

**Appendix (ECE/MP.PP/WG.1/2011/L.4)**

**FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT**

**The following report is submitted on behalf of the Republic of Belarus in accordance with decision I/8 and II/10**

<b>Name of officer responsible for submitting the national report:</b>	<b>First Deputy Minister of Natural Resources and Environmental Protection of the Republic of Belarus, V.V. Kulik</b>
Signature:	
Date:	

**IMPLEMENTATION REPORT**

**Please provide the following details on the origin of this report**

<b>Party</b>	<b>Republic of Belarus</b>
<b>National Focal Point</b>	
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## **I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED**

1. Information from nation-level state executive authorities and other organizations subordinate to the Belarusian Government was used to prepare this report: the Ministry of Natural Resources and Environmental Protection (the Ministry of the Environment) and its subordinate institutions; the Ministry of Justice; the National Statistics Committee; the Ministry of Health; the Ministry of Energy; the Belarusian Academy of Sciences; and other institutions.
2. Information on the preparation of the report was published on the web site of the Aarhus Centre. The draft third report was made available for public discussion by uploading it to the web site of the Ministry of the Environment.
3. The deputy president of the board of the NGO Ekopravo, a holder of a PhD in legal sciences, the director of the Belarusian Aarhus Centre, the top specialist of the Ministry of the Environment's directorate for international cooperation and information, and the head of the Ecology scientific and research centre's department of international conventions and agreements took part in preparing the report.

## **II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT**

4. The Aarhus Convention was adopted by Presidential Decree No. 726 of 14.11.1999.
5. In accordance with the Legislation and Regulations Act, the Convention forms part of Belarusian legislation. Its provisions must be implemented by all law enforcement bodies and have the legal force of a Presidential decree.

## **III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3**

6. The Environmental Protection Act of 2002 includes Article 74, "Environmental Information".
7. Decision No. 22 of 29.05.2003 of the Ministry of the Environment approves the list of information categorized as environmental.
8. In 2007, the Act on the Insertion of Amendments and Additions to the Environmental Protection Act on matters of Environmental Information and Compensation for Environmental Damage was passed.
9. The constitutional basis for public participation in decision-making consists of provisions on right to freedom to hold assemblies, rallies, street processions, demonstrations and picketing that do not breach law and order or the rights of other citizens; the right to freedom of association; the right to participate in state affairs; and the right to send individual or collective communications to state bodies (Articles 35-37 and Article 40).
10. Under Articles 33-35 and Article 37 of the Local Government and Self-government Act, citizens who are resident in the relevant territory have the right to conduct local government and self-government through councils of deputies; executive and administrative bodies; territorial community self-government bodies; local referendums, assemblies and other forms of direct participation in state and social affairs.<sup>1</sup> No restrictions whatsoever are allowed on citizens' right

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<sup>1</sup> Translator's note: 'Territory' means a sub national division. 'Councils of deputies' are regional self-government bodies that are elected locally; 'executive and administrative bodies' are local branches of the central executive; and 'territorial community self-government bodies' are self-

to participate in local government and self-government with the exception of the instances specified by the Constitution and statute.

11. The legal basis for the activities of public associations is provided by the Public Associations Act and the Environmental Protection Act. In particular, under Article 20 of the Public Associations Act, from the day of their state registration, public associations have the right: to carry out activity aimed at achieving their object as set out in their articles of association; to freely receive and disseminate information relevant to their activity; to use state media following the procedure established by legislation; to found their own media and carry on publishing activity following the procedure established by legislation; to protect their rights and lawful interests, and to represent the lawful interests of their members to state authorities and other organizations; to participate in the preparation and conduct of elections following the procedure established by legislation; to maintain contact with other public associations and unions; and to create unions.

12. However, the public encounter a range of difficulties when attempting to register public associations, and the relevant legislation requires further improvement.

13. The National and Local Assemblies Act sets out how national and local assemblies are to be organized and how the public may participate in them. The Electoral Code governs the organization and conduct of local and national referendums and the legal force of their results.

14. The Architecture, Urban Planning and Construction Act details how citizens are to participate in urban development planning for territories, including settlements [i.e. villages, towns etc.]; how architectural, urban planning and construction activities are to be conducted; how public compliance assurance of architectural, urban planning and construction activities is to be carried out; and other measures relating to architectural, urban planning and construction activities.

15. Environmental legislation uses other means to ensure public participation in environmentally significant decisions, for example by enshrining the right of citizens, public associations and territorial community self-government bodies to participate in the examination of matters that affect their interests in relation to the withdrawal and allocation of land plots (Article 22 of the Land Code), use and protection of water (Article 11 of the Water Code), to specially protected natural areas (Article 16 of the Specially Protected Natural Areas Act), the drawing up and discussion of projects, programmes and decisions that aim to improve air quality (Article 7 of the Ambient Air Protection Act); public environmental compliance monitoring (Article 95 of the Environmental Protection Act) and in particular radiation safety (Article 22 of the Radiation Safety Act); and by providing the right to propose the conduct of public environmental review and to take part in it (Article 11 of the State Environmental Review Act), and so on. A procedure for conducting public hearings as part of the environmental impact assessment (EIA) of planned economic and other activities has been created (Decision No. 30 of 17.06.2005 of the Ministry of the Environment). These procedures are currently set out by Decision No. 755 of 19.05.2010 of the Cabinet of Ministers on Several Measures to Implement the State Environmental Review Act (which approves the Regulations on the Conduct of State Environmental Review and the Regulations on the Conduct of Environmental Impact Assessment that set out the procedure for holding public hearings as part of the EIA) and by Decision No. 1592 of 29.10.2010 of the Council of Ministers on the Approval of the Regulations on the Organization and Conduct of Public Environmental Review.

16. In order to give greater effect to the provisions of the above act, the Ministry of the Environment has prepared a draft law entitled "On the Insertion of Additions and Amendments

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government bodies organized by the public at a level lower than a municipality, for example, a street or neighbourhood.

to Several Acts”, which introduces changes to the Water Code, the Subsoil Code, the Ambient Air Protection Act and other laws that specify the building projects that must undergo state environmental review or cover other questions relating to architecture, urban planning, construction, taxation and so on, for a second reading by the Standing Commission of the Chamber of Representatives of the National Assembly on the Chernobyl Disaster, Ecology and Natural Resource Use.

The Ministry of the Environment is currently working on additions and amendments to legislation and regulations that aim to strengthen the legal framework for public participation in environmentally significant decisions.

17. On the basis of Presidential Directive No. 2 of 27.12.2006 on Measures for the Further Debureaucratization of the State Apparatus, the Republic of Belarus is engaging in a policy of debureaucratizing the state sector and making the process of receiving various types of information and documents from state authorities and other state organizations more accessible and comprehensible (the “one-stop-shop” principle), including in the field of environmental protection and efficient use of natural resources. Presidential Decree No. 498 of 15.10.2007 was passed in order to adopt additional measures that protect and guarantee exercise of rights and lawful interests by citizens and legal entities and ensure that their communications are properly examined by state authorities and other organizations. Moreover, other legislation and regulations governing the conduct of administrative procedures have been passed and are in effect, such as the Fundamentals of Administrative Procedures Act; Decision No. 601 of 06.05.2009 of the Cabinet of Ministers; Order No. 274-OD of 06.08.2010 of the Ministry of the Environment approving the list of officials carrying out administrative procedures with respect to legal entities and individual entrepreneurs within the Ministry of the Environment and its subordinate organizations, as well as their deputies in the event of their temporary absence.

18. Pursuant to the Order of 10.01.2011, a department for information and public relations has been set up within the Ministry of the Environment in order to optimize its performance.

19. The Aarhus Centre offers practical help to civil servants in carrying out their duties under the Aarhus Convention and gives advice to natural and legal persons on exercising their rights to environmental information, participation in decision-making and access to justice in environmental matters.

### **Article 3, paragraph 3**

20. The environmental orientation of education has been declared as one of the principles of state policy in this area, as reflected in Articles 1 and 12 of the Education Act. The Environmental Protection Act of 2002 includes Chapter 13, “Education, awareness-raising and scientific research in the field of environmental protection” which, in addition to covering these three areas, also sets out requirements for the level of knowledge of workers whose activities relate to the use of natural resources and environmental impact. Article 75 establishes the legal basis for a system of environmental education that includes: fostering a culture of environmental responsibility among children in pre-school institutions; school and non-school environmental education and development; environmental education and development in technical and specialist secondary educational institutions; fostering a culture of environmental responsibility among students; and environmental education and awareness-raising as part of refresher training and continuing professional development. On this basis, every educational institution carries out environmental education to various extents through their work with children and students, parents and other close relatives as well as with the teaching staff and other employees. Environmental awareness-raising is carried out by public associations and the media as well as

healthcare institutions, museums, libraries and other cultural establishments, nature conservation establishments, and sports and tourism organizations, which is reflected in Article 77 of the Act.

21. A separate section (sub point 6.2.4) of the National Socio-economic Development Strategy for the period up until 2020 is devoted to public environmental education, development and information.

22. A Conceptual Framework for Environmental Education and a National Programme for Improving Environmental Education have been produced and adopted by decisions of the Ministry of Education and the Ministry of the Environment. The priorities for the personal development of children and students and the main areas and content of development support work by educational institutions as determined by current trends and the prospects for the development of society and the state are set out in the Conceptual Framework for the Continuous Personal Development of Children and Students, adopted by Decision No. 125 of 14.12.2006 of the Ministry of Education and the Programme for the Continuous Personal Development of Children and Students for 2006-2010, adopted by Decision No. 132 of 28.12.2006 of the Ministry of Education, which aim to further raise and develop the nation's intellectual, cultural, spiritual and moral potential by improving child and teenage development and offering comprehensive personal development support to pupils and students. They contain a section on "Fostering environmental responsibility, safety awareness and healthy living".

23. Belarusian pre-school institutions carry out environmental education and development among all age groups on the basis of the updated "Praleska" National Pre-school Education and Development Programme, one of the main sections of which covers the development of environmental awareness among children.

24. As part of school reform, the environmental component of the general secondary educational curriculum has been significantly strengthened. However, Presidential Edict No. 15 of 17.07.2008 on Separate Questions of General Secondary Education changed the approach to environmental education taken in comprehensive schools from 2008. Under this Edict, subjects must be taught at a basic level, which makes it impossible to set up comprehensive educational institutions or special classes concentrating on environmental issues. Students will therefore be taught environmental awareness in an integrated manner by including information on nature, society and humankind as part of curricular subjects as well as by highlighting themes and sections in natural science subjects that widen and deepen individual aspects of environmental education.

25. The role of non-school educational institutions that focus on ecology and local knowledge has also been strengthened.

26. Environmental education and development is a compulsory element of technical and specialist secondary education for all specialists, regardless of their future profession.

27. The educational standards for specialist secondary education for every specialism include requirements for graduates as regards environmental knowledge and skills.

28. Higher educational establishments occupy a particular place in the environmental education system. Compulsory environmental education is provided, first and foremost, through a class entitled "The Principles of Ecology". In addition, courses such as radiation safety, environmental security, ecology and the efficient use of resources, environmental monitoring and others are taught as part of non-ecological programmes. A number of specialist environmental courses are taught as part of agricultural and forestry programmes. The legal aspects of resource use are studied in legal higher educational programmes as well as in programmes training managers.

29. Nevertheless, further efforts must be made to include the fundamental provisions of the Aarhus Convention and national legislation on access to information, public participation and access to justice in environmental matters in the secondary school curriculum.

30. In 2006, the Coordination Council for Education for Sustainable Development was set up under the Ministry of Education.

**Article 3, paragraph 4**

31. Public associations that have not been officially registered are not allowed to operate in the Republic of Belarus. The Ministry of Justice registers political parties, national-level trade unions, international and national public associations and unions of such associations, while the justice directorates of *oblast* and Minsk City executive committees register local trade unions, organization-level trade unions, and local public associations and unions of such associations. The state registration procedure for public associations or unions, symbols, amendments and (or) additions to the articles of associations of associations or unions is laid out by the Public Associations Act (Article 13) and decisions of the Ministry of Justice.

32. The duty to involve public associations, other legal entities and citizens in activities to protect the environment of is enshrined in Article 4 of the Environmental Protection Act. This article has not been widely implemented, but efforts in this direction are on-going and some examples of good practice already exist. For example, on the initiative of the developer of a planned activity, public meetings may be held to discuss an EIA report if no request for such a meeting has been received from the public in accordance with its right under national legislation. However, consultations have revealed that public associations are particularly concerned by the issue of public participation in decision-making at the earliest stages as not all authorities currently accord this process due significance.

33. Under the National-level State-Public Associations Act, the State provides on-going financial support to environmental organizations if they are nationwide state-public associations.<sup>2</sup> Youth and children's organizations can receive state support, including financial support, pursuant to the Act on State Support to Youth and Children's Public Associations.

34. The practice exists among state authorities of significantly reducing rent charged to public associations who lease premises as offices, but restrictions are placed on certain public associations.

35. Financial help from the national environmental protection fund is provided to environmental organizations by the Ministry of the Environment and its territorial subdivisions in the framework of joint projects, but state executive authorities need to make greater efforts to inform the public of actions and events organized in association with public associations.

**Article 3, paragraph 7**

36. On the initiative of the Ministry of the Environment, public representatives have taken part in the work of Aarhus Convention working groups on access to justice and on the application of the Convention's principles in international environmental decision-making processes. On the basis of paragraph 7 of the Convention, the Ministry of the Environment initiated a public consultation on the ratification of a series of international agreements (conventions). For example, the issue of Belarus's accession to the Berne Convention was discussed at the meeting of the Public Environmental Coordination Council of 28.12.2007. Moreover, the Ministry of the Environment is facilitating the involvement of NGO representatives in the process of developing education for sustainable development.

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<sup>2</sup> Translator's note: the Act defines a 'state-public association' as a non-commercial membership organization set up to perform tasks of state significance that are entrusted to it (<http://www.lawbelarus.com/repub2008/sub12/text12561.htm>).

37. A Centre for Environmental Conventions and Agreements has been set up on the basis of the department for international conventions and agreements of the Ecology scientific and research centre, a Republican unitary enterprise. Its aim is to improve the implementation of the obligations undertaken by the Republic of Belarus under international environmental conventions.

#### **Article 3, paragraph 8**

38. Paragraph 8 of Article 3 of the Convention is implemented on the basis of provisions of the Constitution. In accordance with Article 23, personal rights and freedoms may only be restricted in the instances specified by law, in the interest of national security, public order, the protection of the morals and health of the population and the rights and liberties of other persons. Under Article 26, no one may be found guilty of a crime unless his guilt is proven by the procedure specified in law and established by a verdict of a court of law that has entered into legal force. The Criminal Code establishes liability for interference with the lawful activities of public associations and persecution of citizens for criticism (Articles 194 and 197).

#### **IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3**

39. A problem is presented by the “restrictedness” of the implementation process: sufficient headway is being made within the Ministry of the Environment, but other state bodies do not implement the Convention in all the ways possible.

40. Current legislation and regulations on international technical aid and foreign grant aid have undergone significant amendment, but the procedure for registering these resources remains fairly long and complex.

#### **V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3**

41. A manual on the implementation of the Aarhus Convention for civil servants, a manual on the implementation of the Aarhus Convention for public representatives and a manual on access to environmental education have been developed and distributed among the parties concerned.

42. A reference guide entitled *The List of State Bodies and Organizations that Collect, Store and Disseminate Environmental Information* has been published.

43. Hotlines have been set up in all the *oblasts* and the City of Minsk in order to provide the public with environmental information and respond to reports on the ground of breaches of environmental legislation. The Ministry of the Environment has operated a public reception centre since 2002. The Belarusian Aarhus Centre began to function on the basis of the public reception centre in December 2005.

44. The Ministry of the Environment has set up a national training centre for environmental training, continual education and refresher training in order to provide continual development and refresher training to economists on environmental protection and the use of natural resources. The implementation of the Aarhus Convention has been included in the centre’s study programme.

45. The Public Environmental Coordination Committee attached to the Ministry of the Environment has been operational since 2001 (currently on the basis of the regulations adopted by Decision No. 2 of 19.01.2007 of the Ministry of the Environment). Its main aim is to assist the Ministry of the Environment and environmental NGOs. Between 2003 and 2004, similar councils were attached to *oblast* and Minsk City committees for natural resources and environmental protection. Good examples do currently exist, but the practice of including NGO



representatives within various bodies and councils that make environmental decisions needs to be strengthened.

46. An annual environmental forum has been held in Belarus since 2003. In accordance with Decision No. 39 of 26.04.2007 of the Ministry of the Environment, “the forum shall be conducted for the purposes of consolidating and mobilizing all sectors of society in the resolution of the issues of environmental protection and the efficient use of natural resources, involving citizens of the Republic in the environmental movement to the maximum extent, spreading a culture of environmental responsibility among the population of the Republic, and promoting the principles of sustainable use of natural resources”. Campaigns, festivals, scientific and practical conferences, nationwide competitions with environmental themes and other mass events are organized within the framework of the forum.

47. The Ministry of the Environment also uses press conferences, meetings with the Ministry’s leading figures and specialists in large auditoria, media appearances and other similar activities to raise environmental awareness. Press releases are prepared and distributed.

48. Informational material is regularly published, including the bulletin *State of Belarus’s Environment*, the interdepartmental bulletin *Natural Resources*, annual reviews of the national environmental monitoring programme, etc.

49. The National Statistics Committee publishes aggregate data derived from state statistical reporting (there are 10 statistical forms relating to the environment and forestry) in its annual reports, newsletters, and annual statistical compendium *The Protection of the Environment and Natural Resources in the Republic of Belarus*.

50. The Ministry of Health publishes an annual report *The Population’s Health and Healthcare in the Republic of Belarus* as well as the state report *Disease Prevention and Control in the Republic of Belarus*.

## **VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3**

51. The following websites:

(a) <http://www.minpriroda.by> – the Ministry of the Environment

(b) <http://belstat.gov.by> – the National Statistics Committee

(c) <http://www.minzdrav.by> – the Ministry of Health

(d) <http://ozone.bsu.by> – National Ozone Monitoring Research Centre of the Belarusian State University

**VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING  
THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN  
ARTICLE 4**

52. In compliance with the Aarhus Convention, amendments and additions were inserted into the Environmental Protection Act in 2007 relating to access to environmental information: concepts of “environmental information” were provided; the content, sources and types of environmental information and forms in which it can be provided and disseminated were specified; requirements for the content of requests for environmental information were indicated; and the procedure and conditions for restricting access to environmental information, the procedure for providing environmental information to state bodies and other state organizations, citizens and legal entities, the procedure for providing specialist environmental information, and the procedure for distributing general environmental information, etc., were established. Decision No. 734 of 25.05.2008 of the Cabinet of Ministers approving the regulations on the procedure for creating and maintaining a state repository of data on the state of the environment and impacts on it and the content of general environmental information subject to compulsory distribution, the holders of such information who are obliged to distribute it, and the frequency with which it is to be distributed, which approved the procedure for creating and maintaining the state data repository and the content and frequency of dissemination of environmental information, came into force on 1 July 2008.

53. The Republic of Belarus has not created a separate body to oversee access to environmental information.

54. The heads of state authorities are responsible for ensuring compliance with legislation on citizens’ communications, including requests for environmental information, in accordance with the Citizens’ Communications Act. Presidential Decree No. 498 of 15.10.2007 on additional measures in work with communications from citizens and legal entities was passed with the aim of adopting additional measures to protect and ensure exercise of the rights and legal interests of citizens and legal entities and to ensure examination of their communications by state bodies and other organizations. The Decree approves a list of state bodies and other organizations that are responsible for examining the substance of communications relating to various aspects of the population’s life. Questions on environmental protection, the efficient use of natural resources and environmental security are allocated to the Ministry of the Environment’s Department for Geology; the Ministry of Environment’s Department for Hydrometrics; and the Ministry of Natural Resources and Environmental Protection, and on a local level, to state agencies subordinate to the Ministry of the Environment: the *oblast* and Minsk City committees for natural resources and environmental protection and district and town/city inspectorates for natural resources and environmental protection.

55. Under the State Prosecution Service Act, the state prosecution service is responsible for overseeing exact and uniform compliance with legislation and regulations, including those dealing with the provision of environmental information.

**Article 4, paragraph 1**

56. Article 34 of the Constitution and legislation and regulations passed on its basis enshrine the duty of state bodies to supply information “that affects the rights and legal interests of citizens”. Article 74(4) of the Environmental Protection Act states that “the applicant is not obliged to explain his interest in receiving environmental information”.

57. In 2009 Act No. 455-3 of 10.11.2008 on Information, Informatization and Information Protection came into force, establishing the procedure for distributing and (or) providing

information, rights and duties in the field of information, and liability for breaching legislation on information, informatization and information protection.

58. Article 74(4) of the Environmental Protection Act requires a holder of environmental information of a general nature to present it in the form, scope and content indicated in a request for general environmental information. If the holder lacks the technical means to provide it in the form and scope requested, it must provide it in a form and scope at its disposal, indicating why. Specialized environmental information is provided to state organizations, other legal entities that are not state bodies, and citizens in return for payment, in accordance with the timeframe and conditions indicated in an agreement to provide specialized environmental information (Environmental Protection Act, Articles 74-5).

59. The Ministry of the Environment is planning to draft a regulation covering the provision of environmental information to the public.

60. Sometimes environmental information is not presented in accordance with the form, scope or content indicated in the request.

61. Under Article 74(6), a request for environmental information must indicate the form in which it is to be provided.

#### **Article 4, paragraph 2**

62. The procedure and time frame for citizens and legal entities to be provided with environmental information is set out by Article 74(4) of the Environmental Protection Act, and fully complies with paragraph 2 of Article 4 of the Convention. Article 74(5) specifies the procedure for receiving specialized environmental information.

#### **Article 4, paragraphs 3 and 4**

63. The right to receive environmental information may be restricted in accordance with the Constitution, the Informatization Act and other legislation and regulations. In particular, legal restrictions on the provision of information under paragraphs 3 and 4 of Article 4 of the Convention are contained in Article 74(2) of the Environmental Protection Act, the Citizens' Communications Act, the State Secrets Act, the Civil Code (Articles 128 and 140), the Copyright and Allied Rights Act and other legislation.

64. Article 74(2) of the Environmental Protection Act as amended on 21.12.2007 sets out restrictions on access to environmental information under the Aarhus Convention and circumstances where restrictions on access to environmental information are not permitted.

65. The list of information comprising a state secret was approved by Presidential Decree No. 186 of 12.04.2004 (as amended by Presidential Decree No. 28 of 10.01.2009). Information which may or may not be categorized as a state secret is defined by Act No. 170-3 of 19.07.2010 on State Secrets.

66. Article 140 of the Civil Code defines "trade secrets".

67. The "public interest test" is not contained in any laws or regulations apart from the Convention.

#### **Article 4, paragraph 5**

68. Article 9 of the Citizens' Communications Act and Presidential Decree No. 498 of 27.10.2007 specify that officials of state bodies, institutions, organizations and enterprises who receive citizens' communications containing questions that do not fall within their remit must, within five days at the latest, forward the communication to the officials of the relevant bodies, institutions, organizations and enterprises and to inform the applicant accordingly.

69. Article 74(4) of the Environmental Protection Act obliges a state authority or other state organization that receives a request for general environmental information to provide the applicant with the information within ten working days or inform it within three working days of a refusal to provide the information, indicating the reasons for this refusal.

70. According to representatives of public environmental associations, state bodies often refuse to provide information, claiming that it is not environmental information, and they fail to clarify requests. Under the Aarhus Convention and national legislation, if an applicant is not satisfied with the quality of a response, it may submit a second request or take the matter to court. However, there have only been isolated cases of such claims, indicating that society is on the whole satisfied with the quality of the environmental information provided. Although cases of failure to provide environmental information in a timely manner have been reported, the number of such cases is steadily declining.

#### **Article 4, paragraph 6**

71. The principle of separating out information in accordance with paragraph 6 of Article 4 of the Convention is enshrined in Article 74(2) of the Environmental Protection Act. The criteria used to separate out restricted information are contained in national legislation (the Civil Code, the States Secrets Act, etc.).

#### **Article 4, paragraph 7**

72. Under Article 74(4) of the Environmental Protection Act, if grounds exist to refuse to provide environmental information, as specified by this Act and other legislation, the holder of the environmental information must inform the applicant in writing of its refusal to provide environmental information within three working days, indicating the reasons for the refusal and explaining the procedure and time frame for appealing this decision. A refusal to provide environmental information may be appealed to a higher state body or another state organization (a superior official) and (or) in court.

#### **Article 4, paragraph 8**

73. Article 74(4) specifies that general environmental information must be provided free of charge by its holder at the request of a citizen or legal entity that is not a state authority or other state organization.

74. Specialist environmental information is provided to state organizations, other legal entities that are not state authorities and citizens in return for payment, in accordance with the time frame and conditions set out by an agreement to provide specialist environmental information. The charge for providing this information may not exceed the realistic cost of collecting, processing and analyzing it (Article 74-5).

### **VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4**

75. Legislative provisions on trade secrets contravene paragraph 4(d).

### **IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4**

76. State bodies keep count of the total number of citizens' communications, but separate statistics on requests for environmental information are not kept. Complaints to the Ministry of the Environment regarding refusals to provide information are not registered. Under the Citizens'

Communications Act, all state bodies must send replies to the issues raised within the established timeframes.

77. However, public associations report individual instances of failure to provide information. In the view of environmental NGOs, the *Criticism of the Statement on the Potential*

*Environmental Impact of a Belarusian NPP (Preliminary EIA Report on a Belarusian NPP)* sent by them to the Directorate for Nuclear Power Plant Construction has remained without a response. For its part, the Directorate maintains that the comments and suggestions contained in the *Criticism* were summarized along with other questions and suggestions from citizens and organizations on this issue and general answers were provided to them. The recommendations contained in the *Criticism* for a more detailed investigation of thermal pollution of the river Viliia and the impact of the planned activity on cultural landmarks were taken into consideration.

78. For the purposes of collecting and disseminating environmental information, the *National Environmental Monitoring System: Results of Observation* is published on an annual basis, and inventories of ambient air, water, etc are maintained, containing information on emissions and discharges, including those which do not exceed permissible levels. These are made available to the public, in particular through publication on the website of the Ministry of the Environment.

79. In order to step up efforts to provide the public with information on environmental emissions and discharges, the Ministry of the Environment is examining the possible application of the principles underlying the Protocol on Pollutant Release and Transfer Registers and widening the scope of the information on emissions and discharges that is provided annually by economic entities.

80. The Aarhus Centre maintains an electronic list of topical questions and answers and publishes it on the internet.

#### **X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4**

81. <http://www.minpriroda.by> – the Ministry of the Environment  
[http:// www.minpriroda.by/ru/orxus](http://www.minpriroda.by/ru/orxus) - page of the Belarusian Aarhus Centre  
<http://www.aarhusbel.com> – Belarusian Aarhus Centre  
<http://www.dsae.by>– Directorate for Nuclear Power Plant Construction  
<http://www.minenergo.gov.by> – Ministry of Energy

#### **XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5**

82. In 2008, Decision No. 734 of the Council of Ministers was passed, approving the regulations on the procedure for creating and maintaining a state repository of data on the state of the environment and environmental impacts and the content of general environmental information subject to compulsory distribution, the holders of such information who are obliged to distribute it, and the frequency with which it is to be distributed. The repository is made up of environmental information accumulated by the Ministry of the Environment, the Ministry of Forestry, the Ministry of Agriculture and Food, the Ministry of Emergencies, the Ministry of Education, the State Committee for Property, the State Inspectorate for Fauna and Flora under the President, the National Academy of Sciences, local executive and administrative authorities and other state bodies and state organizations in compliance with their duties under legislation

and included by them on registers of environmental information held by the state repository for data on the state of the environment and environmental impacts.

83. The basic function of the repository is to collect, process, accumulate and organize environmental information and data on its composition, content, holders and conditions of access to this information, as well as to ensure access to environmental information for state bodies, other state organizations, other legal entities and citizens.

84. The Republic of Belarus currently maintains the following inventories and registers: greenhouse gases and sinks; carbon units; water; ambient air; flora; fauna; subsoil; climate; environmental monitoring points; specially protected natural areas; botanic collections; and waste. It also maintains an information storage and retrieval system on rare and endangered species included in the Red Book of the Republic of Belarus, a state data bank of drilling studies, and the “Registers” electronic information system.

#### **Article 5, paragraph 1**

85. In compliance with the Aarhus Convention, Article 74 of the Environmental Protection Act was redrafted in 2007 and now defines data categorized as “environmental information” as well as the types of activity that produce environmental information.

86. Article 68 of the Environmental Protection Act establishes the National Environmental Monitoring System (NEMS) for the purposes of receiving and providing full, reliable and timely information on the state of the environment and environmental impacts. Information is exchanged between the NEMS, the public health monitoring system and the system for monitoring and predicting natural and anthropogenic emergencies on an obligatory and free-of-charge basis (Joint Decision No. 41/30/45 of 12.09.2005 of the Ministry of the Environment, Ministry of Health and the Ministry of Emergencies).

87. The Republic of Belarus is currently undertaking work to improve its monitoring system by making many monitoring points automatic so as to receive real-time environmental information. All of this information is accessible to the public.

88. The Ministry of the Environment, Ministry of Housing and Utilities, the National Statistics Committee and the State Committee for Property have worked out a system of basic environmental indicators with the aim of making environmental assessments conducted in Eastern Europe, the Caucasus and Central Asia comparable, in accordance with the Guidelines for the application of environmental indicators in EECCA.

89. The content of information relating to the protection of the population and territories from emergencies is defined by Article 8 of the Act on the Protection of the Population and Territories from Natural and Anthropogenic Emergencies. This information is to be transparent and open, unless otherwise specified by legislation.

90. In accordance with Decision No. 1280 of 23.08.2001 of the Cabinet of Ministers, the Ministry of Emergencies must inform the population of potential or actual emergencies through communications and notification systems and the media.

91. Article 24 of the Industrial Safety of Dangerous Manufacturing Facilities Act provides that information regarding industrial safety and information about the work of the state body responsible for industrial safety must be transparent and open.

92. The Supply of Drinking Water Act requires the owners of the drinking water supply system, drinking water supply enterprises and state sanitary inspection bodies to immediately inform consumers if drinking water fails to comply with standards, indicating the time frame for the non-compliance to be rectified as well as precautionary measures, means of additionally treating water or times and places where drinking water that complies with standards will be made available.

#### **Article 5, paragraph 2**

93. The Ministry of the Environment has undertaken a number of measures order to ensure that the procedures for state authorities to provide environmental information to the public are comprehensible and that environmental information is easily accessible: it initiated amendments and additions to the Environmental Protection Act on access to environmental information and set up the Aarhus Centre, which continues to function. The Aarhus Centre has a web site where information on the implementation of the Aarhus Convention and topical information is published. In 2008 a PRTR database was created, which has also been posted to the Aarhus Centre's web site. However, work on populating the data base has been suspended at present, primarily in connection with the lack of a regulatory framework in this area.

94. The Ministry of the Environment's website explains how to receive information in keeping with the "one-stop shop" principle and provides a list of state bodies and organizations that collect, store and disseminate environmental information.

95. In accordance with Decision No. 1222 of 15.09.2006 of the Cabinet of Ministers, the state scientific institute the Institute of Genetics and Cytology of the National Academy of Sciences fulfils the function of National Biosafety Coordination Centre. The Centre's site contains a database of legislation and regulations on biosafety.

#### **Article 5, paragraph 4**

96. A national report on the state of Belarus's environment is published every four years. 1500 copies of the Russian version of the 2010 report were published and it was posted to the address [http://minpriroda.by/ru/new\\_url\\_1968165295/new\\_url\\_1467880245](http://minpriroda.by/ru/new_url_1968165295/new_url_1467880245). 50 copies of the English version were published and it was posted to the address [http://minpriroda.by/en/nac\\_dokl/new\\_url\\_1244680181](http://minpriroda.by/en/nac_dokl/new_url_1244680181).

#### **Article 5, paragraph 5**

97. Under Presidential Decree No. 565 of 01.12.1998 (as amended on 28.12.2007) on the procedure for disseminating legal information, the National Legal Information Centre collects, accumulates, stores, consolidates and organizes legislation and regulations as well as distributing legal information in hard copy and electronically. Progress has been made in distributing and providing access to legal information by creating public legal information centres at public libraries. These centres are an essential component of the state legal information system and enable citizens to exercise their constitutional right to access official information. They are also a practical mechanism for providing the population with official legal information that is relevant on a regional and district level, which enhance the effectiveness, rationale and appropriateness of regional-level decisions taken in various areas.

98. Further work needs to be done to improve provision of information to the public on the progress made in implementing strategy documents, strategies and action plans and on their outcomes.

99. Under the above-mentioned Decree, if environmental plans, programmes or agreements are adopted as laws or regulations, they must be officially published and disseminated. If administrative measures, political declarations, plans or programmes are approved by laws or regulations, this information must be published in the National Register of Legislation and Regulations, which is open to the public.

100. Under the Legislation and Regulations Act and the Regulations on the official publication and entrance into force of legislation and regulations, adopted by Presidential Edict No. 22 of 01.12.1998, laws, regulations and international agreements that have come into force in the Republic of Belarus must be officially published. Laws and regulations on the rights, freedoms

and duties of citizens come into force only after their official publication. As a rule, legislation is published after it has been included in the National Register of Legislation and Regulations.

101. Legislation and regulations must be published in official publications, which are held by public libraries (among others) that are free to visit. Moreover, the text of legislation and regulations, including international agreements that have been ratified or by other means come into force in the Republic of Belarus, is published on the site [www.pravo.by](http://www.pravo.by). Legal information is also supplied by the sites of ministries and other executive bodies. Legal environmental information can be found on the Ministry of the Environment's web site in the "legislation" and "international agreements" sections.

102. Under Presidential Decree No. 318 of 16.07.2007 on the procedure for making technical regulations generally available, state authorities that approve technical regulations must publish the following documentation on their internet sites and, at their discretion, in their print publications: programmes (plans) for developing technical regulations (if such programmes/plans exist); constantly updated lists of current technical regulations which they are responsible for approving; and texts of decisions (orders) approving, amending, interpreting, suspending or repealing technical regulations, or recognizing their loss of force. Moreover, technical regulations are sent to libraries on the compulsory distribution list, which includes the main central and specialist libraries, as well as regional libraries.

#### **Article 5, paragraph 6**

103. Voluntary environmental certification and eco-labelling of food and manufactured goods is covered by the Environmental Protection Act, the Consumer Protection Act, and the Act on the assessment of compliance with technical regulations in the field of technical standardization. The "Natural Product" food label has been introduced in order to make plain that a given product corresponds to the established requirements and to give effect to the right of consumers to receive reliable information and make an informed choice. The technical code of established practice TKP 126-2008 entitled "Food products. Rules for the 'Natural Product' Label. Basic regulations" came into force on 01.06.2008.

#### **Article 5, paragraph 7**

Under Article 12 of the Consumer Protection Act, food products and the raw ingredients for food products produced on radioactive land must have a certificate (label) showing their place of production, the producer, and compliance of their radiation indicators with nationally established permissible levels (including, where required by law, the ratio of these indicators to nationally established permissible levels).

#### **Article 5, paragraph 9**

104. Work is underway on a national pollutant release and transfer register (PRTR). The following documents have been produced: the procedure for maintaining and updating PRTR data; methodological recommendations for scoring PRTR environmental indicators; and methodological recommendations for collecting and presenting information on facilities covered by the PRTR. As part of the Republic of Belarus's preparation for accession to the PRTR Protocol, the Ecology scientific and research centre compiled a list of facilities that are significant sources of pollution and on which information should be included in the database as well as a list of indicators to be included in the national pollutant release and transfer register and their threshold values, in accordance with the PRTR Protocol. Work has been suspended due to the lack of a legislative framework for the provision of information by enterprises and organizations on the list of facilities.



## **XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5**

No information was provided under this heading.

## **XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5**

105. An electronic catalogue has been created at the National Library. The National Scientific and Technical Library holds databases on energy efficiency, environmentally sound and safe technology in industry, recycling and disposal of industrial and residential waste, and sustainable development. The Library's Information Centre has a permanent exhibition on energy efficiency entitled "The Economy and Thrift: Important Factors in the County's Economic Development". As part of this exhibition, a display on "Energy efficiency – A Real Factor in the Economy" and a thematic literary exhibition on "Education for Sustainable Development" were opened in October 2010. The information centre Eko-info has been operating for over eight years as part of the Kolas Central Scientific Library of the National Academy of Sciences, bringing together resources on conservation and ecology and giving users the maximum opportunity to access practical information in this area. The centre holds databases on Belarus's nature, the ecology and environment of Belarus, and woodlands, as well as international biology periodicals that cover ecology and conservation among other topics. The scientific institutions attached to the National Academy of Sciences and the Ministry of the Environment, executive authorities and national NGOs also maintain and update electronic resources on environmental protection and publish reports, digests and newsletters, depending on their specific activities. The Ministry of the Environment has set up an integrated electronic library on the basis of the National Centre for Environmental Training, Continual Development and Refresher Training.

106. No official statistics on information published are collected using approved report forms.

## **XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5**

<http://www.minpriroda.by> – Ministry of the Environment

<http://inf.by/library/3718> – electronic catalogue of the National Library

<http://rntbcatalog.org.by> – electronic catalogue of the National Scientific and Technical Library

<http://ecoinfo.bas-net.by> – Eko-Info environmental resource centre of the Central Scientific Library of the National Academy of Sciences

<http://biosafety.org.by> – National Biosafety Coordination Centre

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

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

108. The procedures specified by Article 6 of the Convention are applied to decisions that require environmental impact assessment (EIA) under the Instructions for the conduct of environmental impact assessment of planned economic and other activities, approved by Decision No. 30 of 17.06.2005 of the Ministry of the Environment (the EIA Instructions), which contains a list of types and facilities of economic or other activities that must undergo environmental impact assessment, which was valid until new legislation came into force.

109. The new State Environmental Review Act of 9 November 2009 came into force on 21 May 2010, as did Decision No. 755 of 19 May 2010 of the Cabinet of Ministers on several measures to implement the State Environmental Review Act (Decision No. 755), which approved the Regulations on the Conduct of State Environmental Review and the Regulations on the Conduct of Environmental Impact Assessment.

110. The Regulations on the Conduct of Environmental Impact Assessment specify the procedure for carrying out an environmental impact assessment and the procedure for holding public consultations. They also set out the form of notice of a planned activity and its content.

111. Under Article 10 of the Act, local executive and administrative authorities, within the scope of their authority, must inform citizens of the potential environmental impact of a planned economic or other activity as well as organize, and jointly with the developer and in association with the design organization, hold public consultations on EIA reports, as established by legislation.

112. Under the Regulations on the Conduct of Environmental Impact Assessment, the relevant local executive and administrative authorities, jointly with the developer, must: set up a commission to prepare and conduct public consultations; inform the public of the start of the public consultation process; publish the EIA report; and, if the relevant local executive and administrative authorities receive a communication from the public stating the need for a meeting to discuss the EIA report, inform the public of the meeting's date and location.

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

114. Article 13 of the State Environmental Review Act lists the facilities that are subject to environmental impact assessment and the procedure for its conduct.

**Article 6, paragraph 2**

115. Under Article 4 of the Architecture, Urban Development and Construction Act, local councils of deputies must, as a rule, take decisions on planning, developing and improving settlements and housing after consulting the public.

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

117. The public also have the right to submit suggestions before urban development documentation is approved, to take part in discussing and making decisions relating to urban development, and to conduct independent professional reviews of urban development documentation at their own expense. If an independent professional review is conducted of urban development documentation, the state review body issues its findings after it receives the

findings of the independent professional review. A generally binding instrument specifies how consultations on urban development are to be held in Minsk, which will in future be rolled out nationally.

118. There are plans to draft a resolution of the Cabinet of Ministers that would set out the procedure for conducting public consultations in this area.

#### **Article 6, paragraph 6**

No information was provided under this heading.

#### **Article 6, paragraph 7**

119. Article 61 of the Environmental Protection Act makes provision for a particular means for public opinion to be expressed – public environmental review, organized and held in accordance with Decision No. 1592 of 29.10.2010 of the Council of Ministers on the initiative of public associations and citizens by independent experts, who have the right to receive documentation from the developer, including materials on the EIA and other activities.

120. At the behest of the Government, temporary instructions on organizing and holding public environmental reviews have been drawn up, approved by the Ministry of the Environment on 15.03.2010. The conclusion of the public environmental review may be sent to the authorities that are carrying out state environmental review, local executive and administrative authorities and other interested parties. This conclusion is purely a recommendation. A conclusion of public environmental review that is submitted to an official or relevant authority is deemed to be a communication by citizens, and the sender or group of senders have the right under the Convention to receive a response to this communication within the established time frame. The state authority or official is obliged to give a reasoned reply.

121. In accordance with Article 12 of the State Environmental Review Act, the types of project or other documentation to be submitted to State Environmental Review have been established. Project documentation for the facilities listed in the second paragraph of the first part of Article 5 of the Act must include the findings of consultations on urban development projects with the public whose rights and lawful interests may be affected by the implementation of the project (for example, records, comments and suggestions from interested parties, and publications in the media).

122. Project documentation submitted to state environmental review for facilities listed in the first part of Article 13 of the Act must include an EIA report. To the EIA report must be appended: the findings of consultations on the EIA report with the public whose rights and lawful interests may be affected by the implementation of the project (records, comments and suggestions from interested parties, media publications and so on); documentation evidencing the approval of the EIA report by affected parties (for economic or other activities in the Republic of Belarus that may have a transboundary impact); and the conclusion of public environmental review (if one exists).

#### **Article 6, paragraph 11**

123. The Republic of Belarus has passed legislation on biosafety. The Cartagena Protocol was ratified by an act passed on 6 May 2002. The Genetic Engineering Safety Act was passed in 2006, which covers the provision of information to the public on genetic engineering taking place in the Republic of Belarus. The Act inserting additions to several codes with respect to liability for breaches of legislation on the safety of genetic engineering, passed in 2007, amended Article 278 of the Criminal Code, Article 15.4 of the Administrative Offences Code and part 1 of Article 3.30 of the Code of Administrative Legal Procedure.

## **XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6**

124. Further work is needed to improve legislation on public environmental review.

125. Belarusian legislation and regulations need to be amended to include clear and realistic provisions to ensure that: the time frame for the public participation procedure fulfils the requirements of Article 6, paragraph 3; public participation takes place at an early stage, as specified by Article 6, paragraph 4; public participation procedures allow the public to submit comments, information, analyses or opinions that they believe relevant to the planned activity, as specified by Article 6, paragraph 7; the public is promptly informed of decisions, as specified by Article 6, paragraph 9; and that when a state authority reconsiders or updates the operating conditions for an activity, the provisions of paragraphs 2 to 9 are applied making the necessary changes.

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

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

127. Public consultations on EIA materials for proposed activities have become significantly more frequent.

128. The Aarhus Centre website has an EIA section where EIA materials on proposed activities are published. The “News” section provides information on upcoming public consultations on EIA materials for proposed activities.

## **XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6**

129. <http://braslav.vitebsk-region.gov.by/ru/vlast/Rayispolkom> - Braslav District Executive Committee

<http://www.shklov.mogilev-region.by/> - Shklov District Executive Committee

<http://www.rus.alexandriya.by/> - Alexandriiskoe open joint stock company

<http://www.borisov.minsk-region.by/> - Borisov District Executive Committee

<http://district.brest-region.by/gancevichskij/> - Gantsevichi District Executive Committee

<http://rik.by/> - Grodno District Executive Committee

<http://www.aarhusbel.com/> - Aarhus Centre

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

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

131. Article 15 of the Environmental Protection Act gives public associations engaged in environmental activities the right to draw up, promote and implement programmes relating to the efficient use of natural resources and environmental protection, to participate in drawing up draft (national, sectoral, local and other) programmes and measures relating to the efficient use of natural resources and environmental protection and to assist with their implementation. For

example, provision has been made for local or territorial environmental action plans, which are to be drawn up on the basis of the National action plan for the efficient use of natural resources and environmental protection for 2006-2010, approved by Presidential Decree No. 302 of 05.05.2006. The National and Local Assemblies Act gives local assemblies the power to examine draft development and building plans for the area in question, draft plans for the efficient use of natural resources, and so on. The procedure for holding referendums is described in the Electoral Code.

132. There are no detailed legal provisions on public participation in the preparation of plans and programmes that take into account the requirements of the Aarhus Convention.

133. General norms and declarations on the right of citizens and public associations to participate in examining questions that affecting their interests which relate to the withdrawal and allocation of plots of land, the withdrawal, use, conservation and protection of State forests and reforestation, and activities relating to flora are contained in Article 22 of the Land Code, Article 14 of the Forestry Code, and Articles 16 and 17 of the Flora Act. Article 13 of the Fauna Act contains a general provision on the participation of citizens and public associations in “the taking of state decisions affecting their rights and lawful interests that relate to the conservation and use of fauna through local referenda, assemblies and other forms of direct participation in state and community affairs, as established by legislation.”

134. Article 16 of the Specially Protected Natural Territories Act of 8 July 2008 specifies that “citizens and public organizations (associations) have the right to submit suggestions and assist state authorities in the performance of measures relating to the organization, functioning, conservation and use of specially protected natural areas. State authorities must examine suggestions from citizens and public organizations (associations) when taking decisions on the declaration of specially protected natural areas, their conversion or termination of their operation as well as on the establishment of rules for their conservation and use”.

135. The Water Code, the Subsoil Code, the Public Health Security Act, the Drinking Water Supply Act, the Ozone Layer Protection Act, the Genetic Engineering Safety Act, the Waste Handling Act, the Ambient Air Protection Act, and the Land Improvement Act do not mention the public’s right to participate in resolving questions connected to plans, programmes and policies that relate to resource use and environmental protection.

136. Article 40 of the Nuclear Power Act gives citizens and organizations the right participate in the formulation of policy on the use of nuclear energy. It states that “citizens, public associations and other organizations have the right to participate in discussing draft legislation and regulations and state-level targeted programmes in the field of nuclear energy. Public associations and other organizations have the right to propose that their representatives participate in state and other reviews of a nuclear facility and (or) storage site at the stage of the siting, planning, fitting out, operation, decommissioning or limitation of the operational characteristics of a nuclear facility and (or) storage site. Public associations and other organizations have the right to carry out independent reviews in the instances and following the procedure established by legislation.”

137. Article 4 of the Architecture, Urban Development and Construction Act enshrines the right of natural persons to participate in urban development planning for territories, including settlements [i.e. hamlets, villages, towns etc.]. In furtherance of this provision, a raft of instructions on the organization and conduct of public consultations on urban development projects and urban improvement, housing and other construction works have been adopted at the level of territorial-administrative subdivisions (Decision No. 718 of 20.04.2006 of the Minsk City Executive Committee as amended; Decision No. 844 of 16.10.2007 of the Brest *Oblast* Executive Committee, Decision No.1-26 of 24.01.2008 of the Mogilev *Oblast* Executive

Committee, etc.). The following documentation is subject to public consultation: master urban development plans for towns and other settlements; proposals and schemes for the territorial organization of specially protected natural areas and proposals for the territorial organization of other territories as established by legislation; and detailed planning proposals for sections of settlements (territorial zones, neighbourhoods, housing developments, streets, and sites earmarked for investment activity).

138. The above regulations need to be amended to comply with Article 6, paragraph 3 in relation to plans and programmes, as required under Article 7. The above instructions include provisions allowing a short period for projects and programmes to be examined by the public – no longer than 15 days. Within this period, consultation participants “have the right to conduct independent professional reviews of the urban development proposal presented for public consultation at their own expense”, which cannot be achieved in such a short time.

139. As regards the practical implementation of Article 7, it is worth mentioning the efforts made by the Ministry of the Environment. Its Decision No. 2 of 19.01.2007 approves the regulations on the public coordination environmental council that is attached to the Ministry. The main tasks of this council are to assist the Ministry in carrying out a single state policy in the field of environmental protection and the efficient use of natural resources and in drawing up and implementing state-level programmes, action plans and other documents relating to environmental protection and the efficient use of natural resources. However, it should be noted that this Decision does not include a mechanism that could be used to organize public participation in preparing plans and programmes on an on-going basis.

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

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

141. Public environmental councils, including the Public Coordination Environmental Council attached to the Ministry of the Environment, provide a practical opportunity for the public to participate in preparing environmental policies. The PCEC met to discuss the draft Environmental Protection Strategy for the period up until 2025 on 8 September 2010.

## **XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7**

142. Despite the fact that legislation enshrines the principle of public participation in the preparation of plans and programmes relating to the environment in a general fashion, there is a lack of legal mechanisms (i.e. procedures) that would allow paragraphs 3, 4, and 8 of Article 6 to be implemented as specified in Article 7. Moreover, the legislation does not include criteria that define the groups of the public who have the right to take part in preparing plans and programmes relating to the environment as specified in Article 7. The public are only sporadically involved in the preparation of environmental plans and programmes.

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

143. The PECC has allowed public associations to take part in discussing various aspects of environmental policy, for example it met on 30 June 2010 to discuss the draft Climate Protection Act, the draft Water Strategy for the period up to 2020, conservation and efficient use of wild flora, and adapting current practice as regards maintaining urban areas, introducing greenery, laying out plants and selecting plants to grow in green spaces to make these practices more environmentally friendly and to preserve biodiversity, encourage composting and create natural layouts.

### **XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7**

144. <http://minpriroda.by> – Ministry of the Environment

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

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

146. Under the Legislation and Regulations Act, transparency by rule-making authorities (and their officials) is ensured by informing citizens of the activities of rule-making authorities (and their officials) and the legislation and regulations passed by them and by publishing legislation and regulations in official publications and other media, or making them generally available by other means. At the discretion of rule-making authorities (or an official), a draft law or regulation may be submitted to a public (national, community or professional) consultation. Practice shows that there is insufficient involvement of the public in drafting legislation and regulations, and national legislation needs to be improved in this respect.

147. Presidential Decree No. 609 of 16.12.2002 created the National Legal Internet Portal, one of the goals of which is “the timely provision of full and reliable legal information, commentaries and other legal analytic material to citizens, state authorities and other organizations”. Draft laws and codes are posted to the website <http://www.ncpi.gov.by>, and this information is available to the public. However, there are delays in providing amended versions.

148. Under Presidential Decree No. 318 of 16.07.2007 on the procedure for making technical regulations generally available, state authorities that approve technical regulations must publish the following documentation on their internet sites: programmes (plans) for developing technical regulations (where such programmes/plans exist); constantly updated lists of current technical regulations approval of which falls within the scope of their authority; and texts of decisions (orders) adopting, amending, interpreting, suspending or repealing technical regulations, or recognizing their loss of force.

149. The Ministry of Environment provides an example of good practice by posting draft regulations to be adopted (approved) by the Ministry on its website, [www.minpriroda.by](http://www.minpriroda.by). This information is also sent to members of its Public Coordination Environmental Committee. Comments from the public are summarized and where possible taken into consideration in the final version. Cases have been reported of the public being allowed insufficient time for submitting their comments, but it should be noted that the time frame for preparing draft regulations is reduced only on the instructions of the Government, to increase efficiency.

### **XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8**

150. It is not at present mandatory to disseminate information on the preparation and contents of draft generally applicable legally binding rules (with the exception of draft laws) and this information is not made generally available.

151. The Republic of Belarus does not have rules establishing adequate time frames to allow effective public participation in the preparation of draft executive regulations and other generally applicable legally binding rules; the public do not have the opportunity to submit comments directly or through representative consultative bodies; and state authorities are not obliged to take the outcomes of public participation into consideration to the greatest possible extent.

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

152. Given the lack of a duty to present the public with information on the preparation of executive regulations and other generally applicable legally binding rules relating to the environment, Article 8's provisions on public participation are applied sporadically rather than systematically and much depends on the state authority concerned. For example, the Ministry of the Environment initiated public discussion of new EIA Instructions and provisions on public environmental review at one of the meetings of its Public Coordination Environmental Council. The information was sent out two weeks in advance to organizations that are members of the PCEC. Comments were collected and as far as possible taken into account in the final version of the drafts.

153. During the process of preparing the draft Genetic Engineering Safety Act, the National Biosafety Centre initiated the preparation of a raft of subordinate legislation, information about which was posted to the Centre's website. The NGO Ekopravo played an active role in drafting this legislation.

154. The Ministry of Forestry consistently sends draft regulations to professional environmental NGOs such as BirdLife Belarus and takes comments into consideration if they are reasonable.

## **XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8**

155. <http://www.ncpi.gov.by> – National Legal Information Centre  
<http://www.minpriroda.by> – Ministry of the Environment

## **XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9**

156. Under Article 74(4) of the amended Environmental Protection Act of 21.12.2007, a refusal to supply environmental information may be appealed to a higher state authority or another state organization (to a superior official) and (or) in court. No payment is charged for complaints to higher authorities. The complaint must be examined within a month of its receipt, and those not requiring further research and verification must be examined within 15 days, unless another time frame is specified by law. If special verification is required or a request for additional documentation must be made, the head of the authority, institution, organization or enterprise which has received the communication may extend the time frame but to no longer than two months, and must at the same time inform the applicant accordingly.

157. Under the Citizens' Communications Act and ensuing legislation, an official of a body, institution, organization or enterprise is obliged to take the necessary measures to restore the impaired rights and legal interests of citizens and to decide if the party accused of impairment is



responsible. Even oral communications by citizens and legal entities must receive a written reply.

158. Under Article 357 of the Civil Procedural Code, a court must hand down a judgment based on its examination of a complaint. A court that finds the actions (omissions) in dispute to be wrongful and in breach of the rights of the citizen must hand down a judgment ruling that the complaint is justified and that the breach must be rectified. A court that finds that the actions in dispute were committed in compliance with the law and within the scope of the authority of the state authority, legal entity, organization, official, or military authority must hand down a judgment refusing to grant the complaint. A judgment ruling that breaches must be rectified is sent to the head of the state authority, legal entity, organization or to the official or military authority whose actions were disputed, or to the hierarchically superior state authority, legal entity, organization, official or military authority within three days of the judgment coming into force. The court and the complainant must be informed within a month of receipt of the court's judgment that the court's judgment has been performed.

159. The Civil Procedural Code lays out the legal procedure for dealing with complaints of actions (or omissions) by state authorities and other legal entities, as well as organizations that are not legal entities, and officials that impair the rights of citizens, and, in the circumstances established by legislation, the rights of legal entities (Chapter 29 of the Code).

#### **Article 9, paragraph 2**

160. Article 86 of the Civil Procedural Code grants public associations the right to institute legal proceedings to defend the rights and lawful interests of their members, if this is specified by their articles of association.

161. Articles 12, 15 and 100 of the Environmental Protection Law of 21.12.2007 enshrine the rights of citizens and public associations engaging in environmental protection to file actions requesting the complete or partial suspension or termination of economic or other activities of legal entities and citizens that have an adverse environmental impact. Article 1 defines an adverse environmental impact as "any direct or indirect impact on the environment by an economic or other activity, the consequences of which lead to negative changes in the environment."

#### **Article 9, paragraph 3**

162. Article 11 of the Civil Code lists remedies for the breach of civil rights: curtailment of actions that infringe a right or create a threat that it might be infringed; declaration of invalidity of an act [i.e. a rule or decision] of a state authority, local government or self-government authority; compensation for loss; compensation for non-pecuniary loss; and other means established by legislation. Under procedural legislation, on a petition from the claimant or at its own initiative, a court has the right to issue an interim injunction forbidding the respondent from performing the actions that are in dispute.

163. Under civil and commercial procedural legislation, claimants are sent copies of court judgments. A record is kept of hearings, which may be consulted by an interested party on his/her request, and he/she has the right to make comments on the record that must be considered by the court. Court fees are established by legislation. Legal entities and citizens who file a claim in defence of the rights and lawful interests of others are exempted from court fees and other costs relating to court hearings in the cases established by legislation. Moreover, claimants who instigate actions seeking compensation for injuries to their health are also exempted from court fees. The court may also exempt claimants and applicants from court fees in consideration of their financial situation if they file a petition to this effect.

### **Article 9, paragraph 5**

164. Information on administrative and court procedures for examining claims is available: the Civil Procedural Code, the Administrative Offences Code, the Commercial Procedural Code, and plenary judgments of the Supreme Court and the Supreme Commercial Court are posted on the website of the National Legal Information Centre,

### **XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9**

165. A tiny number of environmental cases have been brought by citizens or public associations. Administrative complaints to a higher authority or official are more common. In such cases it is difficult to monitor the independence of the body dealing with the complaints.

166. Citizens often do not use complaints procedures because they do not have information on access to justice in environmental matters. The Aarhus Centre provides advice to citizens, but this problem requires at the very least a network of regional Aarhus Centres to be set up.

167. There is no clear legal concept of defence of the right to a favourable environment and so judges often refuse to let claimants bring claims and to examine cases on the merits without giving a reason as they do not perceive that this right has been breached.

168. There are no clear rules deciding the jurisdiction of courts in environmental matters. Courts refuse to accept claims from public associations and send them to the commercial courts, which in turn refuse to hear them because they are not commercial. The problem is the lack of expertise among judges, prosecutors and lawyers in environmental law, defending the right to a favourable environment and applying the Aarhus Convention.

169. Interim injunctions are not very effective as they are granted at the court's discretion; if they are applied, losses incurred by the respondent may be charged to the claimant, which imposes a very heavy financial burden.

170. The legal standing of NGOs in environmental matters is limited in comparison to the Aarhus Convention.

171. Provision of free legal services in matters concerning the common good and the environment is limited by legislation.

172. When the fees of experts are taken into account, court costs are high.

173. Procedures are so lengthy that it is impossible to effectively curtail offences relating to the environment.

### **XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9**

174. No statistics are kept on access to justice in environmental matters with the exception of court statistics for matters initiated by the Ministry of the Environment.

### **XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9**

175. <http://ncpi.gov.by> – National Centre for Legal Information

### **XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE**

176. The Convention defines the legal framework or principles for the protection of the right to a favourable environment, which are further developed in national legislation in the form of specific legal mechanisms. It undoubtedly provides an incentive to improve legislation in this field.

### **XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis**

177. In 2002 the Act on Accession to the Cartagena Protocol on Biosafety to the Convention on Biodiversity was passed. Decision No. 734 of 05.06.2002 of the Cabinet of Ministers on measures to implement the Cartagena Protocol on Biosafety to the Convention on Biodiversity lists the national-level state executive authorities responsible for implementing the Protocol. The Ministry of the Environment is responsible for implementing the Protocol as regards the release of living modified organisms into the environment; the Ministry of Agriculture and Food and the Ministry of Health are responsible as regards the use of living modified organisms for economic purposes.

178. Decision No. 1222 of 15.09.2002 of the Cabinet of Ministers states that the state scientific institution the Institute for Genetics and Cytology of the National Academy of Sciences fulfils the functions of a National Biosafety Coordination Centre. This same decision approves the Regulations on the procedure for providing information from the genetically modified organisms data bank. Under these regulations, information may be retrieved from the data bank in the form of electronic documents over the internet, using standard data transfer protocols. Information must be provided free of charge and without restrictions to: Belarusian national-level executive authorities, local executive and administrative authorities, legal entities and citizens; biosafety coordination centres of other countries; international organizations; foreign legal entities; and foreign citizens.

179. The relevant authorities have not received any statements regarding the deliberate release into the environment and placement on the market of genetically modified organisms. There has hence been no involvement of the public in decisions regarding GMOs.

### **XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis**

No information was provided under this heading.

### **XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX Ibis**

No information was provided under this heading.

### **XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6bis**

180. <http://www.minpriroda.by> – Ministry of the Environment  
<http://biosafety.org.by> – National Biosafety Coordination Centre

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