conservation of Nature and Biodiversity for 2030 (ENCNB 2030), approved by Council of Ministers Resolution 55/2018 of 7 May, is based on a recognition of the fact that the Portuguese natural heritage is a determining feature of the country's international affirmation and, as such, contributes to the realization of a development model based on a sense of value of its territory and its natural values. It is a fundamental instrument for pursuing the environmental policy and for responding to national and international responsibilities to reduce the loss of natural assets. ENCNB 2030 lists the objectives, ordered by priority, which are to be pursued by 2030. These unfold into a set of implementation measures, for which indicators, priorities, deadlines, means of verification, instruments and responsibilities are defined. Taking into consideration the undertakings assumed as part of the 2030 Agenda for Sustainable Development, in particular with regard to the targets and objectives for implementation, the Strategic Plan of the Convention on Biological Diversity and the EU Biodiversity Strategy also seek to consolidate a document which will then be able to serve as a reference with regard to the

challenges imposed upon the Portuguese republic for the post-2020 period, in the context of its geopolitical framework. Its approval was preceded by a period of public consultation on the PARTICIPA.PT portal (cf. <https://participa.pt/pt/consulta/estrategia-nacional-de-conservacao-da-natureza-e-da-biodiversidade-5805>) between 12 June and 30 September 2017.

- The Legal Scheme for Nature and Biodiversity Conservation, RJCNB (cf. Decree-Law No. 242/2015 of 15 October, which republishes Decree-Law No. 142/2008 of 24 July), envisages that the nationwide classification of protected areas is necessarily preceded by a period of public discussion aimed at gathering comments and suggestions on the classification as a protected area. The procedure and time limits of this public discussion are stipulated in paragraphs 5 and 6 of article 14 of that Decree-Law. According to paragraph 3 of article 14 of that law, paragraphs 4 to 6 of that same article 14 also apply to the classification of protected regional or local areas. The RJCNB also establishes that the provisions of legal instruments for land management shall apply to procedures for preparation, approval, implementation and assessment of management plans for protected areas, protecting the right of public participation in the preparation, modification, revision, implementation and assessment of land management instruments. The legal scheme of the Natura 2000 network (sub-paragraph a) of paragraph 3 of Article 7 of Decree-Law No. 49/2005), the Natura 2000 network management plans are preceded by public consultation, which follows the procedures provided in the legal scheme of land management instruments for special land management plans.
- The Action Plan for the Surveillance and Control of *Vespa Velutina* in Portugal (cf. <http://www2.icnf.pt/portal/pn/biodiversidade/patrinatur/resource/docs/exot/vespa/vespa-plano-acao-janeiro2018.pdf>) is operated by ICNF via the – “STOPVESPA” – platform, designed to enable citizens to report online the existence of nests of the so-called Asian hornet, accessible at <http://stopvespa.icnf.pt>. ANEPC's involvement in the Action Plan involves its dissemination, while the municipal councils are responsible for coordinating the process of controlling and destroying nests. According to the Monitoring Committee for the Surveillance, Prevention and Control of *Vespa Velutina*, anyone who detects or suspects the existence of nests or specimens of *Vespa Velutina* *Nigrithorax* must notify the relevant authority through one of the following means:
  - Online insertion/georeferencing of the nest or wasp specimens and online completion of a form with information about them, available on the portal <http://stopvespa.icnf.pt>. Completion of the “citizens” form, which will lead to the relevant municipality being informed by e-mail;
  - Contact through the SOS AMBIENTE line (808 200 520). In this case, the observer will be informed of the procedure to be followed for effective communication of their concerns;

The cooperation of the parish council closest to the place of detection/suspicion may also be requested, in order to complete the form.

Strategy, plans and programmes in the area of forests

- The National Forest Strategy, adopted by Council of Ministers Resolution No. 6-B/2015 – cf. <https://www.icnf.pt/quemsomos/documentosdereferencia> -, as well as the 7 Regional Forest Management Plans (PROF) – cf. <http://www2.icnf.pt/portal/florestas/profs> were prepared according to procedures that included and guaranteed public participation, as established in legislation (Decree-Law No. 16/2009 of 14 January, amended by Decree-Law No. 114/2010 of 22 October). The PROF are approved by Ordinance and are made up of the Regulation, the strategic document and the graphic documents.
- Legal scheme for Forestation and Reforestation (RJAR) and Legal scheme for the Harvest, Transportation, Storage, Processing, Import and Export of pine cones - both were the subject of extensive public participation initiatives, mainly centred on thematic seminars and discussion forums based on the ICNF website. A similar process also took place with Regulation 995/2010 of the EU Parliament and the Council of 20 October, laying down the obligations of operators who place timber and timber products on the market, namely the preparation of additional implementing rules.
- Forest Management Plans (PGF) relating to State-owned land, land in Forest Intervention Areas (ZIF) or integrating community land (wasteland) are mandatorily the object of public consultation and participation prior to their approval. In the period in analysis such land exceeded 650,000 ha for a total of about 200 PGF.
- The Operational Programme of Forest Health (POSF) approved by Council of Ministers Resolution No. 28/2014 - <http://www.icnf.pt/portal/florestas/prag-doe/posf> - establishes the bases of intervention for the reduction of risks of introduction, spread and damage caused by harmful biotic agents. It has been designed by a multidisciplinary and interinstitutional team of forestry technicians and researchers with different specialised skills, representing a wide range of public and private entities covering the fields of forestry production research, forest-based industries and service providers. It also underwent consultation prior to its publication.

#### National Action Programme to Combat Desertification (PANCD)

The PANCD review process began in January 2010, more than a decade after the entry into force of PANCD 1999. It meets the obligations and necessary alignment with the guidelines of the United Nations Convention to Combat Desertification (UNCCD) following the adoption of the Ten Year Strategy 2008/2018, which defines new strategic and operational objectives, expected impacts and global and national indicators to be complied with by national programmes for the period in question. These strategic objectives include the sustainable management and recovery of ecosystems of the susceptible areas and the articulation and promotion of synergies with the processes related to climate change and biodiversity in these fields.

The new PANCD was approved by Council of Ministers Resolution No. 78/2014 of 24 December, for the 2014-2020 horizon. The PANCD underwent public discussion before its approval and adoption. That discussion encompassed strategic guidelines for the development of the fight against desertification in its direct issues, but also - as is apparent from the UNCCD - in areas associated with soil degradation and drought, as well as combating poverty and depopulation (cf.

<http://www.icnf.pt/portal/naturaclas/ei/unccd-PT/pancd>). The PANCD was also the object of a Strategic Environmental Assessment process, which included a process of public discussion.

#### Strategies in the area of agriculture

- The Strategic Plan for the Common Agricultural Policy CAP 2023-2027, currently under development, will guide the application of the future CAP in Portugal. It was subject to a consultation procedure, from 9 November 2020 to 8 January 2021, published at <https://www.gpp.pt/index.php/noticias/plano-estrategico-da-pac-2023-2027-consulta-alargada-4>, with request for contributions via [pac\\_pos2020@gpp.pt](mailto:pac_pos2020@gpp.pt).
- The Innovation Agenda for Agriculture 2030 (Terra Futura), approved by Council of Ministers Resolution no. 86/2020 of 13 October, aims to guide the sector's strategy and policies, aiming at a system of agriculture which is even more sustainable, competitive and innovative, and which gives and receives knowledge, [https://www.gpp.pt/index.php/terra\\_futura/terra-futura](https://www.gpp.pt/index.php/terra_futura/terra-futura).
- National Strategy for Organic Agriculture and Action Plan - The XXI Constitutional Government undertook a commitment in its Programme to define a National Strategy for Organic Agriculture and implement an Action Plan for the production and promotion of agricultural products and organic foodstuffs. On 27 July 2017 Council of Ministers Resolution No. 110/2017 was published, approving the National Strategy for Organic Agriculture (ENAB) and the Action Plan (PA) for the production and promotion of agricultural and organic foodstuffs, the DGADR being responsible for coordinating the implementation of the planned measures. This Strategy was the object of public consultation from 2 to 30 September 2016. The DGADR publishes a monthly newsletter on its implementation, at <https://www.dgadr.gov.pt/estrategia-nacional-para-a-agricultura-biologica>.
- The National Irrigation Programme was approved by RCM No. 133/2018 of 12 October - The XXI Constitutional Government's programme provided for the preparation of a National Irrigation Programme (PNRegadios), with the aim of expanding, rehabilitating and modernizing existing irrigation systems and creating new irrigated areas, ideally with the potential to connect to existing ones. The objective is to promote irrigation and other collective infrastructures with a view to sustainability, contributing to the adaptation to climate change, the fight against desertification and a more efficient use of resources. As stated in the introduction of the RCM, the PNRegadios programme, by implementing new hydro-agricultural systems in areas that are most vulnerable to the effects of climate change, constitutes an important measure of prevention and mitigation of such effects, increasing the resilience and robustness of agricultural systems as well as contributing to the settlement of populations, particularly in the areas most weakened by the dynamics of depopulation. The activities planned in the PNRegadios cover very diverse areas of the national territory. The creation and reinforcement of sources of surface water in the Trás-os-Montes, Beira, Alentejo and Algarve regions is a priority from the perspective of spatial planning and social justice, without prejudice to the need to link up with areas of greater environmental sensitivity, in particular the areas included in the 2000 Nature Networks.

- The National Strategy for Agricultural and Agro-industrial Effluents (ENEAPAI), under public discussion from 10 December 2020 to 22 January 2020, seeks to contribute to the resolution of environmental problems diagnosed in particular with regard to the quality of water bodies originating in the agricultural sector on mainland Portugal; [https://www.consultalex.gov.pt/ConsultaPublica\\_Detail.aspx?Consulta\\_Id=171](https://www.consultalex.gov.pt/ConsultaPublica_Detail.aspx?Consulta_Id=171).
- The National Strategy for Combating Food Waste (ENCDA) and respective Action Plan, approved by Council of Ministers Resolution no. 46/2018 of 27 April, contains several measures and actions for informing the public and encouraging their participation, in particular:
  - Monthly newsletter <https://www.cncda.gov.pt/index.php/documentos-e-legislacao/newsletters>;
  - Plenary meetings <https://www.cncda.gov.pt/index.php/documentos-e-legislacao/reuniao-plenaria>;
  - Guidelines, manuals and clarifications <https://www.cncda.gov.pt/index.php/documentos-e-legislacao/orientacoes-manuais-e-esclarecimentos>;
  - Launching campaigns <https://www.cncda.gov.pt/images/DocumentosLegislacao/Campanhas>.

#### National Programme for Spatial Planning (PNPOT)

The PNPOT review was preceded by a wide-ranging process of participation (cf. <https://participa.pt/pt/consulta/alteracao-do-pnpot-6015>) and debate, which the PNPOT portal (<https://pnpot.dgterritorio.pt/>) continues to promote in the current phase of implementation of the PNPOT. Organisations representing the sectors and territories as well as civil society participated.

#### Programmes in the field of radiological protection and nuclear safety

- National Programme for the Management of Spent Fuel and Radioactive Waste (PNGCIRR)

The PNGCIRR provided for in Directive 2011/70/EURATOM, as well as in Decree-Law No. 156/2013, which carried out its transposition, was created by the competent authority and approved by Council of Ministers Resolution No. 122/2017. Approval of this programme took place after a Strategic Environmental Assessment procedure, with public consultation, in which the various stakeholders and the general public had the opportunity to contribute. The initial programme was in force until 2019, with APA, which inherited the powers of the previous competent authority, preparing the necessary updating.

- Environmental Radioactivity Monitoring Programme (PMAR)

Also, within the scope of its powers and responsibilities as the competent authority for Radiological Protection (DL no. 108/2018 of 3 December), APA is responsible for preparing and carrying out the annual PMAR. This Programme has as its main objective the quantification of radioactivity in food and in the environment. The results of this programme will make it possible to assess the public's exposure to ionizing radiation of natural and artificial origin; they will be made available to the public in good time and as soon as the results of the surveys are validated.

As part of its international obligations, APA must also report its findings to the European Commission (article 35 and 36 of the Euratom Treaty) and to the OSPAR Convention Committee on Radioactive Substances.

- Technical Advisory Committee for Radiological Protection

APA, as provided for in the legal regime for radiological protection, constituted a Technical Advisory Committee in which various stakeholders in the area of radiological protection are represented. This Committee currently includes more than 29 entities from the public and private sphere, such as the General Directorate of Health, Authority for Working Conditions, Business Confederation of Portugal, Medical Association, Dental Association, Universities, Autonomous Regions, among others, and is responsible for ensuring APA's technical advice in this area. The Technical Advisory Committee, taking as its premise the highest levels of radiological safety, community directives and international standards, seeks to address several matters, including the procedure for issuing authorisations for practices involving ionizing radiation and the recognition of specialists in radiological protection, the response to radiological and nuclear emergencies, and the National Radon Plan, among others.

#### National Strategy for Active Cycling Mobility 2020-2030

The National Strategy for Active Cycling Mobility 2020-2030 (ENMAC), approved by RCM No. 131/2019 of 2 August, aims to contribute to the decarbonisation of mobility, favouring more sustainable travel options such as the use of bicycles. At the same time, it intends to maximize benefits for the health of citizens, providing them with healthier lifestyle habits ([http://www.imt-ip.pt/sites/IMTT/Portugues/Noticias/Paginas/EstrategiaNacionalparaaMobilidadeAtivaCiclaivel2020\\_2030\\_ENMAC.aspx](http://www.imt-ip.pt/sites/IMTT/Portugues/Noticias/Paginas/EstrategiaNacionalparaaMobilidadeAtivaCiclaivel2020_2030_ENMAC.aspx)). The creation of ENMAC 2020 -2030 was subject to a participatory process, which sought to promote effective ownership and accountability by civil society. It was a process embodied in two stages: the first, public participation by various public entities and civil society, and the second, public consultation with the population in general, from 18 March to 28 April 2019. The implementation of this strategy will maximize benefits for people's health, take cars off the streets, give back public space, alleviate urban congestion, reduce noise levels and bring down air pollution.

#### Strategy for Tourism 2027 (ET27)

The 2027 Strategy for Tourism, approved by RCM No. 134/2017 of 27 September, establishes the strategic framework for tourism in Portugal over the next decade, with a view to establishing tourism as a sustainable activity throughout the year and throughout the entire territory, placing value on Portugal's natural resources and contributing to the creation of jobs and wealth and the promotion of territorial and social cohesion. ET27 aims to «Establish tourism as an economic, social and environmental hub throughout the territory, positioning Portugal as one of the most competitive and sustainable tourist destinations in the world», with the establishment of Economic, Social and Environmental Sustainability Goals (cf. <https://estrategia.turismodeportugal.pt>). In this context, the sustainability of tourist destinations is an absolute priority of tourism policy in Portugal. The creation of sustainability observatories in the various regions, which allow an in-depth knowledge of the activity's impact on the territory and greater efficiency in the planning and

management of destinations, is one of Turismo de Portugal's strategic objectives, which seeks to contribute to establishing Portugal as an international leader in matters of sustainability. Preparation of the 2027 Strategy for Tourism was based on a live, open and participative process, a model that is intended to be followed and reinforced in its implementation; the public participation process was streamlined by means of technological platforms, international focus groups and Strategic Tourism Laboratories/Public Sessions, which took place between 24 May 2016 and 6 January 2017. In fulfilment of the defined goals, in January 2018 the Sustainable Tourism Observatory of Alentejo (ASTO) was recognised within the international network of the OMT (INSTO). Now, in January 2020, on the occasion of FITUR, two more observatories have been recognized, the Azores Tourism Observatory and the Algarve Regional Observatory for Sustainable Tourism (ORTSA).

#### National Strategy for Environmental Education (ENEA 2017-2020)

The approval of the National Strategy for Environmental Education for the period 2017-2020, by Council of Ministers Resolution No. 100/2017 of 8 June, establishes a collaborative, strategic and cohesive commitment to the construction of environmental literacy in Portugal which, through an inclusive and visionary citizenship, leads to a change in the civilizational paradigm, translating into sustainable models of behaviour in all areas of human activity. This was preceded by a period of public consultation between 13 April and 24 May 2017 on the PARTICIPA.PT portal (cf. <https://participa.pt/pt/consulta/enea2020-5782>), together with several sessions of clarification and debate.

At a regional level, the process of drawing up a Regional Agenda for the Centre for Circular Economy, which was started in 2017 and includes an online form for the collection of contributions from stakeholders and citizens, is available at <http://agendacircular.ccdrc.pt/en/inputs/>.

Programmatic documents developed as part of the regional development stand out. As these are not strictly environmental documents, they address issues and work in areas that intersect with environmental actions to be implemented, or whose effects have repercussions on the environment. At the level of the CCDR LVT, the preparation of two programmatic documents that will frame the community financial support in the next programming period 2021-2027, the Lisbon Metropolitan Area Strategy AML2030 and the Lisbon Regional Strategy for Intelligent Specialisation, are nearing completion.

#### 7. Obstacles encountered in the implementation of article 7.

The main difficulty found in terms of public participation relating to the preparation of plans, programmes and policies on the environment, as well as other environmental policy instruments, is the lack of significant public involvement. However, the public services have improved the quality of the information made available and access to the participative procedures, in particular with the launch of the PARTICIPA.PT portal in 2015. There is an overload of information made available by means of various media, in particular audio-visual media, which makes it difficult for people to focus their attention. Organisers have come to understand that there is a need to complement the digital information tools (e.g. website) with other effective tools for information

sharing and raising awareness, to provide greater visibility of both the informational tool and the opportunity that the participatory process itself provides.

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

Nothing to report on this item.

9. Website addresses relevant to the implementation of article 7.

<http://participa.pt>

## Article 8

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

Water and Health

In 2018, ERSAR promoted the extended consultation procedure for the document establishing the objectives relating to the Protocol on Water and Health to the 1992 convention, on the protection and use of transboundary watercourses and international lakes of UNECE/WHO Europe. At the public consultation and public participation session, submissions were received from local public administration entities, companies, water sector associations and private citizens. Where relevant, these contributions were integrated into the final Protocol objectives document.

Regulations with external effectiveness

In the 2017-2020 period, ERSAR promoted public consultation of regulations with external effectiveness, specifically, the Regulation on Commercial Relations, the Tariff Regulations for Water and Waste and the Regulation on Regulatory Procedures. Their preparation and approval are obligatorily subject to public consultation within a period of not less than 30 days. The resulting documents were the Urban Waste Tariff Regulation (Regulation No. 53/2018), Regulation on Regulatory Procedures, (Regulation No. 446/2018) Commercial Relations Regulation (Regulation No. 594/2018). Submissions were received from the various stakeholders in the regulated sectors, also the case with its revisions and amendments, available at <http://www.ersar.pt/pt/o-que-fazemos/consultas-publicas>. In addition to these, the process of drafting ERSAR Recommendations, Technical Guides and/or other sector support instruments prepared by this regulatory entity are also subject to public consultations, scrutiny by NGOs and other entities in the sector.

11. Obstacles encountered in the implementation of article 8.

Nothing to report on this item.

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

Nothing to report on this item.

13. Website addresses relevant to the implementation of article 8.



<https://dre.pt/>

<http://participa.pt>

## 35. Republic of Moldova

### Article 6

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

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

In the Republic of Moldova, the participation of the public in the decision-making process is ensured by the following normative acts:

- 1) Law no. 239 as of 13-11-2008 on transparency in the decision-making process.

Art. 7 of this law establishes the following obligations of public authorities:

para. (1) the public authorities are obliged, as appropriate, to take the necessary measures to ensure the participation of citizens, associations established in accordance with the law, other interested parties in the decision-making process, including through:

- a) dissemination of information on the annual activity programmes (plans) by publishing them on the official website of the public authority, by displaying them at its headquarters in a space accessible to the public and/or by dissemination in central or local media, as appropriate;
- b) notification, in the established manner, about the organization of the decision-making process;
- c) institutionalization of cooperation and partnership mechanisms with society;
- d) receipt and examination of citizens' recommendations, associations established in accordance with the law, other interested parties for the purpose of their use in the elaboration of draft decisions;
- e) consultation of the opinion of all parties interested in the examination of draft decisions, in accordance with this law.

And according to art. 8 of the law, the main stages of ensuring the transparency of the decision-making process are:

- a) inform the public about the initiation of the development of the decision;
- b) make available the draft decision and its materials to interested parties;
- c) consult the citizens, associations established in accordance with the law, other interested parties;

d) examine the recommendations of citizens, associations established in accordance with the law, other interested parties in the process of drawing up draft decisions;

(e) inform the public of the decisions taken.

2.The Regulation on public consultation procedures with civil society, approved by GD no. 967 as of August 9, 2016, in the decision-making process.

This normative act establishes that " the public authority shall ensure access to the draft decisions and related materials by publishing them on a mandatory basis on the official website of the public authority, as well as on the following website: [www.particip.gov.md](http://www.particip.gov.md)

According to point 6-8 of this Regulation, public authorities shall approve the internal rules related to the procedures of drafting, informing, consulting, participation and adoption of decisions, in accordance with the legislation in force. The person responsible for the coordination of the public consultation process shall prepare a general list of stakeholders, drawn up upon the initiative of public authority's subdivisions, other public authorities or on the proposal of interested parties, that shall be informed as a matter of priority about the decision-making process of the authority concerned. The list shall be updated every six months, with indication of the interested parties (name and surname of citizens, names of associations established in accordance with the law, other interested parties, their contact information), who have requested in writing information about the decision-making process of the public authority”.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

(a) With respect to paragraph 1, measures taken to ensure that:

(i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

Under GD no. 967 as of 09-08-2016 on the mechanism of public consultation with civil society in the decision-making process the "Public authority shall ensure access to the draft of decisions and related materials by publishing them on a mandatory basis on the official website of the public authority, as well as on the web page [www.particip.gov.md](http://www.particip.gov.md)".

Measures on ensuring the participation of the public at the environmental decision-making, according to the provisions of Law No. 11/2014 on environmental impact assessment.

In the decision-making process, regarding the issuance of permissive acts (except the environmental agreement following the EIA procedure), no participation of the public in the decision-making process is organised, given that the special normative acts, that regulate the procedure of issuing the permissive acts, does not provide the phase of consulting publicly the draft decision. According to the Law on transparency in decision-making process (no. 239/2008) the initiation of decision elaboration shall be made publicly no later than 15 working days from the registration of the application and the recommendations shall be submitted within 10 working days. Respectively, in case a permissive act is required to be issued within 10 days, organization

of decisional transparency according to the Law does not fall within this period (which requires maximum 25 working days).

(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;

With regard to the involvement of the public interested in the decision-making process in matters of environmental/milieu policies, according to art. 3 para. (4) of the Law no. 239/2008 on transparency in the decision-making process, the public authorities shall consult the citizens, associations established according to the law and other interested parties, about the draft normative, administrative acts that may have social, economic, environmental impact (on the lifestyle and human rights, on culture, health and social protection, on local communities, public services).

Therefore, the involvement of citizens in the decision-making process of the authorities is ensured in accordance with the technical-normative mechanism established by the aforementioned law, namely by: publishing the announcement regarding the development of the decision (art. 9), publication of the announcement on the organization of public consultations and related materials on consultation, creation of working groups, in which civil society representatives are also involved, public consultations (art. 11), development of the file on the elaboration of the draft decision accessible to all citizens (art. 12, para. (4) etc.

Announcements related to the decision-making process shall be published on the website of the authorities under the "Transparency" compartment, the "Public consultations" sub-compartment.

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

The authority of the local public administration shall, within 5 days of receipt of the environmental impact assessment documentation, put therein documentation in a place accessible to the public, shall inform the initiator about that, the competent authority and the public shall communicate the data about the person providing support to the initiator in the organization of public debates.

The impact assessment at national level is carried out in accordance with the provisions of Chapter VI of Law No. 86/2014, and in the case of drafts that have a potential transboundary impact, according to the provisions of Chapters IV and V of Law No. 86/2014 and the requirements of the Convention on environmental impact assessment in transboundary context areas (hereinafter-the Espoo Convention), adopted at Espoo, Finland on 25 February 1991, ratified by Parliament Decision no. 1546/1993

Law no. 86/2014 to art.19 sets out the programme for carrying out the Environmental Impact Assessment, namely:

- para. (2) for carrying out the environmental impact assessment at national level of the planned activity, the initiator (natural or legal person, including the public and administrative-territorial units, requesting the right to carry out the planned activity) shall draw up the Programme of

carrying out the environmental impact assessment, coordinated with the competent authority. At the same time, the initiator shall inform the public and offer it and the interested public authorities the possibility to submit written comments on the programme.

- art. (3) the initiator shall publish, at least in a national newspaper and a local one, brief information about the activity planned, providing, on a mandatory basis, its official website and/or another address to which the application and the draft of the environmental impact assessment Programme can be accessed, as well as the deadlines for submitting the comments. The comments shall be presented to the initiator, and the copy of the comments – to the competent authority.

- para. (4) The initiator shall submit to the competent authority the draft of the environmental impact assessment Programme, together with the materials that attest that the public is informed (copy of the publication, notice), for coordination purpose.

According to the provisions of art. 24, para. (1) and (2) of the same Law "the local or central public administration authority that issued the permissive act of conducting the activity planned, for which it has been issued an environmental agreement, shall inform in writing the competent authority about the issuance of the permissive act, within 10 days from the date of issue. The competent authority shall publish on its official website a copy of the permissive act for conducting the planned activity. Within 10 days, the initiator shall inform the public about the receipt of the permissive act by publishing announcements in the mass-media and on the official website".

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

The Competition Council shall adopt decisions in accordance with the provisions of Competition Law No. 183/2012 and Law No. 139/2012 on state aid. The decisions of the Competition Council adopted under Law no. 139/2012; Law no. 183/2012 may be appealed by the person concerned at the court. The operative part of the decisions of the Competition Council adopted under Law no. 139/2012 shall be published in the Official Gazette of the Republic of Moldova, taking into account the interests of the parties and ensuring the protection of information constituting state secret or trade secret.

And in art. 22 of law 86/2014 it is regulated the procedure of conducting public debates, namely:

Para. (1) public debates on environmental impact assessment documentation shall be conducted for:

a) exercising the right of the public to participate at debates and to take important environmental decisions;

b) taking into account the objections and proposals of the public regarding the documentation on environmental impact assessment and adoption of decisions related to the implementation of the planned activity;

c) finding mutually acceptable solutions for the initiator and public for preventing and minimizing the negative impact on the environment following the implementation of the planned activity.

Para. (2) the public debates shall be held on the territory of the local public administration authority where the planned activity will be carried out. After presentation of documentation on the environmental impact assessment, the initiator, together with the local public administration authority, shall determine the place, date and time of the public debates.

Para. (3) The initiator shall inform the public about the conduct of public debates by publishing announcements in the mass-media and its official website. The local public administration authority shall also publish an announcement about the conduct of public debates on its website, its premises and other public places. The announcement shall be published at least 10 days before the public debate starts.

Para. (4) The results of the public debates shall be spread on the records, with details on the total number of participants, list of questions, objections and proposals received in the process of conducting the public debates regarding environmental impact assessment documentation. The minutes shall be drawn up within 3 days from the date the public debates were conducted and shall be signed by the chairman of the public debate session.

Para. (5) In case during the public debates related to the documentation for the assessment of the impact on the environment did not provide answers to the questions formulated, the initiator (the holder of the documents on environmental impact assessment) shall dispatch the answers to the authors of the questions, within 15 days from the date the public debates are conducted, by post or e-mail provided during the registration process.

Para. (6) The deadline for submission of objections and proposals from the public, established by the initiator, shall be at least 15 working days from the date of publication of the information specified in para. (5).

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

According to provisions of art.10 of Law No. 11 as of 02-03-2010 on strategic environmental assessment " the initiator, by mutual agreement with the competent authority, shall ensure the notification and participation of the public at the strategic environmental assessment of the plan or programme through the following actions:

a) identification of the public segments that could be affected following the implementation of the plan or program or that are interested in the decision-making process, including public environmental associations;

b) establish ways of informing the public, such as: public announcements in the mass-media, information published on the official web pages;

c) determination of the manner of consulting the public: written information, public debates, etc.;

d) establish reasonable timelines that would allow the public to participate effectively and in a timely manner at all stages of the strategic environmental assessment;

e) inform about the possibility of participation of the public in cross-border consultations

By art. 22, para. (1) of Law 86/2014 and other legal provisions, the right of the public to participate in debates and to make important environmental decisions is achieved;

At the same time, according to art. 10, para. (4) of Law 11/ 2017 „the initiator, at the stages of preliminary assessment and determination of the scope of the report on strategic environmental assessment, shall inform the public, in accordance with the requirements of Law no. 239/2008 about transparency in the decision - making process, about the prior assessment and setting of the scope of the report, about development of the plan or programme and the information that follows to be included in the report on strategic environmental assessment. The initiator shall give the public the possibility to express the opinion regarding the possible environmental impact of the plan or programme at the stage of the pre-assessment and the information that follows to be included in the environmental strategic assessment report at the stage of establishing the scope of the report. The public shall transmit its objections and proposals to the initiator and the competent authority no later than 10 calendar days from the date on which it was informed".

(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;

Only at the environmental impact assessment procedure, when the EIA programme is coordinated, are there recommended the stakeholders that should be consulted on the activity planned. For the other authorization activities, no such measures shall be applied.

According to point (a). 43 of the Guide on the execution of environmental impact assessment procedures, approved by the Order of the Ministry of Agriculture, Regional Development and Environment no. 1 as of 04.01.2019 the "Objections, proposals (recommendations) of the interested public regarding the coordination notice to the implementation program shall be received within 10 days from the date of publication on the official website of the issuing competent authority, in the field of the regulatory procedure".

(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;

According to the provisions of art. 23, para. (2) of Law 86/2014, the Competent Authority shall issue the environmental agreement if the documentation on the environmental impact assessment has been drawn up in accordance with the requirements established by this law and the negative impact on the environment has been minimized. The environmental agreement shall contain at least:

a) argumentation of the decision;

(b) mandatory measures envisaged to prevent or reduce the negative impact on the environment;

c) information on the conduct of the public participation process".

(ii), the competent authorities give the public concerned the information listed in this paragraph;

As mentioned above, the competent public authorities shall make available to the public concerned all relevant information on the decision-making process. The documentation available to the interested public shall contain information about the proposed location, the non-technical summary, the significant potential effects of the proposed activity on the environment, the alternatives studied, etc.

According to art. 24, para. (2) of Law No.86/2014, the Competent Authority shall publish on its official web page the copy of the permissive act for carrying out the activity planned. The initiator, within 10 days, shall inform the public about the receipt of the permissive act by publishing announcements in the mass-media and its official webpage”.

The public participation report shall contain at least the following information:

1. The planned activity (name, type of activity)
2. The initiator of the planned activity (name, legal postal and electronic address, telephone and fax numbers.
3. The holder of EIA documentation (name, legal, postal and electronic address, telephone and fax numbers).
4. The authority responsible for notifying the public and/or distributing EIA documentation.
5. The authority responsible for carrying out the public participation process and for receiving comments (objections) from the public, if it is other than the one mentioned above.
6. Methods of informing the public, place, time and manner of conducting public debates.
7. List of information that has been sent to the public at all stages of the EIA.
8. The minutes of public consultations, including the list of participants, indicating the name of the organization (if they are representatives of the organizations), the topics discussed by the participants at the debates.
9. List of objections and proposals to the EIA documentation submitted in writing.

(g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

The public can participate at the public debate and express the opinions it considers relevant to the proposed activity.

According to the provisions of art. 23 of Law 86/2014 the competent authority (AM) shall approve one of the decisions based on the results of examination of the environmental impact assessment documentation, the opinions of the central and local public administration authorities, other interested institutions, as well as taking into account the comments submitted by the public in written form and the results of public consultations.

In this regard, AM collects all the recommendations received on the consulted draft decision, analyses them, elaborates the table of analysis of the recommendations with the rigorous arguments regarding their acceptance or non-acceptance and ensures its publication on the official website.

(h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

The legislation in force stipulates that the competent authority must take into account the results of public participation in the decision-making process. The principle of public participation in the process of elaboration and adoption of environmental decisions related to the regulatory procedure, is carried out in accordance with the provisions of Law No. 239 as of November 13, 2008, on transparency in the decision-making process and the Regulation on involvement of the public in the elaboration and adoption of environmental decisions, approved by Government Decision No. 72 as of January 25, 2000.

(i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

The table with the analysis of recommendations received as a result of the public consultations is attached to the package of promotional documents for decision approval. According to the legislation in force, the public shall be informed about the decision taken through announcements published on the website of the public authority and of the project initiator. The announcements shall contain the text of the decision, including the main reasons and considerations on which it is based.

(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;

According to the provisions of point. 140 of the Guide on the execution of environmental impact assessment procedures, approved by MARDE order no. 1 as of 04.01.2019, the "Revision and updating of the prior assessment decision, coordination notice to the implementation program, environmental agreement, depending on the case, shall be carried out by the issuing competent authority upon the request of the initiator of the planned activity and/or the holder of the documentation, as well as the interested public".

And to the point. 142 of the Guide it was established that „The issuing competent authority, shall ensure that the following procedural steps are carried out within 10 days since the approval of the review decision (reconsideration):

1) reviews the information recorded in the personalized project file in parallel with the information received, depending on the case, evaluates and consults the appeal of the issued act, together with the members of the Technical Analysis Group previously involved in the meetings, that transmitted their point of view in order to issue it;



- 2) enter mentions and/or amendments to the original content of the document issued by the competent authority or refusal of the request;
  - 3) publish on the official website the decision taken, column of regulatory procedure, within 5 working days from the date of approval;
  - 4) inform in writing about the decision taken by the initiator of the activity planned and/or holder of the documentation, as well as the authority / authorities of the local public administration on the territory of which the implementation of the project is proposed, in order to publish within 3 days, the public notice drawn up according to the model provided in Annex no. 19 to this guide, on their official web pages, display at their premises, as well as in situations where appropriate, on the investment identification panel mounted on the site;
  - 5) analyse the justified opinions of the public concerned submitted to the competent authority within 10 days since the publication of the revised final decision;
  - 6) justified comments and observations of the public may be rejected, or if they are taken into account and lead to repeated review of the decision, the competent authority shall inform the initiator about the planned activity or the holder of the documentation and the local public administration authority within 5 working days and shall publish it repeatedly by the means provided;
  - 7) forward the revised act or, where appropriate, the decision to refuse the request to the initiator of the planned activity or holder of the documentation, and to the local public administration authority on the territory of which the implementation of the project was planned.”
- (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.

According to provisions of letter (a), para. (1) art.20 of Law No. 755/2001 on biological security after receipt of notification , on the basis of the information contained in the notification, the National Commission for Biological security is obliged to inform and consult the public about the notification received.

Para. (2) of art. 39 of Law 755/2001 provides that the public shall be informed within 10 days since the notification is received, and the public is entitled to give an opinion within 30 days and follows to be taken into account by the National Commission when making the decision of authorizing the activity proposed. Depending on the comments received, there could be held public debates on any biosecurity issues.

During the years 2017-2020 the National Commission for Biological Security had examined 31 applications and notifications from economic operators related to authorization of importing genetically modified cake from soya beans. The applications and notifications have been placed on the website of the Ministry of Agriculture, Regional Development and Environment for public information and consultation.

In order to harmonise the national legislation with Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms, a new draft law on genetically modified organisms has been drafted. The draft law contains mandatory provisions on transparency, information and consultation of the public in the process of making decisions on introduction of GMOs and products resulting from them.

The draft law was consulted with the institutions involved and civil society by publishing it on the website of MARDE [www.madrm.gov.md](http://www.madrm.gov.md) upon the decisional transparency Directory and on the government portal [www.particip.gov.md](http://www.particip.gov.md)

(<https://www.madrm.gov.md/ro/content/anun%C8%9B-privind-ini%C8%9Biereaelabor%C4%83rii-proiectului-legii-privind-organismele-modificate-genetic>

[https://cancelaria.gov.md/sites/default/files/document/attachments/proiectul\\_515.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/proiectul_515.pdf)

<https://particip.gov.md/ro/document/stages/anunt-despre-consultari-publice-la-proiectul-legii-privind-organismele-modificate-genetic-numar-unic-515madrm2020/7542>

At the same time, the draft law was presented to civil society in the framework of two seminars organized within the project "Increasing the competitiveness of the agro-food sector by integrating it into domestic and global value chains, especially in the soybean sector"

## 2. Obstacles encountered in the implementation of article 6.

Lack of correspondence between the provisions of Law No. 239/2008 on transparency in the decision-making process, with reference to the transparency of the decision-making process on issuance of permissive acts and of special environmental legal provisions which regulate the procedures of issuing the permissive acts, with reference to the organization of public consultations in the process of issuing the permissive acts and take into account the term of organising the public consultations upon determination of the term necessary for issuing the permissive act.

The perception of the public upon import and use of organisms or genetically modified products is negative, but usually the public rarely reacts to notifications filed by the economic operators for the import of genetically modified fodder.

## 3. Further information on the practical application of the provisions of article 6.

The environmental impact assessment procedure derives from the provisions of the normative framework in force and involves carrying out the procedural steps, as follows:

- 1) prior assessment of the environmental impact of the planned activity;
- 2) carry out the environmental impact assessment according to the following steps:
  - a) stage of elaboration and coordination of the project of the Environmental Impact Assessment Program, for which the consultation of the interested public is ensured and proved;
  - b) stage of carrying out the impact assessment study in accordance with the content of the previously coordinated environmental impact assessment programme;

- c) phase of completion of the assessment study and development of environmental impact assessment documentation;
- d) examination, analysis of the quality of the environmental impact assessment documentation and ensure the consultation with the interested public on its content;
- e) Organization of public debate on documentation related to the environmental impact assessment of the planned activity and preparation of the report on the participation of the interested public;
- f) examination, discussion and consultation of environmental impact assessment documentation between the competent environmental protection authority and the initiator of the planned activity or the holder of the environmental impact assessment documentation;
- g) finalisation of environmental impact assessment documentation and examination of supplementary information;
- h) approval of the decision to issue the environmental agreement or refusal to issue.

3) For the purpose of assessing the potentially negative effects on environmental factors and undertaking precautionary measures at the early planning stage, the completion of the environmental impact assessment procedure may include other specific environmental protection requirements provided for in the national legislation, of the European Union and international one to which the Republic of Moldova is a party.

4) The environmental impact assessment procedure is conducted by the competent authority - the issuing body of permissive environmental acts, in accordance with the provisions of art. 291 of Law No. 1515 as of June 16, 1993 on Environmental Protection, with subsequent additions, art. 5 of Law No. 86/2014 on environmental impact assessment, with subsequent additions, Law no. 160 as of July 22, 2011 on the regulation by authorization of entrepreneurial activity, with subsequent additions, and in accordance with the provisions of this guide.

Public debate is mandatory in the EIA procedure for projects and programmes. These debates shall be organized by the Environment Agency with the support of the initiator/holder.

In order to promote public participation in decision-making processes, the provisions of the environmental legislation in force, on the procedure of issuing regulatory acts are respected: public announcements in the mass-media, website of the institutions, webpage of the holder, displaying at the headquarters of the city hall, the premises of the holder, public debates.

#### 4. Website addresses relevant to the implementation of article 6.

[www.am.gov.md](http://www.am.gov.md)

<https://www.madrm.gov.md/ro/content/comisia-na%C8%9Bional%C4%83-pentru-securitate-biologic%C4%83-2021>

[www.mai.md](http://www.mai.md),

[www.poliția.md](http://www.poliția.md)

www.dse.md

www.igc.md

## Article 7

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

Public participation in the development of environmental plans and programs was established by the Regulation on involvement of the public in the development and adoption of environmental decisions, approved by GD no. 72 as of 25 January 2000; Law no. 86 as of 29-05-2014 on environmental impact assessment. This law partially transposes the Directive 2011/92 / EU of the European Parliament and of the Council as of 13 December 2011 on the assessment of effects of certain public and private projects on the environment (codified text), published in the Official Journal of the European Union no. 26 as of 1 January 2012; Law no. 1515-XII as of 16 June 1993 on Environmental Protection; GD no. 967 as of 09-08-2016 on the mechanism of public consultation with civil society in the decision-making process; Guide on the execution of environmental impact assessment procedures, approved by MARDE by Order no. 1 as of 04-01-2019.

The regulation on involvement of the public in the elaboration and adoption of environmental decisions is developed for the purpose of implementing the Convention on access to Information, justice and public participation in the adoption of environmental decisions, ratified by the decision of the Parliament of the Republic of Moldova no. 346-XIV as of 7 April 1999, having as foundation the provisions of Chapter III of the Law on ecological expertise and environmental impact assessment no.851-XIII as of 29 May 1996 and Articles 3 and 30 of the Law on Environmental Protection no.1515-XII as of June 16, 1993. Thus, this Regulation establishes the requirements for the central environmental authority on involvement of the public in the process of developing the draft laws, regulations, programs and other normative acts, involvement of the public in decision making process on economic activities with environmental impact at local level, involvement of the public in the process of developing economic and social development projects and programs, as well as the procedure of public involvement.

In law no. 86/2014 to art. 2 the following notions were included and defined:

- competent authority;
- environmental impact;
- public;
- publicly interested.

GD no. 967 as of 09-08-2016 on the mechanism of public consultation with civil society in the decision-making process defined the following notions:

- interested party;

- decision-making process;

At the same time, some non-discrimination requirements are established in art. 4, para. (1) of Law No. 982 as of 11-05-2000 on access to information through: "anyone, under the conditions of this law, has the right to seek, receive and make known official information", and in para. 3. Exercising the rights provided for in para. (1) of this article shall in no case entail discrimination based of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin.

According to provisions of art. 19, para. (2) and (3) of Law 86/2014 „for conducting the environmental impact assessment of the planned activity, at the national level, the initiator shall draw up the Program of conducting the environmental impact assessment, that follows to be coordinated with the competent authority. At the same time, the initiator shall inform the public and offer it and the interested public authorities the possibility to submit written comments on the programme. The initiator shall publish, at least in a national newspaper and a local one, brief information about the planned activity, indicating its official website and/or another address to which the application and the draft of the environmental impact assessment Programme can be accessed, as well as the deadlines for submitting the comments. The comments shall be provided to the initiator, and the copy of the comments – to the competent authority.

According to the Guide indicated above in point 5, the environmental impact assessment procedure, which derives from the provisions of the normative framework in force is described and it involves the conduct of procedural steps, as follows:

- 1) prior assessment of the environmental impact of the planned activity;
- 2) carry out the environmental impact assessment according to the following steps:
  - a) stage of elaboration and coordination of the project of the Environmental Impact Assessment Program, for which the consultation of the interested public is ensured and proved;
  - b) stage of carrying out the impact assessment study in accordance with the content of the previously coordinated environmental impact assessment programme;
  - c) phase of completion of the assessment study and development of environmental impact assessment documentation;
  - d) examination, analysis of the quality of the environmental impact assessment documentation and ensure consultation with the interested public on its content;
  - e) Organization of public debate on documentation related to the environmental impact assessment of the planned activity and preparation of the report on the participation of the interested public;
  - f) examination, discussion and consultation of environmental impact assessment documentation between the competent environmental protection authority and the initiator of the planned activity or the holder of the environmental impact assessment documentation;

g) finalisation of environmental impact assessment documentation and examination of supplementary information;

h) approval of the decision to issue the environmental agreement or refusal to issue.

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

According to point 28 of the Regulation related to the involvement of the public in the preparation and adoption of environmental decisions, the central environmental Body and the local public administration authorities shall inform the public about environmental documentation approved by publishing announcements in the media, radio and tv communications, posters displayed at the headquarters of the prefect's office, district councils, town's halls of municipalities, towns, villages. The approved documentation can be presented to interested individuals and legal entities from among the trained public.

At the same time, the disputes that may arise in the process of applying environmental decisions between local public administration authorities, beneficiaries and population shall be resolved by the central authority for the environment, within the limits of its competence, or by the courts.

7. Obstacles encountered in the implementation of article 7.

The public is unconscious of the environmental issues, for various reasons: standard of living, means of information, age, education, professional interest, etc.

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

According to point 8 of the Guide on the execution of environmental impact assessment procedures, approved by MARDE by Order no. 1 as of 04-01-2019 environmental impact assessment established also the framework of insurance:

1) access to environmental information, related to the regulatory procedure, in accordance with the provisions of the Regulation on public access to environmental information, approved by Government Decision No. 1467 as of 30 December 2016;

2) request and provision of information related to the regulatory procedure, in accordance with the provisions of Law No. 982 as of 11 May 2000 on access to information; and

3) consultation with the interested public, public administration authorities with responsibilities in the field of environmental protection, ecologist public associations, groups with responsibilities in the field of environmental protection, established in accordance with the provisions of the national legislation and in accordance with the provisions of the Regulation on the procedures of public consultation with civil society in the decision-making process, approved by the Government Decision no. 967 as of 09 august 2016; including,

4) participation of the public interested in the process of elaboration and adoption of environmental decisions related to the regulatory procedure, in accordance with the provisions of Law No. 239 as of November 13, 2008, on transparency in the decision-making process and the Regulation on

involvement of the public in the development and adoption of environmental decisions, approved by Government Decision No. 72 as of January 25, 2000.

9. Website addresses relevant to the implementation of article 7.

See Chapter VI.

## Article 8

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

In Chapter II of the Regulation on involvement of the public in the development and adoption of environmental decisions, measures are established to create conditions for public participation in the process of drawing up draft laws, regulations, programs and other normative acts.

As such, the public authority is obliged to announce the beginning of the development of the mentioned documents, to indicate the date of the possible participation of the public, to set up working groups for the development of the projects of which there may be included representatives from NGOS, other agencies or the general public, and the public will be given the possibility to comment, directly or through any other means.

The involvement of the public shall be differentiated, in accordance with the procedures determined by this regulation, and shall include:

- a) consultations at national level in order to determine the public's attitude towards the intentions of developing documentation of particular importance for the population of the Republic (laws, national programs, other normative acts);
- b) sociological environmental studies, which to a greater extent reflect the public's attitude to the developed projects. The participation of the public already at the early stage will be ensured, in order to give them the possibility to engage in the examination of the various variants.

The costs for involvement of the public in decision-making related to the development of laws, regulations, programs and other normative acts are covered by the National Ecological Fund.

11. Obstacles encountered in the implementation of article 8.

Insufficient staff within public institutions with legal qualifications.

Lack of public interest in the procedures of drafting normative acts.

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

Chapter V of the Regulation on involvement of the public in the elaboration and adoption of environmental decisions is regulated by the Procedure of involvement of the public, namely:

Point 20. In case of involving the public in the process of drafting laws, regulations and decisions on projects at national level, projects with transboundary impact and other legislative and normative acts, the central authority for the environment:

- a) shall inform the public through the media about the initiation of the processes of elaboration of the aforementioned acts;
- b) shall set up working groups( public inquiry partnerships), including representatives of NGOs and the public;
- c) shall organize, if necessary, sociological surveys on the timeliness and stipulations of the normative act to be elaborated;
- d) shall invite representatives of the media to the meetings of the working groups, thus ensuring the transparency of their work;
- e) shall forward the draft acts to NGOs, other interested bodies for approval;
- f) shall organize press conferences, round tables, television and radio broadcasts, in which the essence of these acts will be displayed;
- g) shall take note of the complaints, proposals received, modifying, if necessary, the content of the draft documents which are in the process of preparation;
- h) after the approval by the higher courts of the prepared documents or their publication in the Official Gazette of the Republic of Moldova, shall organize various public activities for familiarizing the population with them (press conferences, round tables, briefings, etc.)

point 21. In the case of public involvement in the development of decisions related to projects at national level and those with cross-border impact, the procedure shall be similar to that set out in point 20 of this regulation.

Point 22. In the case of public involvement in the development of decisions related to economic activities with an impact on the environment at the local level, the local public administration bodies:

- a) shall inform the population about the initiation of documentation development processes;
- b) upon verbal or written request of representatives of NGOs and the public, shall set up groups to conduct surveys in order to determine the possible impact of the intended object. These groups shall be formed on a parity basis by representatives of stakeholders (local public authority, beneficiary, population).

Point 23. Depending on the degree of complexity, the consultation will be done through environmental sociological surveys with specific methods and techniques of information and consultation.

Point 24. The duration of the surveys is up to 30 days, depending on the category of documents to be approved. If necessary, depending on the degree of complexity, the survey can be extended up to 60 days.

Point 25 Beneficiary:

- shall organize public debates on the projects submitted for examination;



- shall present the results of public debates to the state ecological expertise;
- shall bear responsibility for the conclusions of the public audit, confirmed by the state environmental expertise;
- shall pay all costs related to the procedure of involvement of the public in those activities.

Point 26. Involvement of the public will be considered completed when the decision adopted, following the consultation of the public on the projects concerned, is published.

### 13. Website addresses relevant to the implementation of article 8.

[www.mediu.gov.md](http://www.mediu.gov.md),

[www.am.gov.md](http://www.am.gov.md)

<http://www.mediu.gov.md/ro/content/transparen%C8%9B%C4%83-decizional%C4%83>

<https://www.madrm.gov.md/ro/content/anun%C8%9B-privind-ini%C8%9Biarea-elabor%C4%83rii-proiectului-legii-privind-organismele-modificate-genetic>

<https://www.madrm.gov.md/ro/content/anun%C8%9B-privind-ini%C8%9Biarea-elabor%C4%83rii-proiectului-legii-privind-utilizarea-%C3%AEn-condi%C8%9Bii-de>

## 36. Romania

### Article 6

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

(a) With respect to paragraph 1, measures taken to ensure that:

(i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

(ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

Article 6 of the Convention refers to environmental decisions/permit for proposed activities listed in Annex I of the Convention. Romanian legislation ensures public participation in decision making since transposition in 2002, under Government Decision no.918 on establishing the framework procedure for environmental impact assessment of certain public and private, of Directive EIA.

Law no. 292/2018 was adopted in 2018. This regulation strengthens all the requirements regarding public participation in decision making on specific activities as required under Directive 2003/35/EC incorporating Pillar II of the Aarhus Convention into the community legislation.

The national EIA legislation provides the public participation principle that needs to be implemented whenever the public authority applies the procedure for proposed activities subject to the EIA procedure (Annex I and II of the EIA Directive, as amended).

Under Article 5 (1) of Law 292/2018, this regulation does not apply to projects of national defence, if the MEWF decides, together with the Ministry of National Defence, on a case-by-case analysis, that such application of the procedure would negatively impact the purpose.

Transposition of the relevant definitions of Article 2 of the Convention was provided in Article 2 of Law 292/2018.

Under the national legislation in force, public participation is an integral part of the regulatory procedure of all projects/activities that might have a significant environmental impact.

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

In regard to paragraph 2 of Article 6 of the Convention:

Article 16 par. (1) of Law 292/2018 provides that the public concerned shall have the possibility to participate timely and effectively in the environmental impact assessment procedure, to prepare and submit comments and opinions to the competent environmental authority when all the options are open and before taking the decision to issue/ reject the development approval.

Thus, according to Article 15 (2) of Law 292/2018, in the environmental impact assessment procedure, the competent environmental authorities shall inform the public from the beginning of the procedure, and by the time the information can be reasonably provided at the latest, by public announcements and by posting on their own website, the following:

any request for environmental agreement;

the fact that the project is subject to the environmental impact assessment procedure, indicating, as applicable, whether the project is covered by the provisions regarding assessment in a cross-border context;

the contact data of the competent authorities in issuing/rejecting the environmental agreement, of the authorities where relevant information can be obtained, of the authorities where comments or questions can be submitted, and the deadline for such submissions;

the nature of potential decisions or, if applicable, the draft decision;

The fact that the information obtained in the scoping step of the assessment and the preparation of the environmental impact assessment report are made available to the public;

The place, timeline and the means by which relevant information is made available to the public; the way the public can participate in the procedure.

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

The public can participate in the public debate (public hearing) and can submit comments.

Before the public hearing, the project and the EIA report are made available to the public for a period of 30 working days. During this time, the public may submit comments and opinions to the competent environmental authority and to the developer. The project and the EIA report are subject to public hearing. The public may submit comments during the public hearing. The competent environmental authority is obliged to take into account all public comments received during the procedure, or submitted in writing before the public hearing, as well as those expressed during the public hearing.

The provisions of Annex 5 of Law 292/2018 setting the environmental impact assessment methodology for public and private projects comply with the requirements regarding public participation and the time periods.

The legislation in force provides for determined time frames for the different public opportunities to participate in the decision-making process.

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

According to the national legislation in force, the public is informed early in the environmental decision-making process when all the options are open, with the first step being the announcement of application submission.

For projects requiring environmental impact assessment (EIA), the application must also include a non-technical summary. This ensures that the public has an adequate basis for effective consultations. At this point in time, no decision will have been taken by the competent authority on the project's eligibility for approval.

Following the public announcement of an environmental agreement application submission, the public has the opportunity to send comments or opinions regarding the application and the supporting documents.

Under Article 9 (9) of GD Law 292/2018, the public is informed on the decision of the screening stage and has the possibility to consult the decision.

The public concerned is consulted during the scoping stage. They can express comments and opinions regarding the developer's request and these are taken into consideration in the development of the scoping report. The report is made available to the public under Article 10 (3) of Law no. 292/2018.

The public concerned has also the possibility to consult and sent comments on the EIA report (Article 14 (2) of Law 292/2018: "The EIA Report is subject to interested public comments, and the proposals/ recommendations shall be taken into account in the review stage. "

The report is subject to public hearing. The competent authorities publish the decision to issue/reject the environmental agreement and makes available to the public the content of the environmental agreement (including all the conditions it contains), the main reasons and considerations on which the decision to issue/reject it is based, where necessary, of the main measures to prevent, avoid, reduce and, where is possible, compensate/offset the significant adverse effects.

We consider that timely public participation assumes providing the interested public an opportunity to contribute when they can influence the environmental assessment of the project.

Following the public announcement of an environmental agreement application submittal, the public has the opportunity to send comments or opinions regarding the request and the supporting documents. The public involvement in the scoping stage (in order to draw up the scoping report) helps the competent environmental authority in focusing on the most important aspects that need to be assessed from the environmental protection.

The consultation of the public concerned during the review stage contributes to an effective impact assessment of the proposed project. As a result, the final decision (the decision to issue or reject the environmental agreement) will be better documented and the chance of being challenged are reduced.

(e) With respect to paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

The Ministerial Order No.269/2020 approving the EIA guidelines recommends that the developers must promote their projects among the public concerned and encourages them to provide project presentations before the application for a final decision/permit.

(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), the competent authorities give to the public concerned the information listed in this paragraph;

As mentioned above, the competent public authorities make available to the public concerned all the relevant information for the decision-making process. The documentation available to the interested public contains information about the proposed location, the non-technical summary, the potentially significant environmental effects of the proposed activity, the investigated alternatives, etc.

Under Law no. 292/2018, the developers have the obligation to provide the EIA report, which is a public document and it is available to the public for comments. The environmental report includes information, inter alia, about:

a description of the project, including site data, proposed technical solutions and the size of the project including an estimate of the expected residues and emissions;

a description of the current state of the environment and of its evolution in case the project is not implemented;

a description of the environmental factors which might be affected;

a description of the measures envisaged in order to avoid, reduce and, if possible, remediate significant adverse environmental impacts, including a description of the monitoring measures, if applicable;

the necessary data to identify and assess the main effects which the project is likely to have on the environment; and the prognose methods used;

a general presentation of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;

a non-technical summary.

Under Law 292/2018, in the environmental impact assessment procedure, the competent environmental authorities must inform the public on time, and by the time the information can be reasonably provided at the latest, the EIA Report for comments from the public, which shall be considered in the review stage. The competent environmental public authority shall make a public announcement and shall post on its website the information gathered during the scoping and the review stages.

(g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

The procedure for public participation allows the public to submit comments, information and analyses related to the proposed activity. The public may participate in the public hearing and express opinions as they consider relevant to the proposed activity.

The public may submit written opinions in every step of the EIA procedure and especially comments on the EIA report may be submitted in order to be discussed during the public hearing. Such provisions are present in the methodology of the applying for EIA procedure, adopted by subsequent legislation.

(h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

The legislation in force establishes that the competent authority must take into account the outcome of the public participation in the decision-making process. EGO No.195/2005 on environmental

protection establishes the principle of public participation in the decision-making process. It also states that the specific procedures must be provided in special regulations.

For example, the Romanian legislation (Law 292/2018), requires that the EIA decision takes into account the outcomes of the consultations and all the information obtained in accordance with this procedure.

(i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

The public is informed about the decision taken by announcements posted on the website of the public authority and of the owner of the project. The announcements must contain the text of the decision, including the main reasons and considerations it was based on.

The owner of the project must make the announcement regarding the decision taken in national/local newspapers (Annex 5 of Law 292/2018), while the environmental authorities must publish the decision on their website, including the content and reasons thereof.

Article 19 (1) of Law 292/2018 provides the implementation of the requirement of paragraph 9 of the Convention. Moreover, this article provides the transposition of article 9 (1) of EIA Directive as well.

(j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

Annex 5 of Law 292/2018 provides that, when the public authority revises a decision taken, public participation must be included. Thus, Article 41 provides that the competent authority sends to the developer the public announcement drafted according to the template provided in Annex No. 5.T. the developer informs the public through mass-media, by publishing an announcement on its internet page and at the location of the local administration authority. Also, the environmental competent authority publishes on its web page an announcement and the draft screening decision. The public can send comments/opinions/observations on the draft decision within 10 days from the date the announcement was published on the web page of the environmental authority. If the public's comments/opinions/observations lead to the review of the decision, then the revised decision is made available to the public by the developer and by the environmental competent authority on their web pages. If the comments/ opinions/ observations don't lead to the review of the decision, then the decision becomes final.

(k) With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Emergency Government Ordinance No.43/2007 regarding deliberately introduction on the environment and on the market of genetically modified organisms contains provisions on public participation and information, in its Article 6 para. (4) and Article 17.

Emergency Government Ordinance No.44/2007 regarding the isolation conditions of the genetically modified organisms approved by Law No.3/2008, guarantees public information and consultation in the permitting procedure for activities using genetically modified organisms under isolation conditions, in Article 20.

Romania has accepted the GMO amendment of the Aarhus Convention by the adoption of Law No. 24/2008.

2. Obstacles encountered in the implementation of article 6.

Sometimes, lack of financial resources may be an obstacle.

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

The public hearing is mandatory within the EIA procedures undertaken for projects and takes place in every county (there are 42 counties in Romania). Such hearings are organised by the local environmental protection agencies (LEPA) with support from the developer.

In order to promote public participation in decision making processes, the provisions of the environmental legislation in force on regulatory document issuing procedures are applied: public announcements in the mass-media, institution website, developer website, posting at the mayor's office, titleholder's office public hearings.

4. Website addresses relevant to the implementation of article 6.

See answer to question VI

## Article 7

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

The participation of the public during the preparation of plans and programmes relating to the environment was established by the transposition into national legislation of European Directives 2001/42/EC and 2003/35/EC.

GD No. 1076/2004 for setting up the Environmental Assessment Procedure of certain Plans and Programs transposes the provisions of Directive 2001/42/EC. Public information and participation to the environmental assessment procedure is reflected in Section 4 of GD No. 1076/2004.

GD No. 564/2006 providing for public participation in respect of the drawing up certain plans and programmes relating to the environment transposes Directive 2003/35/EC. This Government Decision was issued in the application of Article 7 of the Aarhus Convention and, together with GD No. 1076/2004, implements the provisions of Article 7 of the Aarhus Convention. GD No. 564/2006 transposes the definition of the term public under the Aarhus Convention.

Article 4(1) of GD No.564/2006 stipulates that “the public shall participate effectively and in a timely manner, having the opportunity to consult the documentation and submit comments,

questions, or opinions before a decision is taken, and when all options for the development of a plan or program or for the modification or review of a plan or program are still open.”

According to Article 5 of GD No. 564/2006, the public is informed, *inter alia*, regarding the initiation of the planning process of a plan or programme and on their right to participate in the decision-making. Public participation includes a mandatory public hearing for the plan/program, subjected to this regulatory act.

Article 9 (1) and (3) of GD No. 564/2006 stipulates that the public authority shall take into account the outcome of the public participation and shall inform the public accordingly. Article 2(2) of GD No.564/2006 provides for the transposition of the non-discrimination requirement as follows: any natural person, without discrimination as to citizenship, nationality or residence and, in the case of the legal persons, without discrimination in regard to the place of office registration or actual place of business.

GD No. 1076/2004 provides the definition for the term public as contained in the Aarhus Convention.

GD No.1076/2004 provides that, in the consultation process, together with the submission of the plan/program to the environmental authority, in order to decide if it will undertake the strategic environmental assessment, the public is informed by public announcements and shall have access to the plan/program draft. This is done in a timely manner, as required by GD No.1076/2004, early, from the beginning of the plan/ programme. Article 2, letter b) defines the environmental assessment as the preparation of the environmental report, the consultations of public and of the public authorities interested by the environmental effects of implementing the plans or programmes, taking into account the environmental report and the results of the consultations in the decision-making process and providing the information on the decision.

However, usually the public is more interested in the EIA procedure, where the level of detail is higher and it is easier to understand what the possible immediate changes within the environment are, instead of the SEA procedure, which is established for a strategic level, and where one has to look into perspectives.

According to GD no. 1076/2004 for setting up the environmental assessment procedure of certain plans and programmes, the responsibility of involving the public is shared between the beneficiary and the environmental authority.

During the screening phase of the SEA procedure, the beneficiary shall inform the public about the first draft of the plan or programme, by repeatedly announcing it in mass-media (2 public announcements three days apart) and by publishing it on his web page. The first announcement for the public is made simultaneously with the notification of the environmental authority. The public can send written comments and proposals to the competent environmental authority within 15 days of the last announcement. After the environmental authorities take the screening decision, they make it available to the public for 10 days and the comments and opinions expressed by the public are taken into account for reconsidering the screening decision. The announcement about the screening decision is also published in mass media by the beneficiary.



Moreover, the draft plan or programme and environmental report are subject to public hearing. After the elaboration of the environmental report, the beneficiary of the plan or programme makes public announcements in mass media and posts on its web page about the availability of the plan or programme and environmental report (2 public announcements three days apart). These announcements are made 45 days before the public hearing or 60 days before if the plan or programme has transboundary effects. A public hearing is also organized to discuss the plan or programme and environmental report. The public can express its opinion by submitting written comments to the beneficiary or to the environmentally competent authority before the public hearing and also at the public hearing. These comments are taken into account and can lead to the amendment of the plan or programme and environmental report.

The final decision is also announced in mass media by the beneficiary and on the environmental authority's web page.

The beneficiary has the obligation to inform the authorities consulted during the SEA procedure, the public and the potentially affected states and to make available to them the following documents:

- The adopted plan/programme,
- A declaration regarding the way the environmental aspects were integrated into the plan/programme, the way the environmental report was prepared, the way the public and other authorities' opinions were taken into account, the way the transboundary consultations were taken into account, the reasons for choosing a particular alternative to the plan/programme,
- the measures for monitoring the effect of the plan/programme on the environment.

The beneficiary makes an announcement in mass media, and on its webpage about the time and place for the consultation of the above-mentioned documents.

The central public authority that promotes the plan/programme sends these documents to the central environmental authority from the potentially affected states.

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

The policies of the Government related to the environment are materialized in strategies, plans or programs. These documents are subject to GD No. 1076/2004 or GD No. 564/2006.

7. Obstacles encountered in the implementation of article 7.

The fact that the public is not aware of the environmental problems, for various reasons: standards of living, information vehicles, age, education, occupational interest, etc.

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

Romania has undertaken the SEA procedures, including public participation phase, (also public hearing meetings) for all the sectoral operational programs developed for 2013-2020. Further, for the 2017-2020 programming period MEWF applied the SEA procedure, including the public

participation step, to all the sectoral operational programmes and other plans/programs/strategies in the areas of: transport, economic competitiveness, waste, climate change, agriculture, forestry, energy, industry, mining of mineral resources, waste management, water management, telecommunications, tourism, regional development.

9. Website addresses relevant to the implementation of article 7.

See question VI

## Article 8

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

Public participation in developing legislation/ regulations is provided under Law No.52/2003 on decisional transparency in public administration, as amended, which stimulates the active citizen participation in the process of elaboration of normative acts or regulations and to the decision-making process. Law 52/2003 establishes the obligation for public authorities to inform and submit to public debate normative acts, to ensure access to the decision-making process and to the public debate results.

The public authority has the obligation to publish the announcement regarding the drafted normative acts on its website, to post it at its offices and, as appropriate, to send it to the local or central media.

Website publications include draft regulations, decisions, ordinances, giving the public an opportunity to actively participate in developing them.

On written request, the public authority shall send a copy of the normative act to the concerned citizen.

The announcement must be published at least 30 working days in advance of the submission of the normative act to approval, adoption, or endorsement.

The public authority has the obligation to establish a period of a minimum of 10 days in which to receive public comments.

A public hearing on the proposed normative act may be organized by the public authority at the request of at least one person. Order No.1325/2000 on public participation, during the preparation of plans, programmes, policies and legislation relating to the environment establishes a dialogue between the environmental public authorities and NGOs, through a working group.

11. Obstacles encountered in the implementation of article 8.

Insufficient legally trained personnel in the public institutions.

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

N/A

13. Website addresses relevant to the implementation of article 8.

www.sov.ro

www.mmediu.ro

### 37. Serbia

#### Article 6

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

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

Answer

The Law on Environmental Impact Assessment (LEIA) is the principal piece of legislation regulating the participation of the public in the process of making decisions on activities listed in Article 6 of the Aarhus Convention. The following bylaws elaborate the Law on Environmental Impact Assessment:

- Decree establishing the list of projects for which an impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08);
- Rule book on the content of requests for evaluating the need of developing impact assessments and on the contents of requests for specification of scope and contents of the environmental impact assessment studies (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the content of the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the content, layout and methods of managing a public register on conducted procedures and adopted decisions related to environmental impact assessment (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the work of the Technical commission for environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05);
- Rule book on the procedure of public access, presentation and public debate on the environmental impact assessment study (Official Gazette of the Republic of Serbia No. 69/05).

Moreover, the participation of the public in the process of making the decisions regarding activities listed in Article 6 of the Aarhus Convention is regulated through the provisions of other pieces of legislation:

- Law on Environmental Protection;

- Law on Waters
- Law on Integrated Environmental Pollution Prevention and Control (Official Gazette of the Republic of Serbia No.135/04 and 25/15); (IPLC)
- Decree on types of activities and plants for which an integrated license can be obtained (Official Gazette of the Republic of Serbia No. 84/05);
- Law on Planning and Construction,
- Law on Genetically Modified Organisms (Official Gazette of the Republic of Serbia No. 41/09) (LGMO)
- Law on National Parks (Official Gazette of the Republic of Serbia No. 84/15 and 95/18).

Describe the transposition of the relevant definitions in Article 2 and the non-discrimination requirement in Article 3, paragraph 9.

Answer

The LEP and the LEIA contain definitions of the following notions: "public", "public concerned" and "competent authority" (LEP: Article 3, Items 26, 28 and 29a; LEIA: Article 2, Items 1, 7 and 2).

The LEIA also defines the meaning of other notions that can be of importance for the implementation of provisions of Article 6, such as: "project developer", "authorities and organisations concerned", "Environmental impact assessment study", etc.

Also, and in particular, describe:

- (a) With respect to paragraph 1, measures taken to ensure that:
  - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

Answer

- Please refer to the LEIA: Article 4, Paragraph 1, Item 1, and Article 5 (the obligation to obtain approval of an EIA study from the competent authority) and the Decree on establishing the list of projects for which the impact assessment is mandatory and a list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – "List I". The rules of public participation procedure apply to the projects that are found in the List of projects requiring mandatory environmental impact assessment.

- Please refer to the LIPPC: Article 4 (Types of activities and installations for which an integrated permit shall be granted) and the Decree on Types of Activities and Plants for Which an Integrated License Can be Obtained. The law defines the entire procedure of public participation in issuing integrated permits for plants to which the LIPPC refers.

- Please refer to the LEP: Article 60c (Public insight, presentation and public discussion on the Security Report). This article defines the obligation of the competent authority to provide public insight, organize a presentation and conduct a public hearing on the Security Report in the decision-making process on giving consent to the Security Report, for seveso complexes, which are subject to the obligation to prepare that document.

(ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

Answer

- Please refer to LEIA: Article 4, Paragraph 1, Item 2; Article 5 (the obligation to obtain the approval of the EIA study from the competent authority). The environmental impact assessment procedure applies equally to the projects that are not featured in "List I", if the competent authority makes a decision to that effect, namely, if the projects in question are deemed to have potentially significant impact on the environment. The list of projects for which environmental impact assessment is not mandatory is defined in the Decree on establishing the list of projects for which the impact assessment is mandatory and the list of projects for which EIA can be requested (Official Gazette of the Republic of Serbia No. 114/08) – "List II".

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

Answer

- Articles 10, 11, 14, 15, 20, 25, 27, 29, 32 of the LEIA regulate the participation of the public concerned. Article 10 of this law specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application.

- Articles 3, 6, 11, 12, 14, 15, 23 and 24 of the LIPPC regulate the participation of the public concerned. Article 11 specifies the procedure of informing the authorities, organisations and the public about the receipt of an application for an integrated permit.

- LW in Article 38 regulates the participation of public concerned in the preparation and adoption of a water management plan. Article 142 (LW) prescribes that the National Conference for Water is composed of the representatives of local self governments, representatives of water users' and associations.

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

Answer

- The LEIA, namely, Articles 10, 11, 14, 15, 20, 21, 23, 24, 25, 27, 28 specify the deadlines for or related to the participation of the public in different stages of the environmental impact assessment procedure.

- Articles 11, 12, 14 and 15 of the LIPPC stipulate the deadlines for the participation of the public in different stages of the procedure of issuing integrated permits.

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

Answer

- Article 10, Paragraph 1 of the LEIA specifies that the competent authority shall inform the public, as well as the authorities and organisations concerned about the submitted application for a decision on the need for an impact assessment within ten days from the date of receipt of a complete application. Paragraph 3 of this article states that members of the public concerned may submit their opinions within ten days from the date of receipt of the notice referred to in Paragraph 1 of this Article. Paragraph 4 specifies that the competent authority shall decide on the application within 15 days from the expiry of the period set out in par. 3 of this Article, taking into account the opinions of the authorities, organisations and the public concerned. Then the competent authority delivers its decision to project developers and informs the authorities, organizations and the public concerned about it within three days from the date when the decision was adopted (Paragraph 7).

- Please refer to Article 11 of the LIPPC regulating the procedure of informing the authorities, organisations and the public about the receipt of an application for an integrated permit, while Articles 12 and 15 regulate the obligation of providing information about the draft of the permit and the issuance of an integrated permit, respectively. At the request of other authorities and organisations and the public concerned, the competent authority shall deliver a copy of the application for an integrated permit, as well as a copy of the draft permit. The competent authority shall inform other authorities and organisations and the public concerned through public media, by publishing information in at least one local newspaper covering the territory that will be affected by the impact of activities and plants. The information is to be made available via the Internet, as well.

- Article 60c of the LEP stipulates that the competent authority within seven days from the date of receipt of the Security Report informs the submitter of the report, authorities, organizations and the public concerned about the time and place of the public insight, public presentation and public discussion on the Security Report.

(e) With respect to paragraph 5, measures taken to encourage prospective applicant to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer

No special measures aimed at motivating the applicants to recognize the public concerned, take part in discussions or provide information as to the goals of application before applying for a permit are planned.

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

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Answer

a)

- Please refer to the LEIA: Article 10, Paragraph 2; Article 12, paragraph 2.

-Article 20, Paragraph 1 of the LEIA stipulates that the competent authority shall make the EIA study available to public and arrange for a public presentation and public debate on the study. Article 17 of the same law specifies the content of the environmental impact assessment study, namely, the content of all relevant information made available to the public. The Rule Book on Environmental Impact Assessment Study (Official Gazette of the Republic of Serbia No. 69/2005) gives a more detailed specification of the prescribed content of certain elements stated in Article 17 of the LEIA.

b)

- The public concerned is granted access free of charge to all relevant information specified in Article 17, namely, the Rule Book on Environmental Impact Assessment Study. Please, refer also to Article 33 of the LEIA stipulating that project developer shall cover the costs, including those relating to the participation of the public.

- Please, refer to Article 3 of the LIPPC stating the basic principles of integrated environmental pollution prevention and control, including the principle of public character of work. Article 6 of the LIPPC defines that the competent authority shall provide, among other things, for public access to the contents of permit granting application, issued permits and monitoring results;

(g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

Answer

- Please, refer to the LEP: Article 81, Paragraph 4; LEIA: Article 10, Paragraphs 2, 3; Article 14, paragraph 2; Article 20; Article 21, paragraphs 1, 2, 3; Article 23; Article 32, paragraphs 2, 4;

- Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study: Articles 4, 5, 6, 7.

- Please, refer to the LIPPC stipulating that other authorities and organisations and representatives of the public concerned may submit to the competent authority their opinions within 15 days from the date of receipt of the notice. During the draft permit elaboration, the competent authority shall consider the opinions of other authorities and organisations and the public concerned (Article 12).

(h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Answer

- LEIA: Article 14, Paragraph 3; Article 21, paragraphs 1, 2; Section 32. Paragraph 4.

- Rule Book on Public Access Procedure, Presentation and Public Debate about the Environmental Impact Assessment Study: Article 7.

- Please, refer also to Article 15 of LIPPC stipulating that the competent authority shall decide on permit granting on the basis of the operator's application, the attached documentation, reports and evaluation of the technical commission, as well as on the basis of the opinions obtained from other authorities and organisations and the public concerned.

(i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Answer

- Article 25 of the LEIA specifies the obligation to inform the public about the decision, including the reasons for the decision. See also Article 196 of the Law on General Administrative Procedure stating the form and elements of a decision.

- Please, refer to Article 15 of the LIPPC stipulating that the competent authority shall deliver to the operator the decision on granting permit, or refusal of the application for granting the permit and inform accordingly other authorities and organisations and the public concerned within eight days from the date of passing the decision. The competent authority shall deliver the written notice to other authorities and organisations. Article 31 defines that the responsible person in the competent authority shall pay a fine for a range of offences, including failure to inform other authorities, organisations and public in the prescribed way (Article 23);

(j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate

Answer

-Article 3. LEIA specifies that an environmental impact assessment is carried out in case of planned projects and projects being implemented, changes in technology, reconstruction, extension of capacity, termination of operations, and the removal of projects that may have



significant impact on the environment. The procedure defined by law accordingly applies to projects that involve changes in technology, reconstruction, extension of capacity, termination of operations, etc.

- Please, refer also to Articles 18, 28 of the LEIA

- Article 18 of the LIPPC defines the review procedure and the situations when a review procedure is carried out. The procedure itself is the same as when granting a permit.

(k) With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer

In accordance with Article 15 of the Law on Genetically Modified Organisms (LGMO) (informing to the public), following the receipt of the application, the Ministry of Agriculture, Forestry and Water Management (hereinafter: MAFWM) shall make available to the public the contents of the application in at least one daily newspaper distributed on the entire territory of the Republic of Serbia, and through electronic media. The MAFWM shall organize and hold a public debate lasting up to 30 days from the day when the application contents were made available to the public.

The opinion of the Expert Council and the final decision with a rationale shall be published by the Ministry in at least one daily newspaper distributed on the entire territory of the Republic of Serbia and through electronic media.

- Please, refer also to Article 63 of the Law on Food Safety specifying that upon placing genetically modified food and genetically modified feed on the market, including quantities in bulk, the business operator concerned shall provide the recipient of such food or feed with the prescribed data in writing.

## 2. Obstacles encountered in the implementation of Article 6.

- The requirements to provide copies of the entire documentation constitute infringement of copyright of project designers/consultants.

- Low public participation in the EIA procedures at the level of the autonomous province. The absence of the obligation to inform the public concerned about the assessments in writing may be one of the factors contributing to that. Certain non-governmental organizations states that participation of citizens is low because decisions are adopted regardless of the adequate comments.

- Conspicuously low level of participation of the bodies and organizations concerned (except professional organizations, such as organization focusing on the protection of the environment).

- The fact that the LEIA has not been harmonized with the Aarhus Convention (the provisions regulating "the assessment of impact of the current status").

- The most frequent obstacles and problems in the implementation of regulations related to public participation in decision-making affecting environmental impact assessments are insufficient

public participation due to being uninformed, uninterested, late inclusion in the course of the case after the deadlines for the right to complaint have expired, as well as lack of trust in the work of the competent body regarding the protection of their interests (City of Niš).

- The problems that occur relate to lack of citizen satisfaction regarding the choice of location for planning the implementation of projects subject to the environmental impact assessment procedure. Another problem is the insufficient public participation. Although the public is informed in accordance with the regulations as well as through the local communities on whose territory the project is planned to be implemented, during the implementation of the procedure and in all phases, the public is not sufficiently interested in participating in the procedure. Occasionally there is a subsequent public interest when the case has already been completed and when all deadlines for the right to appeal have expired. (City of Novi Sad).

- Regarding obstacles and problems in the implementation of regulations related to public participation, the public is insufficiently informed and motivated to take part in environmental impact assessment procedures (City of Kragujevac).

- Having in mind that the public interest in inspecting the case documentation and attending public hearings is extremely small, it is necessary to devise a more transparent way of animating the public for inclusion in decision-making in the field of environmental protection. We noticed that citizens find out about the implementation of a project in their neighborhood only after the beginning of the project, when it is already too late for public participation. Authorities and organizations concerned very rarely participate in decision-making, although they are invited to give opinions during public scrutiny. The city municipalities on whose territory the project is planned should participate much more actively in informing citizens and inviting them to participate in decision-making in the field of environmental protection for projects planned in their environment (City of Nis).

- Certain non-governmental organizations states that: majority of the Environmental Impact Assessment Studies does not contain cumulative impacts, alternative scenarios are not developed; complex projects are divided into several individual projects to avoid large adverse effect; developers of the Study are at the same time the employees of the company; there is no evaluation as to whether the Study is prepared well or not, what is important is that it satisfies the Rulebook on the contents of the impact assessment study, hence there is no possibility of license withdrawal; there are no reviews in cases where there is documented reporting by citizens on destructive effects of a certain project; Impact assessments are not carried out for the significant amendments to the existing projects – facilities; the mechanism of approving the as-is state is still being exercised.

- Certain non-governmental organizations states that decision on the necessity to prepare impact assessment for the list II projects is underspecified; in practice, it boils down to the discretion of the impact assessment department.

- Certain non-governmental organizations states that the impact assessments do not clearly specify the deadline for implementation of environmental protection measures; hence there is no monitoring of the implementation thereof and, in addition to the conditions, protective measures need to be updated as well.

- Certain non-governmental organizations states that most of the Environmental Impact Assessment Studies have been rejected due to formal deficiencies, not one of them was rejected due to the comments given, poorly prepared study or citizen dissatisfaction.
- Certain associations believe that in general, in regard to Article 6, the meaning of consultations with civil society is still not well understood in Serbia. Namely, during the organisation of consultation processes, the objective is primarily to comply with the technical form, and not to essentially and in good faith accept the expert opinion of civil society.
- Certain associations consider that the provisions of Article 6 of the Aarhus Convention, which should be applied when deciding whether to allow the proposed activities listed in Annex I, do not apply sufficiently, especially if the operators are public enterprises. During the reporting period, a large number of public hearings were held where there were verbal conflicts between the organisers and participants.
- Certain associations consider that there are insufficient regulations and mechanisms to ensure the involvement of vulnerable groups in environmental decision-making and that, although there is a declarative commitment to involve members of vulnerable groups in decision-making and policy making, in practice there are no mechanisms that create conditions for their equal participation. The big challenge often lies in the (un)availability of information and the manner of informing the public, which is not always adapted to the needs of certain vulnerable groups. In addition, the importance of their involvement is largely not recognized in the field of environmental protection, which is largely caused by the lack of data on how environmental challenges affect different categories of the population differently.
- Certain associations consider that there is a lack of systematic, coherent and transparent public involvement in issues of public interest related to different sectors: nature protection, air protection, health protection, energy, climate change, water management and spatial planning. There is a difference between different sectors and institutions in the way of public involvement. In some, it is more functional in others less, so it can be said that there is an unequal and non-standardized approach to public involvement when looking at all areas that have an impact on the environment.
- Certain associations believe that there is a need to develop cooperation between civil society organisations and public authorities to develop a model of public involvement.
- Certain associations consider that there is insufficient activity of Aarhus Canters in terms of actively promoting the principles of the Aarhus Convention and supporting civil society organizations and the public for the purpose of being involved in environmental decision-making, especially at the local level.
- The Association of the Regulatory Institute for Renewable Energy and the Environment (hereinafter: RERI) on 25 February 2019 submitted a request for information on the progress of administrative procedure (administrative procedure in which a construction permit was issued to the investor for the construction of the Jaruga small HPP), to the municipality of Bela Crkva, municipal administration. As the first instance body - the Municipality of Bela Crkva, the

municipal administration, did not act upon the submitted request within the legally prescribed timeframe of 60 days, so the RERI Association filed a complaint due to the silence of the administration on 26 July 2019 to the second instance body - the Municipality of Bela Crkva - the Municipal Council. Bearing in mind that even after the complaint was filed, the second-instance body did not act upon the submitted request, the RERI Association on 14 October 2019 submitted a request for urgent action which stipulated an additional period of 7 days for action. Considering that the acting body did not act even after that, the RERI Association filed a lawsuit due to the silence of the administration to the Administrative Court in Belgrade on 8 November 2019, with a request that the court orders the acting body to decide on the submitted request. Considering the above, the RERI Association pointed out that it was not enabled to participate in the decision-making process that may have an impact on the environment, given that it was denied the right to the necessary information on the construction of the Jaruga small HPP.

-Certain associations point out that there is an inability of the public to participate in decision-making procedures that may have an impact on the environment due to the fact that the competent authorities invoked the ban on gathering more than 30 people indoors, prescribed by the Order on Banning Gatherings in Public Places Indoors and Outdoors ("Official Gazette of the RS", Nos. 100/20 and 111/20) due to the Kovid 19 epidemic.

### 3. Further information on the practical application of the provisions of Article 6.

a)

- In 2017 the MEP passed decisions for 119 requests on the need to conduct environmental impact assessment, 32 requests to determine the scope and content of the environmental impact assessment study, 44 requests for approval of issuing environmental impact assessment studies; gave 18 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc.).

- In 2018 the MEP passed decisions for 215 requests on the need to conduct environmental impact assessment, 36 requests to determine the scope and content of the environmental impact assessment study, 47 requests for approval of issuing environmental impact assessment studies; gave 84 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc.).

- In 2019 the MEP passed decisions for 142 requests on the need to conduct environmental impact assessment, 46 requests to determine the scope and content of the environmental impact assessment study, 61 requests for approval of issuing environmental impact assessment studies; gave 31 opinions/instructions related to the enforcement of the Law on Environmental Impact Assessment (competence for the procedure, study updating, interpretation of provisions, project list, response to information of public importance, etc.).

- In 2017, the SUEP conducted 47 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 20

cases; Phase II – determining the scope and content of the environmental impact assessment study: 13 cases; Phase III – deciding on the approval of the environmental impact assessment study: 13 cases, study updating: 1 case. The public did not participated in conducted procedures, while authorities and organizations concerned participated in passing of final decisions in 13 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina, Public Enterprise National Park Fruska Gora, one association and Local Self-Government of the Autonomous Province of Vojvodina, etc).

- In 2018, the SUEP conducted 80 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 34 cases; Phase II – determining the scope and content of the environmental impact assessment study: 22 cases; Phase III – deciding on the approval of the environmental impact assessment study: 20 cases, study updating: 4 cases. The public did not participated in conducted procedures, while authorities and organizations concerned participated in passing of final decisions in 40 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina, Public Enterprise National Park Fruska Gora, MEP, Provincial Secretariat for Agriculture, Water Management and Forestry and Local Self-Government of the Autonomous Province of Vojvodina).

- In 2019, the SUEP conducted 62 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 28 cases; Phase II – determining the scope and content of the environmental impact assessment study: 17 cases; Phase III – deciding on the approval of the environmental impact assessment study: 16 cases, study updating: 1 case. The public did not participated in conducted procedures, while authorities and organizations concerned participated in passing of final decisions in 28 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina, Institute for Protection of Cultural Monuments and Local Self-Government of the Autonomous Province of Vojvodina).

- In 2020 (until June 30Th), the SUEP conducted 17 environmental impact assessment procedures, out of which: Phase I – deciding whether it was necessary to conduct the environmental impact assessment: 10 cases; Phase II – determining the scope and content of the environmental impact assessment study: 6 cases; Phase III – deciding on the approval of the environmental impact assessment study: 1 case. The public did not participated in conducted procedures, while authorities and organizations concerned participated in passing of final decisions in 2 cases (Institute for Nature Conservation of the Autonomous Province of Vojvodina and Local Self-Government of the Autonomous Province of Vojvodina).

- At the Secretariat for Environmental Protection of the City of Belgrade (SEPCB), under procedures for environmental impact assessment for projects, within the remit of the Department for Environmental Impact Assessment of Projects in 2017, 294 procedures were conducted based on applications for deciding on the need for impact assessment/ granting consent to the study on environmental impact assessment, out of which 252 applications were resolved (by rejecting 10 irregular applications, for 31 applications the procedure was suspended, 1 application was forwarded to the competent ministry, for others appropriate decisions were made on the need for impact assessment/granting consent to an impact assessment study). In 2018, 152 procedures were

conducted based on applications for deciding on the need for impact assessment/ granting consent to the study on environmental impact assessment, out of which 132 applications were resolved (by rejecting 8 irregular applications, for 12 applications the procedure was suspended, 2 applications were forwarded to the competent ministry, for appropriate others decisions were made on the need for impact assessment/granting consent to the impact assessment study). In 2019, 121 procedures were conducted based on applications for deciding on the need for impact assessment/granting consent to the study on environmental impact assessment, out of which 115 applications were resolved (by rejecting 5 irregular applications, for 16 applications the procedure was suspended, for others, appropriate decisions were made on the need for impact assessment/granting consent to the impact assessment study). During this period, citizens expressed interest in participating and giving opinions in a total of 15 impact assessment procedures, while authorities and organisations concerned submitted opinions in 50 environmental impact assessment procedures. Within the scope of the right to appeal, the following was recorded: in 2017, 6 appeals were filed by project developers, and 1 lawsuit of the public concerned was filed with the competent court; in 2018, 7 appeals were filed, out of which 6 were filed by project developers and 1 by the public concerned; in 2019, 3 appeals were filed, out of which 1 by the public concerned and 2 by the project developers.

-The SEPCB, regarding the public participation in the procedures for issuing permits for treatment, i.e. storage and recovery of waste, as well as issuing integrated permits for certain types of plants in the city of Belgrade, informs the public about submitted applications and adopted decisions, and organises public inspection of available documentation, in accordance with the law. Within the scope of the Licensing Department in 2017, 12 procedures were conducted on deciding on applications for issuing permits for treatment, i.e. storage and recovery of waste, out of which 8 were completed (by issuing 3 permits, rejecting 3 irregular applications, and 2 applications forwarded to the competent ministry for resolution). Also, 14 applications for the issuance of an integrated permit were considered, out of which 9 were resolved (by issuing 1 integrated permit, 2 procedures were suspended and 6 irregular applications were rejected). In 2018, 16 procedures were conducted on resolving applications for issuing a permit for treatment, i.e. storage and reuse of waste, out of which 10 were completed (by issuing 3 permits and amending 1 permit, rejecting 4 irregular applications and rejecting 2 applications). Also, 7 applications for the issuance of an integrated permit were considered, out of which 3 were resolved (by issuing 1 integrated permit and rejecting 2 irregular applications). In 2019, 21 procedures were conducted on resolving applications for issuing permits for treatment, i.e. storage and recovery of waste, out of which 18 were completed (by issuing 8 permits and amending 3 permits, rejecting 4 irregular applications, suspending 2 procedures and rejected 1 application). Also, 6 applications for issuance of an integrated permit were considered, whereby 2 applications were decided by being rejected as irregular. In the observed period (1 January 2017 – 31 December 2019) in the conducted procedures for issuing an integrated permit, public representatives did not respond to the invitation to participate in the public inspection procedure, whereas the notified authorities concerned submitted 3 opinions on the application submitted and one opinion on the draft decision on issuing the integrated permit. In the procedures for deciding on the request for the issuance of a permit for the operation of waste management facilities, representatives of the public and other notified

authorities and organisations did not respond to the invitation to submit an opinion on the submitted request. Within the right to appeal against the adopted administrative act which ended the procedure of deciding on applications for issuing permits in the field of waste management, management of particularly hazardous chemicals, permits for stationary sources of air pollution and integrated permits, the following was recorded: in 2017 there were no appeals submitted; in 2018, 3 appeals were filed by the operator - the applicant; in 2019, 1 appeal was filed by the applicant operator; no lawsuits were filed with the competent court to initiate an administrative dispute.

- In 2017, in the Environmental Protection Office of the City of Novi Sad, there were 82 cases related to environmental impact assessment, in 2018 were 58 cases related to environmental impact assessment, in 2019 were 71 cases related to environmental impact assessment and in 2020 (until June 26Th) were 27 cases related to environmental impact assessment. The complaints coming from citizens or associations regarding impact assessment procedures, namely, breaching environmental regulations are as follows: 2017 – 1 complaint, 2018 – 3 complaint, 2019 – 2 complaint and 2020 – 2 complaint and 2 lawsuits until June 26Th 2020.

- In the City Administration of Nis, Secretariat for Environmental Protection, in the period from 2017 to June 2020, were filed 87 requests about the need for environmental impact assessment, 16 requests for approval to the study of the environmental impact assessment, was carried 5 public insights into the case documentation and filed 3 citizens' appeals against the decision of the competent authority related to the installation of base stations at certain locations.

- In the city administration for spatial planning, urban planning, construction and environmental protection (Kragujevac) the number of environmental impact assessments in 2017 was 18 cases, in 2018 it was 27 cases, in 2019 it was 22 cases and in 2020 it was 17 cases. Citizens' interest in giving opinions on impact assessments is low, they are very rarely submitted (there were only a few opinions in the mentioned period). The submitted requests for deciding on the need for environmental impact assessment, as well as the adopted decisions are announced in the local newspaper, on the official website of the City of Kragujevac, and notifications are sent to authorities and organizations concerned. In addition to them, notifications are delivered to the local communities on whose territory the project is planned, where they are placed on a bulletin board and the president of the local community council is notified. In the submitted opinions, citizens often complain about problems that are not the subject of environmental impact assessment, but urbanism, illegal construction, property and the like. In the implementation of the Law on Environmental Impact Assessment since its adoption in 2004, 4 complaints were filed by citizens against issued decisions on impact assessment, 3 decisions were annulled and cases were returned for retrial, and one complaint of citizens was rejected as unfounded. NGOs did not file any complaints.

b)

-The obligation to establish Stakeholder Councils under the Law on National Parks is an example of good practice where the importance of involving stakeholders and local people in the management of national parks is recognized. Although there is room for improvement of this legal

solution (for now, the decisions of the Stakeholder Council are not binding on the manager; the Council is obliged to meet once a year), the Stakeholder Councils are a good example that other protected areas should follow and involve the public in their work.

4. Website addresses relevant to the implementation of Article 6.

(a) See the list of website addresses related to Article 4.

b) <https://www.ekologija.gov.rs/obavestjenja/procena-uticaja-na-zivotnu-sredinu/>

Mep

<http://www.ekourbapv.vojvodina.gov.rs/rs/>

Secretariat for Urban Planning and Environmental Protection of the Autonomous Province of Vojvodina

[beograd.rs/lat/gradska-vlast/2036-sekretarijat-za-zastitu-zivotne-sredine/](http://beograd.rs/lat/gradska-vlast/2036-sekretarijat-za-zastitu-zivotne-sredine/)

Secretariat for Environmental Protection of the City of Belgrade

<https://environovisad.rs/>

Environmental Protection Office of the City of Novi Sad

<http://www.ni.rs/gradska-uprava/uprave-i-sluzbe/uporzss/>

City Administration for Economy, Sustainable Development and Environmental Protection Office in Nis

<https://www.kragujevac.rs/lokalna-samouprava/gradska-uprava-za-prostorno-planiranje-urbanizam-izgradnju-i-zastitu-zivotne-sredine/>

City Administration for Spatial Planning, Urban Planning, Construction and Environmental Protection in Kragujevac

**Article 7**

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

- Law on Strategic Environmental Impact Assessment;

- Law on Environmental Protection: Article 10; Article 14, paragraph 1, Item 3; Article 35; Article 81, Paragraph 1, Item 1 and Paragraph 2; Law on Planning and Construction: Article 16, Article 33, Paragraphs 3, and 4; Article 41; Article 43 Paragraph 3 and 4, Article 45; Article 45a; Articles 50 and 51; Law on Air Protection: Article 37, paragraph 3; Law on Waters: Sections 37-39; Article 25, Item 7; Law on Nature Protection: Article 54, Paragraphs 6-8; Articles 115 and 116; Law on Forests: Section 28; Law on Energy: Article 5, 6; Law on Agriculture and Rural Development (Official Gazette of the Republic of Serbia No. 41/09): Article 5; Article 6; etc.

- Law on Planning System (Official Gazette of the Republic of Serbia No. 30/18) (LPS);



- Decree on the methodology of public policy management, analysis of the effects of public policies and regulations and the content of individual public policy documents (Official Gazette of the Republic of Serbia No. 8/19) (DMPPM);
- Decree on the conditions and procedure for issuing a waste management permit, as well as criteria, characterization, classification and reporting on mining waste ("Official Gazette of RS", No. 53/17).

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

Answer

The Law on Strategic Environmental Impact Assessment (LSEIA) contain definitions of the following notions: "public" and "public concerned" (Article 3, Item 5 and 6) that can be said to have been harmonized with the definitions in the Aarhus Convention.

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

- Article 81 of the LEP states that the participation of the public regarding strategic impact assessment shall be ensured by opening spatial and urban plans, i.e. any other plan or programme from Article 35 of this law to the public scrutiny. The strategic environmental impact assessment is developed for certain plans, programs and principles in the domain of spatial and urban planning or land utilization, agriculture, forestry, fishing, hunting, energy, industry, traffic, waste management, water management, telecommunications, tourism, infrastructure systems, protection of natural and cultural resources, flora and fauna and their habitats etc., and is an integral part of the plan, program or basis (Article 35). The strategic environmental impact assessment must be harmonized with other environmental impact assessments, as well as with environmental protection plans and programmes and is carried out in accordance with the procedure set out in a special law. Autonomous province or local self-government units, within their rights and responsibilities, define the types of plans and programmes for which the strategic impact assessment will be developed.
- Article 19 of the LSEIA specifies that public participation is an integral part of the decision-making process. Prior to submitting the request for approval of the strategic assessment report the competent authority responsible for preparation of plans and programs shall provide for public participation in reviewing the strategic assessment report. The public shall review the report within the process of displaying the plans and programmes for public scrutiny and during public debate, unless otherwise provided by law. The competent planning authority informs the public about the method and deadlines for reviewing the content of the report and submission of opinion, as well as the time and venue of holding the public debate, in accordance with the law regulating the procedure of adoption of plans and programmes. The competent planning authority compiles the report on the participation of interested bodies, organisations and the public, which shall encompass all the inputs referred to in Article 18, Paragraph 2 of this law, as well as the inputs submitted during public scrutiny and public debate on the plans and programmes, and the strategic

assessment report referred to in Article 19 of this law. The report is compiled within 30 days from the date of completion of public debate and includes explanations on all the accepted or rejected opinions (Article 20). According to Article 22, based on the evaluation in Article 21 of this law, the competent environmental protection authority grants approval to the strategic assessment report or rejects the request for granting approval. The deadline for issuing approval is 30 days from the day of receipt of the request submitted by the competent planning authority. The authority competent for preparing the plan or program cannot submit the plan or program for further adoption without having obtained approval of the report on the strategic assessment, issued by the authority competent for environmental protection. The Ministry responsible for environmental protection shall conduct the exchange of information on transboundary impact of plans and programmes on the environment (Article 23). Article 24 stipulates that the strategic assessment report and the results of participation of the authorities, organisations and public concerned and other states in the cases of transboundary impact shall become an integral part of the documentation that provides the basis for plans and programmes. The competent planning authority shall provide access to the data referred to in Paragraph 1 of this Article after the adoption of plans and programmes, under the conditions set forth by law.

-The Law on Planning and Construction specifies that strategic environmental impact assessment is an integral part of the spatial plan of the area used for special purposes (Article 22). The decision on developing planning documents also includes, the obligation, or absence thereof, of producing the strategic environmental impact assessment (Article 46). The Law on Planning and Construction stipulates that public participation, as regards urban and spatial planning, takes place during public discussion, meaning that the strategic impact assessment report is reviewed at the same time. According to Article 41, planning documents with annexes must be accessible for public scrutiny during the period of validity of the documents, in the premises of the entity of the decision-maker except for a special annex relating to special measures for the arrangement and preparation of the territory for the needs of the country's defense. The planning document is displayed for public scrutiny takes place after technical review is completed and is announced in a daily and local newspaper and lasts for 30 days from the date of announcement (Article 50). In the event that the competent authority makes a decision to repeat the public scrutiny for a part of the draft planning document, the public scrutiny may not last shorter than 15 days from the day of announcement. The display of the planning document for public scrutiny is overseen by the ministry in charge of spatial planning i.e. the body of the local self-government unit responsible for spatial and urban planning. The responsible body, i.e. the Committee for plans, compiles a report on the conducted public scrutiny of the planning document, which contains information on the completed public scrutiny process, with all the remarks and decisions on account of every remark. The report is submitted to the developer of the planning document, who is obliged to act upon these decisions within 30 days from the day of delivery of the report. Moreover, in the event that, following public insight into the draft planning document, the responsible agency, i.e. the Committee for plans establishes that the adopted remarks fundamentally alter the planning document, it make a decision instructing the developer of the planning document to prepare a new draft of the planning document, within a deadline which cannot exceed 60 days from the day on which the decision was adopted (Article 51).

- Law on Local Self-Government prescribes that a municipality (city) through its bodies, in accordance with the Constitution and the law, ensure environmental protection, protection from natural and other disasters, protection of cultural goods of importance to the municipality. (Article 20, item 8)
- Article 37 of the Law on Air Protection stipulates that the government adopts a four-year National Programme for Gradual Reduction of Maximum Annual Emissions of Pollutants and that the public and the public concerned must have access to the programme.
- Article 37 of the Law on Waters specifies the obligation of carrying out the environmental impact assessment for the Strategy and water management plan and special water management plan in accordance with the legislation regulating the field of environmental protection. Articles 38 and 39 regulate the participation of the public in the preparation of the water management plan and the procedure for actions to be carried out following public remarks, respectively. Article 25, Item 7 states that the public has the right on information about the state of waters and the work of competent authorities responsible for water management and to participate in the processes of preparation and adoption of water management plans and control of their implementation.
- Article 43 of the Law on Nature Protection states that the competent authority provides public scrutiny and organizes a public debate about the draft of a protected area designation document, as well as about the supporting documents provided by experts – the protection study with the accompanying maps. Notices of public hearing are published in at least one daily newspaper, which is distributed throughout the territory of the Republic of Serbia and in the local newspaper of the local self-government unit on whose territory the area whose protection is proposed is located, and contains information on time and place of public scrutiny and public debate. According to Article 54, Paragraphs 6-8 of the Law on Nature Protection, the management of a protected area shall inform the public about the proposed plan for managing the protected area. Informing the public means also providing public scrutiny of the proposed plan. Article 116 states that public participation shall be provided in accordance with this law in the course of developing regulations and documents designating a protected area, protected area management plans and plans for utilization of natural resources.
- Article 21 of the Law on Forests specifies that the Forest Development Plan (as a document determining the directions of forest and forestry development, with a plan of implementation in the forest region) shall include, among other things a strategic environmental impact assessment report. The Forest development plan must be harmonized with the program from Article 19 of the Law on Forests and with the Spatial Plan of the Republic of Serbia.
- Article 34 of the LPS stipulates that a participant in the planning system responsible for drafting public policy documents (hereinafter: the competent proposer) is obliged to enable the participation of all stakeholders and target groups in the consultation process, which it conducts during drafting public policy documents. The competent proposer considers the suggestions made by stakeholders and target groups during the consultation. The competent proposer informs the participants of the consultations about the results of the conducted consultations, and especially about the reasons why certain suggestions are not included in the public policy document. Article

36 of the LPS stipulates that the competent proposer is obliged to conduct a public hearing on public policy document before submitting it for consideration and adoption, and to prepare a report on the conducted public hearing.

Article 39 of the DMPPM provides for consultations to be conducted during public policy-making and drafting of public policy documents, as well as during drafting of regulations, and their purpose is to collect from stakeholders and target groups the data necessary to conduct an impact analysis, in order to defining optimal public policy measures, ie. solutions in regulations. The public debate is conducted immediately before the adoption of the public policy document, ie. regulation. Article 40 of the DMPPM stipulates that proposers of public policy documents, ie. drafters of laws, are obliged to consult with representatives of all target groups and other stakeholders during the drafting of that document, ie. the law, using an appropriate technical consultation. The method (technique) of the consultation is chosen depending on the problem to be solved, the available time and resources, as well as the availability of potential participants in the consultation. The most commonly used consultation techniques are: 1) focus groups; 2) round table; 3) semi-structured interview; 4) panel; 5) survey; (6) collection of written comments (Article 41). Article 44 of the DMPPM stipulates that the competent proposer informs the participants of the consultations about the results of the conducted consultations, and especially about the reasons why certain suggestions were not accepted, and is obliged to publish the information about the results of the conducted consultations on its website no later than 15 days after the end of consultation. The procedure of public debate on the draft public policy document is conducted in accordance with the Rules of Procedure of the Government (Article 45).

#### 7. Obstacles encountered in the implementation of Article 7.

- Incompatibility of sectoral regulations that provide the basis for the adoption of plans and programmes with the LSEIA (since the strategic impact assessment is performed for plans and programmes from different sectors and not only those that refer to spatial and urban planning, a problem with public participation occurs for plans and programmes of different sectors where the laws applying to these sectors, based on which such plans and programmes are adopted, do not provide for public participation).
- Limited possibilities of protecting the right to equal treatment in administrative and judicial procedures because the public participate only in the third phase (phase I – preparation, phase II – development of an expert evaluation, phase III – decision on the strategic impact assessment report).
- Some associations consider that public participation in designing strategic state documents and processes related to drafting laws, by-laws and rule books is not at a satisfactory level. The role of the media, namely, media coverage of environmental issues is also unsatisfactory.
- Some associations consider that Strategic impact assessments in relation to Spatial Plans are being systematically breached and they do not at all have the role they should have, but are only documents resting in the drawers.

- Some associations believe that public authorities do not motivate citizens to engage in dialogue regarding policies or programs.
- Certain associations believe that the public authorities, especially local self-government authorities, are insufficiently capable of implementing the DMPPM.

#### 8. Further information on the practical application of the provisions of Article 7.

- In the period 2017-2020, the MEP issued 31 decisions on the approval of the strategic environmental impact assessment, 49 decisions on the development of the strategic environmental impact assessment and 67 opinions on the strategic environmental impact assessment for local self-government units. No data is available about the total number of strategic impact assessments carried out at the level of local self-government units.
- In 2017 the SUEP held 88 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic environmental impact assessment - 67 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 10 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 5 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 6 requests.
- In 2018 the SUEP held 68 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic assessment - 46 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 6 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 9 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 7 requests.
- In 2019 the SUEP held 58 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic environmental impact assessment - 38 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 10 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 4 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 6 requests.
- In 2020 the SUEP held 18 procedures regarding strategic environmental impact assessments, namely: providing opinions on decisions on not initiating the drafting of a strategic environmental impact assessment - 11 requests, providing opinion on the decision on drafting a strategic environmental impact assessment - 3 requests, providing opinion on the Report on the Strategic Environmental Impact Assessment - 2 requests and providing approval to the Report on the Strategic Environmental Impact Assessment - 1 request.
- In 2020 (until June 30, 2020) 18 procedures were conducted in the SUEP relating to the strategic environmental impact assessment, as follows: delivering opinion on the decisions on failing to commence the preparation of the strategic impact assessment - 11 requests, delivering opinion on the decision on elaboration of strategic impact assessment - 3 requests, delivering opinion on the

Report on the strategic environmental impact assessment - 3 requests and approving the Report on the strategic environmental impact assessment - 1 request.

-The Law on Planning and Construction (LPC) and the Rulebook on the content, manner and procedure of drafting spatial and urban planning documents (RCMPDSUPD) ("Official Gazette of RS", No. 32/19) sets out the activities and describes the manner and procedure of presenting the planning documentation to the public and the obligations of the holder of these documents to act. Following the decision on the development of the spatial plan in accordance with the LPC and RCMPDSUPD, the main designer of the plan development makes arrangements for informing the public - legal and natural persons (phase of early public inspection). Early public inspection is announced in the media and in electronic form on the website of the local self-government unit included in the scope of the planning document and on the website of the plan owner, i.e. SUEP. The early public inspection procedure lasts 15 days. An adequate material is compiled for the purpose of presentation to acquaint the public with the general goals and purpose of the plan. In this way, the public is given the opportunity to express themselves through written remarks, suggestions or opinions, while the holders of public authorizations and other institutions are invited to submit conditions and other data of importance for the preparation of the planning document. After each early public inspection that is held, a Report is drawn up, containing a list of received conditions, opinions, remarks and suggestions. Public inspection - presentation of the planning document for the public inspection is performed in the further process of drafting the plan, after the expert control. The presentation of the planning document for public inspection is announced in the media and lasts for 30 days from the day of announcement. The planning document is presented in an analogue form, as well as in electronic or digital form, on the website of SUEP, and in the same way in the local self-government units whose territories are located within the scope of the plan to be presented. The content of the advertisement is prescribed by the LPC and RCMPDSUPD, therefore it contains all the necessary information required to acquaint the public concerned - legal and natural persons, with the proposed planning solutions and to submit their comments and suggestions. The procedure of public inspection also includes arrangements for a public presentation of the planning document. The text of the advertisement contains precise information on the manner, place and time of the public presentation, as well as the place and time of the public meeting of the Commission for public inspection, which may be attended by the public concerned. After the public inspection of the planning document, a Report on the performed public inspection is prepared in accordance with the LPC and RCMPDSUPD. The report also contains data on the received objections and suggestions with the conclusion whether they are accepted or not. During the public inspection of the planning document some objections and suggestions for certain plans were submitted from the public concerned, while for some plans there were no objections nor suggestions.

- In the period from 2017 to 2020, SUEP, as the competent authority of AP Vojvodina for spatial and urban planning, conducted the procedure of public inspection, preceded by the procedure of early public inspection, for the following planning documentation:

1. Spatial Plan for the Special Purpose Area of the infrastructure corridor of the transport gas pipeline collection station Tilva - Bela Crkva, with elements of detailed regulation;

2. Spatial Plan for the Special Purpose Area of the infrastructure corridor of the transport gas pipeline Sremska Mitrovica - Sid, with elements of detailed regulation;
  3. Spatial Plan for the Special Purpose Area of the cultural landscape of Sremski Karlovci;
  4. Spatial Plan for the Special Purpose Area of the irrigation system of Srem;
  5. Spatial Plan for the Special Purpose Area of the water supply system "East Srem" ("Official Journal of APV", No. 57/17);
  6. Spatial Plan for the Special Purpose Area of protected natural assets "Okanj bara" and "Rusanda" (Decision of the Provincial Assembly on the adoption of the Spatial Plan);
  7. Spatial Plan for the Special Purpose Area "Fruska Gora";
  8. Spatial Plan for the Special Purpose Area of the special nature reserve "Slano Kopovo";
  9. Spatial Plan for the Special Purpose Area of the infrastructure corridor of the transport gas pipeline Futog - Beocin with elements of detailed regulation (Decision of the Provincial Assembly on the adoption of the Spatial Plan);
  10. Spatial Plan for the Special Purpose Area of the infrastructure corridor of the distribution gas pipeline Rivica-Jazak-Letenka, with elements of detailed regulation;
  11. Spatial Plan for the Special Purpose Area of the Nature Park "Ponjavica";
  12. Spatial Plan for the Special Purpose Area of the Landscape of Outstanding Features "Potamišje";
  13. Spatial Plan for the Special Purpose Area of the State Road IIa order No. 100 for the needs of reconstruction and modernization of the road and construction of a bicycle lane on the section Novi Sad - Stara Pazova (up to the border with the administrative area of the City of Belgrade), with detailed elaboration;
  14. Spatial Plan for the Special Purpose Area of dredging, deposition and remediation of sediments of the part of the DTD Hydrosystem chanel network Vrbas-Bezdan from the confluence with the channel Becej-Bogojevo to the hydro junction Vrbas;
  15. Spatial Plan for the Special Purpose Area for collection, drainage and treatment of wastewater in the Sava River Basin in the region of Srem;
  16. Spatial Plan for the Special Purpose Area of the infrastructure corridor of the Subotica-State Border railway (Baja direction) with elements for direct implementation as well as for the planning documentation whose development is in progress;
  17. Spatial Plan for the Special Purpose Area of the Nature Park "Jegricka";
  18. Spatial Plan for the Special Purpose Area of the landscape "Vrsacke planine".
- The procedure of early public inspection is arranged for the following planning documentation, the preparation of which is in progress:

1. Decision of the Provincial Assembly on the development of the Spatial Plan for the Special Purpose Area of revitalization of the Begej Canal;
2. Decision of the Provincial Assembly on the development of the Spatial Plan for the Special Purpose Area of Nature Park "Begečka jama";
3. Decision of the Provincial Assembly on the development of the Spatial Plan for the Special Purpose Area of the Special Nature Reserve "Pasnjaci velike droplje".

- Within the competencies of SUEP in accordance with LPC and RCMPDSUPD, for projects of importance for the Republic of Serbia, i.e. where the urban planning project is elaborated on the basis of the spatial plan of the special purpose area, public presentations of urban planning projects were organized as technical documents for the execution of the planning documents. The procedure for advertising and presenting the urban planning project is prescribed by LPC and RCMPDSUPD. The presentation of the urban planning project is announced in the media, on the official website of SUEP and on the official website of the local self-government unit 7 days before the day set for the beginning of the public presentation, and the public presentation is held for 7 days.

- Pursuant to the provisions of the Law on Planning and Construction, the Law on the Strategic Environmental Impact Assessment ("Official Gazette of RS", no. 135/04 and 88/10) and other relevant regulations, during the period 2017-2020 there were public reviews held for 33 draft spatial plans for special purpose areas (hereinafter: spatial plans) and reports on the strategic environmental impact assessment of spatial plans for special purpose areas (hereinafter: SIA reports), namely:

1. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of IB class state road, highway E-75 Belgrade - Niš (interchange "Požarevac") - Požarevac (bypass) - Veliko Gradište - Golubac and the Report on the strategic environmental impact assessment of the Spatial Plan;
2. The Draft Spatial Plan for the special purpose area for the construction of Kolubara B thermal power plant and the Report on the strategic environmental impact assessment of the Spatial Plan;
3. Draft amendments to the Spatial Plan for the special purpose area of hydropower plants "Brodarevo 1" and "Brodarevo 2" on the Lim river and Report on the strategic environmental impact assessment of the Spatial Plan;
4. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of the Belgrade-Niš railway track and the Report on the strategic environmental impact assessment of the Spatial Plan;
5. The Draft Spatial Plan for the special purpose area of the Nature Park "Šargan - Mokra Gora" and the Report on the strategic environmental impact assessment of the Spatial Plan;



6. Draft Amendments to the Spatial Plan for the special purpose area of the infrastructure corridor of I class state road I No. 21 Novi Sad - Ruma - Šabac and I class state road No. 19 Šabac - Loznica and the Report on the strategic environmental impact assessment of the Spatial Plan;
7. The Draft Spatial Plan for the special purpose area for the Implementation of the project for the exploitation and processing of Jadarite minerals “Jadar” and the Report on the strategic environmental impact assessment of the Spatial Plan;
8. The Draft Spatial Plan for the special purpose area of the Barje reservoir basin and the Report on the strategic environmental impact assessment of the Spatial Plan;
9. The Draft Spatial Plan for the special purpose area of IB class state road No. 27 Loznica - Valjevo - Lazarevac, section Iverak - Lajkovac (connection with highway E-763 Belgrade – South Adriatic, section Belgrade - Požega) and the Report on the strategic environmental impact assessment of the Spatial Plan;
10. The Draft Spatial Plan for the special purpose area of the landscape of outstanding features “Vlasina” and the Report on the strategic environmental impact assessment of the Spatial Plan;
11. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of highway E - 761, section Pojate - Preljina and the Report on the strategic environmental impact assessment of the Spatial Plan;
12. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of the high-voltage transmission line 2x400 kv Bajina Bašta - Obrenovac and the Report on the strategic environmental impact assessment of the Spatial Plan;
13. The Draft Spatial Plan for the special purpose area of the exploitation of mineral resources at the location of “Čukaru Peki” mine in the Municipality of Bor and the Report on the strategic environmental impact assessment of the Spatial Plan;
14. The Draft Spatial Plan for the special purpose area of the Nature Park “Zlatibor” and the Report on the strategic environmental impact assessment of the Spatial Plan;
15. The Draft Spatial Plan for the special purpose area of the Special Nature Reserve “Mileševka River Gorge” and the Report on the strategic environmental impact assessment of the Spatial Plan;
16. Draft Amendments to the Spatial Plan for the special purpose area of the transmission gas pipeline Border of Bulgaria - Border of Hungary and the Report on the strategic environmental impact assessment of the Spatial Plan;
17. The Draft Spatial Plan for the special purpose area of Studenica Monastery and the Report on the strategic environmental impact assessment of the Spatial Plan;
18. The Draft Spatial Plan for the special purpose area of the National Park “Tara” and the Report on the strategic environmental impact assessment of the Spatial Plan;
19. The Draft Spatial Plan for the special purpose area of the Cer Mountain and the Report on the strategic environmental impact assessment of the Spatial Plan;

20. The Draft Spatial Plan for the special purpose area of highway E-761, section Požega - Užice - border with Bosnia and Herzegovina and the Report on the strategic environmental impact assessment of the Spatial Plan;
21. The Draft Spatial Plan for the special purpose area of the Special Nature Reserve “Jerma” and the Report on the strategic environmental impact assessment of the Spatial Plan;
22. The Draft Spatial Plan for the special purpose area of distribution gas pipeline RG 09-04/2 Aleksandrovac - Kopaonik - Novi Pazar – Tutin, with elements of detailed regulation, and the Report on the strategic environmental impact assessment of the Spatial Plan;
23. The Draft Spatial Plan for the special purpose area of the landscape of outstanding features “Ovčar-Kablar Gorge” and the Report on the strategic environmental impact assessment of the Spatial Plan;
24. The Draft Spatial Plan for the special purpose area of the IB state road, section Borča – Zrenjanin, with elements of detailed regulation, and the Report on the strategic environmental impact assessment of the Spatial Plan;
25. The Draft Spatial Plan for the special purpose area of the infrastructure corridor Belgrade-South Adriatic, section Požega-Boljare (border with Montenegro) (highway E-763) and the Report on the strategic environmental impact assessment of the Spatial Plan;
26. The Draft Spatial Plan for the special purpose area of the archaeological site “Belo Brdo” and the Report on the strategic environmental impact assessment of the Spatial Plan;
27. The Draft Spatial Plan for the special purpose area of the reservoir basin “Vrutci” and the Report on the strategic environmental impact assessment of the Spatial Plan;
28. The Draft Spatial Plan for the special purpose area of the reservoir basin “Prvonek” and the Report on the strategic environmental impact assessment of the Spatial Plan;
29. Draft Amendments to the Spatial Plan for the special purpose area of the coal basin “Kostolac” and the Report on the strategic environmental impact assessment of the Spatial Plan;
30. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of the high voltage interconnection line 2x400 kv Republic of Serbia (Bajina Bašta) - Border of Montenegro - Border of Bosnia and Herzegovina and the Report on the strategic environmental impact assessment of the Spatial Plan;
31. Draft Amendments to the Spatial Plan for the special purpose area of the infrastructure corridor Niš - Border of Bulgaria and the Report on the strategic environmental impact assessment of the Spatial Plan;
32. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of highway E-80, section Niš - Merdare and the Report on the strategic environmental impact assessment of the Spatial Plan;

33. The Draft Spatial Plan for the special purpose area of the infrastructure corridor of the Belgrade – Subotica - State Border (Kelebija) railway track and the Report on the strategic environmental impact assessment of the Spatial Plan.

In 2020, the plan is also to organise a public inspection of the drafted Spatial Plan of the Republic of Serbia for the period 2021-2035.

The advertising and presentation for public review of the above draft spatial plans and SEIA reports is under the competence of the Ministry of Construction, Transport and Infrastructure, in cooperation with local self-government unit public competent authorities for urban and spatial planning affairs. The draft spatial plans and SEIA reports were presented for public review during the advertised periods (in the daily papers "ALO", "SRPSKI TELEGRAF", "DANAS", "KURIR" and "INFORMER"), in the seats of local self-government units encompassed by the above spatial plans, as well as on the websites of the Ministry of Construction, Transport and Infrastructure and local self-government units that are within the scope of the spatial plan. All further information on the place of presentation, as well as required explanations, could be obtained in the services tasked with urban and spatial planning affairs in the local self-government units. Public presentations of the above draft spatial plans and SEIA reports were held at the seats of local self-government units encompassed by the above spatial plans. Natural and legal persons could submit their objections to the draft spatial plans and SEIA reports for the duration of public review in writing to the Ministry of Construction, Transport and Infrastructure. At the same time, opinions were collected during the public review from interested public authorities and organizations, and the public, in accordance with the provisions of the Law on the Strategic Environmental Impact Assessment. Upon the completion of public review, public sessions of the Commission for the implementation of the procedure of public review of the draft spatial plans of the special purpose area and SEIA reports (hereinafter: Commission) were held in the seats of local self-government units encompassed by the spatial plans, deliberating on the objections of natural and legal persons submitted during the public review. During the above public sessions, natural and legal persons could publicly elaborate on their objections. Closed sessions of the Commission produced final opinions on each individual objection submitted by natural and legal persons, and/or interested bodies and organizations, and the public. Pursuant to the provisions of the Law on the Strategic Environmental Impact Assessment, opinions of the ministry competent for environmental protection affairs were collected for the above SEIA reports.

- The INCVP and other competent provincial institutions, the SUEP, the Provincial Institute for Urbanism, in accordance with the above, provided several public reviews on the proposed regulations on the proclamation of protected areas and nature protection studies, as well as public hearings, e.g.:

1. Public review of the Draft of the Provincial Decree on the Proclamation of the Nature Park "Jegrička";
2. Public review of the Draft Provincial Assembly Decision on the Protection of the Landscape of Outstanding Features of "Vršac Mountain";

3. Public review of the Draft Provincial Assembly Decision on the Protection of Natural Monuments "Stratigraphic Profile - the Beočin Branch";
4. Public review of the Draft Provincial Assembly Decision on the Protection of the Nature Park "Slatine in the Zlatica Valley";
5. Public review of the Draft Provincial Assembly Decision on the Protection of the Landscape of Outstanding Features "Kanjiški Jaraši";
6. Public review of the Draft Special Purpose Area Spatial Plan of the Nature Park "Jegrička".

All these public presentations and discussions were relatively well attended by stakeholders, and detailed information and the aforementioned Nature Protection Studies can be found on the website of the INCVP.

-During 2019, through the EU-funded PLAC III project, an Ex-ante analysis of the effects for the circular economy was prepared in accordance with the Law on Planning System. The public presentation of the document was held on November 6, 2019, at the final conference of the project, with the participation of all stakeholders, institutions and representatives of the civil sector. In addition, during February 2020, public consultations were conducted, so that the mentioned document was posted on the website of the MEP and the Office for Information Technology and Electronic Administration. The public consultation process was conducted in accordance with the regulations governing public participation and the Law on the Planning System.

- At the beginning of 2019, a public debate was held on the Public Health Strategy, in which the issues of health and environmental protection are connected.

- At the beginning of 2020, a public debate was held on the Proposal of the Low Carbon Development Strategy and on the Draft Report on the Strategic Environmental Impact Assessment of this Strategy.

#### 9. Website addresses relevant to the implementation of Article 7.

(a) See the list of website addresses related to Article 4.

(b) <https://www.mgsi.gov.rs/cir/>

Ministry of Construction, Transport and Infrastructure

<http://www.ekourbapv.vojvodina.gov.rs/>

SUEP

<http://www.pzzp.rs/rs/st/>

Provincial Institute for Nature Conservation

#### **Article 8**

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

- Article 77 of the Law on State Administration stipulates that public authorities are obliged to provide conditions for public participation during the preparation of draft laws, other regulations and acts. Ministries and special organizations are obliged to inform the public through their website and e-government portal about the start of drafting the law, while publishing basic information about the planned solutions that will be proposed. Ministries and special organizations during the preparation of the draft law consult with all relevant entities, including other public authorities, relevant associations, the professional public, as well as other stakeholders. Ministries and a special organisations shall be obliged to undertake public debate in the procedure of preparation of a law which essentially changes the legal regime in one field or which regulates issues of particular relevance for public. The procedure of conducting a public debate in the preparation of a law shall be regulated in detail by the Rules of Procedure of the government.

- Please, refer to Article 41-45 of the Rules of Procedure of the government (Official Gazette of the Republic of Serbia No. 30/13). A similar provision is to be found in the Rules of Procedure of the National Assembly of the Republic of Serbia. A uniform legislative methodology is applied in the process of preparing legislation adopted by the National Assembly (Official Gazette of the Republic of Serbia No. 21/10).

- Several environmental regulations allow for the possibility of participation of the public in the preparation of regulations. Thus, for example Article 116 of the Law on Nature Protection stipulates that the participation of the public in accordance with this law is planned in the process of drawing up regulations and documents designating protected natural resources and those regulating the plans for managing protected areas and the plans for using natural resources. Article 22, Paragraph 1, Item 28 of the Law on Radiation and Nuclear Safety and Security stipulates that the Directorate for Radiation and Nuclear Safety and Security of Serbia shall establish appropriate mechanisms and procedures for informing the public and consulting with other authorities and organizations concerned in the field of radiation and nuclear safety and security. Article 10 of the Law on Food Safety states that "Public debates shall be held in the course of drafting, appraisal and amendment of the food legislation in accordance with current regulations, with direct or indirect participation of all interested parties, except in emergencies when this would be impossible."

#### 11. Obstacles encountered in the implementation of Article 8.

- The obligation of ensuring that the public participation procedure is carried out is not incorporated in all pieces of legislation that may be of importance for the field of environment.

- Although competent authorities carry out different activities aimed at informing the public concerned and collecting opinions of members of the public during the process of preparing and adopting environmental legislation or regulations that may be of importance for the field of environment, some associations maintain that this procedure is not implemented consistently and that the public does not have possibilities to influence the adoption of regulations.

-Relatively low interest of the public to participate in the procedures related to drafting legislation.

- Insufficient knowledge of the public concerned as to how, when and to whom to submit their opinions.
- Certain associations believe that a number of laws are being passed under an urgent procedure that excludes public participation.
- The process of involving CSOs in drafting a negotiating position for Chapter 27, in which CSO representatives had to sign a confidentiality statement to participate in working groups, is not, in the opinion of certain associations, an adequate example of public involvement. Furthermore, for most decision-making processes, access is limited to associations from Belgrade because other organizations do not have the funds for travel expenses, and very often there are no trained people to participate in the processes.
- Certain associations point out that the Law on Public Administration regulates the issue of public involvement in the adoption of regulations by the Ministries and special organizations, including informing the public about the start of work on amending regulations on the E-Government Portal website and the obligation to hold public hearings. However, associations believe that such an information mechanism is lacking for the regulations adopted at the local level, which further complicates citizen participation.

#### 12. Further information on the practical application of the provisions of Article 8.

- MEP posts all draft legislation on its website ([www.ekologija.gov.rs](http://www.ekologija.gov.rs)) and members of the public concerned can submit their comments and participate in the process of adopting regulations.
- The working group for developing the draft Law on the Environmental Liability is also comprised of representatives of non-government organizations, such as the non-government organization "Belgrade Open School", referring the draft Law to a large number of other non-government organizations and collecting their suggestions and comments.
- As from 2013, MEP has begun to periodically hold meetings with representatives of the associations in order to include them in all activities and establish the partnership with them.
- In the period from 2017 to 2020, representatives of civil society, as members of the working group, participated in the development of Directives Specific Implementation Plans (DSIPs), as well as in the development of the Action Plan for Strengthening Administrative Capacities, which are accompanying documents of the Negotiating Position for Chapter 27- Environment and Climate Change.
- The "Green Chair" is a mechanism that enables the participation of civil society organizations in the work of the Committee for Environmental Protection of the National Assembly of the Republic of Serbia. This mechanism began operating on June 5, 2013. Through the Green Chair mechanism, the representatives of the civil society organisations are provided with a place at the Committee meetings, where the representatives of the civil society organisations have the opportunity to raise questions to the parliamentarians and public authorities, to participate in the discussions and to make their suggestions. The Committee enables the public participation in the legislative procedure also by organising public hearings.

-At the Conference "Partnership for Green Novi Sad", which was held on 4.12. 2019 in the city of Novi Sad, with support of the OSCE Mission in Serbia, the "Green Chair" was established in the Assembly of the City of Novi Sad and the Council for Environmental Protection. Through the formation of a working group, whose representatives will participate in the work of the "Green Chair", continuous cooperation will be established between the authorities of the City of Novi Sad and environmental associations in solving local environmental challenges.

-The MEP of the Republic of Serbia in partnership with Network of the Aarhus centres in Serbia and support from the OSCE Mission in Serbia organized public consultations for the Draft Law on Amendments to the Law on EIA, Draft Law on Amendments to the Law on SEA and the Decree on public participation in respect of the drawing up of certain plans and programs in the field of environmental protection, in the City of Belgrade, City of Novi Sad, City of Subotica, City of Nis, City of Kragujevac, City of Krusevac and City of Novi Pazar in the period from April to June 2019.

-The MEP of the Republic of Serbia in partnership with Network of the Aarhus centres in Serbia and support from the OSCE Mission in Serbia organized public consultations for the Draft Law on Environmental Liability in the City of Belgrade, City of Novi Sad, City of Subotica, City of Nis and City of Kragujevac, in the period from September to November 2019.

- Representatives of civil society organizations are involved in working groups for the preparation of the Draft Law on Amendments to the Law on Environmental Impact Assessment and the Draft Law on Amendments to the Law on Strategic Environmental Assessment.

-In 2020, the Association of Young Researchers of Serbia started implementing two multi-year projects that should contribute to the improvement of cooperation and systematic involvement of the public in decision-making processes. The "ECO-SYSTEM Program" project is supported by Sweden and aims to support environmental reforms in the Republic of Serbia by more actively involving civil society organisations and other actors in the implementation of the EU *acquis communautaire*. The program will last until 2022, and the main components are capacity building of CSOs, a campaign to raise citizens' awareness of the environment and support for projects of organisations to work at the local level. The Green Incubator project is supported by the European Union, implemented by the Belgrade Open School Association in cooperation with the Young Researchers of Serbia and Environmental Engineers associations. This project will also last until 2022. The Green Incubator project aims to contribute to strengthening the capacity of civil society organisations dealing with environmental issues, especially to monitor the process of European integration of the Republic of Serbia, foster initiatives of local informal groups, and explore potentials and make recommendations for socio-economic development of local community on the principles of green (circular) economy.

- Public debate on the Draft Law on Amendments to the Law on Waste Management was conducted in accordance with the Conclusion of the Committee on Economy and Finance of the Government of the Republic of Serbia on conducting a public debate (05 Number: 011-10909 / 2019 of 31 October 2019) in period from 1 to 20 November 2019.

-Public insight into the draft Regulation on Proclamation and study the protection of natural monument "Kalemegdanski rt" was held from 18 October to 6 November 2019 in the premises of the Ministry of Environment and the Institute for Nature Conservation. Public debate and public presentation were held on November 15, 2019.

- The adoption of bylaws of the Directorate for Radiation and Nuclear Safety and Security of Serbia was preceded by a public debate within which public concerned could submit proposals for their amendment.

-Representatives of civil society organizations participate in the working group of the Ministry of Environmental Protection for the development of the National Plan for Combating Desertification and Land Degradation.

### 13. Website addresses relevant to the implementation of Article 8.

[www. ekologija.gov.rs](http://www.ekologija.gov.rs)

Mep <http://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php>

Ministry of Justice <http://www.srbatom.gov.rs/srbatomm/zakonska-regulativa/>

Directorate for Radiation and Nuclear Safety and Security of Serbia <https://euprava.gov.rs/>

Portal eGovernment

## 38. Slovakia

### Article 6

#### 1. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in Article 6.

Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended,

Act No. 543/2002 Coll. on nature and landscape protection as amended,

Act No. 364/2004 Coll. on water and on the amendment to Act of the National Council of the Slovak Republic No. 372/1990 Coll. on offences as amended (Water Act) as amended,

Act No. 442/2002 Coll. on public water supply systems and public sewer systems and on the amendment to Act No. 276/2001 Coll. on regulation in network industries as amended,

Act No. 7/2010 Coll. on flood protection as amended,

Act No. 355/2007 Coll. on public health protection, support and development and on the amendment to certain acts,

Act No. 2/2005 Coll. on noise assessment and control in external environment and on the amendment to Act of the National Council of the Slovak Republic No. 272/1994 Coll. on human health protection as amended,

Act No. 139/2002 Coll. on fishery as amended,



Act No. 409/2011 Coll. on certain measures in the field of environmental damage and on the amendment to certain acts - an association with legal personality which has been active in the field of environmental protection or protection of environmental components at least for one year as at the day on which the written notification was submitted pursuant to Section 5, is a party to the proceedings regarding the appointment of the obliged person pursuant to Article 5, proceedings on approving the plan of work pursuant to Article 8 and proceedings on completing the implementation of the plan of work pursuant to Article 9 if such association so requests.

Act No. 137/2010 Coll. on air as amended,

Act No. 305/2018 Coll. on protected areas of natural water accumulation as amended,

Act No. 469/2002 Coll. on environmental labeling of products as amended by the amendment to Act No. 351/2012 Coll. on environmental verification and registration of organizations in the European Union scheme for environmental management and audit and on the amendment to certain acts,

Act No. 128/2015 Coll. on prevention of major industrial accidents and on the amendment to certain acts,

Act No. 79/2015 Coll. on wastes and on the amendment to certain acts effective from 1 January 2016 and the implementing decrees replaced the original Act No. 223/2001 Coll. on wastes and on the amendment to certain acts as amended, and in Article 27 (4) (i) it introduced the information duty of the manufacturer of selected product in relation to end-users of the selected product.

Act No. 39/2013 Coll. on integrated environmental pollution prevention and control and on the amendment to certain acts as amended, in Article 10 (a) - (c) it defines the term "the public concerned".

Act No. 541/2004 Coll. on the peaceful use of nuclear energy (Atomic Act) and on the amendment to certain acts as amended,

Act No. 359/2007 Coll. on prevention and remedy of environmental damage and on the amendment to certain acts as amended.

In an amendment to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended from 2014, represented by Act No. 314/2014 Coll. effective from 1 January 2015, the original term "the public interested" was replaced by the term "the public concerned". The change of the term was introduced for the reason of identical terms in the act and in the directive. Pursuant to Article 3 (s), the public concerned means "the public affected or likely to be affected by, or having an interest in, the procedure concerning the environment; NGOs promoting environmental protection and meeting any requirements under this act shall be deemed to have an interest in such procedure,". Article 6a and Articles 24 and 25 also regulate the rules for the participation of the public and of the public concerned in the assessment of impacts of strategic documents. According to the European Commission (the Commission), the main defects of Act No. 24/2006 Coll. on environmental impact assessment as amended before the amendment - Act No. 314/2014 Coll. - included the consequences of insufficient link between the process of assessment of the impacts of proposed activities and the subsequent permitting procedures because it created room for not respecting the results of the impact assessment process, where full assurance of the rights of the public concerned participating in the procedure or interested in the result of decision-making in environmental matters could not be guaranteed.

Thus, the problem of implementation within the legal order of the Slovak Republic of a part of several requirements of the Aarhus Convention, which the EIA Directive implements (Articles 6, 7, and 9), was opened. Amendment No. 314/2014 Coll. includes: the binding character of the outputs of screening and impact assessment process, the issuance of the subsequent permit is conditioned by observing the state and result of the procedures, the procedure of official verification of conformity of the project document submitted to the permitting procedure with the result of the procedures through the binding opinion of the EIA body that made a decision on the result of an assessment of environmental impacts of the proposed activity, and finally also new legal remedies intervening into the current perception of this tool and its links to participation in the first-stage procedures. The second circle of changes concerns the detailing of the impact assessment subject and procedure of screening performance. The term "the public concerned" was also added to the act. The supplemented letter (s) was put immediately after the general definition of the term "the public". The definition of "the public concerned" is in compliance with the definition of this term in the EIA Directive. So, the public concerned is named identically both in the act and in the directive. The previously used term "the interested public" caused ambiguities in some cases as it was not clear whether the term is identical with the term "the public concerned" mentioned in the directive. The provisions regulating the participation of the public and of the public concerned in the procedure and subsequent permitting procedures were reworked to a considerable extent. Therefore, the amendment contains a complete wording of Sections 24 and 25. The procedural position of the public and of the public concerned (the public interested according to the current wording of the act) was not weakened at all. A new element is introduced - the possibility of the public to apply an extraordinary legal remedy in the procedure according to this act in the case when the public was not a party to the procedure. The non-party to the procedure can contest the result of the procedure - decision - through subsequent legal remedies. This supplementation ensures consistent transposition of Article 11 (1) of the EIA Directive; this reservation was included in the formal notification of the Commission to the Slovak Republic. With respect to the specific position of the public concerned as a party to the procedure, the law specifies the procedural position of the public concerned as a party to the procedure in conformity with the current state as regards the subsequent permitting procedures. The current regulation contains the information duty of the competent body in relation to the public; communication channels include in particular the website or official board. In terms of information provided during the specified period without time limitation, we consider the websites of respective authorities as to the most suitable. Section 2 provides the public concerned with the right to participate in procedures according to this act as well as in the subsequent permitting procedures pursuant to special regulations. The precondition for participation in the procedure is that somebody from the public gets involved in the procedure by submitting one of the forms of written opinion also containing details pursuant to Sect. 4, so that it is possible to identify the carrier (creator) of the written opinion as to the particular public which subsequently becomes a party to the procedure. The provisions defining in more detail the citizens' initiative as one of the members of the public

are more or less taken over from the previous wording of the act. However, the provisions about the way of creating a representative of the citizens' initiative, the possibility of their resignation, recall, and replacement are extended and specified more precisely. The consent of the public concerned to the discontinuance of procedures initiated by the applicant is not required exactly for the reason of the specific position of the public enforcing its requirements in terms of environmental impacts of the proposed activity and because the discontinuance of the procedure mostly concerns the facts connected only with the applicant. In case of participation of a great number of entities (more than 20) on the part of the public concerned in the procedure, it is permitted to deliver the documents to the public concerned through a public decree. The way of delivery through a public decree is also regulated. The position of the public in the environmental impact assessment process has been changed significantly in particular by the amendment No. 145/2010 Coll. with effect from 1 May 2010 and subsequently by the last-mentioned amendment No. 314/2014 Coll. with effect from 1 January 2015. Under the prescribed conditions, the natural person, legal entity (including NGOs), or citizens' initiative can hold the position of party to the procedure in administrative procedures conducted according to this act as well as in the permitting procedure conducted pursuant to a special regulation. Till 31 April 2010, these persons held the position of a participating person in the subsequent permitting procedures. Amendment No. 145/2010 Coll. with effect from 1 May 2010 and subsequently amendment No. 408/2011 Coll. with effect from 1 December 2011 considerably strengthened the right of the public to participate in the decision-making process (e.g. the right to lodge a legal remedy), and the last amendment No. 314/2014 Coll. with effect from 1 January 2015 defined the public concerned in compliance with the respective definition of the EIA Directive. Pursuant to Article 82 (3) of Act No. 543/2002 Coll. on nature and landscape protection as amended (new regulation by Act No. 408/2011 Coll. effective from 1 December 2011): In the cases referred to in paragraph 2, only the applicant shall be a party to the proceedings for the issuance of consent or the granting of an exemption, unless the Act provides otherwise. The municipality in whose cadastral territory the zoo is or is to be located is also a participant in the procedure for issuing consent for the establishment of a zoo. An association with legal personality,<sup>114</sup> whose subject of activity for at least one year is nature and landscape protection (Section 2(1)) and which has submitted a preliminary application for participation pursuant to paragraph 6, is a party to the proceedings if it has confirmed its interest in a manner pursuant to a special regulation<sup>113a</sup>) be a party to the initiated administrative proceedings; the certificate must be delivered to the competent nature protection authority within the period specified by that authority and published together with information on the commencement of such proceedings as proceedings in which the interests of nature and landscape protection may be affected by this Act, pursuant to paragraph 7.

Pursuant to Article 82 (6) to (8) of Act No. 543/2002 Coll. on nature and landscape protection as amended (legal regulation of Sect. 6 and 7 by amendment to Act No. 408/2011 Coll. effective from 1 December 2011):

"(6) The association pursuant to Section 3 can submit a preliminary written application to the nature protection body for participation in not explicitly specified administrative procedures,

which will be carried out by this body in the future or are pending, within which nature and landscape protection interests protected by this act can be affected. The application shall include the name of the association, its registered office, identification number, name and surname of the person authorized to act on behalf of the association, and the specification of the procedure about the start of which the association wants to be notified; the application must be accompanied by the by-laws 115a) proving the subject of activity pursuant to Section 3.

(7) The nature protection body shall publish information on the initiation of each administrative procedure, within which nature and landscape protection interests protected by this act can be affected, at its website, with the exception of procedures pursuant to Sect. 8, no later than within three business days from the commencement of the procedure; the above-mentioned information shall include the time limit specified for the delivery of written or electronic confirmation of the interest in becoming party to the pending administrative procedure pursuant to Sect. 3; this time limit shall not be shorter than five business days from the day the information was made publicly available.

(8) The provisions of Section 3 of the third sentence and Section 6 and 7 shall not apply to procedures pursuant to Article 44 (2), Article 61e, procedures mentioned in Article 81 (2), procedures on offences and other administrative delinquencies pursuant to Article 90 to 93, and procedures on the seizure of individuals of protected species pursuant to Article 96." Pursuant to Section 16a of the Water Act, the public has the opportunity to become a participant in the procedure for permitting the proposed activity by delivering a written opinion on project documentation for the proposed activity or expert opinion of the state water authority within 10 days of their publication on the state water authority website and Ministry website.

Pursuant to Section 4c (4 to 7) of Act No. 137/2010 Coll. during the preparation of the National Emission Reduction Programme, which serves to manage air pollution with the intention of reducing national annual anthropogenic emissions, or when updating it, which introduces additional measures, the Ministry shall publish the draft national program on its website for 30 days and consult the draft national programme with the public and the competent authorities whom the implementation of national programs may concern due to their specific environmental impact in the field of air pollution and air quality management at all levels. The public has the right to submit written comments to the Ministry on the draft national programme. The Ministry is obliged to hold a public discussion of the draft national programme and, after examining the comments expressed by the public and the competent authorities, the Ministry informs of the decisions taken and the reasons on which these decisions are based, including information on the public participation process. The Ministry will publish the information on its website.

Pursuant to Section 10 (8 to 11) of Act No. 137/2010 Coll. on air as amended, the district office in the seat of the region is obliged to publish for 30 days on its website and in the usual way information on the preparation of a draft programme or integrated programme to improve air quality and information on where the draft programme can be consulted so that the public of the affected area can get acquainted with it and the public has the right to submit written comments to

the district office in the seat of the region. The district office in the seat of the region is obliged to hold a public discussion of the draft programme and, when finalising the program, take into account the submitted written comments or comments submitted at the latest at the public hearing. Pursuant to Section 18(5) and (6) of Act No. 137/2010 Coll. on air, the public has the right to submit written comments on the published application for a permit for the construction of a waste incineration plant, waste co-incineration plant, and their change. Comments can be submitted at the latest at the public hearing of the application. The comments of the public are taken into account when issuing the consent. Pursuant to Article 2 (2) of Act No. 351/2012 Coll. on environmental verification and registration of organisations in the European Union scheme for environmental management and audit and on the amendment to certain acts, the parties (including the public) are familiarised with the application of an organisation for the registration in the EMAS scheme through the website of the competent authority ([www.emas.sk](http://www.emas.sk)), and pursuant to Article 2 (4) of Act No. 351/2012, the public can raise objections to the published application within days from its publishing.

Act No. 2/2005 Coll. on noise assessment and control in external environment and on the amendment to Act of the National Council of the Slovak Republic No. 272/1994 Coll. on human health protection as amended allows making accessible the strategic noise maps and information on effects harmful of noise to the public, negotiating the draft action plans with the public, and informing the public on the adopted conclusions and measures (Article 5 (2) (e)).

Act No. 514/2008 Coll. on mining industry waste management and on the amendment to certain acts allows the participation of the public in permitting repositories (Article 8). The competent body shall publish without undue delay and for the period of 15 days at its website or on its official board information pursuant to Article 8 (3) (a) to (d) related to details of the application for permitting a disposal site and the details on ensuring public participation in the procedure. Pursuant to Article 8 (2) of this act, the public interested that notified in writing of its interest in participating in the procedure, shall have the position of a participating person in the procedure pursuant to Article 7 (Permitting of disposal sites).

Pursuant to Article 20 (4) (x) of Act No. 258/2011 Coll. on permanent storage of carbon dioxide in the geological environment and on the amendment to certain acts, the district mining authority makes information on storage available to the public. The provision of Article 19 defines the need to establish the information system regarding storage in order to ensure data collection and information provision as part of the information system of the general government. The information system is made accessible for the needs of state authorities, general government, and local government bodies in permitting activities that can affect the storage or can be affected by storage, and also serves to collect, store and disseminate environmental information pursuant to Article 4 of Act No. 205/2004 Coll., as well as to make it accessible pursuant to Act No. 211/2000 Coll.

Act No. 128/2015 Coll. on prevention of major industrial accidents and on the amendment to certain acts harmonises the part regarding the hazardous substances with legislation in the area of chemical substances. It improves public participation in the decision-making process as well as public access to information on safety. Pursuant to Article 14 (5), public participation in the decision-making processes regarding the enterprises covered by this act are sufficiently regulated by special regulations. Article V of the act, with the objective to strengthen this provision, adds a new provision to Act No. 24/2006 Coll. on environmental impact assessment as amended, based on which each proposed activity covered by the act on prevention of major industrial accidents must be subject to environmental impact assessment.

Pursuant to Article 15 (2), the operator of the enterprise covered by this act is obliged to provide permanent public access to information according to Annex No. 2 to the act, including the electronic form at its website. It is an active form of making information available to the public, not only to the public affected by a major industrial accident but in general, too. Sections 3 to 5 lay down information provision to the public likely to be affected by a major industrial accident, including the public of other State in case of accidents with cross-border effects.

The Information System of Major Industrial Accident Prevention (Article 16) is another important element in this area; its objective is to collect comprehensive data and provide information both to the public and central government <https://app.sazp.sk/SevesoPublic/>.

Act No. 359/2007 Coll. on prevention and remedy of environmental damage and on the amendment to certain acts as amended allows, under certain conditions, public participation within the proceeding about imposing the duty to carry out preventive or mitigation measures, and the proceeding about imposing the task to adopt and implement measures to remedy environmental damage:

Article 25  
 Parties to the proceeding  
 (1) A party to the proceeding is the operator.  
 (2) A party to the proceeding pursuant to Article 27 and 28 can also be a) the owner, administrator, or tenant (renter) of a real estate affected by environmental damage or which will be subject to precautionary or remedy measures, c) a natural person or legal entity whose rights or interests protected by law may be directly affected by environmental damage.  
 (3) A party to the proceeding pursuant to Article 27 can also be a civil association or any other organization established pursuant to special regulations, the aim of which – pursuant to its statutes, establishment charter, foundation charter, or their amendments valid at least for the period of one year – is environmental protection (hereinafter referred to as the "NGO") that submitted the notification pursuant to Article 26 (1), and, at the same time, announced in writing its interest in participating in the proceeding no later than within seven days from the day of the notification delivery pursuant to Article 26 (5).

## Article

26

## Notification

(1) The owner, administrator, or tenant of a real estate which has been or may be affected by environmental damage, a legal entity or a natural person whose rights or interests protected by law or obligations may be directly affected by environmental damage, a NGO (hereinafter referred to as the "notifying entity") are entitled to notify the competent body of the facts indicating that environmental damage has occurred. The provision of Article 20 also defines the need to establish the information system of prevention and remedy of environmental damage for storage and collection of data and information provision. The information system is made available to the central government bodies, general government bodies, local government bodies and operators of working activities listed in Article 1 (2) and (3) of the act, which can cause an imminent threat or environmental damage, and also serves to collect, store and disseminate environmental information pursuant to Article 4 of Act No. 205/2004 Coll., as well as to make them accessible pursuant to Act No. 211/2000 Coll. for activities of competent authorities.

## Ad

a)

(i) Parties to the authorization/permitting procedure for activities listed in Annex I to the Aarhus Convention are members of the public concerned who participated in the process of environmental impact assessment under Act No. 24/2006 Coll. on environmental impact assessment.  
(ii) Acts No. 117/2010 Coll., No. 408/2011 Coll., No. 221/2019 Coll., No. 356/2019 Coll. And No. 460/2019 Coll. amended Article 82 (3), (6) and (7) of Act No. 543/2002 Coll. on nature and landscape protection, which strengthened the position of the public in proceedings pursuant to this act.

"(3) "The party to the procedure on consent or giving an exception is in cases listed in para. 2 only the applicant, unless this act provides otherwise [...] The association with legal personality, the scope of activity of which for at least one year has included nature and landscape protection (Article 2 (1)), and which submitted a preliminary request for participation pursuant to Section 6, is party to the procedure, if such association confirms its interest in a manner foreseen by specific laws<sup>113a</sup> to become a party to the pending administrative procedure in writing or electronically; ...".

"(6) The association pursuant to Section 3 can submit a preliminary written application to the nature protection body for participation in not explicitly specified administrative procedures, which will be carried out by this body in the future or are pending, within which nature and landscape protection interests protected by this act can be affected.

(7) The nature protection body shall publish information on the initiation of each administrative procedure, within which nature and landscape protection interests protected by this act can be affected, at its website, except for the procedures pursuant to Sect. 8, no later than within three working days from the commencement of the procedure; the abovementioned information shall include the time limit specified for the delivery of written or electronic confirmation of the interest in becoming party to the pending administrative procedure pursuant to Sect. 3; this time limit shall not be shorter than five working days from the day the information was made publicly available. In Section 82(3), the third sentence has been deleted: "A party to proceedings under this Act is

also a natural person, citizen initiative or legal entity, whose status follows from a special regulation." This change does not narrow down the scope of participants as this was merely a declaratory definition referring to a special regulation which continues to grant that status.

Ad b)

The Slovak Republic ensures that the public is informed already at the beginning of the decision-making process in compliance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. The national legislation in the area of impact assessment ensures that the public is informed from the very beginning of the process in an adequate, timely, and efficient way. The commencement of the environmental impact assessment process is published at the website of the MoE SR and at websites of district offices and municipalities. During the procedure, the party to the procedure can get involved in the decision-making process by inspecting the file, submitting procedural proposals and writing comments, and before issuing the decision, each party to the procedure has the right to comment on the background documents of the decision and the way of its achievement as well as to propose a supplementation. Once the decision has been issued, each party to the procedure can file a legal remedy against the first-stage decision. The second-stage procedure accordingly follows the provisions on the first-stage procedure with all rights and duties of the party to the procedure. If the party to the procedure is convinced that their rights in the administrative process have been infringed, within the applicable time limit they can file a complaint with the court in order to examine the lawfulness of the administrative decision.

Ad c)

The time frame respects Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. The time frame (time limits) for the public are exactly specified in the Act on EIA/SEA. During the subsequent permitting procedure, the time frame for the public is determined by time limits pursuant to special acts or, if they do not specify such time limits, they shall be determined in accordance with the administrative rules.

Ad d)

At all stages of assessment in accordance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended, the public can get familiarised and comment on the proposed activity or the strategic document in time. The national legislation in the area of environmental impact assessment ensures public participation in the decision-making procedure from its beginning (i.e. from the day the notification of the activity or strategic document was made publicly available), which means at the time when all alternatives are open.

Ad e)

The discussion with the public concerned is entered by the applicant still before the process of activity permitting or before the decision on siting is made or during the preparation of the strategic document or before it has been approved, within the environmental impact assessment process pursuant to Act No. 24/2006 Coll. as amended (EIA), if the public concerned gets involved in the process by submitting their written comments. The applicant can be called after they have filed a notification or plan and instructed about the



public if necessary, within the steps of the process. The discussion can be part of "consultations or public negotiation" - specified by Act No. 24/2006 Coll. on environmental impact assessment.

Ad f)

(i) Competent bodies shall provide the public concerned with all information related to the decision-making processes pursuant to Section 6 which are available at a given stage of the decision-making procedure, namely at the stage of environmental impact assessment or administrative procedure.

Pursuant to Act No. 24/2006 Coll. on EIA, the public has free access to the project documentation at individual stages (phases) of the environmental impact assessment process - notification, plan or notification of change, decision based on screening, scope of evaluation, assessment report, final statement. The documentation is available in the affected municipality and at the same time, at the website of the MoE SR. Within the EIA/SEA process (which, however, is not a permitting process), the public concerned shall have access to all information on the activity or strategic document under assessment just like the bodies concerned, permitting body departmental body, municipalities concerned, and other entities. Moreover, in the process of screening and in the process of environmental impact assessment for the proposed activity, which is conducted as administrative procedures pursuant to the administrative rules, the public concerned has stronger rights than the central government authorities concerned, because in these procedures the public concerned has the position of a party to the procedure. As a party to the procedure, they can appeal against the decisions from the screening procedure and against the final statement from the assessment process, and subsequently, they can also file a complaint with the court. All mandatory information about the EIA/SEA process is compulsorily published at <http://www.enviroportal.sk/sk/eia>. In the permitting process (in general, it is an administrative procedure), the public in the position of a party to the procedure has the same rights in finding all relevant information related to the background documents for decisionmaking as the other entities in the permitting procedure. These rights of the public result from the administrative rules.

(ii) The complete documentation is accessible and published in accordance with the national legislation. In the environmental impact assessment process, the public concerned is provided with all available information at each step of assessment pursuant to the Act on EIA. The respective bodies of environmental impact assessment provide the public concerned with information in compliance with Act No. 24/2006 Coll. on environmental impact assessment before the decision-making processes.

In the permitting procedure process, information is provided to the public concerned in compliance with the principles of administrative procedures according to the administrative rules.

Ad g)

Pursuant to Act No. 24/2006 Coll. on environmental impact assessment, the public has access to the project documentation or strategic document at individual stages (phases) of the environmental impact assessment process (notification, notification of change or plan, decision based on screening, the scope of the evaluation, assessment report, final statement), and it is also provided

with the possibility to comment on the project or strategic document at each stage (phase) of the environmental impact assessment process by sending positions and participating in public negotiations or consultations, by filing at the registry, in an electronic way via the internet, in writing through Slovenská pošta (Postal Service), to the minutes during public negotiations.

In the process of permitting procedure, the public has the possibility submit comments based on the principles of the administrative procedure according to the administrative rules or according to the provisions of special regulations (by filing at the registry, in electronic way via the internet, in writing through Slovenská pošta (Postal Service), to the minutes during public negotiations, consultation).

Ad h)

To provide the public with information on the way of public comments treatment, the permitting body shall immediately disclose to the public the content of the decision and the conditions stipulated therein, the main reasons based on which the decision was made, including information on public participation, and main measures for preventing, reducing and, if possible, compensating serious adverse impacts of the proposed activity or its change. In the decision, the permitting body shall state the way of processing of the objections raised by the entities of the public concerned in the position of a party to the procedure, and why their particular comments or objections were refused. This applies to all procedures for permitting activities with significant environmental impacts that are subject to the environmental impact assessment process (activities in Annex I of the Aarhus Convention), as well as activities with significant environmental impacts that are permitted pursuant to Act No. 543/2002 Coll. on nature and landscape protection, when the entities of the public interested are in the position of a party to the permitting procedure.

Ad i)

The entities of the public concerned are informed about the decision from the permitting procedure by direct (addressed to the particular person) delivery of the decision or by decision delivery through a public decree. The public is informed about all steps taken pursuant to Act No. 24/2006 Coll. at <http://www.enviroportal.sk/sk/eia>. It is also informed about certain documents on the portal of legal regulations <https://www.slov-lex.sk/domov>. NRA SR publishes their decisions immediately at [www.ujd.gov.sk](http://www.ujd.gov.sk) and on the electronic official board situated at the registered office of the Authority and accessible for 24 hours a day.

Ad j)

Measures in case that a state authority reconsiders or updates the operating conditions for the activity listed in Sect. 1 include mainly instructions and regulations applied in accordance with the provisions of Sections 2 – 9 and essential changes with reference to Section 10 shall also be performed, if necessary.

Ad k)

By Council Decision No. 2006/957/EC of 18 December 2006 the European Community approved amendments to the Convention on access to information, public participation in decision – making

process, and access to justice in environmental matters on behalf of the European Community (EU OJ L 386/46, 29 December 2006) that were adopted at the second meeting of the Contracting Parties to the Convention (25 to 27 May 2005, Almaty, Kazakhstan). The respective legal regulations of the Community regulating the release of GMO, in particular, European Parliament and Council Directive No. 2001/18/EC of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, and European Parliament and Council Regulation (EC) No. 1829/2003 of 22 September 2003 on genetically modified food and feed contain provisions on public participation in the process of decision-making on GMO that are in compliance with amendments to the Aarhus Convention.

Merely the provision of Sect. 2 of Annex 1a to the Convention was transposed to Act No. 151/2002 Coll. on using genetic technologies and genetically modified organisms as amended which, in our opinion, constitutes a slightly more detailed regulation than the one in the Directive. This was caused by the need to simplify the repeated introduction into the environment and to accelerate and simplify the proceedings in matters where it is necessary to give repeated consent to the launch of a product to the market while maintaining the public rights to be informed. The texts of Article 34 (3) and Article 35 (3) of Act No. 151/2002 Coll. constitute an application of Council Decision No. 2006/957/EC approving the amendment to the Convention.

## 2. Obstacles encountered in the implementation of Article 6.

To a great extent, the obstacles were eliminated by amendments to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts (Act No. 117/2010 Coll., Act No. 145/2010 Coll., Act No. 408/2011 Coll., Act No. 345/2012 Coll., Act No. 448/2012 Coll., Act No. 39/2013 Coll., Act No. 180/2013 Coll., Act No. 314/2014 Coll., and Act No. 128/2015 Coll.), which have strengthened public participation in environmental impact assessment processes, in assessing projects, project changes and strategic documents (plans). The participation of NGOs in decision-making processes pursuant to Act No. 543/2002 Coll. on nature and landscape protection as amended has been relatively significantly strengthened by amendment No. 408/2011 Coll. effective from 1 December 2011. In this respect, we would like to draw attention to one of the decisions of the European Court of Justice C-240/09 dated 8 March 2011 as a result of a preliminary ruling in the matters of civil associations participation in the proceedings regarding nature and landscape protection in connection with the application of Art. 9 (3) of the Aarhus Convention. The result of the ruling was the impetus for the adoption of the amendment to Act No. 543/2002 Coll. on nature and landscape protection (amendment No. 408/2011 Coll. effective from 1 December 2011), which changed the position of civil associations in administrative procedures from a participating person to a party to the procedure. In administrative procedures, the party to the procedure holds a wider scope of rights than the participating person. NRA SR perceives for example nuclear power plant construction, during which construction changes are carried out, as an obstacle in the implementation of Article 6 of the Aarhus Convention. However, the Convention does not specify unambiguously, when environmental

impact assessment including the public participation in the procedure is necessary for a change of construction. Such changes are usual during the construction of nuclear power plants and the practice shows that a separate procedure with public participation for each change of construction is inappropriate because not each change of construction is qualified as a change of activity as such. MoE SR states that procedures are in compliance with national and EU rules regulating impact assessment procedures. Report from the organization VIA IURIS from 2020 also deals with the topic of the so-called salami-slicing in proceedings under Act No. 24/2006 on environmental impact assessment.

Such a method means breaking down comprehensive projects/requirements into multiple partial steps, which are enforced gradually in order to speed up the permission process, or in order to increase the acceptance of the proposed activity by the stakeholders by trivializing the size and nature of the proposed activity assessed in the EIA process. As the representatives of civil society point out, in the context of this topic it is possible to perceive, inter alia, some additional aspects of the process of authorizing changes to nuclear installations. Representatives of civil society point out that changes in activities related to the Mochovce nuclear power plant (Units 1 and 2) from 2018 and 2019 were to be considered as one joint change of one activity, which was to be mandatorily assessed for its environmental impact and which was to include all partial changes for which separate proceedings were conducted. According to this interpretation, the authorization of changes

to the activity of nuclear installations should be subject to a mandatory environmental impact assessment process.

In connection with Section 37bc of Act 541/2004 Coll. on the peaceful use of nuclear energy, whereby a time-limited operating license for a nuclear installation which expires after 1 August 2013 is considered to be a time-limited operating license, representatives of the civil society shall refer to the opinion of the Aarhus Convention Compliance Committee, according to which the change in the validity of the activity permit is considered as a review/update of the conditions of operation of the activity, which is subject to the process of public participation pursuant to Art. 6 of the Aarhus Convention. According to the representatives of civil society, such a blanket extension of the validity of licenses for nuclear installations with a time limit of indefinite duration is in conflict with Art. 6 of the Aarhus Convention. NRA SR states in the statement of the representatives of civil society mentioned above that in general there are partial changes in nuclear facilities, which lead to deepening of nuclear safety all over the world almost continuously. The requirement to permanently increase nuclear safety is one of the basic principles derived from nuclear law. Changes to a nuclear installation can be of various kinds. As a rule, changes are implemented in physical form on a nuclear facility, for example as part of maintenance (replacement of 1 piece of selected equipment with 1 piece of new selected equipment) or in the form of changes in documentation (e.g. change of limits and conditions). A relatively frequent change is a temporary or permanent change of limits and conditions as the focus of the document for the operation of a nuclear installation. Changes occur at the time of their need, i.e. at a time when such changes need to be made to ensure the highest possible level of nuclear safety.

Changes in the form of replacement of selected equipment in a nuclear installation must be made individually, either as part of regular maintenance or to increase safety.

Each proceeding on changes to a nuclear facility is a separate proceeding, which is subject to assessment and subsequent approval by NRA SR at a time when it is necessary to make a change at the nuclear facility. All proceedings on changes to a nuclear facility pursuant to Act No. 541/2004 Coll. on the peaceful use of nuclear energy, as amended, is procedurally governed by the provisions of Act No. 71/1967 Coll. on administrative proceedings (administrative code) as amended and their procedural course is transparently located on the website of NRA SR (see for example:

[https://www.ujd.gov.sk/ujd/www1.nsf/\\$All/10D4A2E6F3909430C125845D003A61C6?Open&Typ=Banner](https://www.ujd.gov.sk/ujd/www1.nsf/$All/10D4A2E6F3909430C125845D003A61C6?Open&Typ=Banner)

[https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/23D7BE935562126CC125847800467853/\\$FILE/R308\\_2019\\_HIJo\\_SeTi%20podpisane.pdf](https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/23D7BE935562126CC125847800467853/$FILE/R308_2019_HIJo_SeTi%20podpisane.pdf)

The Act allows the general public to engage in such proceedings. Not all changes in a nuclear installation have the nature of such a change, which requires an environmental impact assessment pursuant to Act No. 24/2006 Coll. as amended, but every single change procedure is published on the NSA SR website and the possibility of involving the public in the change procedure at a nuclear facility remains.

With regard to the authorization to operate a nuclear installation without a time limit by law, it should be noted that the operation of nuclear installations is subject to a regular periodic nuclear safety assessment process carried out every ten years. In accordance with International Atomic Energy Agency (IAEA) standards, in the event of serious deficiencies in the operation of a nuclear installation, it is possible to restrict or revoke the operating license. It is therefore not possible to speak of a permit to operate a nuclear installation without restriction. Different countries approach the time limit for operating a nuclear installation differently, which can also be demonstrated on the basis of the study "Legal Frameworks for Long-Term Operation of Nuclear Power Reactors" carried out under the auspices of the OECD/NEA in 2019.

As part of the practical application of the provisions on public participation in proceedings under Act No. 24/2006 Coll. on Environmental Impact Assessment (EIA process), there are indications of cases where circumstantial intervention is suspected in order to delay the validity of an authorization decision and to put pressure on claimants to gain profit. This often applies to projects funded by the European Union, the spending from which is conditional on the implementation of projects within a specified period. The extension of permitting processes can thus have a direct impact on the possibility of implementing and financing such projects. In such cases, it is often possible to observe the tendency of some members of the public to submit extensive opinions in a similar wording on various projects throughout Slovakia. It is often apparent from the wording of the opinion that its author did not study the specific project and that some comments, after assessing their content in relation to the project, appear to be meaningless. By exercising its statutory procedural rights, the

public can extend the whole permitting process by several months, in some cases even by more than a year.

A similar tendency can be observed in the context of deciding on the issuance of consents and granting exemptions under Act No. 543/2002 Coll. on nature and landscape protection as amended. There are also cases in this area where there is a suspicion that some members of the public concerned are using the application of these provisions not in the interest of nature and landscape protection or to mitigate the effects of activities on nature and landscape, but to delay construction decisions or consent or the granting of an exemption, or to put pressure on the project proponent (applicant).

Taking into account the purpose of the procedural rights of the public enshrined in the Aarhus Convention and transposed into European and national legislation, which is in the public interest to protect the environment and ensure public participation in environmental decision-making, caution should be exercised in finding abuse in specific cases. The mere use of procedural rights to participate in proceedings, including the submission of generic comments aimed at protecting the environment, cannot be considered an abuse of rights, although it may burden the administrative authority and delay the issuance of a final decision. The real purpose of exercising the right to participate in the proceedings is probably best determined from the content of the submissions submitted by the public, or of evidence proving other than the protection of the environment (witness statements, sound recordings, etc.). In order to avoid a situation in which the institute of abuse of rights is applied arbitrarily, it would be appropriate to specify the conduct which is considered to be an abuse of rights. Taking into account the principle of legality and legal certainty, it would be necessary to consider a comprehensive legislative regulation of this issue, which would also address issues related to proving the facts and the power of the administrative body not to grant the legal effect of the Convention.

In relation to Art. 6(1)(b) of the Aarhus Convention, the NGO VIA IURIS draws attention to the fact that, in the light of the ruling of the Court of Justice of the European Union in case C-243/15, The Trencin District Office of 8 November 2016 shall apply the procedures pursuant to Art. 6(3) the Habitats Directive in the light of Art. 6(1)(b) of the Aarhus Convention. Participation in the decision-making process in accordance with Art. 6 of the Aarhus Convention is one of the preconditions for access to justice within the meaning of Art. 9(2) of the Aarhus Convention. In permitting processes according to Act No. 365/2005 Coll. on Forests (hereinafter only as "Forest Act"), the public has only the status of a stakeholder, although the Habitats Directive also applies to the Forest Act. In the context of the Forest Act, the lands concerned may also be included in the system of Natura 2000 protected areas. The NGO VIA IURIS draws attention to a possible conflict between the provisions of the Forest Act and Art. 6(1)(b) of the Aarhus Convention and the need to take into account the ruling of the Court of Justice of the European Union in Case C-243/15. Trencin District Office dated 8 November 2016. In relation to the requirement of clarity of legal regulations, in connection with participation under

Act No. 543/2002 Coll. it was appropriate to supplement the third sentence of Section 82(3) in the following wording: "A participant in proceedings under this Act is also a natural person, a citizen initiative or a legal person whose status results from a special regulation."

### 3. Further information on the practical application of the provisions of Article 6.

Decree of the Ministry of Agriculture, Environment and Regional Development of the Slovak Republic No. 357/2010 Coll. was replaced by Decree of the MoE SR No. 231/2013 Coll. on information submitted to the European Commission, on requirements for keeping operating records, on data notified to the National Emission Information System and on the set of technical operating parameters and technical organizational measures. Any process of changes of the activities already permitted in relation to nuclear installations (Note: The processes described in relation to permitting changes of licences for nuclear installations are also similar for all areas, in which other specialised bodies make decisions pursuant to special regulations. The Slovak Republic selected this approach in order to clearly prove the compliance with the Aarhus Convention in the particular simulated case, in which the ACCC stated non-compliance.) can take place materially either in the regime of Atomic Act No. 541/2004 Coll. as amended or only in the regime of Building Act No. 50/1976 Coll. as amended, or in the regime of both the acts. Procedurally, these proceedings are always subject to Act No. 71/1967 Coll. on the administrative procedure as amended. The regime, which the changes are subject to, depends on their technical character, scope, nature etc. The environmental protection body shall determine whether the change has such an adverse impact that environmental impact assessment (EIA) must take place. The general public has the right to participate in this process. Notice of starting the change procedure shall be published, and the public can comment on it. In most cases (except small exceptions – the area of safety supervision), the change permitting procedure is commenced on the proposal from a party to the procedure. After the delivery of the application and prescribed documentation, the NRA SR will commence the procedure and notify the commencement at its website and on the electronic official board. In this context, it is appropriate to state that Act No. 279/2019 Coll., Amending Act No. 541/2004 Coll. as amended and Act No. 50/1976 Coll. as amended, effective on 1 October 2019, modified the method of communication of NRA SR towards the affected public. The above-mentioned amendment established the method of delivery of a decision on the issuance of consent or permit invitation, notification, summons or another document by means of a public Ordinance to the participants in proceedings pursuant to Act No. 24/2006 Coll. and Act No. 50/1976 Coll. NRA SR requests the submission of the position of the MoE SR to whether the proposed change requires the EIA process or not before the decision is made on it. If the party does not submit it, the NRA SR will interrupt the procedure and call upon the party to submit this position. If the party to the procedure fails to fulfill the duty of submitting the position of the MoE SR within the required period during procedure interruption, the NRA SR will stop the procedure.

### 4. Website addresses relevant to the implementation of Article 6.

<https://www.slov-lex.sk>

[www.minzip.sk](http://www.minzip.sk)

[www.enviroportal.sk](http://www.enviroportal.sk)

<http://www.enviroportal.sk/sk/eia>

[www.geoportal.sk](http://www.geoportal.sk)

[www.geology.sk](http://www.geology.sk)

[www.emas.sk](http://www.emas.sk)

[www.minv.sk](http://www.minv.sk)

[www.uvzsr.sk](http://www.uvzsr.sk)

## Article 7

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

The measures for public participation in the process of preparing plans and programmes related to the environment (strategic documents) are defined in the individual steps of the strategic environmental assessment (SEA) pursuant to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. In addition to the assessment of the environmental impact of strategic documents, buildings, facilities, the act also regulates other proposed activities or projects. The act and its amendments take into account the EC directives related to the assessment of strategic documents. Moreover, the act reflects the requirements resulting from the Protocol on SEA for the UNECE Convention on environmental impact assessment in a transboundary context (Espoo Convention) and the Aarhus Convention. The measures include e.g. public hearing, consultations, information published in the press and other media, possibility to send comments in writing, making documentation publicly available on the internet, on the website of the ministry (IS EIA/SEA).

The entities of the public and of the public concerned in the assessment of impacts of strategic documents (plans) are defined in Article 3 (s) and Article 6a of Act No. 24/2006 Coll. on environmental impact assessment, and for the process of assessment of proposed activities (projects), they are defined in Article 3 (s) and Articles 24 – 25 of this act.

Furthermore, the public is involved in the preparation of documentation related to nature protection and in the preparation of decrees on protected areas that are consulted with the public. The above area is regulated by Article 54 (21) to (24) of Act No. 543/2002 Coll. on nature and landscape protection as amended:

(21) The nature protection body obtaining the nature and landscape protection documentation is obliged, before the documentation is approved, to negotiate the written comments of the civil association, whose objective according to the by-laws or their amendments valid for at least one year is to protect nature and landscape (Article 2 (1)), delivered to the body no later than 30 days



before the expected date of its approval.

(22) The civil association pursuant to Section 21 may ask the nature protection body obtaining the nature and landscape protection documentation to notify the association in writing of the documentation being obtained and the expected deadline of the approval process. The association's application shall include in particular the name of the civil association, its registered office, identification number, name and surname of the person authorized to act on behalf of the civil association, and the type of documentation to which the application for notification relates; the annex to the application shall include the registered by-laws of the association and their amendments. The nature protection body, to which such an application was delivered, is obliged to notify in writing the civil association about the nature and landscape protection documentation being obtained and the expected deadline of the approval procedure within seven days from the day of application delivery.

(23) The nature and landscape protection documentation shall be a basis for the elaboration of land-use planning documentation,<sup>84)</sup> documents, plans, or projects pursuant to Article 9 (1) and for the activity and decision-making of nature protection bodies.

(24) The nature and landscape protection documentation is available to the public.

In the area of waste management pursuant to Article 9 (4) of Act No. 79/2015 Coll. on wastes and on the amendment to certain acts, the environmental department of a district office is obliged to submit, within three months from the approval of the program of the Slovak Republic, a draft program of the region for assessment pursuant to Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended. After the environmental impact assessment, the environmental department of district office issues, in the form of a decree, the binding part of the program of the region for the period identical with the period of validity of the program of the Slovak Republic, and sends it to the ministry for publication as well.

Pursuant to Article 12 (2) of Act No. 24/2006 Coll. on environmental impact assessment, the environmental department of the district office in the area of waste management state administration publishes, through the municipalities concerned, a draft program of waste management of the region, along with the report on the assessment of its environmental impacts, for a period of 21 days, so that the public from the affected territory can get familiarised with it and deliver their written comments, if any.

Pursuant to Section 4c (4 to 7) of Act No. 137/2010 Coll. The Ministry shall publish the draft national program on its website for 30 days and shall consult the public and the competent authorities which may be affected by the implementation of the national programs due to their specific environmental remit in the area of air pollution and air quality management at all levels. The public has the right to submit written comments to the Ministry on the draft national program. The Ministry is obliged to hold a public discussion of the draft national program and, after examining the comments expressed by the public and the competent authorities, the Ministry informs of the decisions taken and the reasons on which these decisions are based, including information on the public participation process. The Ministry will publish the information on its website. Pursuant to Section 9(16) of Act No. 137/2010 Coll. on Air, as amended, when drafting measures

of a joint or coordinated program or joint action plan pursuant to paragraph 15 and providing information to the public pursuant to Section 13, the Ministry and the district office in the seat of the region shall cooperate with third countries, in particular with the candidate countries for accession to the European Union.

Act No. 364/2004 Coll. on waters and on the amendment to Act No. 372/1990 Coll. on offenses as amended (Water Act) as amended stipulates in Article 13 (2) that the draft riverbasin management plan is worked out by the ministry through an authorized person and administrator of watercourses important to water management in cooperation with state water administration bodies, self-governing regions, other central government bodies concerned and other stakeholders, in particular representatives of municipalities, industrial sphere, water companies, fishery protection and other organizations, whose objects include protection of water and water ecosystems. Further, Article 13 (4) lays down the ministry's duty to make available the following, for purposes of submission of written comments, active participation and consultations, within six months, to the public, water users, self-governing regions, municipalities, and central government bodies concerned:

- a) the time schedule and steps of the preparation of the draft river-basin management plan,
- b) the identified significant water management problems,
- c) the draft river-basin management plan.

Pursuant to Sect. 5, the ministry makes documentation and information used when preparing the draft river-basin management plan available upon request to the entities listed in Sect. 4. Pursuant to Article 9 (1) of Act No. 7/2010 Coll. on flood protection as amended, the ministry coordinates the preparation and implementation of the flood risk management plan with the preparation and implementation of the river-basin management plan with the objective to increase the efficiency, to provide for information exchange and to achieve cooperation and benefits with respect to environmental objectives. The ministry shall provide for that a) the flood hazard maps and the flood risk maps and their subsequent reviews and updates are worked out in such a way that information contained therein is in compliance with relevant information obtained in the preparation and execution of the river-basin management plans and that it is coordinated with the analysis of sub-basin characteristics, evaluation of impacts of human activities on the state of surface waters and groundwaters and economic analysis of water management and that it can be incorporated in them, b) the first flood risk management plans and their reviews are worked out in coordination with the reviews of river-basin management plans and that they can be incorporated in them, c) the active participation of the public, central government bodies, local government bodies, and water users in the preparation and execution of flood risk management plans is coordinated as necessary with their active participation in the preparation and execution of river-basin management plans.

Pursuant to Article 23 (1) (c) Item 6, the ministry publishes the time schedule and steps of preparation, review, and update of flood risk management plans; pursuant to Article 23 (1) (c) Item 7, the ministry makes draft flood risk management plans available to the public for the purpose of submitting written comments and suggestions; it notifies the general government bodies of such disclosure of the drafts to the public; and pursuant to Article 23 (1) (c) Item 9, the ministry makes preliminary evaluation of flood risk, the flood hazard maps, the flood risk maps, and the approved

flood risk management plans available to the public. Pursuant to Article 23 (1) (c) Item 22, the ministry ensures the incorporation of public consulting results and comments on the draft first flood risk management plans, their completion and publishing by 22 December 2015; the completion of their review, and if necessary, the completion and publishing of updated flood risk management plans every six years. Pursuant to Article 23 (2), the ministry discloses to the public at its website a) the preliminary evaluation of flood risks, its reviews and updates, if any, b) the flood hazard maps and the flood risk maps, their reviews and updates, c) the flood risk management plans, reviews and updates. Pursuant to Article 49a (5), the ministry shall a) publish the time schedule and steps of review and update of flood risk management plans pursuant to Article 23 (1) (c) Item 6 for the first time by 22 December 2018, b) make the draft updated flood risk management plans available to the public for the purpose of submitting written comments and suggestions pursuant to Article 23 (2) (c) for the first time by 22 December 2020, c) ensure the review, and if necessary, update of flood risk management plans pursuant to Article 23 (1) (c) Item 22 for the first time by 22 December 2021. In the field of state administration of public water supply systems and public sewerage systems, the environmental department of the district office makes publicly available the draft plan of public water-supply and sewerage system development for the territory of the region at least for a period of 15 days so that the public of the affected territory can get familiarised with it. The draft plan of public water-supply and sewerage system development for the territory of the region is consulted with higher territorial units and with all municipalities within the territory of the region.

Act No. 2/2005 Coll. on noise assessment and control in the external environment and on the amendment to Act of the Slovak National Council No. 272/1994 Coll. on human health protection as amended allows making accessible the strategic noise maps and information on harmful effects of noise to the public, negotiating the draft action plans with the public, and informing the public on the adopted conclusions and measures (Article 5 (2) (e)). Pursuant to Act No.355/2007 Coll. on public health protection, support and development and on the amendment to certain acts, the PHA SR, inter alia, every year before the commencement of the bathing season, publishes the list of waters for bathing and the length of the bathing season; the public can get information, submit their proposals, comments, and complaints in introducing, revising and updating the list of waters for bathing and the length of the bathing season, which the PHA SR properly takes into account.

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

Wide public participation in the preparation of policies relating to the environment is based on the same principle as public participation in the assessment of the environmental impact of proposed activities (Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts).

7. Obstacles encountered in the implementation of Article 7.

Obstacles have not been encountered.

#### 8. Further information on the practical application of the provisions of Article 7.

Central record-keeping of all strategic documents and proposed activities assessed is provided by the MoE SR in cooperation with the SEA through the Information System for Environmental Impact Assessment in the Slovak Republic – EIA/SEA Information System. It is intended for the needs of central government bodies as well as for the general public. All the available information is published in compliance with Act No. 24/2006 Coll. on environmental impact assessment and on the amendment to certain acts as amended at <http://www.enviroportal.sk/sk/eia>.

MoE SR prepared Environmental Strategy 2030 under the auspices of the Institute for Environmental Policy in a participatory manner. Public participation in the process of preparing the document "H2VALUE IS WATER - Action plan to address the consequences of drought and water scarcity" was provided, for instance, through the presentation of the action plan with the participation of the public on June 7, 2017 within the premises of SHMI, the opportunity to send their suggestions and proposals for content, or program content of the action plan, inter alia, to the e-mail address [sucho@enviro.gov.sk](mailto:sucho@enviro.gov.sk), comments by the public in the process of inter-ministerial comment proceedings, resp. subsequent meetings with the public in its evaluation.

Currently, the 3rd cycle of preparation of river basin management plans is underway. The preparation of river basin management plans takes place in a participatory manner, which is coordinated in cooperation with the Office of the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society. As part of the 3rd cycle of river basin management plans, a seminar was held on 6 November 2019 aimed at acquainting the public with the issue of significant water management problems, within which space was created for interaction between MoE representatives and the public. On 20 June 2019, a seminar was organized by the Water Directorate of the MoE SR, the aim of which was to increase the information and involvement of target groups in drafting and approving the update of the strategic document "Slovakia Water Plan 2022- 2027" (SWP). The seminar was attended by 94 representatives from the relevant central state administration bodies and other central state administration bodies and their professional organizations, NGOs active in the field of environmental care, the professional public, self-governing bodies, and other interested parties. In the period from December to June 2020, an overview of noteworthy water management issues was published for comments from the public. Information on the process of the 3rd cycle of preparation of river basin management plans is published on a special website dedicated to the subject matter ([http://www.vodnyplan.online/pages/vodny\\_plan](http://www.vodnyplan.online/pages/vodny_plan)).

The process of updating the Strategy for the Adaptation of the Slovak Republic to Climate Change in 2017-2018 took place in a participatory manner, in which a working group for adaptation composed of representatives of public administration, academia, and NGOs participated in its preparation. The strategy in question passed through the process of assessing the impacts of strategic documents under Act No. 24/2006 Coll. on environmental impact assessment, in which the public was given the opportunity to comment.

An action plan for the implementation of the Strategy for the Adaptation of the Slovak Republic to Climate Change has been under preparation since 2018 in cooperation with the Forecasting Institute of the Slovak Academy of Sciences. A wide group of experts from the fields of agriculture, forestry, water management, geology, nature protection, spatial planning, energy, industry, etc. was involved in the process, as well as representatives of NGOs, higher territorial units, local governments, and umbrella organizations of local governments (UCMS, Union of cities of Slovakia). The draft action plan was prepared based on the results of a questionnaire survey.

In 2018, a cross-ministerial conference was held with the participation of representatives of the MoE SR, the MTC SR and the Bratislava self-governing region focused on providing information about key strategic documents in the area of climate change. In 2019, under the auspices of the MoE SR and the SEA, a professional conference Climate Change 2019 - Challenges and Solutions was held.

Within the project Improving information and providing advice in the field of improving the quality of the environment, the SEA organizes activities with the aim of improving information and communication on adaptation to climate change at the local and regional levels. In addition to processing information materials and publications, it organizes information days in various regions of Slovakia, which are aimed at supporting local government activities in the field of adaptation. At the same time, the SEA provides professional support in creating local adaptation strategies and action plans focused on the adaptation of local governments to climate change and educational opportunities for public administration in this area through a website called Green Infrastructure in the Process of Adaptation to Climate Change.

9. Website addresses relevant to the implementation of Article 7.

<http://www.enviroportal.sk/sk/eia> [www.geoportal.sk](http://www.geoportal.sk)

## Article 8

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

Through the Institute of Preliminary Information enshrined in Art. 10 of the Legislative Rules of the Government of the SR, the public and public administration bodies are informed about any draft Act being prepared before the actual drafting of the Act begins. Preliminary information on the draft Act is being published by the submitting party on the Slov-Lex portal in advance. Preliminary information is prepared on a draft Act, which is submitted to a regular commenting procedure, and which is not prepared on the basis of a legislative intention approved by the Government. In the text of the preliminary information, the submitting party shall briefly state the basic objectives and theses of the draft Act, the assessment of the current situation, the method of public involvement in the drafting of the Act, and the expected date of the commenting procedure. The text of the preliminary information is usually one page long.

The rights of the public to participate in the preparation of legal regulations are guaranteed by new Act No. 400/2015 Coll. on creating legal regulations and on the Collection of Laws of the Slovak Republic and on the amendment to certain acts, which contains, inter alia, the general regulation

of comment procedure regarding governmental bills, including public participation. It is necessary to point out in particular its provisions of Article 10, which guarantee the rights of the public to participate in the preparation of legal regulations, whose draft versions are approved by the government, in the following way:

#### Article

10

(1) Draft legal regulations are compulsorily published for comment procedure on the portal. A draft Act or a draft constitutional Act that has not been drafted on the basis of a government resolution may be submitted for commenting only after discussion with the Deputy Prime Minister in charge of legislation.

(2) The comment procedure regarding the draft legal regulation takes place on the portal in such a way as to ensure the possibility of submitting comments by the public.

(3) A comment on legal regulation means a proposal of draft legal regulation modification that is applied within the specified time limit, is unambiguously formulated and justified. The comment may propose a new text or recommend a modification of the text, supplementation, change, omission or more precise formulation of the original text. The comments also include the justified proposals, which do not propose a new text, nor they recommend a text modification, but they contain particular reservations regarding the proposed text and the way of elimination of the objected shortcomings of the proposed text. The entity submitting the draft regulation shall not be obliged to take into account the suggestions that do not meet the requirements pursuant to this section.

(4) Dispute proceedings with a public representative may take place in case the entity submitting the draft regulation has not complied with the comment raised by more persons on the part of the public, and at the same time, if the comment includes power of attorney to the public representative to represent them (hereinafter the "block comment"). Dispute proceedings with the public representative shall take place every time the entity submitting the draft regulation (submitter) does not satisfy/comply with a block comment that was agreed to by at least 500 natural persons. If the block comment is applied in electronic form through the portal, the list of persons approving the block comment can be sent to the submitter also in another way than through the portal.

All the draft legal regulations pursuant to the Slovak Republic Government Legislative Rules and also pursuant to new Act No. 400/2015 Coll. are also made available for comment to the public through the Slov-lex portal. Slov-lex is a new information system of the general government, which replaced the Portal of Legal Regulations on 1 April 2016, and it is administered and operated by the Ministry of Justice of the Slovak Republic. The objective of creating this uniform information system was to unify the legislative process in the Slovak Republic and to ensure easier orientation and search in legislative materials. The Slov-lex information system, which is directly accessible by central government bodies as well as by the public, allows entering comments on draft acts. Through Slov-lex, all drafts are legal regulations are published, including information on the commenting process and its evaluation. In addition to the paragraph wording, any draft legal regulation submitted to the commenting procedure includes, pursuant to Section 7(1) of Act No. 400/2015 Coll. and pursuant to Art. 17(1)(f) of the Legislative Rules of the Government of the SR also include a report on public

participation in the drafting of said legal regulation. The aim of the report on public participation is to indicate how the public has been involved in drafting the legislation.

Pursuant to Art. 21 of the Legislative Rules of the Government of the SR, the report on public participation in the drafting of a legal regulation usually is two-page long.

The Office of the Plenipotentiary of the Government of the SR for the Development of Civil Society monitors and annually evaluates the publication of reports on public participation in the drafting of legislation and preliminary information. In relation to the institute of preliminary information, this report examines compliance with the legal obligation to publish preliminary information, the declared manner of public involvement in the drafting of legislation, and the time frame in which the preliminary information was published. In connection with the report on public participation in the drafting of legislation, this analysis examines compliance with the legal obligation to publish preliminary information, the form of the published report on public participation, and the declared manner of public involvement in drafting of such legal regulation.

The public can submit comments also when a general binding regulation is issued, which designates, changes or cancels a protected area, pursuant to Article 50 (3) to (4) of Act No. 543/2002 Coll. on nature and landscape protection as amended:

(3) Within 15 days from the delivery of the intention, the municipality shall be obliged to inform the public in its territorial district about it and to allow inspecting it at a usual place, in particular on the official board, for at least 15 days.

(4) The owner, administrator, and lessee of the land concerned, the municipality, and the central government body concerned shall have the right, no later than within 30 days from the delivery of the intention notification or from its publication, to submit written comments on it from the nature protection body. Within the same period, the owner of the land concerned shall have the right to comment on the possibilities of solving the way and determining the amount of compensation provided for the limitation of common land management pursuant to Article 61 (1) (a) to (d). No later than within 30 days, the nature protection body shall be obliged to negotiate the comments with the entity submitting them; if a comment on the possibility of solving the way and determining the amount of compensation provided for the limitation of common land management is concerned, the nature protection body shall be obliged to negotiate the comments no later than within 60 days, and if the owner agrees with the proposed way of compensation provision, to call upon the ministry or a nature protection organization authorized by the ministry or the state property administrator affected by the proposed way of compensation to negotiate with the owner the conditions of compensation provision and in case of agreement, to enter with them into a preliminary contract of provision of compensation for the limitation of common land management pursuant to Article 61a to 61d."

The protected areas and their zones of protection are designated by a generally binding legal regulation – generally binding order of municipality or Government Order of the Slovak Republic. Private protected areas are designated through a decree of the district office in the region seat.

#### 11. Obstacles encountered in the implementation of Article 8.

New Act No. 400/2015 Coll. on creating legal regulations and on the Collection of Laws of the Slovak Republic and on the amendment to certain acts came into effect on 1 January 2016. Pursuant to this act, the comment procedure regarding the draft legal regulation takes place on the portal of Slov-lex in such a way as to ensure the possibility of submitting comments by the public. So far, the possibility of commenting on acts by the public has been regulated only in the Slovak Republic Government Legislative Rules, now the possibility is stipulated in Act No. 400/2015 Coll. According to the NGO VIA IURIS, such a solution is satisfactory in principle, but the enforceability of this right and the supervision over respecting thereof by the judiciary remain an open question. The problematic area from the point of view of Art. No. 8 of the Aarhus Convention represents the legislative process in the National Council of the SR in connection with parliamentary draft Acts.

Pursuant to the Slovak Republic Government Legislative Rules (Article 14 (6)), dispute proceedings with a public representative may take place in case the entity submitting the draft regulation has not complied with the comment raised by more natural persons or legal entities on the part of the public, and at the same time if the comment includes the power of attorney to the public representative to represent them (a block comment). Dispute proceedings with the public representative shall take place every time the entity submitting the draft regulation (submitter) does not satisfy/comply with a block comment that was agreed to by at least 500 natural persons or legal entities unless there are serious reasons for which dispute proceedings cannot take place; the entity submitting the draft regulation shall publish such reasons at its website.

The NGOs representatives within working groups sometimes participate in the process of preparing the respective legal regulation. Pursuant to the Slovak Republic Government Legislative Rules there are consultations with entities submitting the drafts and opinions within public participation and it is assumed they will be taken into account to the largest extent possible if they are not in conflict with the regulations and if they have a rational basis. Formal participation of the public is a risk for strategic assessment. This means that the public either does not participate in the process and thus submits no comments, or it does participate in it but its comments are not taken into account without further explanation. In both cases, the opinions of the public (in these cases it is rather special/expert public) will not be reflected in the final form of the adopted documents.

#### 12. Further information on the practical application of the provisions of Article 8.

NGOs may participate and really do participate in preparing the legislative measures focusing on designation of a protected area or other documentation of nature protection (e.g. programmes of care of protected areas). This applies for example to draft special protection areas, small-scale protected areas, programmes of care of special protection areas, of wetlands etc.

#### 13. Website addresses relevant to the implementation of Article

<https://www.slov-lex.sk/domov>  
<http://enviportal.sk>

<http://www.minzip.sk>



### 39. Slovenia

#### Article 6

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

(a), (b), (c)

Slovenian legislation on cooperation of representatives of the public distinguishes between:

1. the general public: When an act uses the term 'the public', this includes anyone, i.e. any natural person or legal entity regardless of whether they are a foreigner (a foreign natural person or legal entity) a citizen or a local legal entity. The general public is entitled to procedural rights only in some administrative procedures stipulated by the ZVO-1.

2. the interested public (the public concerned): According to Article 43 of the ZUP, a person who demonstrates standing (legal interest) has the right to participate in procedures. Standing is demonstrated when a person asserts that they are joining a procedure in order to protect their legal benefits, which are defined as "a direct personal benefit based on statute or other regulation". The ZUP does not distinguish between persons with a place of residence in the Republic of Slovenia and others, which means that it governs the procedural status of Slovenian and foreign persons. According to the ZUP, the procedural rights of a person who acquires the status of an accessory participant are, with the exception of the filing and withdrawal of a claim, equal to the rights of the party.

With regard to Article 6 of the Convention, the following administrative acts envisaged in the ZVO-1 are relevant:

- the environmental protection permits for installations causing large-scale pollution (the implementation of the IED Directive): IED environmental protection permit (OVD IED),
- an environmental protection permits for Seveso plants (OVD SEVESO), and
- environmental protection consent (implementation of the EIA Directive): OVS consent and an integral building permit,
- an environmental permit for other installations and activities (occasionally).

The Act requires that an OVS consent and/or integral building permit be acquired for any activities that may significantly affect the environment, for which reason an environmental impact assessment must be performed relating to such activities. Following the example of the EIA Directive and Article 6 of the Convention, the ZVO-1 distinguishes between two categories of such activities:

– activities for which an assessment is always necessary (activities referred to in Annex 1 of the Convention) and

– activities regarding which it is only discovered during the preliminary assessment whether an environmental impact assessment should be carried out. In cases when decisions are made concerning activities not listed in Annex 1, the assessment of whether the environmental impact assessment should even be performed is carried out case by case, whereby the prescribed criteria are taken into consideration when decisions are made on this issue. Decree on activities affecting the environment that require an environmental impact assessment (Official Gazette of the Republic of Slovenia, Nos. 51/14, 57/15, 26/17 and 105/20).

#### Accessory participation

As already mentioned, according to the ZUP, the procedural rights of members of the public concerned (accessory participants) are, in principle, the same as the procedural rights of the party. The authority is obliged to invite these persons to participate in a procedure, but they may also ask to participate themselves (Articles 142 and 143 of the ZUP). Persons who have the status of an accessory participant have the right to be notified on the planned procedural steps and a right to participate in all procedural steps, and in specific proceedings they may state facts and present evidence to support their claims, whereby they may make a statement concerning all relevant findings and evidence before a decision is reached, and the authority takes a suitable position on their statements and evidence in the explanatory note that forms a part of decision (e.g. it must state which facts it determined and based on what (which evidence), which evidence it accepts and why, etc.; see Articles 9 and 214 of the ZUP in particular). Both in relation to notification as well as in relation to the participation of persons with the recognised status of an accessory participant, the legislation of the Republic of Slovenia exceeds the requirements of Article 6 of the Convention.

According to the ZUP, the status of an accessory participant can be acquired by anyone who shows standing (legal interest) (In Slovenia, the concept of the subjective protection of rights applies). In procedures according to Article 6 of the Convention (OVS consent and OVD IE according to national legislation), there is a fiction of violated legal interest for some representatives of the public. This applies to environmental non-governmental organisations with a special status (Article 153 of the ZVO-1) and to particular natural persons or legal entities from what is known as the influence area of the activity. The right to represent nature conservation interests in all administrative and judicial procedures is afforded also to an association that has the status of a society operating in the public interest in the field of nature conservation, namely in accordance with paragraph three of Article 137 of the Nature Conservation Act (the ZON). However, in 2020, the wording was slightly modified compared to the former regulation, which enabled the representation of nature conservation in all administrative and judicial proceedings, therefore, the legal ramifications of this modification are not yet clear due to the absence of legal practice.

#### General public

In procedures for issuing OVS consents and OVD IE, OVD SEVESO and OVD permits for other installations (when waste incineration is concerned), the Act also governs the participation of the (general) public (anyone). A more detailed regulation of the cooperation of the general public, as prescribed for the aforementioned acts, is as follows:

– OVS consent (Article 58 of the ZVO-1):

"(1) In the procedure for environmental impact assessment, the ministry must make available to the public the application for environmental protection consent, environmental impact report, and the draft decision on environmental protection consent, and allow the public to express its opinions and make comments.

(2) The ministry shall inform the public – by means of a public announcement in a locally established way and on the internet – in particular of:

1. the application for granting an environmental protection consent for the planned activity affecting the environment,
2. the fact that an environmental impact assessment is required for the planned activity affecting the environment,
3. the area referred to in point 6 of paragraph two of Article 54 of this Act,
4. the participation of a Member State in the case referred to in paragraph three of Article 59 of this Act,
5. the authority that is to grant an environmental protection consent, provide the required information on the planned activity affecting the environment and accept opinions and comments,
6. the location where the application, environmental impact report, and draft decision are available to the public, and
7. the manner in which to express opinions and make comments.

(3) The time limit in which the public has a right of access and an opportunity to express opinions and comment shall be 30 days from the public announcement referred to in the preceding paragraph."

The Building Act (the GZ), which entered into force on 1 June 2018, regulates the environmental impact assessment procedure as a dependent procedure of issuing an integral building permit (Articles 50–59). It specifically regulates accessory participation, allowing persons other than the persons defined in the ZVO-1 to assume the role of an accessory participant (Article 54). Similarly to the ZVO-1, it regulates the participation of the general public (Article 55); however, it regulates the obligation of publishing the integral permit decision and the legal recourse against this decision differently. In terms of legal recourse, it stipulates that non-governmental organisations with a special status have the right to appeal in administrative proceedings as representatives of public interest in the field of their activity even if they did not participate in the procedure of issuing the building permit that is being contested.

– OVD permit for IE installations (Article 71 of the ZVO-1):

"((1) In the procedure for issuing an environmental protection permit according to the provisions of Article 69 of this Act or for its modification referred to in points 1 and 2 of paragraph three and in paragraph fourteen of Article 77 and point 4 of paragraph one of Article 78 of this Act, the ministry shall make available to the public the application for obtaining the permit, the

corresponding conclusions concerning the best available technology, and the draft decision on the environmental protection permit, and allow the public to express its opinions and comments.

(2) The ministry shall inform the public – by means of a public announcement in a locally established way and on the internet – in particular of:

1. the authority that is to issue the environmental protection permit, provide the required information on the planned activity affecting the environment and receive opinions and comments,
2. the extent of the installation influence area referred to in the second paragraph of Article 70,
3. the location where the application and draft decision referred to in the preceding paragraph are available to the public,
4. the participation of a Member State in the case referred to in paragraph four of this Article, and
5. the manner in which to express opinions and make comments.

(3) The time limit within which the public has a right of access and can express opinions and comments shall be 30 days and shall not be counted in the time limit of granting the environmental protection permit.

(4) For an installation that might have a significant impact on the environment of any other Member State, the provisions of Article 59 shall apply *mutatis mutandis*, and for an installation that might have a significant impact on the environment in the Republic of Slovenia, the provisions of Article 60 of this Act shall apply.

– OVD permit for SEVESO plants (Article 88 of the ZVO-1):

"(1) In the procedure for issuing the environmental protection permit for a plant referred to in Article 86 of this Act, the ministry shall make available to the public the application for obtaining the environmental protection permit and the draft decision on the environmental protection permit.

(2) To ensure the participation of the public referred to in the preceding paragraph, the provisions of Article 58 of this Act shall apply *mutatis mutandis*." Furthermore, a new draft of the Environmental Protection Act was drawn up by the end of 2020, which modifies the abovementioned concepts. In addition to the abovementioned changes in the conditions for obtaining the status of an environmental non-governmental organisation, the changes also relate to the possibility of obtaining the status of an accessory participant for individuals and non-governmental organisations and to a modified concept of the entitlement of individuals and non-governmental organisations to access justice; the concept of appealing and thus bringing action before the administrative court has been changed. However, as this idea is still in the phase of public debate, it is not yet known whether or not it will be adopted and is therefore not described in detail.

In 2020, the Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (the ZIUZEOP) also entered into force, interfering with the Building Act by introducing stricter conditions with which non-governmental

organisations must comply to become accessory participants; however, the Constitutional Court of the Republic of Slovenia has suspended the implementation of those legislative provisions. The modified requirements for acquiring the status of an entity operating in the public interest are being introduced into the proposal for or draft of the GZ-2 and the ZVO-2 acts, which are not yet in the phase of parliamentary consideration. However, they have already been implemented in the ZON.

(d) The ZUP requires that representatives of the interested public be informed of all steps of the procedure in a timely manner (see above).

The general public (including any remaining representatives of the relevant public that were not discovered or invited by the authority) is informed on the content of the application (and on the possibility of having direct access to the application) by means of a public notification, and may express opinions and make comments within 30 days. At the same time as the application, a draft of the decision is also published, which means that the authority – provided that it does not deny the request in this phase already – has already specified the data, as stated in the extensive application by the applicant, taking into consideration any regulations, in the foreseen conditions of the activities. Such legislation enables oriented discussion (specific comments of the public on the one hand and a specific answer by the authority referring to facts, evidence, and the assessment of these facts on the other). In any case, the authority may and, provided that this is required due to the findings of the subsequent procedure acquired by cooperating with the public, must change its decision, either regarding only particular points of its operative part (the conditions) or it can refuse to issue a permit entirely.

Pending applications to obtain OVD permits are published online:

<http://www.arso.gov.si/varstvo%20okolja/presoja%20vplivov%20na%20okolje/okoljevarstveno%20soglasje/Vloge%20v%20re%C5%A1evanju/>

(e) The authority is obliged to invite the interested public (accessory participants) and the general public to participate in the procedure in a prescribed manner.

In cases when the authority is uncertain who the accessory participants are, it is obliged under the ZUP to invite persons to participate by issuing a public announcement: "If the authority is unable to determine which persons have a legal interest in participating in the procedure, it shall issue an invitation by means of a public announcement posted on the notice board of the public authority, as well as on the national website e-Uprava (e-Administration), or it can be posted in any other locally established way" (paragraph two of Article 143 of the General Administrative Procedure Act).

f) As already mentioned, all documents and records on activities that serve as the basis for the decision are available to the concerned public.

All documents related to the Convention are also available to the general public (as evident from Articles 58, 71 and 88 cited above).

(g) The interested public is in the position of an accessory participant who requires that it be allowed to provide a statement on all of the claimed facts and evidence and that the authority share

in the explanatory note its position on the accessory participant's proposals and evidence (more above).

The general public (anyone) may share their opinion and comments (and any corresponding documentation) in procedures for issuing OVS consents, OVD IED permits, and OVD SEVESO permits. They can be shared in a public debate or in writing (at any time during the course of a public debate). (See Articles 58, 71/3 and 88 cited above in greater detail).

h) All allegations and motions for evidence filed by the public concerned (accessory participants) must be suitably assessed in the explanatory note of the decision (more above).

Furthermore, the ZVO-1 requires that the views of the general public also be taken into account. It requires that "in its clarification of the environmental protection consent, the authority indicates how the public opinions and comments sought on the basis of Article 58 of this Act have been observed in the decision" (paragraph five of Article 61 of the ZVO-1). This requirement also applies, *mutatis mutandis*, to OVD SEVESO permits. When issuing an OVD IE permit, the Ministry "also takes into account, in the appropriate manner, the opinions and comments of the public" (paragraph one of Article 72 of the ZVO-1).

With regard to SEVESO plants, Article 58 of the ZVO-1 concerning the participation of the public apply *mutatis mutandis*.

i) Pursuant to the ZUP, accessory participants are notified concerning the steps of the procedure and on the decision by means of personal serving.

The ZVO-1 requires that the general public also be notified on the decision referred to in Article 6, namely in the following provision of Article 65 of the ZVO-1 (to which paragraph six of Article 81a and Article 78a also refer):

(1) "The ministry shall inform the public of the issued environmental protection consent in 30 days at the latest after serving the decision on parties, by means of an announcement in the locally established way and on the internet.

(2) The announcement referred to in the preceding paragraph shall comprise in particular:

1. the substance of the decision and indispensable conditions for carrying out the planned activity, when specified,
2. the main reasons for the decision,
3. description of the principal measures for preventing, reducing or eliminating detrimental impacts of the planned activity on the environment when the environmental protection consent is granted, and
4. indication of public opinions and comments taken into account as referred to in Article 58 of this Act in the case referred to in paragraph three of Article 59, and indication of opinions and comments taken into account as given by the Member State concerned.

Decisions on OVS consents and OVD IE permits as well as data on OVS consents and (some groups of) OVD permits are also fully available online:

[http://www.arso.gov.si/varstvo%20okolja/register\\_varstva\\_okolja.html](http://www.arso.gov.si/varstvo%20okolja/register_varstva_okolja.html)

[http://www.arso.gov.si/varstvo%20okolja/presoja%20vplivov%20na%20okolje/okoljevarstveno%20soglasje/evidenca\\_oseb.html](http://www.arso.gov.si/varstvo%20okolja/presoja%20vplivov%20na%20okolje/okoljevarstveno%20soglasje/evidenca_oseb.html)

j) Depending on the nature of the changes of activities, the ZVO-1 distinguishes between activities that require an update of an administrative act (permit) and those that do not require such update.

An update of the act (OVS consent or OVD permit) is required for major changes in the operation of an installation, whereby the cooperation of the public concerned and the general public is provided in the procedure for the update of this act in the same manner as in the procedure for its issuing.

In order to provide supervision, the investor must report the foreseen change of activities for which an OVS consent is required or the foreseen change in the operation of an OVD IE installation to the competent authority beforehand. This authority issues a decision on whether this is a major change that also requires an update of the administrative act (pursuant to Articles 61a and 77 of the ZVO-1).

The decision on the update of a permit must be made in a regular procedure, in which the participation of the public is provided. The update of an OVD permit with public participation is required for SEVESO plants (pursuant to Articles 61a, 77 and 90 of the ZVO-1).

## 2. Obstacles encountered in the implementation of Article 6.

### General

The focus on the culture and practice of open operation dominated by understanding must be enhanced and expanded to all aspects of administrative operation, so that the participation of the public can lead to decisions of higher quality and to the greater legitimacy of decision-making.

For this purpose, decision-making authorities must be better equipped with skills that are required for a focused process for cooperating with various stakeholders that will ensure that the stated goals be attained in practice. Therefore, more human and financial resources should be provided.

On the other hand, greater awareness of the public concerning the very purpose of the procedure and whether they are participating in the procedure with the power of their argument is also required.

Relating to the implementation of Article 6.7. of the Convention:

HESS d.o.o. is of the opinion that provision 6.7. of the Convention is misinterpreted by the public, especially NGOs, or they see only rights, but they do not see the requirement to support their participation with professional arguments; the company believes that they often participate with a view of delaying the process rather than finding "solutions acceptable to social development", while it is clear from the Convention that generalisations are not taken into account and that

"analyses" need to be based on expertise. Being unaware of the obligations results in damage to both the company and the investor.

In the light of the provisions of Article 6 of the Convention, the Ombudsman notes that "in the past year he has detected an attempt to legally exclude secondary participants from ongoing environmental procedures and consequently hinder their access to an effective remedy" as well as an attempt to tighten the conditions for acquiring and maintaining the status of an organization, acting in the public interest in the field of environmental protection. But the Constitutional Court has suspended the implementation of the disputed amendment by resolution No. U-I-184/20 on 2. of July 2020.

### 3. Further information on the practical application of the provisions of Article 6.

The general public and the interested public are becoming involved in procedures, but statistics that are supposed to show the actual extent of the interested public's involvement do not exist.

The Ministry keeps a list of environmental NGO's with a special status pursuant to the ZVO-1 or the ZON.

### 4. Website addresses relevant to the implementation of Article 6.

<http://www.arso.gov.si/varstvo%20okolja/>

<http://www.mop.gov.si/>

<https://e-uprava.gov.si/podrocja/nepremicnine-in-okolje/nepremicnine-stavbe/gradbeno-dovoljenje.html>

<https://www.gov.si teme/graditev/>

## Article 7

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

Considering the regulatory framework in the Republic of Slovenia, a distinction should be made between plans and programmes which, based on their content, are spatial planning acts (although such documents are considered to be regulations according to national law, they are covered by Article 7 of the Convention) and the framework that applies to other acts according to Article 7 of the Convention which do not have a legal regulation in the national law.

The ZVO-1 expressly governs public participation in adopting programming and planning documents prescribed by law, such as:

- the national environmental protection programme and environmental protection operational programmes (pursuant to Article 37 of the ZVO-1; in the process of drafting the programmes in question, the Ministry must allow the public to see the draft programmes and to offer opinions and comments. A public notice on the adoption of a programme also contains justifications for the



adopted programme decision, and information on public participation in the process of drafting it), and

– when preparing a programme with measures to improve the quality of the environment (Article 26 of the ZVO-1).

The ZVO-1 also requires public participation for all plans, programmes, and other acts for which the implementation of a comprehensive environmental impact assessment is required. These are acts in various fields the implementation of which can significantly affect the environment. The plan producer must send a notice concerning their intention to the ministry prior to drafting such an act. The notice must contain data on the type, content, and accuracy level of the plan, including a suitable cartographic depiction of prescribed or planned activities or areas that the plan covers. Within 60 days, the Ministry notifies the plan's producer as to whether a comprehensive environmental assessment is to be implemented for the plan. The Ministry also informs the public by means of a public online announcement and a notice sent in a manner commonly practised in the local area that a comprehensive environmental impact assessment will be carried out for the plan.

After the plan is found to conform by the environmental report in the process of adopting the plan, the plan's producer must make the plan, the environmental report and its revision available to the public by submitting it for public debate for at least 30 days, thus enabling public discussion on the documents. During the period for public debate, the public has a right to offer opinions and make comments on the plan and the environmental report. The plan's producer must as far as possible (also) take into account the opinions and comments of the public, and suitably modify or amend the plan or the environmental report, and notify the public on the adopted plan (Articles 43, 46 and 47 of the ZVO-1). Public participation in the procedure of adopting spatial planning acts is also legally provided for, irrespective of whether or not a comprehensive environmental impact assessment (CPVO) has been undertaken within the procedure. In both municipal and national spatial planning, the public may make comments on the initial, already formatted draft of the spatial act, and, if a comprehensive environmental impact assessment is being performed, on the environmental report as well. The public is informed of the decision on the intention of adopting a spatial planning act. Throughout the phases of drawing up a draft spatial planning act, the public may submit opinions and observations, while in the procedure of municipal planning, the public may already submit the opinions in the initial phase of developing a municipal spatial plan.

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

The public can participate in the procedure for preparing acts intended for developing environmental protection policies.

Among these, the national environmental protection programme and operational environmental protection programmes are the most noteworthy, as the law expressly requires public participation in such cases, even if said acts do not have the nature of a legally binding act.

At the same time, the requirements of the comprehensive environmental impact assessment (including public participation requirements) are established by law for sectoral plans for managing environmental goods and for plans and programmes concerning water management, forest management, fishery, mining, agriculture, the energy sector, industry, transport, waste management and wastewater management, supplying the population with drinking water, telecommunications, and tourism, provided that these plans are used to lay down or plan activities affecting the environment for which an environmental impact assessment must be carried out in accordance with the provisions of Article 51 of this Act, or that an acceptability assessment is required pursuant to the regulations on the conservation of nature, and for other plans and programmes for which the ministry deems that their implementation could have a significant effect on the environment (Article 40 of the ZVO-1).

Public participation in the adoption of spatial planning documents is specifically regulated by the Spatial Planning Act (ZUreP-2). It follows from the established case law of the Constitutional Court that the omission of prescribed public participation in the adoption of spatial planning documents constitutes a violation of the right under Article 44 of the Constitution (participation in the management of public affairs).

#### 7. Obstacles encountered in the implementation of Article 7.

"The Federation of My Mura Societies wishes to participate in the permanent Slovenian and Austrian commission for the Mura river. Due to the related legal restrictions determined by an international treaty, local communities, non-governmental organisations and corporations from both countries were given the opportunity to actively participate at the first Mura Forum, an event organised by a Slovenian and Austrian bilateral commission, dedicated to communication and presentation of the local communities', non-governmental organisations' and corporations' activities in the cross-border basin of the Mura river. At the same time, the forum format offers the opportunity for a broader cooperation in the future." Nevertheless, the federation insists on participating in the commission itself and not in a separate forum."

The Spatial Planning Network states that "in Slovenia, comprehensive environmental impact assessments are generally carried out for spatial plans, but rarely for other plans. For instance, they are never carried out for forest management plans (even if they are partially related to spatial planning). Therefore, the possibility of influencing plans and programmes from the position of defending the interests of environmental protection and nature conservation is also limited."

Regarding the implementation of Article 6.4. to which Article 7 of the Convention refers, the Spatial Planning Network states: "The situation regarding public participation in relation to the previous report, with rare exceptions, has not changed. Within the context of spatial planning, the procedures are carried out as a formal obligation, without an inclusive and engaged approach, which would enable the early acquaintance of the public and the early identification of potential problems. In this way, it would be possible to address conflicts at an early stage, through mediation or similar methods."

The Ombudsman considers public participation in spatial planning to be predominantly formal and not conducted at an early stage. He also detects cases where there is no real aspiration for an substantive inclusion of comments, received from the public.

8. Further information on the practical application of the provisions of Article 7.

The Republic of Slovenia endeavours to properly implement the general provisions of the Convention in accordance with the described legal and other bases.

9. Website addresses relevant to the implementation of Article 7.

The Ministry of the Environment and Spatial Planning regulations are also published on the website:

[http://www.mop.gov.si/si/zakonodaja\\_in\\_dokumenti/predpisi\\_in\\_dokumenti\\_v\\_pripravi\\_okoljski\\_predpisi/](http://www.mop.gov.si/si/zakonodaja_in_dokumenti/predpisi_in_dokumenti_v_pripravi_okoljski_predpisi/).

All national regulations are available on the following portal: Legal Information System of the Republic of Slovenia (PISRS): <http://www.pisrs.si/Pis.web/>.

Drafts, proposals and adopted spatial planning acts and supporting documentation of these acts are published in the Spatial Information System (PIS): <https://dokumenti-pis.mop.gov.si/javno/veljavni/>.

The online notification of the preparation of municipal spatial planning acts is required by law; the manner of implementation is in the purview of municipalities, which usually ensures that these documents can (also) be found on their websites.

[http://www.mop.gov.si/si/delovna\\_podrocja/presoje\\_vplivov\\_na\\_okolje/usposabljanje/](http://www.mop.gov.si/si/delovna_podrocja/presoje_vplivov_na_okolje/usposabljanje/) (CPVO)

## Article 8

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

By means of the amendment in 2009, which entered into force on 12 January 2010 (and was adopted following a Decision by the Constitutional Court of the Republic of Slovenia in case U-I-386/06, in which the Constitutional Court discovered non-conformity of the procedure for adopting implementing regulations with the requirements of the Aarhus Convention), the ZVO-1 introduced a provision in Article 34a that expressly governs public participation relating to the drafting of regulations. This amendment reads as follows:

"(1) In the process of adopting regulations that can have a significant impact on the environment, the Ministry, other ministries and the competent body of the local authority must allow the public the opportunity to study the draft regulation and offer opinions and submit comments thereon.

(2) Regulations that can have a significant impact on the environment shall include: regulations issued in the field of environmental protection, nature conservation and the management, use or protection of parts of the environment, including the management of genetically modified

organisms, and also regulations the environmental impact of which has been identified by the drafting body during the adoption process.

(3) The authority referred to in paragraph one of this Article shall inform the public by means of a public announcement on its website of the location in which the draft regulation is accessible and the method of, and period for, submitting opinions and comments.

(4) The public shall have the right to inspect the draft regulation and the opportunity to offer opinions and comments for at least 30 days, whereby this time limit may be reduced to 14 days in the event of less important modifications to the regulations referred to in paragraph two of this Article.

(5) The authority referred to in paragraph one of this Article shall study the opinions and comments of the public and, in so far as they are acceptable, incorporate them appropriately into the drafting of the regulation. Furthermore, it shall publish on the internet a reasoned position in which it states its views with regard to the opinions and comments of the public and its reasons for incorporating or not incorporating them in the drafting of the regulation.

(6) The provisions of the preceding paragraphs shall not apply to regulations where, for their adoption, the participation of the public is already prescribed by other laws."

The provision applies to all environmentally relevant regulations. The requirements for the inclusion of the (interested) public depend on the national nature of a legal act, which distinguishes between different adoption procedures (and thereby different public participation types) in adopting general and specific legal acts and programmes or other (political) documents that do not have the nature of a legal act. Participation in the adoption of legally non-binding programmes is thus regulated separately by the ZVO-1.

For regulation adoption procedures, the ministry already prior to ZVO-1 issued Instructions on Public Participation in Adopting Regulations that Could Significantly Affect the Environment (Instructions dated 5 August 2008).

With regard to the adoption of regulations, the Resolution on Legislative Regulation (Official Gazette of the Republic of Slovenia, No. 95/09) is also relevant, as it governs the principles and minimum recommendations for cooperation with the expert public and other interested segments of the public. It lays down that the period for the cooperation of the public in the preparation of regulations should be from 30 to 60 days. The exceptions are proposed regulations where the nature of matters does not enable cooperation.

The provisions of the Rules of Procedure of the Government of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, Nos. 43/01, 23/02 – corr., 54/03, 103/03, 114/04, 26/06, 21/07, 32/10, 73/10, 95/11, 64/12, 10/14 and 164/20) are also important, as they also regulate public participation in the drawing up of regulations and other government documents and "supporting documentation".

#### 11. Obstacles encountered in the implementation of Article 8.

The Spatial Planning Network believes that there are shortcomings in the implementation of the parts of Article 34a "related to important changes in the draft act made after the public debate and the regulation should be submitted for another public debate for substantive reasons. Secondly, the provision of paragraph five related to presenting the observations taken into account is generally not implemented." They also recall as unacceptable the fact that the amended Article 137 of the ZON has not been submitted for public debate and that the right to the access to justice (governed by Article 58 of the ZureP-2 currently in force) has been removed from the proposal for the new Spatial Planning Act after the public debate, thus depriving the public of the possibility to submit observations."

Despite the fact that Article 2 of the Convention excludes the conduct of bodies with legislative competence, in his comments on implementation of Article 8, the Ombudsman draws attention to practices regarding the adoption of certain laws or legal provisions (ZIUZEOP-A , ZV-1G and ZVO-2), in the working field of the Ministry for the Environment and Spatial Planning. He warns that abbreviated or urgent parliamentary procedure was used without reasonable grounds. He emphasizes that draft law, published for public participation, is often poorly reasoned or even unexplained and deadlines unreasonably short. He also draws attention to the "subsequent addition of legislative changes that could have a significant impact on the environment to the already drafted bill after a public debate". He believes that public participation conducted in the matter described cannot be perceived as an effective participation.

#### 12. Further information on the practical application of the provisions of Article 8.

Efforts for better legislation, administrative processes and quality in Slovenia are coordinated by the Ministry of Public Administration. With regard to systemic efforts to include the public in processes for adopting regulation, the following documents, which are available online, should be mentioned:

- Strategy of the Government of the Republic of Slovenia Concerning Cooperation with Non-Governmental Organisations, Government of the Republic of Slovenia, 2005
- Manual for Planning, Managing, and Evaluating Public Participation Processes, Ministry of Public Administration, 2008
- Resolution on Legislative Regulation, National Assembly, 2009
- Manual for the Implementation of Assessments of the Consequences of Regulations and Policies, Ministry of Public Administration, 2011
- Guidelines on Preparing a Process Plan for Including the Public in the Process of Drafting National Spatial Plans for Transmission Lines and Gas Pipelines, Ministry of the Environment and Spatial Planning, 2012 and revised in 2014
- Recommendation to Municipalities Concerning the Early Inclusion of the Public in Procedures for Drafting Spatial Planning Documents of the Local Community, Ministry of the Environment and Spatial Planning, 2011

- Guidelines on Including Stakeholders in the Preparation of Regulations, Ministry for Public Administration, 2015
- Including the Public in the Drafting of Regulations, Manual for Planning and Implementing Consultation Processes, Ministry of Public Administration, 2015
- Proposals for regulations from all fields are also published on the e-demokracija website. It enables the interested public to monitor the process of drafting regulations, from the moment when a ministry or a government office publishes its intent to commence the development of a regulation to the moment when this regulation is submitted for Government review in the National Assembly of the Republic of Slovenia.
- The permanent implementation of the STOP birokraciji (STOP to Bureaucracy) project. A website, a mobile application, and a Facebook page have been set up as tools for collecting recommendations, initiatives to reduce administrative burdens and for treating them.
- For those responsible for preparing regulations, a web application called MSP Test was developed as a part of the MOPED information system (MOPED – modular environment for preparing e-documents), which will use, among other things, various application modules to draft regulations and enable the mandatory publication of working materials on the e-demokracija website, thus enabling the maximum direct participation of all of the expert and lay public in drafting proposals for legislative Instruments.

With respect to Ministry of Public Administration projects, it should be pointed out that in May 2015 a six-month project relating to cooperation between the Ministry of Public Administration and the Centre for Information, Cooperation and Development of Non-Governmental Organisations (CNVOS) ended, which focused on strengthening cooperation among various segments of the public in drafting regulations and other strategic and political documents.

### 13. Website addresses relevant to the implementation of Article 8.

<http://www.arso.gov.si>

<http://www.mop.gov.si>

[/http://www.uradni-list.si](http://www.uradni-list.si)

[http://www.mop.gov.si/si/zakonodaja\\_in\\_dokumenti/veljavni\\_predpisi/okolje/zakon\\_o\\_varstvu\\_okolja/arhiv\\_zaključenih\\_postopkov\\_sodelovanja\\_javnosti\\_okoljski\\_predpisi/](http://www.mop.gov.si/si/zakonodaja_in_dokumenti/veljavni_predpisi/okolje/zakon_o_varstvu_okolja/arhiv_zaključenih_postopkov_sodelovanja_javnosti_okoljski_predpisi/)

[http://www.vlada.si/delo\\_vlade/gradiva\\_v\\_obravnavi/](http://www.vlada.si/delo_vlade/gradiva_v_obravnavi/) (vladna gradiva v obravnavi).

<https://e-uprava.gov.si/drzava-in-druzba/e-demokracija.html>

[https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov.html#eyJmaWx0ZXJzIjpb7ImNvbW1lbnQiOlsiLSJdLCJ0eXBBIjpbIi0iXSsic3RhdHVzIjpbIi0iXSwiY2F0IjpbIi0iXSvicmlqcyl6WyItMSJdLCJvZmZzZXQiOlsiMCJdLCJzZW50aW5lbF90eXBBIjpbIm9rIl0sInNlbnRpbmVsX3N0YXRlcyl6WyJvayJdLCJpc19hamF4IjpbIjEiXX19](https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov.html#eyJmaWx0ZXJzIjpb7ImNvbW1lbnQiOlsiLSJdLCJ0eXBBIjpbIi0iXSsic3RhdHVzIjpbIi0iXSwiY2F0IjpbIi0iXSsicmlqcyl6WyItMSJdLCJvZmZzZXQiOlsiMCJdLCJzZW50aW5lbF90eXBBIjpbIm9rIl0sInNlbnRpbmVsX3N0YXRlcyl6WyJvayJdLCJpc19hamF4IjpbIjEiXX19)

## 40. Spain

### Article 6

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

86. Public participation in decision-making about specific activities in article 6 of the Convention is set out in the specific procedures regulated in the relevant sectoral legislation. Thus, article 3.2 e) of Law 27/2006 provides that everyone has the right to effective and real participation, according to applicable legislation, in the administrative procedures undertaken to grant authorizations regulated in legislation concerning prevention and integrated control of pollution, for the granting of administrative authorizations regulated in the legislation concerning genetically-modified organisms, and for the issuance of the environmental impact statements regulated in the legislation on environmental impact assessment.

87. It is important to highlight the fact that the final provisions one and two of Law 27/2006, amended the basic regulations on Environmental Impact Assessment and Integrated Pollution Prevention and Control were amended to adopted to adapt them to the rules on participation set out in the Aarhus Convention, primarily by redefining the concepts of “public” and “stakeholder” and the introduction of early participation. These regulations were amended in 2013, as set out below

#### Article 6, paragraph 1

88. Participation in authorization procedures for the activities set out in Annex I of the Convention is regulated, as we have seen, in the relevant basic sectoral legislation, primarily in Royal Legislative Decree 1/2016, of 16 December, passing the consolidated text of the Law on integrated pollution prevention and control (promulgated, as its name suggests, to consolidate into a single text all the amendments that had been being made to the original text of Law 16/2002), hereinafter RDL 1/2016, and in Royal Decree 815/2013, of 18 October, passing the Regulation on industrial emissions and implementing Law 16/2002, of 1 July, on pollution prevention and control; said legal text sets out the procedure for granting integrated environments authorizations (IEAs)

89. RDL 1/2016 is applicable to publicly- or privately-owned facilities in which any of the industrial activities is carried out that are included in the categories listed in annex 1 and which, where appropriate, reach the capacity thresholds set out therein, with the exception of the facilities or parts thereof used to research, develop and experiment with new products and processes.”

90. For its part, Law 21/2013, on Environmental Assessment affects at all events the execution of works, facilities or any other activity included in annex I thereof, and only projects or activities set out in annex II, and those not included in annex I but which may directly or indirectly affect Natura 2000 Network sites, must be subject to an environmental impact assessment (EIA) when the environmental body so decides in each case. This new regulatory text includes the possibility that

projects subject to simplified environmental impact assessment are subject to the ordinary procedure when the developer so requests.

91. The legislator, being aware of the importance of coordinating the environmental impact assessment procedures in Spain, introduces a novel mechanism for entry into force. In its Final Provision eleven it provides that Autonomous Communities that have their own legislation concerning environmental assessment, must adapt it to the national Law within one year from when it comes into force (before 12 December 2014), which is the point at which, at all event, the precepts of the national law, which are basic, shall be applicable to all the Regions. However, the Autonomous Communities may opt to refer en bloc to this law, which shall be applicable in its territory as basic and supplementary legislation.

#### Article 6, paragraph 2

92. Article 14 of the Consolidated Text of Law 16/2002 IPPC passed by RDL 1/2016 provides that the public authorities shall promote the real and effective participation of stakeholders in procedures to grant, substantially amend, and to review a facility's integrated environmental authorization.

93. Thus, Annex 4 of the aforementioned Consolidated Text contains all the provisions set out in article 6, paragraph 2, of the Aarhus Convention, identifying deadlines and procedures in detail, as well as the obligations that the relevant authorities must assume to guarantee appropriate public participation in decision-making.

94. For its part, in the Environmental Impact Assessment (EIA) procedures, Law 21/2013, on Environmental Assessment, at article 36 also guarantee the "real and effective" participation from an early stage and regulates matters concerning the public information and consultation process for the public authorities concerned and the stakeholders, offering similar information to that described in the previous section: an application for authorization of the project, identification of competent bodies, nature of the decisions, date and place where the information will be available, ways to participate, information contained in the environmental impact study and other relevant documentation.

95. Some Regions have opted to amend their regional legislation to adapt it to Law 21/2013, on Environmental assessment and have already concluded it (Aragon, Castile-La Mancha, Castile and Leon, Andalusia and Extremadura), Law 9/2013, on entrepreneurship and economic competitiveness of Galicia, at Title III, Chapter II, regulates the Assessment of the environmental effects of activities.

Other Regions have chosen to directly apply the national basic legislation (Madrid, Navarre, Balearic Islands) and others are in the process of passing laws to be compliant with Law 21/2013 (Asturias, Murcia, Cantabria, La Rioja), though they have not yet completed them.

96. Regarding the information to be provided, as regards the regulation of the Integrated Environmental Authorization procedures in RDL 1/2016 as well as the EIA procedures, see sections 92-94.



97. In some Autonomous Communities, regulations have been prepared on participation that regulate the processing of authorizations or of decision-making, among other things, of those not subject to a regulated public participation procedure.

98. In some cases, the Autonomous Communities have ad hoc participation bodies within their administrative organization.

99 Autonomous Communities and Local Governments have, in general adopted measures concerning participation, establishing new ways to do so or reinforcing the existing once, especially those derived from Agenda 21 Local in the case of Local Entities. To do so, both levels of government have promoted the use of new technologies. For example, the Autonomous Community of Madrid's Participation Portal:

[www.comunidad.madrid/participacion](http://www.comunidad.madrid/participacion)

<http://www.juntadeandalucia.es/medioambiente/site/portalweb/menuitem.d1a35641276b2bf2490a9d105510e1ca/?vgnextoid=50d9193566a68210VgnVCM10000055011eacRCRD&vgnnextchannel=d869193566a68210VgnVCM10000055011eacRCRD>

Andalusia has Law 7/2017, of 27 December, on Citizen Participation of Andalusia and on the web portal of the Regional Department of Agriculture, Livestock, Fisheries and Sustainable Development in its environment area of the Regional Government of Andalusia, it has a special area for public participation, which can be consulted at the following link:

<http://www.juntadeandalucia.es/medioambiente/site/portalweb/menuitem.d1a35641276b2bf2490a9d105510e1ca/?vgnextoid=50d9193566a68210VgnVCM10000055011eacRCRD&vgnnextchannel=d869193566a68210VgnVCM10000055011eacRCRD>

<http://www.juntadeandalucia.es/medioambiente/site/portalweb/menuitem.d1a35641276b2bf2490a9d105510e1ca/?vgnextoid=50d9193566a68210VgnVCM10000055011eacRCRD&vgnnextchannel=d869193566a68210VgnVCM10000055011eacRCRD>

#### Article 6, paragraph 3

100. In the EIA procedure, the decision-making and control body shall inform the persons concerned and the affected public authorities of the right to participate in the corresponding procedure and of the point at which they can exercise that right; the notification shall set out the competent authority to which they must send the observations and comments specifying such participation and period in which they must be sent, which may not be less than 30 days (article 37 Law 21/2013).

101. As regards the IEA, article 5 of Annex 4 of the Consolidated Text of Law 16/2002 provides that, at all events, reasonable periods shall be established for the various phases that grant sufficient time to inform the public and so that persons concerned can prepare and participate effectively in the decision-making process.

For plans and projects related to the environment, there are other sufficient public participation periods, as set out in respective sectoral legislation. By way of example, the Hydrological Plans

are put out for public consultation for a minimum of 6 months, according to EU regulations (Directive 2000/60/CE establishing a framework for Community action in the field of water policy, and in article 74 of the Water Planning Regulation.

In the Autonomous Community of Andalusia, the Documents subject to public information are published at:

<https://juntadeandalucia.es/servicios/participacion/todos-documentos.html> and the Regulations being prepared at:

<https://juntadeandalucia.es/servicios/normas-elaboracion.html>

102. On the other hand, the regulation of public information in processing regulatory provisions, contained in Law 50/1997, of 27 November, on the Government, in its draft given by Law 40/2015, provides, in article 27, for the possibility of undertaking an urgent procedure, in which case the deadlines are reduced by half, albeit it is necessary to justify it on grounds set out in the law (transposition of EU directives or extraordinary circumstances).

Article 6, paragraph 4

103. The RDL 1/2016 provides that the Public Authorities shall guarantee that the public participation takes place in the initial phases of the respective procedures according to article 24. To that end, the provisions concerning participation set out in annex 4 thereof shall be applicable so such procedures.

104. Law 21/2013 sets out this guarantee in article 36.1, upon opening the process for consulting the public authorities concerned and the natural or legal persons, whether public or private, linked to protection of the environment, when the EIA procedure is begun. Article 9 specifies that said process shall be undertaken at those stages of the procedure in which all options related to the determination of the content, the scope and the definition of the project are still open.

105 For plans and programs, the specific legislation adapts its procedures to the requirements of the Convention and national law. For example, Law 22/2011, of 28 July, on waste and polluted soils provides that the public authorities shall guarantee the rights of access to information and participation in waste-related matters in the terms set out in Law 27/2006, of 18 July, regulating the rights of access to information, on public participation and on access to justice in environmental matters.

In fact, in the State Government Departments and Agencies and in the Autonomous Communities, besides the participation of consultative collegiate bodies where such is provided for, early participation through the Internet is encouraged and, by sending the information to the associations, organizations and agents involved in the procedures, by means of prior public consultations.

Article 6, paragraph 5

106. According to articles 33.2 and 34 of Law 21/2013, on environmental assessment, the developer of the project may make prior consultations at the beginning of the project authorization procedures.

At the regional level, the dissemination of information encourages the possibility of there being a spontaneous prior debut, albeit it is not regulated in the regulations, either, and in some cases a Social Compact for the Environment has been signed that reinforces the communication mechanisms.

#### Article 6, paragraph 6

107. Law 27/2006 regulates access to environmental information in articles 5 to 12 and, in particular, in article 10, access to environmental information upon request. Moreover, the Environmental Assessment regulations - see hereinabove - guarantees that the information shall be made available that is referred to in article 6.6 of the Convention: a general description of the project and foreseeable requirements over time, in relation to the use of the soil and other resources; estimation of the types and quantities of waste spilt and emissions; exposure of the main alternatives examined; assessment of the direct or indirect foreseeable effects of the project on the environment; measures set out to reduce, eliminate or offset the effects; a summary of the study and conclusions in easily-understandable terms.

108. Moreover, it is stated that the decision-making and control body shall make available to all interested persons all relevant documentation received before and after the public information process is undertaken.

#### Article 6, paragraph 7

109. General regulation of the processing of public information includes the option to make observations and submit the documents and explanations that the interested parties consider pertinent, according to Law 39/2015, of 1 October, on the Common Administrative Procedure of the Public Authorities.

110. In particular, Law 21/2013 provides that the decision-making and control body must inform the public regarding the authorities to which they may submit observations, comments and consultations, as well as the period available to submit them. For its part, the Consolidated Text of Law 16/2002, passed by RDL 1/2016 provides in its Annex 4 that the interested persons shall have the right to make to the decision-making and control body whatever relevant observations and opinions it deems appropriate before a decision is made on the request.

111. All means of sharing information, such as email, postal mail, fax, telephone, in-person, web form or online registration, are available to the public, in general, at all Departments and Agencies, to make it easier to participate and submit observations. In the Autonomous Community of Madrid, draft regulations and administrative files on EIA and IEA procedures are published to facilitate participation and the submission of comments at:

<https://www.comunidad.madrid/transparencia/> y <http://comunidad.madrid/participacion>.

In the Autonomous Community of Andalusia, the following link gives access to the documents subject to public information, as well as other open participation procedures of interest to citizens or for stakeholders.

[www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnextoid=177aa8e0c8c0e210VgnVCM10000055011eacRCRD&vgnnextchannel=50d9193566a68210VgnVCM10000055011eacRCRD](http://www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnextoid=177aa8e0c8c0e210VgnVCM10000055011eacRCRD&vgnnextchannel=50d9193566a68210VgnVCM10000055011eacRCRD)

Moreover, MITERD has made available to affected sectors the “Website” application on its website, in relation to various procedures for which it is responsible, which include those concerning EIA (“Sabia” Program).  
<https://servicios.magrama.es/irj/porta/anonymo/consultaDestacados?NavMode=3>

#### Article 6, paragraph 8

112. In EIA and IEA procedures, the results of the consultations and of the public information must be taken into consideration by the developer in its project, as well as by the competent body in the authorization for it (article 37 Law 21/2013 and article 4 of Annex 4 of the Consolidated Text of Law 16/2002).

113. For plans and programs, Law 27/2006 provides in general that upon adopting the relevant decisions, the results of the public participation shall be duly taken into account by the Public Authorities.

In Andalusia, the plans and programs that are in one of the processing phases of the strategic environmental assessment procedure are published on the website.

They are plans on various subjects (sustainable development, mobility, water management, land use planning, etc.) that are located in Andalusia, regardless of the body developing them.

Each plan has a data sheet detailing the bodies participating, the type of environmental assessment procedure (ordinary or simplified), the phase they are in and the documents generated in said process, can be consulted at the following link:  
[www.juntadeandalucia.es/medioambiente/tramitesEAE](http://www.juntadeandalucia.es/medioambiente/tramitesEAE).

At this other link:  
[www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.7e1cf46ddf59bb227a9ebe205510e1ca/?vgnextoid=191c09a52ed5c510VgnVCM2000000624e50aRCRD&vgnnextchannel=3d9262cb5fa9d510VgnVCM2000000624e50aRCRD](http://www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.7e1cf46ddf59bb227a9ebe205510e1ca/?vgnextoid=191c09a52ed5c510VgnVCM2000000624e50aRCRD&vgnnextchannel=3d9262cb5fa9d510VgnVCM2000000624e50aRCRD).

the completed environmental assessment procedure plans in the region of Andalusia are there.

#### Article 6, paragraph 9

114. Law 21/2013 determines that the strategic environmental Statement (Plans) and the environmental impact Statement (Projects) shall be published in all cases (Official Gazettes) and shall include the main reasons and considerations on which the decision is based, in relation to the observations and opinions expressed during the environmental assessment and a description,

where necessary, of the main measures to prevent, reduce and, if possible, offset the main adverse effects. This provision is also applicable to simplified strategic environmental and impact assessment procedures for Plans, Programs and Projects. The Autonomous Community of Madrid publishes all the decisions on the strategic environmental and impact assessment procedures at:

<http://gestiona.madrid.org/legislacionambiental>

In Andalusia they are published on the website and they can also be consulted at the following link:

[www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.7e1cf46ddf59bb227a9ebe205510e1ca/?vgnextoid=191c09a52ed5c510VgnVCM2000000624e50aRCRD&vgnnextchannel=3d9262cb5fa9d510VgnVCM2000000624e50aRCRD](http://www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.7e1cf46ddf59bb227a9ebe205510e1ca/?vgnextoid=191c09a52ed5c510VgnVCM2000000624e50aRCRD&vgnnextchannel=3d9262cb5fa9d510VgnVCM2000000624e50aRCRD)

115. RDL 1/2016, for its part, provides that the Autonomous Communities shall publish the administrative decisions according to which the integrated environmental authorizations had been granted or amended and shall make available to the public the content of the decision accompanied by a report setting out the main grounds and considerations on which the administrative decision is based, including information related to the public participation process. The Autonomous Community of Madrid publishes all the decisions on the Integrated Environmental Authorization

<http://gestiona.madrid.org/legislacionambiental>

In Andalusia, Law 7/2007, of 9 July, on Integrated Management of Environmental Quality, a series of environmental prevention instruments are formulated that are applicable to actions that may affect the Andalusian environment. The Integrated Environmental Authorization (AAI), the Unified Environmental Authorization (UEA), Environmental Rating, the Strategic Environmental Assessment of plans and programs and the Strategic Environmental Assessment of urban planning instruments. Moreover, there is a series of national projects that must go through the Environmental Impact Assessment (EIA) process, with Andalusia participating in the consultation period the Ministry responsible for processing said EIA undertakes. It is all published at the following link:

<http://www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnextoid=7d2df45cbbabb310VgnVCM2000000624e50aRCRD>

In Castile-La Mancha both processes that have been begun and authorizations that have already been granted by provinces and productive centers are published.

<http://agricultura.jccm.es/prai/consultarEntidades.action?model.id=4>

Article 6, paragraph 10

116. The amendments and changes in the characteristics and circumstances in which a project has been authorized within the scope of application of EIAs or IEAs, according to National basic regulations, is always subject to a screening examination, in order to determine the possible existence of significant impacts. For this procedure, the public participation channel has already been mentioned.

## Article 6, paragraph 11

117. On GMO matters, reference is made to points XXXIII, XXXIV, XXXV and XXXVI.

2. Obstacles encountered in the implementation of article 6.

The main obstacles identified by Local Governments for the application of the Aarhus Convention have been lack of detailed knowledge of its provisions, lack of interest in it on the part of a considerable share of the citizens and lack of human and technical resources in some cases.

In the view of some citizens and social interlocutors, the regulation minimum period set out in sectoral legislation for submitting observations in procedures subject to environmental intervention is insufficient, given how voluminous the files are and their technical complexity. However, it would be possible to extend these periods since in most cases they are minimum periods.

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

National defense and financial and budgetary Plans and Programs are excluded from the EIA process. Moreover, it shall not be applied to projects related to National Defense objectives when such application could have negative repercussions for those objectives, nor to projects specifically approved by a National law.

Article 8 of Law 21/2013 also provides for the exclusion by the Cabinet in the sphere of the State Government Departments and Agencies and, where appropriate, the body determined by each region's legislation in its respective area of competence, of environmental impact assessments in the following projects:

- a) Construction of prisons, or in those projects declared to be of special interest for public safety by the relevant authorities.
- b) Repair works to critical infrastructure damaged by catastrophic events and emergency works.

To facilitate the application of these rights, databases are published on the Internet containing files subject to EIA of plans, programs and projects, by both MITERD and by the Regional Departments of the Environment of the Autonomous Communities. For example, in the Autonomous Community of Madrid:

<http://www.comunidad.madrid/servicios/urbanismo-medio-ambiente/evaluacion-impacto-ambiental>

4. Website addresses relevant to the implementation of article 6.

<https://www.miteco.gob.es/es/calidad-y-evaluacion-ambiental/temas/evaluacion-ambiental/> además de las indicadas en el apartado 32.

In the Autonomous Community of Andalusia, we find:

<http://www.juntadeandalucia.es/medioambiente/site/porta/web/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnextoid=7d2df45cbbabb310VgnVCM2000000624e50aRCRD>

[www.juntadeandalucia.es/medioambiente/tramitesEAE](http://www.juntadeandalucia.es/medioambiente/tramitesEAE)

In the Autonomous Community of Castile-La Mancha we find:

Right to participate in environmental affairs:

<https://www.castillalamancha.es/node/172318>

Environmental consultation and participation bodies:

<https://www.castillalamancha.es/node/172343>

Public Information in Integrated Environmental Authorization procedures:

<https://www.jccm.es/sede/tablon>

<http://agricultura.jccm.es/prai/consultarEntidades.action?model.id=4>

Public Information in Environmental Impact Assessment procedures:

<https://www.jccm.es/sede/tablon>

<https://neva.jccm.es/nevia/forms/nevif100.php>

## **Article 7**

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

Law 27/2006 sets out two ways for the public to participate in plans and programs: on the one hand, it sets out the areas in which the procedure regulated in the Law itself shall be applied (Waste, Batteries and accumulators, Nitrates, Packaging, Air quality and those set out in regional regulations) and, on the other hand, it refers to specific sectoral legislation regulating participation in water-related matters and in plans and programs subject to legislation on assessment of the effects of plans and programs on the environment.

Law 21/2013 regulates strategic environmental assessment of plans and programs and includes as an innovation prior acceptance for processing, it continues with the consultations to the affected authorities and it concludes with a strategic environmental report, which can determine either that the plan or program has significant effects on the environment, and therefore must be subject to an ordinary strategic assessment, or that the plan or program does not have significant effects on the environment and can, therefore, be adopted or approved in the terms set out in the report itself.

Concerning water, public consultation of water planning documents is a mandatory formal process required by both the Water Framework Directive and by the consolidated text of the Water Law and implemented in Article 74 of the Water Planning Regulation. As regards water planning projects, the general public can use the website to access the programs, calendars and consultation forms, the project, the general study of the district, the outline of the most important matters and the draft Water Plan. Moreover, they can then access the documents that have been incorporated into the Project after passing the consultation phase.

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

Besides the provisions of article 16 of Law 27/2006, article 19 also sets out the functions of the Environmental Advisory Council, as the collegiate body for participating in and monitoring environmental policies, which include advising on national plans and programs that the chair's office proposes to it on account of the importance of its effect on the environment. There are, moreover, other sectoral participation bodies, such as the National Water Council, the National Climate Council, the National Council for Natural Heritage and Biodiversity and the Council for the Rural Environment and the Committee of Rural Development Associations.

At the regional level and notwithstanding the application of Laws 27/2006 and 21/2013, tools have been added that are in accordance with the new approach to participation in preparing and approving plans and programs. That involves consulting the affected Authorities, including local authorities, and the public concerned. Provision is also made for participation through consultative collegiate bodies nature similar to those at national level.

7. Obstacles encountered in the implementation of article 7.

The problems with low participation that may be found at the outset are being gradually resolved and it is expected that a higher level of citizen participation will be achieved. On occasions, the stakeholders comment that the periods allowed for participation are insufficient due to the volume or complexity of the information associated with the project or activity.

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

In both the National Authorities and in regional and local authorities, citizen participation in the preparation and approval of plans and programs is facilitated by the implementation of new technologies that allow for interactive participation by citizens and whose purpose is to make it transparent and foster it. In the Local Authorities, new ways to participate are being established, or existing ones are being reinforced, especially those derived from the Agenda 21 Local.

The former MAPAMA and some Autonomous Communities and Local Authorities recently created profiles on Facebook and other social networks, for the massive dissemination of information and as a further means to participate in environmental procedures. This social tool has become one of the main means of communication in the world today.

All projects submitted by the Biodiversity Foundation of the Ministry for the Environmental Transition and the Demographic Challenge to the European Commission's LIFE funding tool are subject to a period of consultation, suggestions and prior enrichment. Moreover, supporting letters can be added to them. The projects INTEMARES (Integrated, innovative and participative management of the Natura 2000 Network in the Spanish marine environment), and CERCETA (Plan of coordinated actions for the recovery the marbled teal in Spain) have been submitted in this format. Hundreds of suggestions and letters of support were gathered in these processes before their final approval and implementation. The proposal "Lifestyle changes to recover nature", a major governance and communication project, is going to be done in the same way.



The page "<http://www.miteco.gob.es/es/ministerio/servicios/participacion-publica/>"

includes a list of all the projects subject to public participation. By way of example, as of the drafting of this report, the following are open to public participation:

Draft Ministerial Order amending Annex IV of Royal Decree 219/2013, of 22 March, on restrictions upon the use of certain hazardous substances in electrical and electronic devices.

Draft Order AAA/ /2015, setting out the Import Requirements for Non-Harmonized Animals according to EU regulations.

Draft Ministerial Order, amending Royal Decree 139/2011, of 4 February, for the implementation of the List of Protected Wild Species  
["http://www.magrama.gob.es/es/\\_tcmLinkFilter.aspx?tcmUri=tcm:7-408920-16"](http://www.magrama.gob.es/es/_tcmLinkFilter.aspx?tcmUri=tcm:7-408920-16)rotección Especial y del Catálogo Español de Especies Amenazadas

[http://www.magrama.gob.es/es/\\_tcmLinkFilter.aspx?tcmUri=tcm:7-406644-16](http://www.magrama.gob.es/es/_tcmLinkFilter.aspx?tcmUri=tcm:7-406644-16)

[http://www.magrama.gob.es/es/\\_tcmLinkFilter.aspx?tcmUri=tcm:7-406644-16](http://www.magrama.gob.es/es/_tcmLinkFilter.aspx?tcmUri=tcm:7-406644-16)

#### 9. Website addresses relevant to the implementation of article 7.

["http://www.miteco.gob.es/es/participacion-publica/"](http://www.miteco.gob.es/es/participacion-publica/)participacion-publica/ , besides those set out in paragraph 32.

Also, in Andalusia, the following link gives access to the documents subject to public information, as well as other open participation procedures of interest to citizens or for stakeholders:

[www.juntadeandalucia.es/medioambiente/site/portalweb/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnnextoid=177aa8e0c8c0e210VgnVCM10000055011eacRCRD&vgnnextchannel=50d9193566a68210VgnVCM10000055011eacRCRD](http://www.juntadeandalucia.es/medioambiente/site/portalweb/menuitem.6ffc7f4a4459b86a1daa5c105510e1ca/?vgnnextoid=177aa8e0c8c0e210VgnVCM10000055011eacRCRD&vgnnextchannel=50d9193566a68210VgnVCM10000055011eacRCRD)

In Galicia, the documents found in public information procedures can be read at the following link:

<https://transparencia.xunta.gal/tema/informacion-de-relevancia-xuridica/procedementos-de-informacion-publica>

In Asturias, public participation includes sub-sections covering consultation and environment-related information procedures:

<https://www.asturias.es/portal/site/medioambiente/>

In Castile-La Mancha the following stand out:

Right to participate in environmental affairs:

<https://www.castillalamancha.es/node/172318>

Environmental consultation and participation bodies:

<https://www.castillalamancha.es/node/172343>

Public consultation about Castile-La Mancha's Circular Economy Strategy:

<https://www.castillalamancha.es/node/298071>

Transparency portal:

<https://www.castillalamancha.es/node/172343>

## Article 8

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

At the national level, the general legal framework is set out in article 264 of Law 50/97, of the Government in its version given by Law 40/2015 of 1 October, regulates the hearing and public information process in drafting regulations. This national provision is complemented by the obligation on the part of the public authorities, set out in article 18 of Law 27/2006, to ensure that the guarantees necessary to ensure participation in environmental matters are observed.

Article 19. 2 of Law 27/2006 provides that the CAMA must report all the regulatory projects about the aforementioned matters, prior to their approval. Likewise, there are certain collegiate bodies (National Water Council, National Climate Commission, National Council for Natural Heritage and Biodiversity), which enjoy the participation of social agents and the most representative environmental defense entities which are bound to know the regulatory projects in the aforementioned sectors.

The Regional Authorities' implementing rules provide for the promotion of social participation, guaranteeing the effectiveness of the public information processes. An example would be Law 10/2019, of 10 April, on Transparency and Participation of the Autonomous Community of Madrid, as well as Law 7/2017, of 27 December, on Citizen Participation of Andalusia, complementing Law 1/2014, of 24 June, on Public Transparency of Andalusia.

### 11. Obstacles encountered in the implementation of article 8.

Though, as has been discussed, various campaigns to raise awareness of the environment have been run by the various Authorities and NGOs, it is considered appropriate to stress specifically the appropriateness of better knowledge of the rights of access to information, of public participation and of access to justice in environmental matters, especially at Local Government level, given its proximity to citizens.

### 12. Further information on the practical application of the provisions of article 8.

Bill and draft regulations with environmental consequences are put out for public consultation through MITERD's website so that citizens can assess and send comments and observations before they are passed. It is recommendable, however, to notify environmental ONGs promptly and on an individual basis about these publications, since they are especially interested in this participation. The Autonomous Community of Madrid puts all bills and draft regulations out for public consultation:

<https://www.comunidad.madrid/transparencia/> en el apartado "Normativa y Planificación"

In Andalusia, the draft regulations are also put out for public consultation; they can be access from the following link: <https://juntadeandalucia.es/servicios/normas-elaboracion.html>

13. Website addresses relevant to the implementation of article 8.

<https://www.miteco.gob.es/es/ministerio/servicios/participacio> besides those set out in paragraph 32.

## 41. Sweden

### Article 6

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

There is a long tradition of public participation in decision-making processes in the environmental area. For 40 years there has been an environmental permit process for industrial activities and other environmentally hazardous activities, such as sewage treatment works and waste treatment plants. Permit processes involve consultations with the public before a permit application is submitted to the permit authority; the publication of notice of the application and the gathering of opinions from the public, among others; a public meeting before the permit authority; and a notice publishing the ruling of the permit authority. In the main, Sweden lived up to the requirements of the Convention about giving the public the possibility to participate in decision-making on environmentally hazardous activities even before the Convention was ratified. Over the years this possibility has been expanded to cover more types of activities at the same time as the formal requirements concerning, for example, the application, the environmental impact assessment and other supporting information have increased and been made more specific.

Also, and in particular, describe:

- (a) With respect to paragraph 1, measures taken to ensure that:
  - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

Answer:

Permits are required to conduct the activities covered by Annex I to the Convention. Permits for environmentally hazardous activities and water activities are regulated mainly in accordance with the Environmental Code (1998:808). A starting point in the Swedish system for regulating and controlling the environmental impact of activities and measures is the requirement for pre-testing through various types of permit procedures. Permit requirements regarding environmentally hazardous activities and measures are regulated in chapter 9 and water activities in chapter 11 of the Environmental Code. There are provisions on environmental impact assessments and other supporting information in chapter 6 of the Environmental Code that guarantee public participation

in these permit examinations in accordance with the Convention. There are also provisions on permit processes in other Acts that refer to the Environmental Code's provisions on environmental impact assessments.

In addition, Chapter 7, Section 28 a of the Environmental Code contains a specific requirement for a permit to conduct activities or take measures that may have a significant impact on the environment in a natural area listed under Chapter 7, Section 27 of the Environmental Code (Natura 2000 areas). The regulations concerning environmental impact assessments and the associated consultations are also applicable to these permit examinations.

For activities or measures that are to be considered in accordance with chapter 9 or 11 of the Environmental Code or which is considered for admissibility by the government according to chapter 17 of the Environmental Code, a so-called specific environmental assessment must be made if the activity or measure can be assumed to have a significant environmental impact. The question of whether an activity or measure entails a significant environmental impact is for certain activities and measures determined in advance. For others, the issue must be decided on a case by case basis. The assessment of whether a significant environmental impact can be assumed for an activity or measure includes e.g. that the operator consults on the operation and its environmental impacts and draws up a consultation report. A specific environmental impact assessment implies that the person who intends to conduct the activity or measure consults on how an environmental impact assessment should be delimited, produces an environmental impact assessment and submits the environmental impact assessment to the permit authority. The permit authority provides for an opportunity for views on the operator's environmental impact assessment and completes the environmental impact assessment.

The consideration of certain activities covered by the Convention takes place in accordance with provisions in sectoral legislation. The Act (1966:314) on the Continental Shelf, the Road Law (1971:948) and the Law (1995:1649) on Construction of Railways are some examples of such legislation.

For activities that are considered in accordance with one of the sectoral legislations, the conditions for when a specific environmental impact assessment is to be made in each sector type are regulated through a reference to relevant provisions in the Environmental Code in the sectoral legislation. For roads and railways, on the other hand, the regulation looks different. The Road Law, the Law on Construction of Railways and the Planning and Building Act (2010: 900) implement the Convention's requirements partly through provisions in the specific legislation and regulations that have been issued on the basis of these laws, and partly through references to provisions in Chapter 6 of the Environmental Code.

(ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

Answer:

As described under (a) (i), there are provisions in Chapter 6 of the Environmental Code and in regulations issued on the basis of the Environmental Code which ensure that the provisions of article 6 are applied to decisions that may have a significant impact on the environment.

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

Answer:

Under provisions in the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision on permissibility has to consult with the country administrative board, the supervisory authority, and individuals who are likely to be particularly affected. The corresponding process is also guaranteed in transboundary contexts. If it is a question of an activity or measure that can be assumed to have significant environmental impact or if the activity or measure for another reason is covered by requirements for specific environmental impact assessment, consultation shall also take place with other government agencies, the municipalities and the public that can be assumed to be affected by the activity or the measure. Even before the consultation, the party who intends to conduct the activity has to provide information about e.g. the location, extent and nature of the activity and its anticipated environmental impact to the authorities and to any individuals particularly affected. The information is to be presented in a consultation document which meets the requirements set out in Sections 8 and 9 of the Environmental Assessment Regulation (2017:966).

The authority which considers the permit application shall announce that the environmental impact assessment exists, make it available to the public and give the public a reasonable time, at least 30 days, to comment on it. The Environmental Code contains requirements concerning the contents of the notice. The documents in a permit application have to be made available not only at the decision-making authority but also at a keeper of the file, which can, for example, be a municipal office near the place where the activity is to be conducted.

If the consultation document or a notice refers to a “Seveso activity”, it shall contain special information about that, cf. Chapter 22 Section 3 a of the Environmental Code. This as part of action to increase information to the public, see Govt Bill 2014/15:60 p. 60.

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

Answer:

One requirement for a functioning process is that the public is offered a reasonable amount of time to gather information, take a position, and submit comments. Chapter 6, Section 25 of the Environmental Code contains provisions that explicitly states that the consultation documents must be submitted well in advance so that comments on the consultation documents and the question of significant environmental impact can be taken into account. According to Chapter 6,

Section 31 of the Environmental Code the screening shall start and the consultation document be available well in advance to give time for a meaningful consultation before the operator draws up the environmental impact assessment and the final permit application. If the Land and Environment Court summons the parties to the main hearing in the case in connection with the notice of the application and the environmental impact assessment, the hearing may be held three weeks after the date of the notice at the earliest (chapter 22, section 17 of the Environmental Code).

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

Sweden has five official national minorities: Jews, the Roma, the Sami, the Swedish Finns and the Tornedalers. The Sami are also an indigenous Swedish people. According to Section 5 of the National Minorities and National Minority Languages Act (2009:724), the official national minorities shall be given the opportunity to influence on issues that affect them. In addition, it is the duty of the administrative authorities to as far as its possible consult with the official national minorities in such issues. The responsibility applies in the same way to all official national minorities throughout the country. Today, consultation is held on all levels of the society, but the scope and approach vary widely. At the municipal level consultations are mostly held in those municipalities which are part of the administrative area for one of the languages Finnish, Meänkieli and Sami language. The interpretation of the scope and approach of the consultation differs between the different municipalities and administrative authorities. The pre-conditions for holding consultations may also vary between the municipalities and administrative authorities. Against this background a new Section was introduced to the act in January 2019, which clarifies that consultation refers to a structured dialogue with the official national minorities in order to take into account their views and needs in the decision-making process. In addition, a new provision has been introduced which regulates the obligation of administrative authorities to consult with children and young people belonging to an official national minority on issues that affect them. The provision also states that the forms of consultation with children and young people must also be adapted to their pre-conditions.

See also under (c).

(e) With respect to paragraph 5, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer:

Under the Environmental Code, anyone who intends to conduct an activity that requires a permit or a decision about permissibility has to consult with the county administrative board, the supervisory authority and individuals who are likely to be particularly affected. If the activity is likely to have significant effects on the environment, a consultation has also to be held with other central government authorities and with the municipalities, members of the public that are likely to be affected. There are also requirements regarding consultation documents, see under (b) above.

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

- (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
- (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Answer:

Everyone is entitled to access the content of the information which is part of the consideration of an application under the principle of public access to information. There is no charge for access to the information. Chapter 6 of the Environmental Code and the Environmental Assessment Regulation contains provisions stating that the consultation document shall be submitted well in advance to those participating in the consultation process, as well as provisions on the content of the consultation documents and what information an environmental impact assessment has to contain. The Code also contains provisions about what information has to be made available to the public when notice of an application and an environmental impact assessment is published.

- (g) With respect to paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

Answer:

The authority considering the notice of application shall publish that the environmental impact assessment exists, make it available to the public and give the public reasonable time (at least 30 days) to state an opinion on them before the case or matter is dealt with (chapter 6, section 8 of the Environmental Code). In addition, the public has the opportunity to state an opinion on supplementary documents submitted by the applicant.

- (h) With respect to paragraph 8, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Answer:

The authority which considers the permit application shall, when deciding on the question of authorising the operation, complete the environmental impact assessment by identifying, describing and making a final and overall assessment of the environmental impacts, taking into account the content of the environmental impact assessment and what emerged during the case handling, cf. Chapter 6 Section 43 of the Environmental Code. The environmental impact assessment shall entail a report on the consultations which have taken place and the outcome of them, cf. Chapter 6 Section 35 of the Environmental Code. It follows from references in several special acts that the regulations in chapter 6 section 43 of the Environmental Code applies also when considering an application in accordance with the special act if it can be assumed that the activity can have significant environmental impact. When deciding on a road or railway plan, the results of consultations and opinions shall be taken into account.

- (i) With respect to paragraph 9, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Answer:

The land and environmental court has to issue its judgment on the permit as soon as possible in the light of the nature of the case and the other circumstances (chapter 22, section 21 of the Environmental Code). If a main hearing has been held, the judgement has to be delivered within two months of the conclusion of the hearing unless there are exceptional circumstances. The parties have to be informed of the contents of the judgement in writing or by making the judgement available through the keeper of the file. Notices of judgements in application cases are published to a great extent. This is also true of the decisions of the county administrative boards in application matters. The Ordinance concerning the period for making judgments and orders available etc. (2003:234) also contains provisions about the period for making documents available about how documents are to be made available and about information to individuals. An explicit requirement for public notice is found in chapter 6 section 44 of the Environmental Code, which states that the public authority that considers a permit request requiring a specific environmental impact assessment shall give notice as soon as possible when the decision has been taken. The notice shall describe how the public can have access to the content of the decision. The Swedish principle of public access to information also means that everyone has to be able to read the text of the decision. The Administrative Procedure Act (1986:223), and the Administrative Court Procedure Act (2017:900) and the Court Matters Act (1996:242) also contain rules about the issuing of judgements and decisions. The provisions of the Environmental Code, the Code of Judicial Procedure (1942:740), the Administrative Procedure Act and the Administrative Court Procedure Act also regulate the content of a judgment or decision. Section 29 of the Industrial Emissions Ordinance (2013:250) states that when a judgment in a permit case is sent to the Swedish Environmental Protection Agency or the Swedish Board of Agriculture, the reviewing authority shall particularly draw the attention of the authority to the fact that the judgment or order relates to industrial emission activities so as to make it easier for the authorities mentioned to fulfil their obligation to inform the public under Section 28 of the Ordinance.

- (j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

Answer:

When examining revocations of permits, reconsideration of variations, exemptions and approvals referred to in chapter 24 sections 3, 5, 8 or 9 of the Environmental Code neither a specific environmental impact assessment nor an investigation of significant environmental impact is required. The same applies to the re-examination of water activities that is to take place in accordance with chapter 24 section 10 of the Environmental Code. When a public authority, upon application by the operator, examines whether a variation of an existing operation or a new permit shall be issued it is largely the same provisions about environmental impact assessments and



consultations that apply as when an application for a new permit is made by the operator. This means that public participation is guaranteed in the same way for re-examination of existing activities.

The Swedish Agency for Marine and Water management has produced a guidance document to support the county administrative boards in the process of regional cooperation prior to the operators' application for re-examination of permits for hydropower plants. It follows from the guidance document that the county administrative boards are recommended to i.a. consult with non-governmental organisations.

(k) With respect to paragraph 11, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

See under section XXXIII.

2. Obstacles encountered in the implementation of article 6.

N/A

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

N/A

4. Website addresses relevant to the implementation of article 6.

N/A

**Article 7**

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

As regards physical planning and land use, there are provisions in the Planning and Building Act (2010:900) requiring the municipality to make the planning proposals available to everyone who wants to access them and to give municipal residents, associations and other members of the public who may have a substantial interest in the proposal the opportunity to participate in the municipality's consultation before a decision is made. The purpose of the consultation is to produce as good a basis for a decision as possible, and to provide opportunities for insight and influence. There are also provisions on public participation regarding other planning; one example is the provisions in chapter 15 of the Environmental Code (1998:808) on how plans for handling waste at municipal and national level are prepared and what they have to contain. These plans include statements of the measures taken and planned to ensure that waste is handled correctly. In addition, before a decision is made there is normally a consultation procedure in which authorities and organisations affected can have their say. Action programmes are also referred for consultation to the relevant bodies when judged appropriate. One example is work on a national strategy for

sustainable development, which has included meetings and dialogues with various groups in society.

Under the Environmental Code, plans and programmes that are likely to have a significant environmental impact have to be subject to an environmental assessment. As part of an environmental assessment the authorities affected, and the public have to be given the opportunity to participate in the planning process and present comments that have to be taken into consideration before the plan or programme is adopted (chapter 6 sections 3-19 of the Environmental Code).

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

There are a number of formalised forums for collaboration and dialogue between the Government Offices and representatives of different types of associations and popular movements.

For example, the remit of the All-Party Committee on Environmental Objectives is suggesting how to achieve the national environmental quality objectives by developing politically based proposals for strategies in various areas. The strategies shall include proposals for milestones, instruments and measures. The Committee on Environmental Objectives is to work in a broad dialogue with the community, including NGOs, in order to gather knowledge and anchor proposed strategies. The Committee holds hearings and seminars and invites representatives of NGOs to these meetings. Two representatives of environmental NGOs in Sweden, the Swedish Society for Nature Conservation and the WWF, have been experts to the Committee since it started in 2010.

In 2018 the Government decided on a national forest programme. The programme was prepared in a broad dialogue with civil society organisations. The aim of the programme is for forests to contribute both to jobs and sustainable growth throughout the country and to the development of a growing bioeconomy. A programme council is linked to the programme and includes representatives from about 20 civil society organisations and public authorities. The role of the programme council is to provide guidance and advice to the Government.

In 2016 the Government appointed a national coordinator for its Fossil-free Sweden Initiative, the purpose of which is to prepare plans leading to fossil freedom along with companies and other actors. Today, 22 industry-specific roadmaps have been presented, comprising the majority of greenhouse gas emissions in Sweden. The coordinator is to provide a platform for dialogue and cooperation, both between these actors and the Government and between the actors themselves. The initiative includes more than 500 actors from business, municipalities, regions and organisations including the Swedish Society for Nature Conservation and the WWF.

Under the Water Quality Management Ordinance (2004:660) the water authorities have to plan their work so as to enable and encourage the participation of everyone affected by the management of water quality. Before a water authority makes a decision on quality requirements for bodies of surface and ground water and protected areas, management plans and programmes of measures to enable the environmental quality standards to be met or processes other questions under the Ordinance that are of substantial importance, the authority has to consult with the authorities, municipalities, organisations, operators and individuals affected by the decision. A party that

prepares a draft of a programme of measures shall, by publishing notices in local newspapers or by other means, give those affected by the programme of measures the opportunity to present comments on the draft for at least six months and shall then present the comments and how they have been taken into account in a separate compilation (chapter 5, section 4 of the Environmental Code and chapter 6, section 7 of the Water Quality Management Ordinance). The notice of the draft programme of measures has to state that the draft is available to the public at the water authority and all county administrative boards and municipalities in the area covered by the programme as well as the time during which, and to whom, comments have to be presented. When a programme of measures has been affirmed, the water authority has to publish a notice to this effect as soon as possible in a local newspaper. Information about water authority consultations is also announced on their websites. The water councils are intended to anchor work on water management locally and to act as a forum to discuss questions related to water resources and water quality within the respective area. They shall involve all affected actors, e.g., municipalities, businesses, fishing associations, nature conservation associations and even private individuals.

The public is also given the possibility of influencing decisions on the programme for comprehensive research and development for the safe management and disposal of nuclear waste that a party holding a licence to operate a nuclear reactor has to submit to the Swedish Radiation Safety Authority every third year (section 12 of the Nuclear Activities Act (1984:3) and section 25 of the Nuclear Activities Ordinance (1984:14)). According to the regulations the Agency shall review and evaluate the programme. In conjunction with that process the Agency invites various parties in society to take part in the decision-making process and make comments. The Agency also seeks comments from representatives of public authorities, municipalities, the public and business on the national program for the management of radioactive waste that is established in accordance with Directive 2011/70/Euratom.

Every county administrative board has a game management delegation for collaboration in matters concerning game management in the county. These delegations decide on matters including general guidelines for game management and participate in work on preparing predator management plans and minimum levels for the occurrence of large predators. The members of these delegations represent various interests such as hunting and game management, nature conservation, agriculture and forestry, for example members of environmental NGOs.

7. Obstacles encountered in the implementation of article 7.

N/A

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

N/A

9. Website addresses relevant to the implementation of article 7.

N/A

## Article 8

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

The Government and other legislative bodies generally use a consultation procedure in work on drafting rules of general interest. The frequent gathering of comments from public authorities and the public in the course of preparing matters is a characteristic and important part of political decision-making in Sweden. The obligation to prepare government matters is regulated specially in the Constitution. The Instrument of Government states explicitly that when preparing Government matters the necessary information and opinions shall be obtained from the public authorities concerned. Information and opinions shall also be obtained from local authorities as necessary. Organisations and individuals shall also be given an opportunity to express an opinion as necessary (Chapter 7, article 2 of the Instrument of Government). The Riksdag Committee on the Constitution also considers in its annual examination of the Government whether administrative matters have been handled in accordance with the applicable principles of administrative law. The Administrative Procedure Act (2017:900) states that an authority shall ensure that a matter is examined to the extent required by the nature of the matter. It follows from section 26 of the Administrative Procedure Act that a public authority may obtain an opinion from another public authority or from an individual.

11. Obstacles encountered in the implementation of article 8.

N/A

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

N/A

13. Website addresses relevant to the implementation of article 8.

N/A

## **42. Switzerland**

### **Article 6**

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

(a) Article 6 paragraph 1

i, ii) Under Swiss law, all decisions on whether to permit proposed activities as listed in annex I of the Convention have to be based on an environmental impact assessment that is compliant with the requirements set forth in Article 6 of the Convention. Article 10a paragraph 1 of the Federal Act of 7 October 1983 on the Protection of the Environment (EPA; SR 814.01) requires that before taking any decision on the planning, construction or modification of installations the approving authorities must assess their impact on the environment at the earliest possible stage. The

installation types that are subject to an environmental impact assessment are listed in the annex to the Ordinance of 19 October 1988 on the Environmental Impact Assessment (EIAO; SR 814.011). When Switzerland joined the Aarhus Convention in 2014 the annex to the EIAO was revised, in order to comprise all activities listed in annex I to the Convention. The annex to the EIAO also includes other activities which may have a significant effect on the environment according to Article 10 paragraph 2 EPA.

The annex to the EIAO also shows which law is applicable to the environmental impact assessment procedure of a particular installation type. The applicable procedures can either be regulated by canton law or by federal infrastructure acts such as the Federal Railways Act of 20 December 1957 (RailA; SR 742.101) or the Federal Act of 21 December 1948 on Civil Aviation (CAA; SR 748.0), Articles 42 ss. and 49 ss. of the Nuclear Energy Act of 21 March 2003 (NEA; SR 732.1), etc. The transparency terms set for the environmental impact assessments procedures ensure, however, that the participation of the public is guaranteed during all procedural stages relevant to the decision-making.

(b) Article 6 paragraph 2

In Switzerland, the requirements for informing the public during environmental decision-making procedures, can be found in various federal and cantonal acts.

Certain infrastructure projects, such as the construction of railway lines, airports, motorways, cableways, etc. are regulated by special federal infrastructure acts and are subject to a planning approval procedure. The first part of this procedure consists in the public display of the application. According to Article 18d paragraph 2 RailA any application for the construction or modification of an installation has to be published in the official gazette of each canton and municipality concerned and made available for public inspection for a period of 30 days. The same provision can also be found in the other federal infrastructure acts such as Article 37d paragraph 2 CAA or Article 12 paragraph 2 of the Federal Act of 23 June 2006 on Cableways for Passenger Transport (CabA; SR 743.01), etc. This also applies accordingly to other types of installations being subjected to the environmental impact assessment. According to Swiss law everyone is entitled to access all available documents.

Article 10d EPA further provides that the public display of environmental impact reports is mandatory for all installations subject to the EIAO. The environmental impact report, which according to Article 10b paragraph 2 EPA has to contain all the information required to assess the project in accordance with the environmental protection regulations, represents an essential basis for the environmental impact assessment. It is therefore considered important, that the report is made available to the general public. The specific provisions on the public display of environmental impact reports are regulated in Article 15 EIAO. According to this article the competent federal authority must announce in the Federal Gazette or in another suitable publication medium, where the environmental impact report can be viewed. The environmental implementation report is to be made available to the public for a period of 30 days. The cantons concerned shall disclose the environmental impact report in accordance with their own law.

Swiss law thus ensures that the public concerned is informed early in any environmental decision-making procedure as requested by Article 3 paragraph 2 of the Convention.

(c) Article 6 paragraph 3

According to Swiss law the applications and environmental impact reports for installations are usually being displayed for a time period of 30 days after their official publication (e.g. Art. 18d para. 2 RailA, Art. 37d para. 2 CAA, Art. 15 para. 4 EIAO, etc.). During the display period, any person or organisation is entitled to submit objections to the competent authorities (e.g. Art. 18d para. 2 RailA, Art. 37d para. 2 CAA, Art. 17 EIAO, etc.). This corresponds with the usual period for appeal in Switzerland (e.g. Art. 50 of the Federal Act of 20 December 1968 on Administrative Procedure [APA; SR 172.021]).

In accordance with Article 6 paragraph 3 of the Convention it is thus ensured, that the time frame provided for the public display allows sufficient time for informing the public in order for it to prepare and participate effectively during the environmental decision-making process.

(d) Article 6 paragraph 4

Federal Act of 22 June 1979 on Spatial Planning (SPA; SR 700) ensures that the public is involved at an early stage of the planning, when all options are still open. Thus complying with the prerequisites for an effective public participation as requested by Article 6 paragraph 4 of the Convention.

(e) Article 6 paragraph 5

In a recommendation of 2004 the Federal Department for the Environment, Transport, Energy and Communications (DETEC) encourages prospective applicants to enter into discussions with the public concerned before applying for a permit.

(f) Article 6 paragraph 6

i, ii) Under Swiss law, the requirements concerning the documents which must be made accessible for public inspection pursuant to Article 6 Paragraph 6 of the Convention have been incorporated into Article 10b EPA, Article 20 EIAO, Article 18d RailA in conjunction with Article 3 of the Ordinance of 2 February 2000 on the Planning Approval Procedure for Railway Installations (PAPRO; SR 742.142.1) and other federal infrastructure acts. The access to those documents is generally provided free of charge.

(g, h) Article 6 paragraph 7 and 8

The right of the public to submit observations during an approval procedure is guaranteed by Article 17 and 19 EIAO which ensure that such observations have to be taken into account in the decision-making process.

The right to appeal is granted to anyone who is a party pursuant to the provisions of the Federal Act on Administrative Procedure. This also includes environmental protection organisations which have the right to appeal according to Article 55 and 55f EPA, Article 12 of the Federal Act of 1

July 1996 on the Protection of Nature and Cultural Heritage (NCHA; SR 451) and Article 28 of the Federal Act of 21 March 2003 on Non-Human Gene Technology (GTA; SR 814.91).

Unlawful refuses or delays in the issuing of a contestable ruling by the competent authority can be appealed according to Article 46a APA.

It is thus not only ensured that the public is actively involved in the decision-making process, but it is also taken that due account of the outcome of the public participation in the decision itself.

(i) Article 6 paragraph 9

In accordance with Article 6 paragraph 9 of the Convention Article 10d EPA also requires that the results of the environmental impact assessment must be made accessible for public inspection. Once a decision has been issued, Article 20 EIAO requests that the competent authority publicly announces, where the decision and the relevant documents leading up to it (e.g. the environmental report, assessments of cantonal authorities or the FOEN, etc.) can be viewed. The documents have to be made available to the public for a period of at least 30 days

(j) Article 6 paragraph 10

According to Article 10a paragraph 1 EPA the modification of an installation can also requires an environmental impact assessment. The requirements for this are laid down in Article 2 EIAO. The environmental impact assessment procedures, however, are the same as for the construction of installations (Art. 10a para. 1 EPA). Thus, guaranteeing that the provisions of Article 6 of the Convention are being respected.

(k) Article 6 paragraph 11

See reply to question XXXIII.

2. Obstacles encountered in the implementation of article 6.

According to some environmental protection organisations the implementation of Article 6 paragraph 3 of the Convention seems to work on the national level. They have, however, criticized that there is still room for improvement on the cantonal level.

The organisations find fault especially with excessively short timeframes in some cantons to submit an opinion that can, however, be compensated by granting an additional period of time for a further submission.

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

No information was provided under this heading.

4. Website addresses relevant to the implementation of article 6.

Information from the federal authorities

Federal Office for the Environment:

<https://www.bafu.admin.ch/bafu/en/home/topics/eia.html>

Federal Roads Office:

<https://www.bav.admin.ch/bav/fr/home/themes-a-z/procedure-dapprobation-des-plans.html>

Federal Office of Transport:

<https://www.astra.admin.ch/astra/de/home/Medien/themen/nationalstrassenbau/projektierung/auf-lage.html>

Federal Office of Civil Aviation:

<https://www.bazl.admin.ch/bazl/en/home/safety/infrastructure/aerodromes.html>

Swiss Federal Office of Energy:

<https://www.bfe.admin.ch/bfe/de/home/foerderung/erneuerbare-energien/guichet-unique-windenergie/plangenehmigungen.html>

[www.ensi.ch](http://www.ensi.ch)

## Article 7

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

In Switzerland, many environmental protection measures are implemented through plans or programs, which are based upon the Federal Act of 22 June 1979 on Spatial Planning (SPA; SR 700). The provision on information and public participation laid down in Article 4 SPA is thus highly significant for the implementation of the Convention. It applies both to federal and to cantonal authorities.

According to Article 4 paragraph 1 and 2 SPA the competent authorities must not only inform the public about the objectives and processes of ongoing plannings but have also to ensure that appropriate public participation is provided. Article 4 paragraph 3 SPA further states that all plans, which fall under this act, have to be made public. Pursuant to Article 19 of the Ordinance of 28 June 2000 on Spatial Planning (SPO; SR 700.1) the drafts concepts and plans, including the opportunities for public participation, have to be announced in the official publication journals by the competent cantonal authorities. The plans and all relevant documents pertaining thereto have to be made available to the public for a period of at least 20 days. The consultation period usually lasts three months. During this period each citizen has the right to submit opinions and proposals to the competent authority. The authorities are obliged to take account of those proposals and have to reply thereto in a summary manner.

Similar provisions for environmental planning are also to be found in various environmental acts, such as in Article 5 of the Ordinance of 26 August 1998 on the Remediation of Contaminated Sites (CRO; SR 814.680) or Article 18 paragraph 3 of the Ordinance of 30 November 1992 on Forest (ForO; SR 921.01), etc.



It can thus be concluded that the Swiss law is compliant with the provisions of Article 7 of the Convention.

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

Swiss citizens have a variety of ways to influence the political process. According to Article 138 et seq. of the Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst; SR 101) any person holding a Swiss citizenship can intervene directly in politics – by launching an initiative or requesting a referendum. Another way to influence the preparation of policies relating to the environment can be achieved through petitioning the authorities (Art. 33 Cst).

7. Obstacles encountered in the implementation of article 7.

No information was provided under this heading.

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

Article 5 of the Nuclear Energy Ordinance of 10 December 2004 (NEO; SR 732.11) obligates the Swiss Federal Office of Energy to regulate the search for suitable repository sites in the Sectoral Plan for Deep Geological Repositories (<https://www.bfe.admin.ch/bfe/en/home/supply/nuclear-energy/radioactive-waste/sectoral-plan-for-deep-geological-repositories.html>). The Sectoral Plan for Deep Geological Repositories establishes a so-called regional participation that enables the participation of the cantons, communes and neighbouring states as well as of the citizens at an early stage in and throughout the process.

A similar process is laid down in Articles 11 et seq. of the Ordinance of 13 December 1999 on the planning approval procedure for military constructions and installations (MPV; SR 510.51). The cantons, communes and public concerned are to be included in the decision-making process. Certain projects, however, allow only limited public participation due to security concerns.

9. Website addresses relevant to the implementation of article 7.

Information from the federal authorities

Federal Office for Spatial Development:

[https://www.are.admin.ch/are/fr/home/developpement-et-amenagement-du-territoire/droit-de-l\\_amenagement-du-territoire.html](https://www.are.admin.ch/are/fr/home/developpement-et-amenagement-du-territoire/droit-de-l_amenagement-du-territoire.html)

Federal Office of Civil Aviation:

<https://www.bazl.admin.ch/bazl/en/home/policies/aviation-policies/sectoral-aviation-infrastructure-plan--saip-.html>

Swiss Federal Office of Energy:

<https://www.bfe.admin.ch/bfe/de/home/versorgung/kernenergie/radioaktive-abfaelle.html>

<https://www.bfe.admin.ch/bfe/en/home/supply/nuclear-energy/radioactive-waste/sectoral-plan-for-deep-geological-repositories.html>

Federal Department of Defence, Civil Protection and Sport

[https://www.vbs.admin.ch/de/themen/raumplanung-immobilien/plangenehmigungsverfahren.html#\\_bersicht](https://www.vbs.admin.ch/de/themen/raumplanung-immobilien/plangenehmigungsverfahren.html#_bersicht)

<https://www.vbs.admin.ch/de/themen/raumplanung-immobilien/plangenehmigungsverfahren.html#verfahren>

## Article 8

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

Under Swiss law, the public participation during the legislative process is safeguarded by constitutional law. According to Article 147 of the Federal Constitution of the Swiss Confederation of 18 April 1999 (Cst; SR 101) the cantons, the political parties and interested groups shall be invited to express their views when preparing important legislation or other projects of substantial impact.

At the federal level the obligation to ensure the public's participation during the legislative process is transposed through the Federal Act of 18 March 2005 on the Consultation Procedure (CPA; SR 172.061). According to this act the main aim of the consultation procedure is to allow all interested groups to participate in the shaping of opinion and the decision-making process of the Confederation (Art. 2 CPA). Pursuant to Article 3 paragraph 1 CPA a consultation is always mandatory when drafting amendments to the Constitution; draft legislation, international law agreements, ordinances and other projects of major political significance, etc.

The Federal Chancellery coordinates the consultation procedures. It gives public notice of any consultation procedure that has been initiated, providing details of the consultation period and the office where the consultation documents may be obtained (Art. 5 para. 3 CPA). A constantly updated list of the planned consultations is also made available on the internet (Art. 5 of the Ordinance of 17 August 2005 on the Consultation Procedure [CPO; SR 172.061.1]).

According to Article 7 CPA the duration of the consultation period is at least three months, which is long enough to allow interested parties to analyze the consultation documents (e.g. consultation draft, explanatory report, etc.) made available to the public. A reduction of the consultation period is only possible in the case of exceptional circumstances, e.g. if a legislative project cannot tolerate any delay. In which case the competent authorities have to provide a well-founded justification for the urgency.

Pursuant to Article 4 paragraph 1 CPA everyone is entitled to submit an opinion during the consultation period (Art. 4 para. 1 CPA). According to Article 8 CPA the competent authorities are obliged to acknowledge, consider and evaluate the submitted opinions. They also have to draw up a summarized report thereof. Subsequently, the opinions and the summary of the results of the consultation procedure will be made available to the public (Art. 9 CPA). Some environmental

organizations, however, claim that these reports may not always allow to comprehend the consideration of the submitted opinions.

Similar provisions for the consultation process have also been established at cantonal level.

11. Obstacles encountered in the implementation of article 8.

No information was provided under this heading.

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

No information was provided under this heading.

13. Website addresses relevant to the implementation of article 8.

<https://www.admin.ch/gov/fr/accueil/droit-federal/procedures-consultation.html>

## **43. Turkmenistan**

### **Article 6**

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

Legal framework. In Turkmenistan, the requirements of Article 6 of the Aarhus Convention on public participation in decision-making on specific activities are directly reflected in legislation. Thus, in accordance with the Law “On Urban Planning Activities” (2015), citizens can receive complete information about planning, development, land use and improvement of their places of residence, participate in the discussion and adoption of urban planning documentation and also make comments and proposals on drafts of urban planning documentation prior to their approval and proposals for existing urban planning plans (Article 6).

The Law of Turkmenistan “On Nature Protection” (2014) provides that citizens have the right to put forward proposals for conducting a public environmental expertise and participate in its conduct in the manner prescribed by the legislation of Turkmenistan, and public associations have the right to participate in the established manner in making decisions on issues, related to nature conservation and rational use of natural resources.

The Sanitary Code (2009) stipulates that every citizen of Turkmenistan has the right, directly or through their representative, public associations or in any other way, to participate in the preparation, implementation and control over the implementation of decisions taken by bodies and officials, both collectively and individually, the implementation of which is associated with the impact on public health and the environment. These are just a few examples of public participation in decision-making on specific activities.

In addition, at present, Turkmenistan has adopted the following regulatory legal acts to implement Article 6: The Laws “On environmental impact assessment” (2014), “On waste” (2015), “On

pastures” (2015) and “On atmospheric air protection” (2016) and the Water Code of Turkmenistan (2016).

The legal basis for EIA is enshrined in the Law “On State Ecological Expertise” (2014), which in Article 13 stipulates that the List of environmentally hazardous types of planned economic and other activities, for which the development of project documentation on environmental impact assessment is required prior to design objects of planned economic and other activities, is determined by the regulatory legal acts of Turkmenistan. Requirements for the procedure for conducting an environmental impact assessment and for project documentation on environmental impact assessment are determined by the regulatory legal acts of Turkmenistan. That is, the Law makes a reference to special legislation in this area.

In this regard, Turkmenistan has the State Standard of Turkmenistan TDS 579-2001: “Environmental Impact Assessment in the Planning of Economic and Other Activities in Turkmenistan” 2001.

The provisions of Article 6 of the Convention with regard to decisions on the appropriateness of authorisation of the proposed activities listed in Annex I to the Convention have not been applied. Although the State Standard of Turkmenistan TDS 579-2001: “Environmental Impact Assessment in the Planning of Economic and Other Activities in Turkmenistan” 2001 contains provisions on the conduct of EIA, fixes the planned activities to be assessed and public participation in this process, however, in practice, EIA with public participation (public hearings) are extremely rare. The legislative act on strategic environmental assessments (SEAs) has not yet been adopted.

## 2. Obstacles encountered in the implementation of article 6.

There is no interest of government agencies in attracting the public to participate in this process. At the same time, there is a low activity of the public associations themselves. It is important to develop a regulatory legal act on public hearings in order to identify public opinion in order to take it into account when making decisions on issues that may negatively affect the state of the environment. It is important to fully take into account the requirements of Article 6 (paragraph 2, d) of the Aarhus Convention.

## 3. Further information on the practical application of the provisions of article 6.

Additional information is not available

## 4. Website addresses relevant to the implementation of article 6.

[www.tebigykuwwat.org](http://www.tebigykuwwat.org), [www.turkmenistan.gov.tm](http://www.turkmenistan.gov.tm), [www.osce.org/ashgabat](http://www.osce.org/ashgabat)

[www.stat.gov.tm](http://www.stat.gov.tm), [www.oilgaz.gov.tm](http://www.oilgaz.gov.tm), [www.minjust.gov.tm](http://www.minjust.gov.tm) etc.

## Article 7

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

In Turkmenistan, there is a practice of discussing draft programme documents (conceptions, strategies, plans and programmes), related to the environment, and also collecting and taking into account proposals and recommendations from the public. The discussion of draft conceptions, strategies, plans and programmes is attended by representatives of public associations, including environmental ones, individual citizens, scientists and teachers of specialised higher educational institutions and other activities. An important mechanism for involving the public in the development of environmental policy is their participation in the implementation of various international projects with the support of UNDP, UNEP, GEF, AF, USAID and others. In particular, by involving experts and specialists from public associations, the National Action Plan on Desertification (1997), Strategy and Action Plan for Biodiversity Conservation of Turkmenistan (2002), National Afforestation Programme of Turkmenistan until 2020 (2013), Sixth National Report on Biodiversity of Turkmenistan (2019) and others. A fresh example in this regard is the preparation and discussion of the draft National Strategy of Turkmenistan on climate change in 2019. Experts from the Aarhus Centre took part in the discussion of the draft Strategy and preparation of recommendations on its content. Most of their recommendations were included in the final version of this document, and then the Strategy was approved in a new version by the Decree of the President of Turkmenistan of September 23, 2019. With the direct participation of the NGO of hunters and fishermen, a draft Law on hunting and hunting management was developed and submitted for adoption to the parliament of the country. The Aarhus Centre prepared a draft Law on Environmental Information, which was adopted in April 2020.

Legal framework. Most of the environmental laws adopted over the past 10 years largely provide for public participation in decision-making. For example, such norms are found in the Water Code (2016), which provides for the transition of water management to the basin principle of water resources management and, accordingly, the establishment of basin councils. Their establishment is intended to create an atmosphere of transparency and openness, in which the probability of making decisions that do not meet the public interest is reduced. The Water Code provides for another important form of public participation in water resources management – the establishment of water user associations and groups (WUAs / WUGs) as the most common format for water use management, in which the participation of water users in the decision-making process can significantly increase the efficiency of water use. It is important to note that since the adoption of the Law “On environmental information” (2020), important guarantees have been created for obtaining information, which creates a great opportunity for public participation in environmental decision-making.

In accordance with Article 2 of the Aarhus Convention, which provides definitions, they are duly transposed into the national legislation. As an example, we can cite the Law “On administrative procedures” (2017), which has definitions of administrative body and interested person that fully comply with the definitions of State body and interested public given in the Convention. The definition of environmental Information of the Convention is fixed in the Law “On environmental information” (2020).

Moreover, according to the legislation, the public has the right to participate in the decision-making process on issues related to the environment, without discrimination on the basis of

citizenship, nationality or place of residence and, in the case of a legal entity, without discrimination on the basis of its registered location or actual centre of activity. For example, in accordance with the Law “On administrative procedures” (2020), the main principles for the implementation of administrative procedures are as follows: (1) legality – the implementation of administrative procedures by an administrative body within its competence and in accordance with the requirements provided for by the legislation of Turkmenistan and (2) equality before by law – the duty of administrative bodies to ensure equal treatment in the implementation of administrative procedures. This gives rise to the assertion of the public's right to participate in decision-making in environmental matters, without discrimination on the basis of citizenship, nationality or residence and, in the case of a legal entity, without discrimination on the basis of its registered location or actual centre of activities.

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

There are great opportunities for public participation in the development of environmental policies in accordance with the provisions of Article 7 of the Convention. They are ensured on the basis of cooperation of ministries and departments of the country with public associations. For example, the Ministry of Agriculture and Environment Protection and its subordinate institutions have a close relationship with environmental public associations. The Ministry of Agriculture and Environment Protection has a cooperation agreement with the Aarhus Centre (2012) and uses the services of its specialists on legal issues, development of draft regulatory legal acts, holding training seminars, environmental campaigns, etc. Public associations are involved in the development of programmes and plans in the field of the environment and sustainable development and also draft regulatory legal acts. As it was mentioned above, with the direct participation of the NGO of hunters and fishermen, a draft law on hunting and hunting management had been developed and submitted for adoption to the country's parliament; Aarhus Centre developed the draft Law “On environmental information”, which was adopted in April 2020, and recommendations for the new edition of the National Strategy of Turkmenistan on Climate Change.

7. Obstacles encountered in the implementation of article 7.

Unfortunately, so far in a number of laws, the norms on public participation in decision-making are of a declarative nature and are not properly implemented in practice. In this context, it is important to develop a legal act on public hearings on environmental issues and to fix procedures for public participation in decision-making. This can be done by developing appropriate by-laws arising from the laws on environmental protection and nature management.

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

In order to increase the efficiency of public participation in decision-making, it is important to develop a legal act on public hearings on environmental issues and to stipulate procedures for public participation in environmental decision-making in the corresponding document. This can be done through the development of relevant by-laws arising from the laws on environmental protection and nature management. The most recent example in this regard is the fact that the

Aarhus Centre of Turkmenistan, through its experts, was directly involved in the development of the draft Law of Turkmenistan on environmental information, and then its representative was included in the working group of the Mejlis (parliament) when discussing the draft of this Law.

9. Website addresses relevant to the implementation of article 7.

[www.tebigykuwwat.org](http://www.tebigykuwwat.org), [www.turkmenistan.gov.tm](http://www.turkmenistan.gov.tm), [www.osce.org/ashgabat](http://www.osce.org/ashgabat)

[www.stat.gov.tm](http://www.stat.gov.tm), [www.oilgaz.gov.tm](http://www.oilgaz.gov.tm), [www.minjust.gov.tm](http://www.minjust.gov.tm) etc.

## Article 8

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

The legislation of Turkmenistan does not provide for any restrictions on the participation of public organisations and citizens in the discussion and preparation of proposals for draft regulatory legal acts. Thus, the Law “On nature protection” (2014) stipulates that public associations have the right to submit proposals for holding referenda on environmental issues and discussing projects related to the environment and to participate in accordance with established procedure in making decisions on issues related to nature protection and rational use of natural resources. In accordance with the Law “On public associations” (2014), public associations have the right to participate in the development of decisions of state and local authorities in accordance with the procedure established by this Law and other regulatory legal acts of Turkmenistan. This kind of provision can be found in almost all other environmental laws adopted over the past 10-12 years.

As it was mentioned above, the Ministry of Agriculture and Environment Protection has close relationships with environmental public associations, which, if necessary, are involved in the development of draft regulations and other generally applicable legally binding norms that may have a significant impact on the environment. Above were examples of the NGO participation in the development of draft laws on hunting and hunting management and on environmental information.

11. Obstacles encountered in the implementation of article 8.

The main obstacle in the implementation of Article 8 is that some government authorities are not particularly interested in involving representatives of the public in the development of draft regulations with direct enforcement force and other generally applicable legally binding rules that may have a significant impact on the environment. As a rule, such draft documents are neither published in advance before their adoption, nor provided to the public. This is possibly due to the underestimation of the role of the public in solving environmental issues. In turn, there is a low activity of certain public associations. An obstacle may also be the lack of practice in developing and discussing draft regulatory documents through the websites of ministries and departments.

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

The exception in this regard is the Nature Conservation Society of Turkmenistan, the Aarhus Centre of Turkmenistan and the Union of Industrialists and Entrepreneurs of Turkmenistan, which are actively involved in the process of developing draft regulatory legal acts.

13. Website addresses relevant to the implementation of article 8.

[www.tebigykuwwat.org](http://www.tebigykuwwat.org), [www.turkmenistan.gov.tm](http://www.turkmenistan.gov.tm), [www.osce.org/ashgabat](http://www.osce.org/ashgabat)

[www.stat.gov.tm](http://www.stat.gov.tm), [www.oilgaz.gov.tm](http://www.oilgaz.gov.tm), [www.minjust.gov.tm](http://www.minjust.gov.tm) etc.

## 44. Ukraine

### Article 6

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

a) With respect to Paragraph 1, measures taken to ensure that:

i) The provisions of Article 6 are applied with respect to decisions on whether to permit proposed activities listed in Annex I to the Convention;

Law of Ukraine No. 872787-VI of 15 December 2010 ratified the Protocol on the Accession of Ukraine to the Energy Community Treaty. Article 2 of this Protocol, the implementation of Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (codified by Directive 2011/92/EU) is required by 01 January 2013 to ensure the consistency of Ukrainian legislation with Section II of the Energy Community Treaty and related amendments. The establishment of an effective procedure for the assessment of the environmental impact will help meet this requirement.

The expected results include the introduction in Ukraine of more effective environmental impact assessment mechanisms, including in the transboundary context, and extra potential to increase the level of environmental safety in the country. The implementation of an adequate environmental impact assessment procedure in accordance with Directive 2011/92/EU will promote: more reasonable decisions as to planned hazardous activities; taking public stakeholders' interests into account; the enforcement of the right to a safe environment and land ownership; proper investment risk assessment.

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" was enacted on 18 December 2017.

Pursuant to Article 3 Part 1 of Law of Ukraine "On Environmental Impact Assessment" environmental impact assessment is mandatory when making decisions related to the proposed



activities listed in Part 2 and Part 3 of that Article. Such proposed activities are subject to environmental impact assessment before any of those decisions can be made.

Article 11 Part 2 of Law of Ukraine "On Environmental Impact Assessment" requires that state bodies and local governments make decisions regarding the proposed activities taking the opinion on the environmental impact assessment into account. Any decision on the proposed activities should state that the environmental terms of that planned activity are defined in the opinion on the environmental impact assessment. A state agency or a local government may include in its decision regarding the proposed activities the environmental terms of the proposed activities specified in Article 9 Part 5 of the Law.

ii) The provisions of Article 6 are applied to decisions on proposed activities not listed in Annex I which may have a significant effect on the environment

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" was enacted on 18 December 2017.

Pursuant to Article 3 Part 1 of Law of Ukraine "On Environmental Impact Assessment" environmental impact assessment is mandatory when making decisions related to the proposed activities listed in Part 2 and Part 3 of that Article.

The Law contains clearly defined lists of activities that are subject to environmental impact assessment. The lists were formed with reference to the performance criteria, 'thresholds' (capacity, productivity, etc.) and based on the lists provided in the annexes to Directive 2011/92/EU, the Aarhus Convention and the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention), as well as the lists of international financial institutions (maintained by World Bank, EBRD, etc.). The key principle of making those lists was to include the activities that could only have a significant impact on the environment.

The provisions of Article 6 Par. 1b. of the Aarhus Convention are directly applicable in Ukraine. For instance, Paragraph 4 of Resolution No. 9 of the Plenary Meeting of the Supreme Court of Ukraine dated 01 November 1996 "On application of the Constitution of Ukraine in administration of justice" states that no court has the right to apply any law governing legal relations in ways other than stipulated by an international treaty.

To ensure the fulfilment of the obligation determined in 1 Article Part 3 of the Aarhus Convention Ukraine has regulations which ensure the application of Article 6 of the Aarhus Convention to activities not included in Annex I to the Aarhus Convention or in List 808.

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

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" entered into force on 18 December 2017.

Article 4 Part 1 of the Law states that the public must be timely, adequate and effectively informed in the environmental impact assessment process.

Pursuant to Article 4 Part 3 of the Law notices on the proposed activities to be assessed for environmental impact and announcements on the beginning of public discussions of the environmental impact assessment report shall be published by the business entity within three working days of submission to the authorised territorial body and, as provided by Article 5 Part 3 and Part 4 of the Law, to the authorised central body by publishing in (at least two) print media chosen by the business entity and distributed in the area of the subnational entities that may be impacted by the proposed activities, and on the local government notice boards or in other public places in the area of the proposed activities, or by using any other method that brings information to the notice of the residents in the subnational entity where a facility is expected to be installed, or of the local community which may be affected by the proposed activities; other stakeholders should also be duly informed.

Pursuant to Article 5 Part 7 of the Law the public may within 20 working days of official publication of the notice about the proposed activities to be assessed for environmental impact submit to the authorised territorial body and, as specified in Part 3 and Part 4 of that Article, to the authorised central body an feedback related to the proposed activities, scope of studies and the level of detailed elaboration of the information to be included in the environmental impact assessment report. The authorised body which has received feedback from the public shall notify the business entity giving it copies of the feedback within three working days of receipt.

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

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" was enacted on 18 December 2017.

Pursuant to Article 2 Part 1 of the Law environmental impact assessment is a procedure which includes:

- the preparation by the business entity an environmental impact assessment report in accordance with Article 5, Article 6 and Article 14 of the Law;
- public discussions held in accordance with Article 7, Article 8 and Article 14 of the Law;

- the authorised body's analysis, as required by Article 9 of the Law, of information contained in the environmental impact assessment report, any other data provided by the business entity, information received from the public during the public discussions or the transboundary impact assessment process, any other information;
- provision by the authorised body a reasonable opinion on the environmental impact assessment with reference to findings of the analysis specified in Paragraph 3 of that Part;
- taking the opinion on the environmental impact assessment into account when making decisions as to the proposed activities in accordance with Article 11 of the Law.

The Law imposes a clear timeframe for each stage of the environmental impact assessment procedure, in particular:

- a notice about the proposed activities to be assessed for environmental impact must be entered in the Uniform Environmental Impact Assessment Register by the authorised body within three working days of receipt;
- the public may within 20 working days of official publication of the notice about the proposed activities to be assessed for environmental impact submit to the authorised body any feedback related to the proposed activities, scope of studies and the level of detailed elaboration of the information to be included in the environmental impact assessment report;
- the business entity must provide and publish the request for the scope of studies and the level of detailed elaboration of the information to be included in the environmental impact assessment report together with the notice of the proposed activities to be assessed for environmental impact. The authorised body shall provide a response within 30 working days of official publication of the notice of the proposed activities to be assessed for environmental impact;
- the business entity must submit the environmental impact assessment report and announcement of the beginning of public discussions of that report; the authorised body must enter the environmental impact assessment report in the Uniform Environmental Impact Assessment Register within three working days of receipt;
- after the submission of the environmental impact assessment report, public discussions of the proposed activities shall begin on the date of official publication of the announcement of the beginning of public discussions of that report and provision of public access to such report in accordance with Article 4 of the Law, and continue for at least 25 working days but no longer than 35 working days;
- the opinion on the environmental impact assessment shall be provided to the business entity free of charge within 25 working days of the end of public discussions.

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

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created

in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" was enacted on 18 December 2017.

Article 4 Part 1 of the Law states that the public must be timely, adequate and effectively informed in the environmental impact assessment process.

Pursuant to Article 4 Part 3 of the Law notices on the proposed activities to be assessed for environmental impact and announcements on the beginning of public discussions of the environmental impact assessment report shall be published by the business entity within three working days of submission to the authorised territorial body and, as provided by Article 5 Part 3 and Part 4 of the Law, to the authorised central body by publishing in (at least two) print media chosen by the business entity and distributed in the area of the subnational entities that may be impacted by the proposed activities, and on the local government notice boards or in other public places in the area of the proposed activities, or by using any other method that brings information to the notice of the residents in the subnational entity where a facility is expected to be installed, or of the local community which may be affected by the proposed activities; other stakeholders should also be duly informed.

Pursuant to Article 5 Part 7 of the Law the public may within 20 working days of official publication of the notice about the proposed activities to be assessed for environmental impact submit to the authorised territorial body and, as specified in Part 3 and Part 4 of that Article, to the authorised central body any feedback related to the proposed activities, scope of studies and the level of detailed elaboration of the information to be included in the environmental impact assessment report. The authorised body which has received feedback from the public shall notify the business entity giving it copies of the feedback within three working days of receipt.

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

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Pursuant to Article 5 Part 10 of the Law in the preparation of the environmental impact assessment report the business entity must fully or partially take into account or reasonably reject the comments or suggestions submitted by the public during the public discussions of the scope of studies and the level of detailed elaboration of the information to be included in the environmental impact assessment report.

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

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The Law and Decree No, 1026 "On approval of Procedure for making submissions for environmental impact assessment opinion and finding and Procedure for keeping the Uniform Environmental Impact Assessment Register" issued by the Cabinet of Ministers of Ukraine on 13 December 2017 require that environmental impact assessment is carried out via the Uniform EIA Register.

Paragraph 8 of the Procedure for Keeping the Uniform Environmental Impact Assessment Register adopted by the Cabinet of Ministers of Ukraine on 13 December 2017 in its Decree No. 1026 determines that each electronic document associated with environmental impact assessment must be submitted by the business entity to the authorised body in Adobe Portable Document Format (PDF) via the Register user account. The authorised central body or the authorised territorial body shall confirm the time of receipt of the documents using the Register software by sending a notice

to the business entity's e-mail address specified during registration in the Register and via the Register user account.

The Register has the Other Additional Information to EIA Report option meaning that the entity has the right to provide any other additional information it may deem necessary for a review of the environmental impact assessment report by the authorised central body or the authorised territorial body.

Documents generated during environmental impact assessment are publicly available in the Register to ensure complete transparency and public control over the decision-making process.

Paragraph 6 of the Procedure for Keeping the Uniform Environmental Impact Assessment Register adopted by the Cabinet of Ministers of Ukraine on 13 December 2017 in its Decree No. 1026 emphasises that the Register software prevents from correcting information or documents that have already been entered in the Register.

Additionally, Article 4 Part 5 of the Law states that the environmental impact assessment report and other necessary documentation provided by the business entity for environmental impact assessment are open (subject to the provisions of Part 8 of that Article) and must be provided by the authorised body, the local government and the business entity for information purposes. Access to the environmental impact assessment report and other documentation on the proposed activities provided by the business entity shall be granted by posting them in places accessible to the public in the premises of the authorised body, local government of the respective subnational entity, which may be affected by the proposed activities, in the premises of the business entity, and may be posted in other public places designated by the business entity. The public is authorised to make copies (photocopies) and extracts from the aforesaid documentation and/or review the information on site.

Mandatory provision of any other information related to the proposed activities is guaranteed through the obligation of governmental agencies to provide information at public request, except as set out in Article 22 Part 1 of Law of Ukraine "On Access to Public Information", particularly if:

- 1) the governmental agency does not and is not legally obliged to have the requested information;
- 2) the requested information is restricted information as defined in Article 6 Part 2 of the Law;
- 3) the applicant failed to pay the costs of copying or printing as required by Article 21 of the Law;
- 4) the information request requirements set out in Article 19 Part 5 of the Law have not been met.

The implementation of Article 6 Paragraph 6 of the Aarhus Convention is also guaranteed by:

Decree No. 771 "On approval of the Procedure for public discussions of decisions that may affect the state of the environment" issued by the Cabinet of Ministers of Ukraine on 29 June 2011; Law of Ukraine "On Principles of State Regulatory Policy in Economic Operations".

g) With respect to Paragraph 7, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity

The opportunity for the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity is guaranteed by Article 20 Part I of Law of Ukraine No. 393/96-VR "On Public Appeals" dated 02 October 1996 which requires that authorities must review and address the issue specified in the appeal within one month of receipt. The public appeals that require no additional investigation must be reviewed and addressed within 15 days of receipt. If the appeal cannot be addressed within one month, the manager of the competent organisation must set a deadline for resolving the issue contained in the appeal. The maximum period given for a review and making decision on the appeal is 45 days (Article 20 Part 1 of Law of Ukraine "On Public Appeals").

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

This requirement has been taken into account in Ukraine through the provisions of Article 2 Part 3 Paragraph 3 of the Code of Administrative Procedure of Ukraine (CAPU), which require that governmental agencies make reasonable decisions with due account taken of all circumstances relevant to the decision, and Article 2 Part 3 Paragraph 8 of the CAPU, which introduces the obligation for governmental agencies to make proportional decisions, i.e. maintain the necessary balance between any adverse implications of a person's rights, freedoms and interests and the decision goals.

Additionally, this requirement is included in:

- Decree No. 771 "On approval of the Procedure for public discussions of decisions that may affect the state of the environment" issued by the Cabinet of Ministers of Ukraine on 29 June 2011 ; - Law of Ukraine "On Principles of State Regulatory Policy in Economic Operations".

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

This provision of the Aarhus Convention is guaranteed by Article 14 Part I of Law of Ukraine "On Access to Public Information", which requires that governmental agencies disclose information on their activities and decisions. Moreover, Article 15 Part I Paragraph I of Law of Ukraine "On Access to Public Information" determine that governmental agencies must publish their ad hoc directives (except for internal ones).

Additionally, this requirement is included in:

- Decree No. 771 "On approval of the Procedure for public discussions of decisions that may affect the state of the environment" issued by the Cabinet of Ministers of Ukraine on 29 June 2011; Law of Ukraine "On Principles of State Regulatory Policy in Economic Operations".

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

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Pursuant to Article 3 Part 1 of Law of Ukraine "On Environmental Impact Assessment" environmental impact assessment is mandatory when making decisions related to the proposed activities, which are listed in Article 3 Part 2 and Part 3 of the Law, to be assessed for environmental impact before any of those decisions can be made.

In the event of any changes in the proposed activities, the need for environmental impact assessment should be determined by the business entity taking into account the provisions of Decree No. 1010 "On approval of criteria for proposed activities not to be assessed for environmental impact and criteria for expansions and changes in activities and facilities not to be assessed for environmental impact" issued by the Cabinet of Ministers of Ukraine on 13 December 2017 in pursuance of Article 3 Part 2 Paragraph 22 and Part 2 Paragraph 14 of the Law.

It should also be noted that if the business entity determines that changes to the proposed activities must be assessed for environmental impact, the procedure set out in Law of Ukraine "On Environmental Impact Assessment" shall apply.

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.

Article 13 Part 3 of Law of Ukraine No. 1103-V "On implementation of state biosafety system during creation, testing, transportation and use of genetically modified organisms" of 31 May 2007 (the "Biosafety Law") prohibits the release of genetically modified organisms (GMOs) into the environment before they have been duly registered.

The state environmental expert conclusion should be attached to the registration application pursuant to Paragraph 4 of the Procedure for State Registration of Cosmetics and Medications Containing or Derived from Genetically Modified Organisms adopted by the Cabinet of Ministers of Ukraine on 18 February 2009, Decree No. 114. The conclusion is prepared with due account taken to public opinion (Article 1 1 Part 3 of Law of Ukraine "On Ecological Expert Evaluation").

Paragraph 2 of the Procedure for State Registration of Genetically Modified Organisms of

Agricultural Plant Varieties in Open Systems adopted by the Cabinet of Ministers of Ukraine on 23 July 2009, Decree No. 808, requires that state environmental expert conclusions are attached to applications for state registration of genetically modified organisms of agricultural plant varieties



in open systems. The conclusion is prepared with due account taken to public opinion (Article 11 Part 3 of Law of Ukraine "On Ecological Expert Evaluation").

Prior to state registration, GMOs may only be released into the environment for state approbation (testing) purposes. Such release of GMOs is only allowed with the permission of the Ministry of Ecology and Natural Resources of Ukraine (the "Ministry of Environment") (Article 13 Part 4 of the Biosafety Law). Paragraph 5 of the Procedure for Issuing Authorizations for State Approbation (Testing) of Genetically Modified Organisms in Open System adopted by the Cabinet of Ministers of

Ukraine on 02 April 2009, Decree No. 308, (Procedure 308) states that the applicant must apply to the Ministry of Environment as described in Annex 2 to Procedure 308. Paragraph 5 of the Authorization Application Form requires that the applicant also provides copies of the minutes of public hearings.

This means that the aforesaid authorisation may not be obtained without public hearings.

Law of Ukraine "On Environmental Protection", Law of Ukraine "On Ecological Expert Evaluation" and Law of Ukraine "On Fauna" introduce the ecological expert evaluation procedure for modern biotechnology products.

Paragraph I .4.4 of Regulations for Public Participation in Environmental Protection Decision-making Process, in addition to the types of decisions on the issues that affect or may affect the state of the environment and require public participation, includes the obligation to issue documents for the deliberate release of genetically modified organisms into the environment.

After the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, was signed in 2014, a number of obligations became effective as to the implementation of EU's GMO Directives which require public participation in making decisions associated with GMOs management.

In pursuance of Decree No. 847-r "On implementation of the Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part" issued by the Cabinet of Ministers on 17 September 2014, working groups were established to implement Directive 2001/18/EC on the deliberate release of GMOs into the environment, Directive 2009/41/EC on the contained use of GMOs and the Regulation on Transboundary Movement of GMOs.

In 2015, the Verkhovna Rada of Ukraine received a draft law on amendments to Law of Ukraine "On implementation of state biosafety system during creation, testing, transportation and use of genetically modified organisms" (pertaining to the introduction of a simplified procedure for the registration of EU-registered GMOs and GMO-derived products in Ukraine).

The Parliament decided to postpone the ratification of the GMO amendment until the adoption of the new version of Law of Ukraine "On implementation of state biosafety system during creation,

testing, transportation and use of genetically modified organisms", which will ensure compliance with the Directive and the GMO amendment to the Aarhus Convention.

## 2. Obstacles encountered in the implementation of article 6.

The existing legal mechanisms of public input to environmental issues are insufficient without a transparent environmental impact assessment tool.

## 3. Further information on the practical application of the provisions of article 6.

The Ministry of Environment has taken the following steps to ensure public discussions of decisions that may affect the state of the environment and to provide free access to information on the work of executive agencies:

Transboundary consultations ("Energoatom" State-owned National Nuclear Energy Generating Company)

Rivne NPP Unit 1 and Unit 2 Environmental Impact Assessment Procedure

Ukraine launched the procedure of transboundary EIA of the Rivne NPP site in 2018 pursuant to Paragraph 70 of Resolution No. VI/2 of the Sixth Meeting of the Parties to the Espoo Convention (2014) introducing the obligation to carry out the EIA by the end of 2019 as part of safety reassessment of Unit I and Unit 2.

Public hearings to discuss the EIA Report were held in 2019 in eight Ukrainian regions and in the city of Kyiv.

In pursuance to the Espoo Convention guidelines the Ministry of Environment sent the EIA Report in 2019 to potentially affected parties who wished to take part in the transboundary procedure, particularly to: the Republic of Belarus, Poland, Slovakia, Hungary, Romania, the Republic of Moldova, and to Austria as a stakeholder (a total of 7 countries).

The transboundary EIA procedure was completed by two countries in 2020: Hungary and the Republic of Moldova.

The procedure is ongoing in the correspondence format with four other countries (the Republic of Belarus, Slovakia, Romania and Austria).

Translation of some sections of the EIA Report into Russian remains an unresolved issue with the Republic of Belarus.

Slovakia notified Ukraine in July 2020 that it had taken Ukrainian responses to its comments into account and that it would prefer to work in the correspondence format only.

Responses to Romania's comments were given in 2020.

EIA of Khmelnytskyi NPP Unit 3 and Unit 4 Construction Project Design

The transboundary environmental impact assessment procedure of the project design was launched in 2010. Consultations were held with Romania, Moldova, Hungary and Slovakia from 2011 to 2013.

Consultations were suspended in 2015 due to amendments to the feasibility study (a new equipment vendor, updated regulations, stress test findings).

The transboundary consultation procedure was continued by the order of the Interdepartmental Council Coordinating Implementation of the Espoo Convention in Ukraine dated 15 December 2016.

The parties concerned (Poland, Hungary, Belarus, Slovakia, Moldova, Romania, Austria — 7 countries) were notified of a review of the updated EIA version in 2017. The consultations were carried out throughout 2017 in the correspondence format.

Updated Law of Ukraine "On Environmental Impact Assessment" entered into force in December 2017, and transboundary consultations continued in a new format. The EIA report for this project design was entered in the Uniform State EIA Register in November 2018.

Consultations were carried out and completed with three countries in the first half of 2019: The Republic of Belarus, Austria and Poland.

Consultations with Hungary, the Republic of Moldova, Slovakia and Romania are ongoing.

Environmental Impact Assessments of Zaporizhzhia NPP and South Ukraine NPP

The EIA procedure for ZNPP and SUNPP sites was launched in 2015.

"Energoatom" State-owned National Nuclear Energy Generating Company carried out public discussions in 2015—2016 as to continued operation of Unit 2 of South Ukraine NPP, Unit 1 and Unit 2 of Zaporizhzhia NPP.

The transboundary consultation procedure started in 2017. Expert consultations were completed with four countries (Romania, Moldova, Poland and Germany), and correspondence consultations were completed with two other countries: Slovakia and Hungary.

The Ministry of Environment suspended consultations in 2018 with two remaining parties — the Republic of Belarus and Austria. Consultations were resumed in 2020.

Danube—Black Sea deep-sea fairway (hereinafter referred to as "Danube—Black Sea DSF")

The final resolution pertaining to the implementation by Ukraine of 2010 project entitled "Danube— Black Sea DSF in Ukrainian Delta Section. Comprehensive Development" was cancelled in 2018 by the order of the Interdepartmental Council Coordinating Implementation of the Espoo Convention in Ukraine in pursuance of the resolution of the Sixth Meeting of the Parties to the Espoo Convention, and to address other issues of the Danube—Black Sea DSF renewal.

The notice of the proposed activities as part of the Reconstruction of Facilities of the Danube—Black Sea DSF in Ukrainian Delta Section was posted in 2020 on the Uniform of Environmental

Impact Assessment Register website of the Ministry of Environment of Ukraine in accordance with the applicable laws of Ukraine and the Espoo Convention. The discussion process has been launched in the manner required by law. The transboundary consultation procedure is expected to be carried out with Romania, the party concerned.

The Ministry of Environment has organised the collection of gridded data on the illegal dumping situation. Ecomapa.gov.ua e-service was launched in 2016. It contains the interactive map of illegal dumping in Ukraine and a mobile application with online notification of identified dumping sites. With the interactive map citizens may send gridded messages and images of identified illegal dumping sites. The Ministry of Energy will ensure the prompt transfer of this information to the local agencies responsible for illegal dumping removal. Information on the message processing status and respective measures taken by local governmental agencies can be viewed in the personal account. Official information provided by local governmental agencies is not the only content published in the service. Any citizen of Ukraine will be able to use the website and add information about dumping sites. Separate layers of the map show the data of the register of waste disposal locations and illegal dumping sites.

With respect to further information on the practical application of the provisions of Article 6 of the Aarhus Convention: draft Decree of the Cabinet of Ministers of Ukraine "On approval of 2021—2030 Development Strategy for areas of exclusion zone and unconditional (mandatory) resettlement zone affected by radioactive contamination due to Chornobyl Accident" was published on the website of the State Exclusion Zone Management Agency of Ukraine. The draft regulation has been under

public discussions and strategic environmental assessment as notified on the website of the State Exclusion Zone Management Agency of Ukraine.

The State Service of Geology and Subsoil of Ukraine works closely with civil society institutions to promote public participation in decisions on exploration and sustainable utilisation of subsoil. Draft regulations are regularly discussed with the public at the meetings of the Public Council of the State Service of Geology and Subsoil and are published in the Regulatory Activities section of the Service's website.

Uniform Environmental Impact Assessment Register: <http://eia.menr.gov.ua/uWcases>

Decree No. 1026 "On approval of Procedure for making submissions for environmental impact assessment opinion and funding and Procedure for keeping the Uniform of Environmental Impact Assessment Register" was also adopted by the Cabinet of Ministers of Ukraine on

13 December 2017. <https://zakon.rada.gov.ua/laws/show/1026-2017-%DO%BF#Text>

#### 4. Website addresses relevant to the implementation of article 6.

State Exclusion Zone Management Agency of Ukraine — <http://dazv.gov.ua/>

Unified State Open Data Web Portal: [data.gov.ua/](http://data.gov.ua/)

Interactive Resource of Illegal Dumping — <https://ecomapa.gov.ua/>

All About Deforestation website: <https://texty.org.ua/d/deforestation-longread/>

Encyclopaedia of Territories: [blog.suspilneoko.org.ua/eH11HKJ10nemix-Tepwropii/](http://blog.suspilneoko.org.ua/eH11HKJ10nemix-Tepwropii/)

Ministry of Agrarian Policy and Food of Ukraine — <http://minagro.gov.ua/>

Ministry of Environmental Protection and Natural Resources of Ukraine — <https://mepr.gov.ua/>

Ministry of Internal Affairs of Ukraine — <http://mvs.gov.ua/>

Ministry of Economy of Ukraine — <http://www.me.gov.ua/?lang=uk-UA>

Ministry of Energy of Ukraine — <http://mpe.kmu.gov.ua/>

Ministry of Foreign Affairs of Ukraine — <http://mfa.gov.ua/ua>

Ministry of Information Policy of Ukraine — <https://mip.gov.ua/>

Ministry of Infrastructure of Ukraine — <https://mtu.gov.ua/>

Ministry of Culture and Information Policy of Ukraine — <http://mincult.kmu.gov.ua/control/uk>

Ministry of Youth and Sports of Ukraine — <http://dsmsu.gov.ua/index/ua>

Ministry of Defence of Ukraine — <http://www.mil.gov.ua/>

Ministry of Education and Science of Ukraine — <https://mon.gov.ua/ua>

Ministry of Health of Ukraine — <http://moz.gov.ua/>

Ministry of Regional Development of Communities and Territories of Ukraine — <http://www.minregion.gov.ua/>

Ministry of Social Policy of Ukraine — <http://www.msp.gov.ua/>

Ministry of Finance of Ukraine — <http://www.minfin.gov.ua/>

Ministry of Justice of Ukraine — <https://minjust.gov.ua/>

Ministry of Reintegration of Temporarily Occupied Territories of Ukraine — <http://mtot.gov.ua/>

State Aviation Service of Ukraine — <https://avia.gov.ua/>

State Archival Service of Ukraine — <http://www.archives.gov.ua/>

State Treasury Service of Ukraine — <https://www.treasury.gov.ua/ua>

State Migration Service of Ukraine — <https://dmsu.gov.ua/>

State Border Guard Service of Ukraine — <https://dpsu.gov.ua/>

State Regulatory Service of Ukraine — <http://www.drs.gov.ua/>

State Service of Geology and Subsoil of Ukraine — <http://geo.gov.ua/>

State Export Control Service of Ukraine — <http://dsecu.gov.ua/control/uk/index#>

State Statistics Service of Ukraine — <http://www.ukrstat.gov.ua/>

State Service for Medications and Drugs Control — <https://www.dls.gov.ua/>

State Service of Ukraine for Transport Safety — <http://dsbt.gov.ua/>

State Service of Ukraine for Food Safety and Consumer Protection — <http://www.consumer.gov.ua/>

State Service of Ukraine for Geodesy, Cartography and Cadastre — <http://land.gov.ua/>

State Labour Service of Ukraine — <http://dsp.gov.ua/>

State Emergency Service of Ukraine — <http://www.dsns.gov.ua/>

State Financial Monitoring Service of Ukraine — <https://fiu.gov.ua/>

State Fiscal Service of Ukraine — <http://sfs.gov.ua/>

Ministry of Veterans Affairs of Ukraine — <https://mva.gov.ua/ua>

State Audit Service of Ukraine — <http://www.dkrs.gov.ua/kru/uk/index>

State Motor Road Agency of Ukraine — <http://ukravtodor.gov.ua/>

State Water Agency of Ukraine — <http://davr.gov.ua/>

State Agency for Energy Efficiency and Energy Conservation of Ukraine — <http://saee.gov.ua/>

State e-Governance Agency of Ukraine — <https://www.facebook.com/eGovernanceUkraine/>

State Forest Agency of Ukraine — <http://dklg.kmu.gov.ua/forest/control/uk/index>

State Reserve Agency of Ukraine — <https://rezerv.gov.ua/>

State Agency for Land Reclamation and Fisheries of Ukraine — <http://darg.gov.ua/>

State Exclusion Zone Management Agency of Ukraine — <http://dazv.gov.ua/>

State Space Agency of Ukraine — <http://www.nkau.gov.ua/NSAU/nkau.nsf>

State Agency for Infrastructure Projects of Ukraine — <https://mtu.gov.ua/timeline/Derzhavneagentstvo-infrastruktumih-proektiv-Ukraini-Ukrinfraproekt-.html>

State Architectural and Construction Inspectorate of Ukraine — <http://vwww.dabi.gov.ua/>

State Environmental Inspectorate of Ukraine — <http://www.dei.gov.ua/>

State Service for Education Quality of Ukraine — <https://sqe.gov.ua/>

State Energy Oversight Inspectorate of Ukraine — <https://sies.gov.ua/>

State Nuclear Regulation Inspectorate of Ukraine — <https://snriu.gov.ua/>

Ecology and Natural Resources Department of Kyiv Regional State Administration — <http://koda.gov.ua/oblderzhadministratsija/struktura/struktumi-pidrozdili-oda/departament-ekologiita-prirodnikh-re/>

Department of Agro-industrial Development, Ecology and Natural Resources of Vinnytsia Regional State Administration — <https://data.gov.ua/organization/departament-ahropromyslovoho-rozvytkuekolohiyi-ta-pryrodnikh-resursiv-vinnytskoyi-oblderzhadmi>

Ecology and Natural Resources Department of Dnipropetrovsk Regional State Administration — <https://adm.dp.gov.ua/dniprooda/pro-oda/departamenti-ta-upravlinnya/departament-ekologiyi-taprirodnih-resursiv>

Ecology and Natural Resources Department of Donetsk Regional State Administration — <https://ecology.donoda.gov.ua/>

Ecology and Natural Resources Department of Zhytomyr Regional State Administration — <http://www.ecology.zt.gov.ua/>

Ecology and Natural Resources Department of Zakarpattia Regional State Administration — <http://ecozakarp.at.gov.ua/>

Environmental Protection Department of Zaporizhzhia Regional State Administration — <https://www.zoda.gov.ua/article/2069/departament-zahistu-dovkillya.html>

Ecology and Natural Resources Department of Volyn Regional State Administration — <https://www.facebook.com/Nolecology/>

Ecology and Natural Resources Department of Ivano-Frankivsk Regional State Administration — <https://www.if.gov.ua/?q=page&id=24389>

Ecology and Natural Resources Department of Kirovohrad Regional State Administration — <http://ekolog.kr-admin.gov.ua/>

Department of Communal Property, Land, Ownership, Ecology and Natural Resources of Luhansk Regional State Administration — <http://www.eco-lugansk.gov.ua/>

Ecology and Natural Resources Department of Lviv Regional State Administration — <https://deplv.gov.ua/>

Ecology and Natural Resources Department of Mykolaiv Regional State Administration — <https://ecolog.mk.gov.ua/>

Ecology and Natural Resources Department of Odesa Regional State Administration — <http://ecology.odessa.gov.ua/>

Ecology and Natural Resources Department of Poltava Regional State Administration — <http://eko.adm-pl.gov.ua/>

Ecology and Natural Resources Department of Rivne Regional State Administration — <http://www.ezorivne.gov.ua/>

Environmental Protection and Energy Department of Sumy Regional State Administration — <http://www.pek.sm.gov.ua/index.php/uk/>

Ecology and Natural Resources Department of Ternopil Regional State Administration — <http://ecotemopil.gov.ua/>

Environmental Protection and Management Department of Kharkiv Regional State Administration — <http://kharkivoda.gov.ua/oblasna-derzhavna-administratsiya/struktura-administratsiyi/strukturnipidrozdi/486>

Ecology and Natural Resources Department of Kherson Regional State Administration — <http://ecology.ks.ua/>

Agro-industrial Complex Development and Land Relations Department of Khmelnytskyi Regional State Administration — <http://www.apr.adm-km.gov.ua/>

Ecology and Natural Resources Department of Cherkasy Regional State Administration — <https://ckoda.gov.ua/upravlinnya-ekologiyi-ta-prirodnix-resursiv/>

Ecology and Natural Resources Department of Chervivtsi Regional State Administration — <http://www.eco-bukovina.com.ua/>

Ecology and Natural Resources Department of Chornobyl Regional State Administration — <http://eco.cg.gov.ua/>

## Article 7

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

The Verkhovna Rada of Ukraine adopted Law of Ukraine "On Environmental Impact Assessment" on 23 May 2017; Decrees No. 989, No. 1010 and No. 1026 of the Cabinet of Ministers of Ukraine were adopted on 13 December 2017. These Decrees approved the forms of all documents created in the environmental impact assessment process. Law of Ukraine "On Environmental Impact Assessment" was enacted on 18 December 2017.

Article 4 Part 1 of the Law states that the public must be timely, adequate and effectively informed in the environmental impact assessment process.

Pursuant to Article 4 Part 3 of the Law notices on the proposed activities to be assessed for environmental impact and announcements on the beginning of public discussions of the environmental impact assessment report shall be published by the business entity within three working days of submission to the authorised territorial body and, as provided by Article 5 Part 3 and Part 4 of the Law, to the authorised central body by publishing in (at least two) print media chosen by the business entity and distributed in the area of the subnational entities that may be impacted by the proposed activities, and on the local government notice boards or in other public places in the area of the proposed activities, or by using any other method that brings information to the notice of the residents in the subnational entity where a facility is expected to be installed,



or of the local community which may be affected by the proposed activities; other stakeholders should also be duly informed.

The opportunity for the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity is guaranteed by Article 20 Part 1 of Law of Ukraine No. 393/96-VR "On Public Appeals" dated 02 October 1996 which requires that authorities must review and address the issue specified in the appeal within one month of receipt. The public appeals that require no additional investigation must be reviewed and addressed within 15 days of receipt. If the appeal cannot be addressed within one month, the manager of the competent organisation must set a deadline for resolving the issue contained in the appeal. The maximum period given for a review and making decision on the appeal is 45 days (Article 20 Part 1 of Law of Ukraine "On Public Appeals").

Order No. 356 of the Ministry of Environment dated 11 December 2020 approved the composition of the Public Council of the Ministry of Environmental Protection and Natural Resources of Ukraine. The Public Council Institute was introduced in Ukraine in 2004.

Though the terms and conditions of establishing public councils have changed over 15 years, this institute operates in all democracies of the world. The Council is the most democratic platform offering equal opportunities for speaking up and be heard. This is a great "incubator" for young organisations to build their expertise, provided that they want to do it.

The Council makes it impossible to manipulate public opinion in the government's communication via a particular "opinion leader". Rather, it serves as a platform generating a common public stance, monitoring governmental activities, carrying out civic expert reviews and capable of influencing policy decisions.

Public councils ensure an open and direct dialogue with the government. These advisory bodies are bestowed a special legal status to strengthen this communication. For example, the governmental body refusing to accept public recommendations must provide an accurate, reasonable refusal to the public within ten days. Each of the public councils has a representation in the Board of Public Councils of the Cabinet of Ministers of Ukraine headed by the Secretary of State of the Cabinet of Ministers. And it is also an efficient platform both for addressing the issues of communication with a governmental body and for intersectoral and regional networking among NGOs.

The effectiveness of a public council largely depends on its expert potential. So, candidates are selected by certain criteria. This potential can also be strengthened by establishing permanent committees within councils and making the committees members of the expert board. The committees can be composed of both scientists and independent experts. We have already started this process and are open to cooperation.

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

The Government of Ukraine introduced public consultations on the key social issues to involve the public in shaping and implementation of the national policy. Public consultations can be carried

out as public discussions (direct form) and public opinion polls (indirect form). Public discussions are carried out on the topics such as:

draft regulations of high social importance and pertaining to citizens' constitutional rights, freedoms, interests and responsibilities; regulations introducing benefits for or imposing restrictions on business entities and civil society institutions; the exercise of local governance powers delegated to executive bodies by their councils, etc.;

- draft regulations;
- draft resolutions of the regional council developed by subdivisions of regional state administrations;
- spending department reports on the use of budget funds in the previous year.

Executive agencies make an annual indicative public consultation plan with regard to the key tasks set by the Action Programme of the Cabinet of Ministers of Ukraine, the 2030 National Economic Strategy, the Law-Drafting Action Plan of the Verkhovna Rada of Ukraine, other documents and findings of previous public consultations. Monthly updated plans are also prepared for public discussions.

Suggestions and comments received during the public discussion process are reviewed and analysed. Executive agencies use the findings of public consultations to prepare discussion reports.

#### 7. Obstacles encountered in the implementation of article 7.

There are virtually no legal obstacles for civil society institutions' participation to the development and implementation of environmental programmes and policies.

#### 8. Further information on the practical application of the provisions of article 7.

Law of Ukraine "On Strategic Environmental Assessment" (enacted on 12 October 2018) aims to harmonise Ukrainian laws with the EU legislation in part of defining the scope and procedure of strategic environmental assessment in accordance with the approach set out in Directive 2001/42/EC of the European Parliament and the Council of 27 June 2001, and to implement the provisions of the Strategic Environmental Assessment Protocol to the Convention on Environmental Impact Assessment in a Transboundary Context.

Law of Ukraine "On Strategic Environmental Assessment" (hereinafter referred to "Law") regulates environmental impact assessment relations, particularly for public health and enforcement of national planning documentation, and applies to the national planning documentation in agriculture, forestry, fishery, energy, production sector, transportation, waste management, water use, environmental protection, telecommunications, tourism, urban planning or land management (schemes) enforced through the activities (or containing activities and facilities) that must be assessed for environmental impact or for potential implications for the Nature Reserve Fund and protected areas network lands and sites.

The public is mentioned in the list of strategic environmental assessment actors in Article 4 of the Law, which defines the term "the public" as follows: "one or more individuals or legal entities, and associations, organisations or groups thereof registered in the area covered by the strategic planning document."

Article 10 of the Law states that the public has the right to take part in defining the scope of strategic environmental assessment, and Article 12 of the Law regulates public discussions in the strategic environmental assessment process.

The customer (an executive body or a local government responsible for the development, general administration and control of implementation of national planning documentation) must use findings of the public discussions to make a public discussion report summarising the feedback, explaining how the national planning documentation and the strategic environmental assessment report include (or reasonably reject) the feedback duly provided under that Article, and giving the reason for choosing, among other appropriate options, the national planning documentation in the format it was submitted for approval. Minutes of public hearings (if any) and written feedback are attached to the report. The public discussion report is public information.

Article 16 of the Law states that the customer shall within five working days of approval of state planning documentation post the approved national planning documentation, measures to monitor its effects, and information about consultations and public discussions on its website.

The public may also take part in the decision-making process during transboundary consultations of the country of origin (Article 14 of the Law) and transboundary consultations of the state concerned (Article 15 of the Law).

#### 9. Website addresses relevant to the implementation of article 7.

Unified State Open Data Web Portal: [data.gov.ua/](http://data.gov.ua/)

Ministry of Agrarian Policy and Food of Ukraine — <http://minagro.gov.ua/>

Ministry of Environmental Protection and Natural Resources of Ukraine — <https://mepr.gov.ua/>

Ministry of Internal Affairs of Ukraine — <http://mvs.gov.ua/>

Ministry of Economy of Ukraine — <http://www.me.gov.ua/?lang=uk-UA>

Ministry of Energy of Ukraine — <http://mpe.kmu.gov.ua/>

Ministry of Foreign Affairs of Ukraine — <http://mfa.gov.ua/ua>

Ministry of Information Policy of Ukraine — <https://mip.gov.ua/>

Ministry of Infrastructure of Ukraine — <https://mtu.gov.ua/>

Ministry of Culture and Information Policy of Ukraine — <http://mincult.kmu.gov.ua/confrol/uk>

Ministry of Youth and Sports of Ukraine — <http://dsmsu.gov.ua/index/ua>

Ministry of Defence of Ukraine — <http://www.mil.gov.ua/>

Ministry of Education and Science of Ukraine — <https://mon.gov.ua/ua>

Ministry of Health of Ukraine — <http://moz.gov.ua/>

Ministry of Regional Development of Communities and Territories of Ukraine — <http://www.minregion.gov.ua/>

Ministry of Social Policy of Ukraine — <http://www.msp.gov.ua/>

Ministry of Finance of Ukraine — <http://www.minfin.gov.ua/>

Ministry of Justice of Ukraine — <https://minjust.gov.ua/>

Ministry of Reintegration of Temporarily Occupied Territories of Ukraine — <http://mtot.gov.ua/>

State Aviation Service of Ukraine — <https://avia.gov.ua/>

State Archival Service of Ukraine — <http://www.archives.gov.ua/>

State Treasury Service of Ukraine — <https://www.treasury.gov.ua/ua>

State Migration Service of Ukraine — <https://dmsu.gov.ua/>

State Border Guard Service of Ukraine — <https://dpsu.gov.ua/>

State Regulatory Service of Ukraine — <http://www.drs.gov.ua/>

State Service of Geology and Subsoil of Ukraine — <http://geo.gov.ua/>

State Export Control Service of Ukraine — <http://dsecu.gov.ua/control/uk/index#>

State Statistics Service of Ukraine — <http://www.ukrstat.gov.ua/>

State Service for Medications and Drugs Control — <https://www.dls.gov.ua/>

State Service of Ukraine for Transport Safety — <http://dsbt.gov.ua/>

State Service of Ukraine for Food Safety and Consumer Protection — <http://www.consumer.gov.ua/>

State Service of Ukraine for Geodesy, Cartography and Cadastre — <http://land.gov.ua/>

State Labour Service of Ukraine — <http://dsp.gov.ua/>

State Emergency Service of Ukraine — <http://www.dsns.gov.ua/>

State Financial Monitoring Service of Ukraine — <https://fiu.gov.ua/>

State Fiscal Service of Ukraine — <http://sfs.gov.ua/>

Ministry of Veterans Affairs of Ukraine — <https://mva.gov.ua/ua>

State Audit Service of Ukraine — <http://www.dkrs.gov.ua/kru/uk/index>

State Motor Road Agency of Ukraine — <http://ukravtodor.gov.ua/>

State Water Agency of Ukraine — <http://davr.gov.ua/>

State Agency for Energy Efficiency and Energy Conservation of Ukraine — <http://saee.gov.ua/>

State e-Governance Agency of Ukraine — <https://www.facebook.com/eGovemanceUkraine/>

State Forest Agency of Ukraine — <http://dklg.kmu.gov.ua/forest/control/uk/index>

State Reserve Agency of Ukraine — <https://rezerv.gov.ua/>

State Agency for Land Reclamation and Fisheries of Ukraine — <http://darg.gov.ua/>

State Exclusion Zone Management Agency of Ukraine — <http://dazv.gov.ua/>

State Space Agency of Ukraine — <http://www.nkau.gov.ua/NSAU/nkau.nsf>

State Agency for Infrastructure Projects of Ukraine — <https://mtu.gov.ua/timeline/Derzhavneagentstvo-infrasüktumih-proektiv-Ukraini-Ukrinfraproekt-.html>

State Architectural and Construction Inspectorate of Ukraine — <http://ymw.dabi.gov.ua/>

State Environmental Inspectorate of Ukraine — <http://www.dei.gov.ua/>

State Service for Education Quality of Ukraine — <https://sqe.gov.ua/>

State Energy Oversight Inspectorate of Ukraine — <https://sies.gov.ua/>

State Nuclear Regulation Inspectorate of Ukraine — <https://snriu.gov.ua/>

Ecology and Natural Resources Department of Kyiv Regional State Administration — <http://koda.gov.ua/oblderzhadministratsija/struktura/struktumi-pidrozdili-oda/departament-ekologii-taprirodnikh-re/>

Department of Agro-industrial Development, Ecology and Natural Resources of Vinnytsia Regional State Administration — <https://data.gov.ua/organization/departament-ahropromyslovoho-rozvytkuekolohiyi-ta-pryrodnykh-resursiv-vinnytskoyi-oblderzhadmi>

Ecology and Natural Resources Department of Dnipropetrovsk Regional State Administration — <https://adm.dp.gov.ua/dniprooda/pro-oda/departamenti-tæupravlinnya/departament-ekologiyi-taprirodnih-resursiv>

Ecology and Natural Resources Department of Donetsk Regional State Administration — <https://ecology.donoda.gov.ua/>

Ecology and Natural Resources Department of Zhytomyr Regional State Administration — <http://www.ecology.zt.gov.ua/>

Ecology and Natural Resources Department of Zakarpattia Regional State Administration — <http://ecozakarp.at.gov.ua/>

Environmental Protection Department of Zaporizhzhia Regional State Administration — <https://www.zoda.gov.ua/article/2069/departament-zahistu-dovkillya.html>

Ecology and Natural Resources Department of Volyn Regional State Administration — <https://www.facebook.com/Volecology/>

Ecology and Natural Resources Department of Ivano-Frankivsk Regional State Administration — <https://www.if.gov.ua/?q=page&id=24389>

Ecology and Natural Resources Department of Kirovohrad Regional State Administration — <http://ekolog.kr-admin.gov.ua/>

Department of Communal Property, Land, Ownership, Ecology and Natural Resources of Luhansk Regional State Administration — <http://www.eco-lugansk.gov.ua/>

Ecology and Natural Resources Department of Lviv Regional State Administration — <https://deplv.gov.ua/>

Ecology and Natural Resources Department of Mykolaiv Regional State Administration — <https://ecolog.mk.gov.ua/>

Ecology and Natural Resources Department of Odesa Regional State Administration — <http://ecology.odessa.gov.ua/>

Ecology and Natural Resources Department of Poltava Regional State Administration — <http://eko.adm-pl.gov.ua/>

Ecology and Natural Resources Department of Rivne Regional State Administration — <http://www.ecorivne.gov.ua/>

Environmental Protection and Energy Department of Sumy Regional State Administration — <http://www.pek.sm.gov.ua/index.php/uk/>

Ecology and Natural Resources Department of Ternopil Regional State Administration — <http://ecotemopil.gov.ua/>

Environmental Protection and Management Department of Kharkiv Regional State Administration — <http://kharkivoda.gov.ua/oblasna-derzhavna-administratsiya/struktura-administratsiyi/struktumipidrozdi/486>

Ecology and Natural Resources Department of Kherson Regional State Administration — <http://ecology.ks.ua/>

Agro-industrial Complex Development and Land Relations Department of Khmelnytskyi Regional State Administration — <http://www.apr.adm-km.gov.ua/>

Ecology and Natural Resources Department of Cherkasy Regional State Administration — <https://ckoda.gov.ua/upravlinnya-ekologiyi-ta-prirodnix-resursiv/>

Ecology and Natural Resources Department of Chemivtsi Regional State Administration — <http://www.eco-bukovina.com.ua/>

Ecology and Natural Resources Department of Chemihiv Regional State Administration — <http://eco.cg.gov.ua/>

## Article 8

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

Efforts made in Ukraine to promote public access to information and public participation in the decision-making process are defined by a number of general regulations, particularly, by Law of Ukraine "On Principles of State Regulatory Policy in Economic Operations" which determines the legal and organisational principles of governmental regulatory policy in economy aimed to improve legal regulation of economic relations and administrative relations between regulatory agencies or other parties, and between governmental bodies and businesses, and to prevent the adoption of commercially unreasonable and inefficient regulations.

Article 9 of this Law of Ukraine provides for the procedure of publication of draft regulations for collecting feedback from individuals and legal entities, and associations thereof. The period of collecting feedback from individuals and legal entities, and associations thereof, shall be defined by the author of the regulation and must be at least one month but no longer than three months of publication of the draft regulation. Any feedback related to the draft regulation received within a fixed timeframe must be reviewed by the author of the draft regulation. Having reviewed the feedback the author of the draft regulation shall accept or reasonably reject all or a part of that feedback.

A regulation may not be adopted or approved by the authorised executive body (the State Regulatory Service of Ukraine) before it has been published.

The State Water Agency of Ukraine promotes effective public participation in the preparation of regulations by posting draft regulations in the Regulatory Activities tab in Draft Regulations section on its website for public discussions. Projects are also published in the Public Consultations tab in Electronic Public Consultations and Public Discussions sections on the State Water Agency's website. Public feedback received in the discussions is taken into account as much as practical to the extent permitted by law.

The public discussion period begins on the date of publication of the regulation by the State Water Agency on its website and lasts for at least one month (Governmental Decree No. 996 "On promotion of public participation in shaping and implementation of public policy" dated 03 November 2010).

### 11. Obstacles encountered in the implementation of article 8.

There are virtually no legal obstacles for civil society institutions' participation in the development and implementation of environmental programmes and policies.

## 12. Further information on the practical application of the provisions of article 8.

Local governments with the participation of the public adopted a number of environmental protection documents from 2017 to 2020.

In particular:

The Cabinet of Ministers of Ukraine issued Decree No. 820 on 08 November 2017 to approve the 2030 National Waste Management Strategy of Ukraine aimed to address the challenges of the waste generation, accumulation, storage, processing, utilization and disposal, e.g., by introducing separate collection of solid waste and establishing the solid waste processing infrastructure.

In pursuance of the Strategy Decree No. 117 "On approval of the 2030 National Waste Management Plan" was issued by the Cabinet of Ministers of Ukraine on 20 February 2019.

The 2030 National Waste Management Plan determines the key priorities of state regulation of waste management taking the European waste management principles into account. One of the measures of the Plan is to adopt Law of Ukraine "On Waste Management" and sectoral laws regulating the management of certain types of waste.

The 2025 National Environmental Protection Action Plan adopted by the Cabinet of Ministers of Ukraine on 21 April 2021, Decree No. 443.

Draft Law of Ukraine "On State Environmental Control" (of 19 February 2020, reg. No. 3091).

The 2030 National Climate Change Policy Implementation Concept (adopted by the Cabinet of Ministers of Ukraine on 07 December 2016, Decree No. 932-r) and the Action Plan to the 2030

National Climate Change Policy Implementation Concept (adopted by the Cabinet of Ministers of Ukraine on 06 December 2017, Decree No. 878-r), which determine the key priorities and objectives

of the climate policy of Ukraine, establish legal and institutional prerequisites for a staged transition to the low-carbon development under the conditions of economic, energy and environmental security and public welfare improvement.

The 2050 Low-Carbon Development Strategy of Ukraine (adopted by the Cabinet of Ministers of Ukraine on 18 July 2018, Protocol Resolution No. 28) pursuant to Article 4 Paragraph 19 of the Paris Agreement which requires that Ukraine, fully understanding its commitments under the Paris Agreement and following the national priorities, makes efforts to achieve the indicative figure of 31— 34% of greenhouse gas emissions by 2050 versus 1990. This is an and fair indicative figure in the context of participation in the global response to climate change threats. Ukraine plans to review its strategy at least every five years to assess progress and increase its ambition taking the national situation into account.

The following draft regulations have also been developed and are currently at the coordination stages:



- 1) Decree of the Cabinet of Ministers of Ukraine "On approval of the 2030 National Climate Change Scientific and Technical Programme Concept";
- 2) Draft Decree of the Cabinet of Ministers of Ukraine "On approval of the 2030 Strategy of Environmental Safety and Adaptation to Climate Change".

The adoption of Decree No. 868 of the Cabinet of Ministers of Ukraine dated 30 July 2021, which approved Ukraine's Nationally Determined Contribution to the Paris Agreement, was an important step for Ukraine.

### 13. Website addresses relevant to the implementation of article 8.

Unified State Open Data Web Portal: <http://data.gov.ua/>

Ministry of Agrarian Policy and Food of Ukraine — <http://minagro.gov.ua/>

Ministry of Internal Affairs of Ukraine — <http://mvs.gov.ua/>

Ministry of Environmental Protection and Natural Resources of Ukraine — <https://mepr.gov.ua/>

Ministry of Economy of Ukraine — <http://www.me.gov.ua/?lang=uk-UA>

Ministry of Energy of Ukraine — <http://mpe.kmu.gov.ua/>

Ministry of Foreign Affairs of Ukraine — <http://mfa.gov.ua/ua>

Ministry of Information Policy of Ukraine — <https://mip.gov.ua/>

Ministry of Infrastructure of Ukraine — <https://mtu.gov.ua/>

Ministry of Culture and Information Policy of Ukraine — <http://mincult.kmu.gov.ua/con&ol/uk>

Ministry of Youth and Sports of Ukraine — <http://dsmsu.gov.ua/index/ua> Ministry of Defence of Ukraine — <http://www.mil.gov.ua/>

Ministry of Education and Science of Ukraine — <https://mon.gov.ua/ua>

Ministry of Health of Ukraine — <http://moz.gov.ua/>

Ministry of Regional Development of Communities and Territories of Ukraine — <http://www.minregion.gov.ua/>

Ministry of Social Policy of Ukraine — <http://www.msp.gov.ua/> Ministry of Finance of Ukraine — <http://www.minfin.gov.ua/> Ministry of Justice of Ukraine — <https://minjust.gov.ua/>

Ministry of Reintegration of Temporarily Occupied Territories of Ukraine — <http://mtot.gov.ua/>

State Aviation Service of Ukraine — <https://avia.gov.ua/>

State Archival Service of Ukraine — <http://www.r.archives.gov.ua/>

State Treasury Service of Ukraine — <https://www.treasury.gov.ua/ua>

State Migration Service of Ukraine — <https://dmsu.gov.ua/>

State Border Guard Service of Ukraine — <https://dpsu.gov.ua/>

State Regulatory Service of Ukraine — <http://www.drs.gov.ua/>

State Service of Geology and Subsoil of Ukraine — <http://geo.gov.ua/>

State Export Control Service of Ukraine — <http://dsecu.gov.ua/control/uWindex#>

State Statistics Service of Ukraine — <http://www.ukrstat.gov.ua/>

State Service for Medications and Drugs Control — <https://www.dls.gov.ua/>

State Service of Ukraine for Transport Safety — <http://dsbt.gov.ua/>

State Service of Ukraine for Food Safety and Consumer Protection — <http://wuw.consumer.gov.ua/>

State Service of Ukraine for Geodesy, Cartography and Cadastre — <http://land.gov.ua/>

State Labour Service of Ukraine — <http://dsp.gov.ua/>

State Emergency Service of Ukraine — <http://www.dsns.gov.ua/>

State Financial Monitoring Service of Ukraine — <https://fiu.gov.ua/>

State Fiscal Service of Ukraine — <http://sfs.gov.ua/>

Ministry of Veterans Affairs of Ukraine — <https://mva.gov.ua/ua>

State Audit Service of Ukraine — <http://www.dkrs.gov.ua/kru/uk/index>

State Motor Road Agency of Ukraine — <http://ukravtodor.gov.ua/>

State Water Agency of Ukraine — <http://davv.gov.ua/>

State Agency for Energy Efficiency and Energy Conservation of Ukraine — <http://saee.gov.ua/>

State e-Governance Agency of Ukraine — <https://wuw.facebook.com/eGovemanceUkraine/>

State Forest Agency of Ukraine — <http://dklg.kmu.gov.ua/forest/control/uWindex>

State Reserve Agency of Ukraine — <https://rezerv.gov.ua/>

State Agency for Land Reclamation and Fisheries of Ukraine — <http://darg.gov.ua/>

State Exclusion Zone Management Agency of Ukraine — <http://dazv.gov.ua/>

State Space Agency of Ukraine — <http://www.nkau.gov.ua/NSAU/nkau.nsf>

State Agency for Infrastructure Projects of Ukraine — [https://mtu.gov.ua/timeline/1\)erzhavneagentstvo-infrastruktumih-proektiv-Ukraini-Ukrinfraproekt-.html](https://mtu.gov.ua/timeline/1)erzhavneagentstvo-infrastruktumih-proektiv-Ukraini-Ukrinfraproekt-.html)

State Architectural and Construction Inspectorate of Ukraine — <http://www.dabi.gov.ua/>

State Environmental Inspectorate of Ukraine — <http://www.dei.gov.ua/>

State Service for Education Quality of Ukraine — <https://sqe.gov.ua/>

State Energy Oversight Inspectorate of Ukraine — <https://sies.gov.ua/>

State Nuclear Regulation Inspectorate of Ukraine — <https://snriu.gov.ua/>

## **45. United Kingdom of Great Britain and Northern Ireland**

### **Article 6**

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

The European Union implemented Articles 6, 7 and 9, Paragraph 2, of the Convention through Directive 2003/35/EC and these principles were carried forward as it was recast or consolidated. The UK brought into force the laws, regulations and administrative provisions necessary to comply with this Directive. These include[1]:

- a) The Environmental Permitting (England and Wales) Regulations 2016;
- b) The Environment Act 1995;
- c) Environmental Protection Act 1990;
- d) The Pollution Prevention and Control (Public Participation etc.) (Scotland) Regulations 2012;
- e) The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013;
- f) Town and Country Planning Act 1990;
- g) The Town and Country Planning (Environmental Impact assessment) Regulations 2017;
- h) The Town and Country Planning (Environmental Impact assessment) (Wales) Regulations 2016 for England and Wales;
- i) Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008;
- j) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 [2];
- k) The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009;
- l) Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
- m) The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
- n) Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003;

- o) The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
- p) The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999;
- q) Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999;
- r) The Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017;
- s) Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006;
- t) The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017
- u) The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
- v) Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999;
- w) Highways (Assessment of Environmental Effects) Regulations 1999;
- x) Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999;
- y) The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007;
- z) The Harbour Works (Environmental Impact Assessment) Regulations 1999;
- aa) Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003;
- bb) The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000;
- cc) The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
- dd) The Pipe-line Works (Environmental Impact Assessment) Regulations 2000;
- ee) Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999;
- ff) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999;
- gg) The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010;
- hh) The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999;
- ii) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
- jj) The Transport and Works (Assessment of Environmental Effects) Regulations 2000;
- kk) The Transport and Works (Assessment of Environmental Effects) Regulations 2006;

- ll) Transport and Works (Scotland) Act 2007;
- mm) The Electricity Act 1989 (Requirement of Consent for Offshore Wind and Water Driven Generating Stations) (England and Wales) Order 2001;
- nn) The Electricity Act 1989 (Requirement of Consent for Offshore Wind Generating Stations) (Scotland) Order 2002;
- oo) The Offshore Electricity Development (Environmental Impact Assessment) Regulations (Northern Ireland) 2008;
- pp) The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006;
- qq) Marine Works (Environmental Impact Assessment) Regulations 2007;
- rr) The Water Resources (Environmental Impact Assessment) Regulations 2003;
- ss) The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
- tt) Water Environment (Controlled Activities) (Scotland) Regulations 2011;
- uu) Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007;
- vv) The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007;
- ww) The Town and Country Planning (Development Plan) (Amendment) Regulations 1997 (revoked so far as they extend to England);
- xx) The Town and Country (Local Planning) (England) Regulations 2012;
- yy) Town and Country Planning (Local Development Plan) (Wales) Regulations 2009 and;
- zz) The Town and Country Planning (Scotland) Act 1997;
- aaa) Town and Country Planning (Development Planning) (Scotland) Regulations 2008;
- bbb) Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;
- ccc) Planning Act 2008;
- ddd) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;
- eee) The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
- fff) Infrastructure Planning (Examination Procedures) Rules 2010;
- ggg) The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015;
- hhh) Infrastructure Planning (Decisions) Regulations 2010;

- iii) Infrastructure Planning (Compulsory Acquisition) Regulations 2010;
- jjj) The Town and Country Planning (Development Management Procedure) (England) Order 2015;
- kkk) Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
- lll) The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
- mmm) Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006;
- nnn) The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.

Article 6, paragraph 1

59. The obligations under Part (a) of this paragraph are satisfied by elements of our national regulations which implement the EU Directive on integrated pollution prevention and control (the Industrial Emissions Directive 2010/75/EU), the Environmental Permitting (England and Wales) Regulations 2016 (<https://www.legislation.gov.uk/ukxi/2016/1154/contents/made>) and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (<http://www.legislation.gov.uk/ukxi/2017/571/contents/made>). Subsequent amendments to the Environmental Permitting (England and Wales) Regulations 2016 can be found here (<https://www.legislation.gov.uk/all?title=environmental%20permitting%20regulations>). The equivalent Scottish regulations are the Pollution Prevention and Control (Scotland) Regulations 2012 (<https://www.legislation.gov.uk/ssi/2012/360/contents>). In the UK, all projects likely to have a significant effect on the environment are subject to control under EIA regimes which implement EU Directive 2011/92/EU as amended by Directive 2014/52/EU).

60. In 2008, the UK Parliament passed new legislation in the form of the Planning Act 2008. This has been amended through the Localism Act 2011, which abolished the Infrastructure Planning Commission and transferred responsibility for decision making to the Secretary of State. Applications for development consent are now examined by an Examining Authority appointed by the Planning Inspectorate (<http://infrastructure.planningportal.gov.uk/>) on behalf of the Secretary of State, who makes recommendations to the Secretary of State for a final decision.

61. The Planning Act was amended by the Growth and Infrastructure Act 2013 (provisions for certification requirements and for special categories of land) to help to deliver a more efficient, streamlined and democratically-accountable planning system for major infrastructure projects. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ensure that these applications are considered in accordance with the principles enshrined in the Directive. In the case of major infrastructure projects there are a number of provisions in the Planning Act 2008 which require an applicant to consult with the local community (section 47) and to publicise the proposed application (section 48) and to take account of responses to consultation and publicity (section 49). In addition, the Secretary of State must have regard to the consultation report and the adequacy of any consultation representation received by it from a local authority consultee (section 55) when deciding whether to accept an application. The specific requirements have been

prescribed in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

62. Between 6 August and 29 October 2020, MHCLG hosted the ‘Planning for the future’ consultation as part of efforts to streamline and modernise the planning process, bring a new focus to design and sustainability, and improve the system of developer contributions to infrastructure (<https://www.gov.uk/government/consultations/planning-for-the-future>). The Planning White Paper commits to developing a comprehensive resources and skills strategy for the planning sector to support the implementation of the reforms, together with a new performance framework for local planning authorities. The proposals are intended to increase community involvement in the planning process, proposing to make planning much more straightforward and digital, so it becomes easier for local people to influence the plan and have their say on the location and standard of new development. Communities will continue to be consulted on the detail of proposals, particularly for proposals that diverge from the local plan and for areas where planning permission continues to be required, such as in protected areas. Planning committees will continue to be formed by elected members that will be part of the route to determining planning applications. The White Paper thus intends to bring forward a quicker and simpler framework for assessing environmental impacts: one which does not compromise on environmental standards, and indeed encourages opportunities for environmental enhancements to be identified and pursued early in the development process.

63. In Wales, the consenting of certain major infrastructure projects has been devolved to the Welsh Government (the Welsh Ministers). In the majority of cases, applications are determined under the Town and Country Planning Act 1990 (as amended) “TCPA 1990” and the Electricity Act 1989 (as amended) “EA 1989” for both on-shore and off-shore related infrastructure.

64. These Acts and associated subordinate legislation set out a number of consultation and publicity requirements, with the specific requirements prescribed in the Developments of National Significance (Procedure) (Wales) Order 2016 “DNS Procedure Order 2016” and the Electricity Act (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 “EA Regulations 2019”.

65. The regulations require the applicant to publicise the proposed application and consult the local community and specialist consultees to inform the proposal prior to its submission for determination by the Welsh Ministers, (TCPA 1990 – Section 61Z and DNS Procedure Order 2016 – Articles 7 to 11). On receipt of a valid application, they also require the Welsh Ministers to publicise and consult on the submitted application and to have regard to the responses received in determining the application, (TCPA 1990 – Sections 65 and 71 (as applied and modified by The Developments of National Significance (Application of Enactments) (Wales) Order 2016), DNS Procedure Order 2016 – Articles 18, 19, 21 to 23, 25, 26 and 28).

66. In the context of off-shore infrastructure projects the EA1989 requires the applicant to undertake various publicity requirements (EA 1989 - Section 36 and EA Regulations 2019 – Regulations 4 to 7). Where objections are received as a result of these requirements, a public inquiry may be conducted by the Planning Inspectorate Wales on behalf of the Welsh Ministers to

inform their determination of the application, (EA 1989 - Section 36 and EA Regulations 2019 – Regulations 8 to 10).

67. We consulted in April 2018 on proposals to introducing a unified and bespoke infrastructure consenting regime for Wales (<https://gov.wales/changes-approval-infrastructure-development>). We are continuing to develop these proposals with the aim of introducing in due course a new consenting regime for Wales through primary legislation. The proposals are being developed to articulate the rights of the Aarhus Convention in forthcoming legislation for environmental governance, in line with the Minister's response to the stakeholder task group report on environmental governance in Wales post-exiting the European Union.

Article 6, paragraph 11

68. In March 2001 the European Union adopted Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms (GMOs) and repealing Council Directive 90/220/EEC

([http://eurlex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\\_doc=Directive&an\\_doc=2001&nu\\_doc=18](http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=2001&nu_doc=18)). The Directive is implemented in the UK by part VI of the Environmental Protection Act 1990 and regulations made under that Act (e.g. in respect of England and Wales, the GMOs (Deliberate Release) Regulations 2002: ([www.opsi.gov.uk/SI/si2002/20022443.htm](http://www.opsi.gov.uk/SI/si2002/20022443.htm))). Defra, the Scottish Government, the Northern Ireland Executive and the Welsh Government have functions and responsibilities in relation to the deliberate release of GMOs.

[1] References to legislation are as amended.

[2] DCLG is currently in the process of implementing European Directive 2014/52/EU; a recent consultation sought views on draft regulations which will replace the existing regulations implementing the requirements of the Environmental Impact Assessment Directive insofar as they apply to the town and country planning and nationally significant infrastructure regimes.

## 2. Obstacles encountered in the implementation of article 6.

No obstacles have been encountered.

## 3. Further information on the practical application of the provisions of article 6.

Between 2009 and 2011 Defra funded an £11m project with Fifteen Coastal Local Authorities becoming 'pathfinders' under the 'Coastal Change Pathfinders' Programme. Working in partnership with their communities, the Local Authorities road-tested new and innovative approaches to plan for and manage change on the coast. The full Programme was evaluated in 2011, with a further evaluation of the 'rollback' element in 2015. It provides ideas and evidence on how Local Authorities, in partnership with their communities, can develop policy on supporting community adaptation to coastal change in the future. A technical guide to planners on coastal change policy, produced by authorities that took part in the programme, based on learning from their work, was also published in 2015.



DEFRA published a Flood and Coastal Erosion policy statement on 17 July 2020. DEFRA intends to review the current mechanisms – including legal powers – which coastal erosion risk management authorities can use to manage the coast. We will explore the availability and role of financial products or services that can help people or businesses to achieve a managed transition of property and infrastructure away from areas at very high risk of coastal erosion. We also intend to ensure that the power of nature will be part of our solution to tackling flood and coastal erosion risks. We will double the number of government-funded projects which include nature-based solutions to reduce flood and coastal erosion risk.

The government continues to recognise that coastal communities face particular challenges but have huge economic potential. Our key policy approaches reflect the importance of community involvement to support coastal regeneration. Since 2015 we have provided £1.46m to help establish 146 Coastal Community Teams covering the majority of the English coastline, including 28 new Teams announced on 20 January 2017. The Teams empower local partners and the local community take control of their own areas' regeneration. The original 118 Teams published Economic Plans setting out locally agreed short-term and longer-term priorities to enable their area to promote jobs and economic growth. The Government has also invested over £229 million in projects through the Coastal Communities Fund which is helping to create or safeguard over 18,000 jobs, provide more than 12,000 training places and apprenticeships, and attract over £200 millions of public/ private sector co-finance.

4. Website addresses relevant to the implementation of article 6.

See the relevant sections above.

## Article 7

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

Provisions in Articles 6, 7 and 9, Paragraph 2, of the Convention fall within the competence of the European Union, as do the matters covered by Article 9, Paragraphs 2 and 4.

75. The European Union has implemented some of these requirements through Directive 2003/35/EC and its successor legislation and through Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF>), which applies to a wide range of public plans and programmes (e.g. on land use, transport, energy, waste and agriculture).

76. The UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with the EU legislation and the relevant domestic legislation includes the following, as amended where relevant:

- a) The Air Quality Standards Regulations 2010;
- b) The Air Quality Standards Regulations (Northern Ireland) 2010;

- c) The Air Quality Standards (Scotland) Regulations 2010;
- d) The Air Quality Standards (Wales) Regulations 2010;
- e) The Environmental Assessment of Plans and Programmes Regulations 2004;
- f) Environmental Assessment (Scotland) Act 2005;
- g) The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004;
- h) The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004;
- i) Part II of the Planning Act (Northern Ireland) 2011;
- j) The Waste and Contaminated Land (Northern Ireland) Order 1997;
- k) The Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015;
- l) The Planning (Local Development Plans) Regulations (Northern Ireland) 2015;
- m) Planning and Compulsory Purchase Act 2004;
- n) Planning and Compensation Act 1991;
- o) Public Health (Air Quality) (Ozone) (Amendment) Rules 2005;
- p) The Nitrate (Public Participation etc.) (Scotland) Regulations 2005;
- q) The Transfrontier Shipment of Waste Regulations 2007;(s) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
- r) The Transport and Works (Assessment of Environmental Effects) Regulations 2006;
- s) Transport and Works (Scotland) Act 2007;

77. In Scotland, the Environmental Assessment (Scotland) Act 2005 has extended the requirements of Strategic Environmental Assessment (SEA) beyond those required by the original EU Directive (2001/42/EC). This has allowed the public to actively and meaningfully participate in the preparation of public plans, programmes and strategies, if they were likely to have significant environmental effects. The result being the public has had an opportunity to contribute to the preparation of high-level Scottish strategies. For example, Scotland's National Planning Framework, Climate Change Adaptation Strategy and National Transport Strategy.

78. The Scottish Government hosts a SEA Database, which provides information about all SEA activity in Scotland, and is freely available to the public: <https://www2.gov.scot/seag/publicsearch.aspx>.

79. The Scottish Government has produced 'a basic introduction to SEA'. This guidance explains the purpose of the assessment process and is helpful to both SEA practitioners and the wider public: <https://www.gov.scot/publications/strategic-environmental-assessment-basic-introduction/>.

80. There are legal requirements to involve the public throughout the preparation of local plans, as outlined in the Planning and Compulsory Purchase Act 2004 (and amended by the Neighbourhood Planning Act 2017) and detailed in the Town and Country Planning (Local Planning) (England) Regulations 2012. Neighbourhood planning is enabled under the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012.

81. The Equality Act 2010 places duties on public authorities to promote disability, gender and race equality, which includes requirements to involve or consult the various equalities strands in the work of the authority.

82. The Planning Act 2008 created a new development consent regime for Nationally Significant Infrastructure Projects (NSIPs). The Act provides for a more efficient, transparent and accessible planning system for nationally significant projects in the field of transport, energy, water, waste and waste-water infrastructure. This regime provides for the Government to produce National Policy Statements (NPSs) that integrate environmental, social and economic objectives and provide clarity on the need for infrastructure. To date, there are thirteen designated or proposed NPSs, detailing Government policy on different types of infrastructure development, including on energy; transport (ports); waste water; and hazardous waste. The regime aims to be more transparent and provide better opportunities for the public and local communities to get involved in decisions that affect them. There are three opportunities to become involved: the debate about what national policy means for planning decisions; the development of specific projects; and the examination of applications for development consent. It should be noted that in 2020 the Airports NPS was successfully challenged in the Court of Appeal. The judgement was to declare the designation decision unlawful and to prevent the Airports NPS from having any legal effect unless and until the Secretary of State undertakes a review of it in accordance with the relevant statutory provisions, including the provisions of section 6, 7 and 9 of the Planning Act 2008.

83. Following an independent review of the Scottish planning system which reported in May 2016, the Scottish Government introduced the Planning (Scotland) Bill. Following extensive Parliamentary scrutiny, the Planning (Scotland) Act 2019 was granted Royal Assent in July 2019. The 2019 Act contains a number of provisions which enhance the opportunities for communities to shape the places they live, work and play. These include provisions introducing: community led Local Place Plans, guidance on both effective community engagement in local development plans and the promotion and use of mediation; and changes to pre-application consultation with communities on applications for national and major developments. The associated guidance and secondary legislation are currently being developed. More information can be found at [www.transformingplanning.scot](http://www.transformingplanning.scot).

In Wales, Planning Policy Wales (PPW) 10, published in December 2018, sets out how the planning system can contribute towards the delivery of sustainable development and improves the social, economic, environmental and cultural wellbeing of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations Act 2015. PPW10 introduced the placemaking approach to planning in Wales, whereby everyone engaged with or operating within the planning system in Wales must embrace the concept of placemaking in both plan making and development management decisions in order to achieve the creation of sustainable places and

improve the well-being of communities. This approach places local communities front and centre of the planning system in Wales.

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

Please see Section XXIV below.

7. Obstacles encountered in the implementation of article 7.

Not applicable.

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

Not applicable

9. Website addresses relevant to the implementation of article 7.

See the relevant sections above.

## Article 8

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

Public participation in the preparation of plans that affect the environment is current practice in the UK.

The Consultation Principles for Government were introduced in 2012 (<https://www.gov.uk/government/publications/consultation-principles-guidance>). See Section III above for further details.

Consultation lies at the heart of Strategic Environmental Assessment (SEA), which applies to a wide range of public plans and programmes with a view to integrating environmental consideration into their preparation and adoption. In Scotland, detailed guidance has been published and is available to all responsible authorities (<https://www.gov.scot/publications/strategic-environmental-assessment-guidance/>).

As one example, Defra ran consultations on ‘Environmental Principles and Governance after the United Kingdom leaves the European Union’ between 10 May and 2 August 2018 (<https://consult.defra.gov.uk/eu/environmental-principles-and-governance/>). Similar consultations were also run in Scotland and Wales. The consultation preceded and contributed to the development and publication of a draft Environmental Principles and Governance Bill, a draft version of which was published in late 2018 (<https://www.gov.uk/government/publications/draft-environment-principles-and-governance-bill-2018>). The consultation sought views and guidance as to how the Bill should be drafted, how environmental principles should be embedded into law, public policy-making and delivery, and what functions and powers the new environmental watchdog should have to oversee environmental law and policy. It also asked whether the Environmental Principles and Governance Bill itself should list the environmental principles on

which a policy statement would further detail (Option 1) or whether, instead, the principles should only be set out in a policy statement (Option 2).

Local government and other partners have a tradition of involving communities in decisions and services and there is a lot of good practice across the UK. The devolution agenda means that government is committed to devolving decision-making down to the most appropriate level, which in turn means that local councils and communities have a greater mandate to work together to shape the communities and services locally that they want to see.

11. Obstacles encountered in the implementation of article 8.

No obstacles have been encountered.

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

Not applicable.

13. Website addresses relevant to the implementation of article 8.

See the relevant sections above.

## **Chapter 2: COVID-19 and public participation**

### **1. Albania**

Public hearing in the context of Covid-19 has been switched to electronic form. Electronic facilities are made available as the number of internet users is increasing.

### **2. Georgia**

During COVID-19, public participation in administrative proceedings for issuance of scoping conclusion, environmental decision, and submittal of comments/opinions were performed in writing/electronically, according to Environmental Assessment Code.

### **3. Germany**

Complying with provisions and deadlines during a pandemic presents particular challenges to all involved. For this reason, an Act to safeguard orderly planning and licensing procedures during the COVID-19 pandemic (*Planungssicherstellungsgesetz*, BGBl. I, S. 1041 ff.) was adopted on 20 May 2020. The Act further assures that the provisions of Article 6 of the Convention are complied with even under the constrained conditions prevailing due to pandemic-related contact restrictions.

### **4. Slovenia**

In 2020, the Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (the ZIUZEOP) also entered into force, interfering with the Building Act by introducing stricter conditions with which non-governmental

organisations must comply to become accessory participants; however, the Constitutional Court of the Republic of Slovenia has suspended the implementation of those legislative provisions.

## **Chapter 3: Public participation in decision-making on health-related issues linked to air pollution**

### **1. Austria**

The BMK carried out several public participation processes on the following recent environment related policies: National Air Pollution Control Programme, Federal Waste Management Plan, Waste Avoidance and Recycling Strategy, Initiative on Avoidance of Food Waste, Progress Report to the Strategy for Adaption to Climate Change.

### **2. Bulgaria**

When developing the municipal programmes for reducing the levels of pollutants and for reaching the approved norms under article 27 of the Clean Air Act, an Instruction for development of programmes for reduction of emissions and achievement of the established norms for harmful substances is applied in the regions for assessment and management of the air quality, where there is an excess of the established norms. The mayors of municipalities establish programme councils for assessment and management of the air quality (according to article 6 (1) of the Instruction). Article 6 (2) designates the representatives of the bodies, structures and organizations participating in the programme council. According to item 3, "the interested natural and legal persons and environmental organizations or associations participate in the councils"

### **3. Georgia**

Approved programme for Tbilisi ambient air pollution reduction was elaborated with the stakeholders/public involvement. A working group, including the stakeholders, was created for elaboration/planning necessary activities to support Rustavi ambient air quality improvement.

### **4. Ireland**

Ireland provides for public participation in accordance with the requirements of the EIA Directive under section 32 of the Air Pollution Act 1987.

### **5. Lithuania**

In the preparation of plans and programmes at the national level, public consultations are used in practice, during which the planned actions for the improvement of the state of the environment are presented. For example, in 2018, before re-publicising and submitting the draft National Air Pollution Management Plan to the relevant institutions for coordination, a public seminar was organised (the invitation was distributed online) to present the measures proposed in this project and argue their need from a health point of view.

### **6. North Macedonia**

Law on Ambient Air Quality

Article 33, Reporting and participation of the public, from the Law on Ambient Air Quality, refers that the Mayor of the municipality and the city of Skopje are obliged to take all measures to inform the public and to provide access to information and participation in the preparation and adoption of the planning documents: Air quality plan and Short-term action plan in accordance with the procedure established by the Law on Environment which refers to the adoption of planning documents.

## **7. Slovakia**

Pursuant to Section 4c (4 to 7) of Act No. 137/2010 Coll. during the preparation of the National Emission Reduction Programme, which serves to manage air pollution with the intention of reducing national annual anthropogenic emissions, or when updating it, which introduces additional measures, the Ministry shall publish the draft national program on its website for 30 days and consult the draft national programme with the public and the competent authorities whom the implementation of national programs may concern due to their specific environmental impact in the field of air pollution and air quality management at all levels. The public has the right to submit written comments to the Ministry on the draft national programme. The Ministry is obliged to hold a public discussion of the draft national programme and, after examining the comments expressed by the public and the competent authorities, the Ministry informs of the decisions taken and the reasons on which these decisions are based, including information on the public participation process. The Ministry will publish the information on its website.

## **Chapter 4: Public participation in decision-making on urban development/cities**

### **1. Albania**

On early stage of public participation in local decision-making, further progress has been made by municipalities, especially in the area of urban planning for the city and participatory budgeting.

Albania has approved the new law No. 45/2019 “On Civil Protection” – adopted on 18.07.2019; This law introduces new concepts: Disaster Reducing Risk (DRR), national & local strategies for DRR, harmonization of urban planning with DRR at local & national level, regional strategies for risk assessment, risk assessment certificates for development projects, civil emergency plans at all levels in line with National Plan for CE, list of critical infrastructure.

### **2. Armenia**

Prior to the adoption of the new EIA Law in relation to this point, it should be noted that in July 2014, the National Assembly of the Republic of Armenia adopted the Law on Environmental Impact Assessment and Expertise. According to the aforementioned law, the main documents related to the areas of socio-economic, urban planning, transport, agriculture, subsoil use, healthcare industry, ecology, recreation, forestry production, waste management, energy, services are subject to strategic assessment and expertise.

### 3. Belarus

In 2020, the Council of Ministers adopted Resolution No. 571 of 30 September 2020, which includes adjustments to Resolution No. 458 and Resolution of the Council of Ministers "On Approval of the Regulation on the Procedure for Conducting Public Environmental Expertise" No. 1592:

It clarifies the definition of "public ecological expertise" and its objects: "urban planning projects, as well as changes and (or) additions to them, as well as pre-design (pre-investment), project documentation for the construction, reconstruction of objects for which environmental impact assessment is conducted". These additions will allow to ensure the elimination of legal uncertainty and to fully implement the right of citizens and legal entities to conduct public ecological expertise during public discussions of urban planning projects and the EIA reports.

Other legal provisions are being established aimed at improving the legislation in the field of public discussions.

The preparation and distribution of information materials, written explanations on the organization and conduction of public discussions of projects of environmentally significant decisions, environmental reports on strategic environmental assessment, reports on environmental impact assessment are carried out taking into account the developed legislative changes.

#### Article 6, paragraph 1

The Law of the Republic of Belarus of 15 July 2019 No. 218-Z "On Amendments to the Law of the Republic of Belarus "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" was adopted, in which:

It was established that the state ecological expertise implies, among other things, the establishment of the compliance of design solutions contained in the pre-project (pre-investment) documentation, urban planning projects – also with the regulations for urban development and use of territories. This right is vested in citizens and legal entities during the conduction of public ecological expertise. In addition, the changes will fully allow the public to exercise the right to conduct public ecological expertise during public discussions of urban planning projects.

An administrative decision made by the authority issuing an integrated environmental permit in accordance with the procedure provided for in Articles 30-34 of the Law on the Basis of Administrative Procedures of the Republic of Belarus.

Resolution of the Council of Ministers of 22 April 2019 No. 256 "On Amendments to the Resolution of the Council of Ministers of the Republic of Belarus of 1 June 2011 No. 687" amended the Regulation on the Procedure for Conducting Public Discussions in the field of Architectural, Urban Planning and Construction Activities, approved by the Resolution of the Council of Ministers of 1 June 2011 № 687 "On Some Measures to Implement the Law of the Republic of Belarus "On Amendments and Additions to Some Laws of the Republic of Belarus on Architectural, Urban Planning and Construction Activities", containing provisions aimed at improving legislation in the field of public discussions.



## Article 6, paragraph 2

In addition to the laws mentioned in the comments to paragraph 1 of Article 6 above, the procedures for notifying the public regarding environmental decision-making in relation to Article 6 of the Aarhus Convention are also regulated in the Republic of Belarus by the following laws:

with regard to the adoption of decisions of local Councils of Deputies, local executive and administrative bodies on planning and development of inhabited areas, housing construction – by the Resolution of the Council of Ministers of 1 June 2011 No. 687 as amended by 22 April 2019 No. 256 "On Some Measures to Implement the Law of the Republic of Belarus "On Amendments and Additions to Some Laws of the Republic of Belarus on Architectural, Urban Planning and Construction Activities" ("Regulations on the Procedure for Conducting Public Discussions in the Field of Architectural, Urban Planning and Construction Activities") (hereinafter – Resolution No. 687);

## Article 6 paragraphs 8, 10

The procedure for making changes and (or) additions to the approved urban planning projects is established by Article 6 of the requirements of the Law of the Republic of Belarus "On Architectural, Urban Planning and Construction Activities in the Republic of Belarus" of 5 May 2004 No. 300-Z. When making changes and (or) additions to the approved urban planning projects, the procedure of public discussions is mandatory in accordance with the requirements of the legislation of the Republic of Belarus.

## Article 7

According to Article 15-2 of the Law on Environmental Protection, public discussions of individual programme documents – draft concepts, programmes, plans, schemes, regional complexes of measures in the field of architectural, urban planning and construction activities are carried out in the manner prescribed by the legislation on architectural, urban planning and construction activities.

In particular, Article 4 of the Law on Architecture provides that decisions of local Councils of Deputies, local executive and administrative bodies on planning and development of inhabited areas, housing are taken after public discussions.

Urban planning projects in accordance with the requirements of technical normative legal acts include the section "Environmental Protection". They are subject to public discussion in accordance with the requirements of the Law of the Republic of Belarus of 5 May 2004 No. 300-Z "On Architectural, Urban Planning and Construction Activities", Regulations on the Procedure for Conducting Public Discussions in the Field of Architectural (Resolution No. 687), Urban Planning and Construction Activities. For urban planning projects that are objects of the SEA, additional public discussions are held in accordance with the requirements of the Law No. 399-Z and Resolution No. 458.

in chapters 2 and 3, objects of public discussion are detailed in the form of informing and analyzing public opinion (urban planning projects of general and special planning, as well as detailed

planning, developed in an area free of development, and (or) in an area with buildings subject to demolition; architectural – planning concepts of construction objects (in the absence of detailed planning projects); and in the form of the commission's work (urban planning projects for detailed planning of parts of inhabited areas (territorial zones, quarters, micro districts, territories of proposed investment activity), etc.

In order to increase the efficiency and effectiveness of public administration of urban areas, the project enterprise Belarusian Scientific Research Project Institute Urban Development, subordinated to the Ministry of Architecture and Construction, is introducing such a method of public participation as participatory planning; the work is carried out to involve the public in the design process from the very beginning of the development of an urban planning project during the development of the projects.

The enterprise conducts pre-project research using tools of preliminary questionnaires, information meetings and consultations with citizens in experimental mode, with the support of local executive and administrative authorities, in the development of urban planning documentation for a number of inhabited areas (Gomel, Ostrovets, Slonim, Krichev, Disna, Kolodischi, Ostroshitsky Gorodok, etc.). Currently, this type of work is being carried out as part of the development of urban planning projects for special planning of the cities of Mogilev and Brest.

In the course of developing urban planning projects for special planning – Schemes of Green Areas of Public Use, including for the cities of Gomel, Mogilev; the International Public Association of Ecologists actively supported the enterprise. The public association assisted in establishing contacts with regional public organizations and local activists, disseminating information on the beginning of the development of an urban planning project, questionnaires, as well as conducting information and familiarization meetings and trainings. Similar cooperation is envisaged for Brest.

The partnership of the project developers, public organizations and residents of the city was used in the development of a special planning town-planning project "Schemes of Green Areas of Public Use of Zheleznodorozhny, Novobelitsky, Sovetsky and Central districts of the city of Gomel".

#### **4. Bosnia and Herzegovina**

Participation of the public in environmental matters consists of two key aspects. On the one hand, that is an opportunity for the general public to participate, practically and efficiently, in administrative procedures, which lead to concrete decisions or to the issuance of permits. This aspect primarily refers to urban planning (and to related processes), as well as practical aspects of public participation via written comments and public debates. On the other hand, there is an aspect of participation through the engagement of representatives of the public who are consulted in the relevant processes of legislation adoption and of policymaking.

Article 23 of the LoUP FBiH prescribes an obligation of holding a public debate when drafting urban planning documents. LoSPCE RS was somewhat more detailed in terms of obligation to include the public. Thus, it was envisaged in Article 46 that the urban planning development stakeholder deliberates on comments, opinions and suggestions on the pre-draft and includes the accepted solutions into the draft urban planning document with which the public debate starts.

Article 37 of LoSPCE BD provides detailed instructions on the involvement of the public regarding the draft urban planning document. This Article is fully harmonized with Article 7 of the Aarhus Convention, since the public shall be included at the earliest stage of decision-making, there is a reasonable deadline for comments and an obligation to take into account the comments of the public.

The Brčko District Government Department of Urban Planning and Property-Related Issues: The procedure of preparations of the Environmental Protection Policies is conducted in a way similar to the development and adoption of the Environmental Protection Policies, because the public is involved from the early stages of the development, i.e., during the formation of working groups they are members of. That provides timely impact on the form and content of the document. Of course, before it is adopted, the document is published on the official site of the Brčko District Government and remains there for a period of 30 days. Subsequent procedure is the same as in the previous Article. Relevant website: [www.vlada.bdcentral.net](http://www.vlada.bdcentral.net)

## **5. Czechia**

The Government of the Czech Republic adopted a Concept of Support for Local Agenda 21 (MA21) Until 2020. Within the systemic approach to MA21, great emphasis is placed on public participation in planning and decision-making. The support is coordinated by the Ministry of the Environment, which works closely with associations of cities, municipalities and regions (Union of Towns and Municipalities of the Czech Republic, Association of Local Authorities, Association of Regions of the Czech Republic, Association of Secretaries of Municipalities). The interest of cities in the implementation of MA21 and its quality is increasing.

## **6. France**

The main legislative measures corresponding to the provisions of Article 6 of the Convention are contained in Title II of Book I of the Environment Code, "Information and participation of citizens", and are set out in Articles L. 120-1 et seq. These provisions were significantly reformed in 2016.

In addition, Article L. 103-2 of the Urban Planning Code (CU) provides for compulsory prior consultation in a number of cases and Article L. 300-2 CU for optional consultation.

Quantitatively, it is the urban planning document projects which are, in France, the most concerned by the application of article 7 of the Convention. They are the subject of public association throughout their design and some of their developments via the prior consultation procedure of the town planning code (article L. 103-2 of the CU) whose scope application was extended by article 40 of n°2020-1525 of December 7, 2020, known as the "ASAP" law.

## **7. Germany**

On behalf of the UBA, the German Institute of Urban Affairs (*Deutsches Institut für Urbanistik*) analysed the participation of the public in twenty procedures concerned with the planning and licensing of environmentally relevant projects. In 2017 the institute developed and published recommendations for action in the form of a 3x3 of good public participation in large-scale projects.

In a further research project running since 2019, the UBA has commissioned the evaluation of the participation of citizens and environmental associations in the planning and licensing of environmentally relevant large-scale projects. This project has created an empirical basis and has used it to analyse whether and under which conditions public participation in the planning and licensing of environmentally relevant projects contributes to decisions with better environmental outcomes. The final results of this research project are expected to be available by the end of 2021.

## 8. Hungary

Government decree 314/2012 (8 November) on settlement development concept, integrated urban development strategy, measures of urban planning and on certain legal instruments of urban planning defines that the consultation procedure of the settlement development concept, integrated urban development strategy and the measures with the habitants, with advocacy, civil and business organizations, and churches must take place according to the rules of partnership reconciliation. These rules are defined by the municipalities individually taking into consideration the regulations of the Act LXXVIII of 1997 and Government Decree 314/2012 (8 November) concerning publicity. Amongst the rules of partnership consultation, the informing method and measures of the concerned participants, the documenting and registration methodology of the proposals, opinions; the justification method of the non-accepted proposals and opinions, their order of documentation and registers; the provisions assuring the publicity on the accepted concept, strategy and urban planning instruments must be specified.

## 9. Lithuania

In 2018, at the initiative of the MoE, recommendations for public involvement in urban planning processes have been developed, to enhance the responsibility of municipalities, developers and others for public involvement in urban development processes – in the spatial planning, in the design of buildings, in the design of public spaces, in organising architectural competitions. The recommendations are based on the **Maastricht Recommendations** on Promoting Effective Public Participation in Decision-making in Environmental Matters and foreign best practice.

On 13 August 2019, the Minister of the Environment by Order No. D1-458 approved the Recommendations of the main directions of Lithuanian Urban Policy and their implementation (LUP). The LUP recommendations envisage four directions of urban policies, one of which is the vitality of society and communities, and social and cultural aspects. The aim is for the interest groups involved in the implementation of this urban policy to take responsibility for the implementation of the LUP directions – to monitor changes in the environment and seek to strengthen the sustainable development of territories, to seek cooperation, to share good practices and experience, and to contribute to the dissemination of information and knowledge. Cooperation with different interest groups and the public is highlighted as one of the key aspects of achieving sustainable urban and urbanised development.

## 10. Montenegro

The Law on Spatial Planning and Construction of Structures provides the obligatory implementation of prior public participation, in the initial, earliest phase of drafting of planning documents, so the interested public can be introduced with the goals and purpose of the planning document and possible planning solutions. Organizing public hearings on the draft of planning

documents provides active participation of the public and interested users of space, which ensures maximum transparency in spatial planning. In accordance with this Law, transparency of data in the process of construction of facilities is also provided. Every act issued upon request for urban-technical conditions, as well as construction and use permit are published on the websites of local government bodies and the Ministry, which ultimately means full monitoring of these processes in all local self-governments, i.e., the Ministry, by all of the interested public.

### **11. North Macedonia**

#### **Law on Spatial and Urban Planning**

Spatial and urban planning determines the basic principles in the process of spatial planning and arrangement, including public participation in the procedure for adoption and implementation of plans.

### **12. Portugal**

Public participation in the preparation of plans and programmes is formally ensured by the corresponding national legislation. Decree-Law No. 232/2007 of 15 June, amended by Decree-Law No. 58/2011 of 4 May, outlines the institutional reference framework for SEA at national level. The option was taken in relation to land management instruments (IGT) to maintain the pre-existing procedures under the land management and urban planning policy, adjusting them to the requirements of the SEA through Decree-Law No. 80/2015 of 14 May, which establishes the legal regime of IGT, defines and regulates the public participation process for each type of instrument, as well as access to information under the policy of land and urban planning. Decree-Law No. 80/2015 of 14 May develops the bases of the public policy of soils, land use and urban development planning, defining the coordination system of national, regional, inter-municipal and municipal scope of the land management system, the general legal scheme for land use and the system of preparation, approval, performance and assessment of land management instruments. Article 5 states that all stakeholders have the right to be informed about land management policy and, in particular, about the preparation, approval, monitoring, implementation and assessment of the land programmes and plans.

### **13. Serbia**

Article 81 of the LEP states that the participation of the public regarding strategic impact assessment shall be ensured by opening spatial and urban plans, i.e. any other plan or programme from Article 35 of this law to the public scrutiny. The strategic environmental impact assessment is developed for certain plans, programs and principles in the domain of spatial and urban planning or land utilization, agriculture, forestry, fishing, hunting, energy, industry, traffic, waste management, water management, telecommunications, tourism, infrastructure systems, protection of natural and cultural resources, flora and fauna and their habitats etc., and is an integral part of the plan, program or basis (Article 35).

Within the competencies of SUEP in accordance with LPC and RCMPDSUPD, for projects of importance for the Republic of Serbia, i.e. where the urban planning project is elaborated on the basis of the spatial plan of the special purpose area, public presentations of urban planning projects were organized as technical documents for the execution of the planning documents. The

procedure for advertising and presenting the urban planning project is prescribed by LPC and RCMPDSUPD. The presentation of the urban planning project is announced in the media, on the official website of SUEP and on the official website of the local self-government unit 7 days before the day set for the beginning of the public presentation, and the public presentation is held for 7 days.

#### **14. Slovenia**

In both municipal and national spatial planning, the public may make comments on the initial, already formatted draft of the spatial act, and, if a comprehensive environmental impact assessment is being performed, on the environmental report as well. The public is informed of the decision with the intention of adopting a spatial planning act. Throughout the phases of drawing up a draft spatial planning act, the public may submit opinions and observations, while in the procedure of municipal planning, the public may already submit the opinions in the initial phase of developing a municipal spatial plan.

#### **15. Sweden**

As regards physical planning and land use, there are provisions in the Planning and Building Act (2010:900) requiring the municipality to make the planning proposals available to everyone who wants to access them and to give municipal residents, associations and other members of the public who may have a substantial interest in the proposal the opportunity to participate in the municipality's consultation before a decision is made. The purpose of the consultation is to produce as good a basis for a decision as possible, and to provide opportunities for insight and influence.

#### **16. Turkmenistan**

In Turkmenistan, the requirements of Article 6 of the Aarhus Convention on public participation in decision-making on specific activities are directly reflected in legislation. Thus, in accordance with the Law "On Urban Planning Activities" (2015), citizens can receive complete information about planning, development, land use and improvement of their places of residence, participate in the discussion and adoption of urban planning documentation and also make comments and proposals on drafts of urban planning documentation prior to their approval and proposals for existing urban planning plans (Article 6).

#### **17. Ukraine**

Law of Ukraine "On Strategic Environmental Assessment" (hereinafter referred to "Law") regulates environmental impact assessment relations, particularly for public health and enforcement of national planning documentation, and applies, among others, to the national planning documentation in urban planning or land management (schemes) enforced through the activities (or containing activities and facilities) that must be assessed for environmental impact or for potential implications for the Nature Reserve Fund and protected areas network lands and sites.