

**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

**AARHUS CONVENTION IMPLEMENTATION REPORT**

The following report is submitted on behalf of Denmark  
[name of the Party or the Signatory] in accordance with decision I/8

<b>Name of officer responsible for submitting the national report:</b>	<u>Morten Imer Møller</u>	Deleted: Jette B. Sørensen
<b>Signature:</b>		
<b>Date:</b>	<u>17, December 2010</u>	Deleted: 14 Deleted: 07

**IMPLEMENTATION REPORT**

Please provide the following details on the origin of this report

<b>Party</b>	<b>Denmark</b>	
<b>National Focal Point</b>		
Full name of the institution:	Danish Environmental Protection Agency, Danish Ministry of the Environment	
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Provide brief information on the process by which this report has been prepared.

The report for the third reporting cycle has been based on the report from the second reporting cycle and has been updated with new information.

In the period 20<sup>th</sup> of August 2010 – 10<sup>th</sup> of September 2010 there was national consultation on the content of the report. The result of this consultation process was that there should be focus on the issue of measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks (Article 5, paragraph 3). Therefore, there has been given special attention to this issue in the report.

Hence, the draft reports (Danish and English version) were sent in public consultation in the period 5<sup>th</sup> November – 29<sup>th</sup> of November 2010.

Because of the limitation on number of words from the UN, the English edition of the report is shorter than the Danish edition. I.e. the listing of of Danish legislation is excluded in the English edition.

The draft revised reports (Danish and English version) were sent to hearing to a wide range of state and regional authorities, interest organisations, citizens and enterprises, while the report was made available on the Internet.

The full report in Danish, relevant hearing replies, and the replies from the Danish Environmental Protection Agency to these are available at [www.mst.dk](http://www.mst.dk).

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### Article 3

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

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;

(i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating

whether the measures to coordinate are ongoing;  
(ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which the access to information was provided;  
(iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g. inviting NGO members to participate in the Party's delegations in international environmental negotiations or involving NGOs in forming the Party's official position for such negotiations) including the stages at which the access to information was provided;  
(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;  
(v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed.

(a)

A fundamental principle of the Danish administrative process is that, as far as possible and without having to fulfil special requirements, the individual should be able to refer to administrative authorities regarding a case. The administrative authorities ensure that the individual receives the legal status provided for in legislation.

The Public Administration Act contains a number of general regulations regarding administrative process that afford citizens with various rights and authority in connection with the treatment by the administration of a matter for decision.

The Access to Public Administration Files Act contains the general regulations on when an administrative authority is obliged to allow access to documents received or prepared by an administrative authority as part of its administrative case processing. The Act applies for anyone who requests access to specific documents or documents in specific cases. The authority is not precluded from allowing access to documents to a greater extent than that stipulated in legislation, unless otherwise provided for in regulations on duty of confidentiality etc.

**Deleted:** The Act on Public Access to Documents in Administrative Files (Access to Documents Act)

The Act on Access to Information Relating to the Environment (Environmental Information Act) supplements the Public Administration Act and the Access to Public Administration Files Act with regard to information on the environment.

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The principle in Danish administrative law on good administrative practice is a generic concept for the overall ethics-based principles regarding the behaviour of authorities towards citizens. The principle is primarily used by the Ombudsman as a basis for assessment of case processing by the authorities.

According to, Public Administration Act an administrative authority must provide all guidance and assistance necessary to people who refer enquiries within the auspices of the authority. If an administrative authority receives a written enquiry that is not within its area of responsibility, as far as possible the enquiry must be forwarded to the correct authority.

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The Public Administration Act states that any decision which is notified in writing and which can be appealed to another administrative authority must be accompanied by guidance on appeals. The guidance on appeals must be provided in writing in connection with the notification of the decision and it must state the authority representing the body of appeal and provide

information on how appeals are to be submitted, including any time limits. Decisions that may be brought before the courts under due observance of a statutory time limit for the proceedings of the case must be accompanied by information hereon.

(b)

Ministry of the Environment (MIM) is constantly working to ensure citizens access to information on environmental issues in a large number of areas, for example on the Ministry's websites. Printed material is issued when considered appropriate in order to reach the relevant target groups for a given environmental message. Furthermore, the Ministry has provided the opportunity to take part in the decision-making process by sending bills, proposed statutory orders, guidelines, plans and programmes for hearing to a large cross section of interested parties, as well as making proposals available on the Internet.

At [www.mst.dk](http://www.mst.dk) there is separate information on the environmental rights arising from the Aarhus Convention. Following implementation of the Convention, in 2001 an information campaign was completed "Set environmental decisions in motion".

MIM is making active contributions to the EMU portal. This is a website with ideas for the educational sector, where they can access inspiration for environmental issues in teaching etc. Since 2003, every autumn the Danish Ministry of the Environment has organised the "Ren Uge" (clean week) campaign for school pupils of about 12 years old. The objective of the campaign is to encourage pupils to think about the waste they throw away and the ways waste is managed in Denmark.

The Danish Forest and Nature Agency and the Danish Outdoor Council jointly administer the Nature Guide Scheme with about 330 nature guides, who promote knowledge and understanding of nature and the environment. Each year approximately 31,000 activities for a total of approximately 1,000,000 participants are carried out.

The Forest and Nature Agency has also developed teaching materials on biodiversity for the Folkeskole (the Danish Primary and Lower Secondary School).

The Ministry of Climate and Energy, Information Centre for Climate Change Adaptation has in collaboration with an array of other institutions developed a web portal for adaptation to climate change. The Portal, which is targeted authorities, businesses and private citizens, provides information on climate change and contains a number of specific examples (case descriptions) of adaptation measures. It includes the possibility to view graphic representations of climate data, interactive tools and systems to support decision-making.

(c)

The Act of Constitution ensures freedom of association in Denmark. A great deal of environmental and agricultural legislation secures environmental organisations the right of appeal and the right to be admitted as parties to hearings. Furthermore, they are frequently invited to take part in relevant committees and working groups. Environmental organisations may also apply for subsidies to carry out specific projects within the framework of the existing subsidy schemes.

(d)

When implementing the Aarhus Convention in 1998, the ministries were contacted and their legislation evaluated and amended in order to implement the Convention sectorially.

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¶ The Forest and Nature Agency has also developed teaching materials on biodiversity for the Folkeskole (the Danish Primary and Lower Secondary School). ¶

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It is part of the procedure to involve non-governmental organisations when forming the Danish position in international and EU cases. The Danish position is primarily formed at frequent meetings held in the Special Committee for the Environment (Miljøspecialudvalget). The Special Committee is open to all organisations with an interest in environmental matters, and at present about 85 organisations are members of the Special Committee for the Environment. The Danish position may also be formed through written procedure in the Special Committee.

Non-governmental organisations are part of the Danish delegation in most major international negotiation meetings, whereby public participation is integrated in international decision making processes.

The national hearing process between the Administration and the non-governmental organisation continues in the interim period between the international meetings on ad hoc basis and in different foras.

As a member of the European Union, Denmark is part of the promotion of the Aarhus Convention which is carried out by the Commission and the Presidency in other international foras.

(e)

The Danish Act of Constitution establishes citizens' rights to freedom of speech, freedom of association, and the right to test in the courts decisions by the administrative authorities. The European Human Rights Convention also offers protection of citizens' fundamental rights and freedoms. Danish legislation provides positive statements of the situations in which a citizen may be subject to legal proceedings or prosecution. The legislation does not allow for the institution to take legal proceedings etc., as mentioned in article 3, paragraph 8 of the Convention.

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Deleted: Denmark has promoted the principles of the Aarhus Convention in International Forums at both global and regional levels. Denmark promoted these principles in negotiations at the World Summit on sustainable Development in Johannesburg in 2002 and has promoted the principles in other international meetings and forums.¶

¶ Concerning public participation in international environmental decision-making processes, there is a practise of including NGO members in delegations representing the state in international environmental negotiations. There is also a practise of involving NGO members in the national process forming the official position for such negotiations as well as in follow-up meetings.¶

¶ As an example, the Convention on Biological Diversity can be mentioned. In most of the negotiation meetings NGO members are part of the Danish delegation and if they are not present it is because they have chosen not to participate. The ordinary Danish procedure in forming the official position involves both NGOs and other stakeholders. The national process between the international meetings also includes an international contact group for biodiversity and for forests as well as a stakeholder backup group for the negotiations under the Convention.¶

¶ There have been internal consultations between the officials dealing with the Aarhus Convention and officials involved in other international forums in matters relating to the environment with regard to the implementation of the Guidelines. The Guidelines on Public Participation in International Forums have thus been distributed and promoted in internal networks on environmental Conventions.¶

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## Article 4

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

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person may have access to information without having to state an interest;
  - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
  - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
  - (i) Provide for exemptions from requests;
  - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

In 2003 the EU implemented article 4 of the Aarhus Convention in Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The necessary adaptations to Danish legislation consequential upon the Directive were implemented in Danish Act no. 310 of 2 May 2005 (amendment to the Environmental Information Act).

#### **Public authorities =**

Public authorities in accordance with section 1 of the [Access to Public Administration Files Act](#), as well as bodies, including physical and legal persons with public responsibility for, or which carry out public functions or services in relation to the environment, and which are subject to public supervision, are covered by the duties to notify access to documents in environmental information.

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In a decision on 24 June 2004, the Environmental Board of Appeal took a position identifying the “bodies” subject to the Environmental Information Act. This is available in Danish at [www.mkn.dk](http://www.mkn.dk).

**Environmental information =**

Environmental information has been defined in the Environmental Information Act as follows. Environmental information is all information which is in the possession of the authority or which is stored on behalf of the authority and which is in written, visual, or aural form, electronic or in any other form, irrespective of when the information was obtained and which relates to

- 1) the state of the environment in the individual environmental elements, e.g. air and the atmosphere, water, soil, landscapes and natural sites, including wetlands, coastlines and marine areas, biological diversity and its components, including genetically modified organisms and the interactions between these elements,
- 2) factors such as substances, energy, noise, radiation or waste, including radioactive waste, emissions and other discharges to the environment which affect or could affect the individual environmental elements mentioned in no. 1,
- 3) measures, including administrative measures such as policies, legislation, plans, programmes, environmental agreements and activities, which affect or could affect the individual environmental elements mentioned in nos. 1 and 2, and factors as well as measures and activities which aim at protecting these environmental elements,
- 4) reports on implementation of environmental legislation,
- 5) profitability calculations and other financial analyses and assumptions applied in connection with the measures and activities mentioned in no. 3, and
- 6) the state of human health and safety, including where relevant pollution of the food chain, people’s living conditions, cultural heritage and building structures, if they are or could be affected by the state of the individual environmental elements mentioned in no. 1 or through these elements of the conditions mentioned in nos. 2 and 3.

In two decisions on 19 October 2005 and 27 November 2006, the Environmental Board of Appeal took a position on a more detailed description of environmental information. The decisions are in Danish at [www.mkn.dk](http://www.mkn.dk).

**Compliance with article 3, paragraph 9:**

The Environmental Information Act stipulates that *everyone* is entitled to the rights consequential upon the Act. The Act therefore ensures that there is no discrimination on the grounds of residency, nationality etc.

(a)

(i)

There are no requirements in the legislation for a request for environmental information.

(ii) and (iii)

Administrative practice is deemed "de facto" to comply with the regulations in the Convention. According to the Environmental Information Act the authorities should supply environmental information in the form or format requested by the person requesting the information, including in electronic form, unless the information is already available in another form which is readily accessible to the relevant person, or it is reasonable to make the information available in another form or format.

(b)

The Environmental Information Act states that, taking into consideration any time limit stated by the person who has submitted the request, matters regarding access to documents on environmental information must be determined as quickly as possible and no later than one month after receipt of a request or, if the complex nature and scope of the matter mean that the one month limit cannot be satisfied, no later than two months after receipt, and that matters for which information is refused in the required form or format must be determined no later than one month after receipt of the request.

If a request for access to documents is neither met nor rejected within 10 days of receipt, the authority must notify the person making the request for access to documents of the reason and of when a decision can be expected.

(c)

(i)

Danish legislation is in accordance with article 4, paragraph 3(a) of the Convention. According to the Access to Public Administration Files Act, an authority is only obliged to give access to documents ect. which are already received or issued by the authority.

With regard to (b) above, note that under Danish law there is a requirement that the person making the request for access to documents identify the documents or the case he wishes to examine. The duty to provide guidance pursuant to the Access to Public Administration Files Act is assumed to oblige the authorities to help a person with such identification.

(ii)

The balance between on the one hand the interests of the public to have specific environmental information and on the other hand the need to keep certain information confidential is expressed in the Danish regulations in a number of provisions containing exemptions from the Access to Public Administration Files Act and the Public Administration Act.

A specific assessment is made of the individual case, as the authorities have an obligation to assess whether, in accordance with the principle of public openness, access to documents should be applied to material which, according to the Access to Documents Act is exempt from access to documents.

By far the majority of actual exemptions in the Danish regulations are in complete accordance with the Convention. The Access to Public Administration Files Act goes further in some areas than is immediately consistent with the Convention. Therefore, the Environmental Information Act lays down that certain provisions in the Access to Public Administration Files Act do not apply to environmental information.

Information included in public statistics or scientific studies can only be exempted from access to documents, if such exemption follows from exemptions in the Access to Public Administration Files Act which are in accordance with the Convention. Thus, the exemption in article 10, number 5, of the Access to Public Administration Files Act, according to which information collected as part of public statistics and scientific studies is not subject to access to documents, cannot be applied on environmental information.

According to the Convention, information for use in public statistics and scientific studies can be exempted from access to documents, provided the information originates from a third party who was not, or could not be made, subject to an obligation to disclose the information. This possibility is not fully exploited in Danish regulation, although the Environmental Information

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Act states that the authority in these situations must inform the person in question that he must not or cannot be required to supply the information and about their right to declare that the information should not be made public.

The right to access to documents does not include technical designs or approaches, or operational or business conditions or similar to the extent that they are of financial significance for the person or enterprise referred to in the information. The counterpart to this regulation is in article 4, paragraph 4(d), which has a special regulation for information on emissions whereby the exemption regarding corporate secrets cannot be applied for information on emissions that is relevant for protection of the environment.

Information on emissions to the surrounding area can only be exempted under the Access to Public Administration Files Act, when there is specific documentation that disclosure of the information would lead to significant financial damage to the enterprise.

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Information on emissions that is relevant for the protection of the environment can only be exempted when disclosure will lead to significant financial damage to the enterprise, *and* the regulations of the Convention provide the possibility to exempt the information.

Only if disclosure of information on intellectual property rights will lead to significant financial damage to the enterprise, and consideration of protection of the intellectual property rights is covered by article 4, paragraph 4(e) of the Convention, can it be exempted from access to documents.

The Access to Public Administration Files Act includes the possibility to limit the right of access to documents following a specific assessment, due to concerns for public sector control, regulation and planning activities; the economic interests of the public sector; and private and public sector interests where the special nature of the conditions requires that they be kept confidential. The Access to Public Administration Files Act, states that, if these concerns apply for a part of a document, the rest of the document must be made available to the person requesting access to documents. Environmental information can only be exempted according to the Access to Public Administration Files Act, to the extent that this will not conflict with the regulations in article 4.

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(d)

The Environmental Information Act states that if a request is not made to the correct authority or body, the person making the request shall be notified as quickly as possible of the correct authority, or the request must be forwarded to the correct authority and the person making the request must be notified hereof.

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<#>correspondence between different units within the same authority, and ¶  
<#>correspondence between a municipal council and its committees, departments, and other bodies or mutually between these bodies. ¶  
<#>Council of State minutes, minutes of meetings between ministers, and documents prepared by an authority for use at such meetings. ¶  
<#>correspondence between ministries on legislation, including appropriations Acts. ¶  
<#>documents exchanged in connection with an authority performing secretariat tasks for another authority. ¶  
<#>correspondence between authorities and experts for use in court cases or in considerations on whether legal proceedings should be instigated. ¶

(e)

The Access to Public Administration Files Act lays down a duty to grant access to information about actual circumstances with material significance for the circumstances of a case in the following documents, that are exempted from access to documents:

- 1) documents prepared by an authority for its own use,
- 2) correspondence between different units within the same authority,
- 3) correspondence between a municipal council and its committees, departments and other bodies, or between these bodies,

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- 4) records of meetings of the Council of State, minutes of meetings of ministers, and documents prepared by an authority for use at such meetings,
- 5) correspondence between ministries on legislation, including appropriations Acts,
- 6) documents exchanged in connection with the secretarial function of one authority on behalf of another authority, and
- 7) correspondence between authorities and experts for use in court cases or in considerations on whether legal proceedings should be instigated.

The Access to Public Administration Files Act states that the person requesting access to documents should be informed about the other contents of a document, if only part of a document covers:

- 1) private, including financial, information about an individual,
- 2) technical designs or approaches, or operational or business conditions or similar to the extent that it is of financial significance for the person or enterprise referred to in the information that the request is not granted.

The Access to Public Administration Files Act states that the person requesting access to documents should be informed about the other contents of a document, if the following concerns are only relevant for part of the document:

- 1) national security or the defence of the state,
- 2) national foreign policy or foreign economic interests, including the relationship with foreign powers or international institutions,
- 3) prevention, clarification, and prosecution of breaches of the law, execution of penalties, and similar, or protection of the accused, witnesses or others in cases on criminal or disciplinary prosecutions,
- 4) performance of public control, regulation, or planning activities, or intended measures pursuant to tax legislation,
- 5) public economic interests, including performance of public-sector business, or
- 6) private and public interests, where the special nature of the conditions requires that they be kept confidential.

(f)

The Environmental Information Act states that, taking into consideration any time limit stated by the person who has submitted the request, matters regarding access to documents on environmental information must be determined as quickly as possible and no later than one month after receipt of a request or, if the complex nature and scope of the matter mean that the one month limit cannot be satisfied, no later than two months after receipt and that refusals in cases regarding access to documents must state reasons and must be accompanied by a guidance on appeals. Refusal must be notified in writing if the request was submitted in writing, or if the applicant so requests.

(g)

The Environmental Information Act states that payment for transcripts and copies of environmental information in written documents is due in accordance with the regulations pursuant to the Access to Public Administration Files Act although with respect to the parties to a case in accordance with the Public Administration Act.

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The Environmental Information Act only contain authority to levy charges for the supply of transcripts and copies of information, and therefore do not give authority to levy charges for access to registers of authorities or environmental information, irrespective of whether they are inspected on-site or via electronic access to the registers.

There are various Statutory Orders on payment for transcripts or copies in connection with access to documents. According to these orders DKK 10 (EUR 1.34) for the first copy and DKK 1 (EUR 0.13) per copy thereafter can be charged. In some cases charges are also levied on the basis of the actual costs of making a copy of – in example – a tape, film or other media.

The court fee for transcripts completed by the court is DKK 175 (EUR 23,46). This also applies for transcripts of judgements etc. pursuant to the Environmental Information Act.

#### **Application of the provisions in Denmark in practice:**

There are no statistics on application of the provisions in Denmark.

A monitoring committee has been established (including the key environmental and commercial organisations, ministries and other important stakeholders) to monitor regularly application of the Act in practice and to gather experience. The Ministry of the Environment chairs the Committee.

In 2008 the Committee issued a report to the Minister of the Environment on experience of the Act in practice.

It was the main conclusion that there is a need for more information about the Environmental Information Act at authorities and civil society. On this background the Danish environmental agency, 24. september 2009 wrote a letter to all ministries, municipals etc drawing the attention to the The Environmental Information Act and the scope and purpose of the Act. The Open Administration Commission (Offentlighedskommissionen) has in November 2009 delivered its report to the Minister of Justice, and a new bill has been put forward to the Danish Parliament in December 2010. It is expected that there will be changes in the Environmental Information Act in the light of eventual changes in the Access to Public Administration Files Act

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**Deleted:** With this background, the Committee can make proposals to improve the Environmental Information Act. The Committee is to organise its work so that the results of the work in progress by the Open Administration Commission (Offentlighedskommissionen) can be included in the Committee's work. The Minister has agreed to brief the Environment and Planning Committee of the Danish Parliament on the results of the work when these are available in 2008. ¶

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## Article 5

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

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

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

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(a)

(i)

Danish authorities have a duty to establish a complete, factual and legal foundation for cases before a decision is made (the inquisitorial procedure). The authorities have a duty to file all case documents.

(ii)

A number of administrative regulations ensure that extensive environmental information is

provided as basis for an application. For example, this applies to regulations on environmental approvals of listed activities and installations, and regulations on EIA.

Furthermore, the authorities may lay down notification schemes for special sectors in order to keep track of production and pollution aspects at enterprises.

The Nature Protection Act contains general protection for a number of natural habitats in the form of bans on changes in status. In order to ensure that the authorities also become aware of other activities, which do not require prior permission or similar, but which are deemed to be projects in the context of the Habitats Directive and which could significantly impact an international nature protection area, a notification scheme has been included in the Act. Similarly, the Forest Act stipulates a duty to notify a number of activities which may impact international nature protection areas, even if these activities do not require prior authorisation.

The Environmental Protection Act provides that provisions must be laid down for the location and operation of listed activities and installations, including provisions on own control. The regulations apply for the activities under the Convention that are covered by the supervision regulations in the Environmental Protection Act. It is ensured that the authority can collect the necessary information with significance for assessment of the pollution and any remedial or preventive measures.

The Environmental Protection Act lays down that some of the listed activities and installations must periodically prepare green accounts with information on the environmental aspects of the activity or installation. The Statutory Order on Waste contains inter alia provisions on a register of data concerning waste and a register of certain operators handling waste. The Water Supply Act and the Marine Environment Act contain similar regulations. The Approval of Livestock Holdings Act also contains regulations on setting conditions and supervision corresponding to the Environmental Protection Act.

According to the Mineral Resources Act, the party carrying out extraction of mineral resources must provide detailed information on extraction to the authorities. The Electricity Supply Act, the Heat Supply Act, the Natural-Gas Supply Act, the Act on Promotion of Renewable Energy, the Danish Subsoil Act and the Continental Shelf Act all contain supervision schemes for compliance with legislation under which the authorities can request information, and there is a duty to report on request.

For agriculture, the same applies with respect to the Fertiliser Act and the GMO Act.

(iii)

The Emergency Management Act states that emergency preparedness should prevent, limit and redress personal injury and damage to property and the environment arising from accidents, disasters and catastrophes, including acts of war, or imminent danger of such. The individual ministers shall each within their areas plan the maintenance and continuation of societal functions in the event of accidents and catastrophes, and they may direct public authorities as well as public and private enterprises and institutions to provide assistance in the planning or execution of tasks falling under the civil sector's emergency management.

A number of particularly risky enterprises must prepare safety documentation in order to prevent serious accidents. Serious accidents must be reported to the relevant authorities.

**Deleted:** contains regulations on an information system for waste and recycling

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**Deleted:** According to the Mineral Resources Act, the party carrying out extraction of mineral resources must provide detailed information on extraction to the authorities. The Electricity Supply Act, the Heat Supply Act, the Natural Gas Act, the Danish Subsurface Act and the Continental Shelf Act all contain supervision schemes for compliance with legislation under which the authorities can request information, and there is a duty to notify.

**Deleted:** A number of particularly risky enterprises must prepare emergency preparedness plans in order to prevent serious accidents. Serious accidents must be reported to the relevant authorities. The Emergency Management Act states that emergency preparedness should prevent, limit and remedy injury to people and damage to property and the environment in the event of accidents and disasters, including acts of war or the immediate threat hereof. The authorities must prepare an overall emergency preparedness plan, and they can impose a duty on the public, enterprises, and authorities to provide the necessary information for this plan. ¶

▼ The environmental authorities provide advice to enterprises within the scope of the Environmental Protection Act, and they process matters relating to the risk of pollution of the external environment in the event of an accident. The same applies for the Approval of Livestock Holdings Act.

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▼ The fire authorities advise on their area and process matters regarding fire.

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The Police prepare emergency preparedness plans for its own effort with regard to certain types of undertakings and coordinate the effort of the various authorities in case of a greater accident. The Police ensure that people who may be affected by an accident, are notified of the safety measures and the action they should take.

Deleted: The Working Environment Authority provides advice within its area and processes matters regarding the design of the workplace, performance of work, technical equipment, substances and materials.¶

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▼ The authorities must mutually notify each other of matters of significance for the other authority.

Deleted: The Police prepare external emergency preparedness plans and coordinate plans by the various authorities for their own initiatives. The Police ensure that people who may be affected by an accident are notified of the safety measures and the action they should take.¶

The Environmental Protection Act contains a duty for owners and users of real property to inform the inspection authority immediately if they cause or ascertain pollution of the property's soil or subsurface. The person responsible for plant and equipment that can cause pollution must inform the inspection authorities immediately of breakdowns or accidents that may lead to significant pollution or danger hereof. The same applies for the Approval of Livestock Holdings Act.

The Environmental Damage Act also contains provisions granting the authorities powers to order the responsible party to submit information, undertake investigations and take preventive and remedying measures etc. and a duty for the responsible party, in certain cases, to notify the authorities.

According to the Statutory Order on Reporting pursuant to the Protection of the Marine Environment Act, the master of a ship or the head of a marine installation must notify the relevant authorities immediately in the event of discharges or risk of discharges from the ship to the sea.

With respect to the "active duty to inform", it is assumed that this is a non-statutory duty for the authorities to notify without delay the relevant members of the public of the dangers in the event of accidents or disasters, so that the public is able to take the necessary action.

This duty also appears in the Statutory Order on Active Reporting of Environmental Information. This states that, except for special obligations otherwise pursuant to legislation, authorities and bodies subject to the Environmental Information Act must immediately and without delay issue all relevant environmental information if there is an imminent threat to human health or the environment.

The same Statutory Order also states that this duty to provide information may also be included in emergency planning within the civil sector.

The Danish Emergency Management Agency has issued a nationwide nuclear contingency plan, which lays down the organisation and measures to be initiated to protect the public in the event of an accident at a nuclear plant. One of the primary goals of contingency plan is to inform the public and the relevant authorities on how they should act in relation to a nuclear incident.

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(b)

The authorities have a duty to assist citizens by providing information on the type of environmental information each authority is in possession of.

MIM has set up the central information centre, [Miljøministeriets Informationscenter](http://www.mim.dk/Ministeriet/Selvbetjening/Miljoeministeriets+informationscenter/), to provide replies to queries within the areas of responsibility of the Ministry. At the website (<http://www.mim.dk/Ministeriet/Selvbetjening/Miljoeministeriets+informationscenter/>) there is a net bookshop, where the printed publications of the Ministry can be ordered and all electronic publications downloaded free of charge. MIM has published more than 3,500 reports and booklets electronically.

Several publications also provide comprehensive and user-friendly advice regarding access to documents and environmental information.

General regulations on filing, registration, listing etc. of information are stipulated pursuant to the Filing Act and elsewhere.

One statutory order states that every state authority must use a manual or electronic filing system. The filing system helps ensure an overview of incoming cases and existing documents and that anyone requesting access to documents etc. in a case is ensured such access in accordance with current regulations.

Journal systems are used which involve setting up a journal card for the documents in the individual case, i.e. overviews or lists showing which documents have been filed under the individual case. Most authorities now use electronic registration and filing. Regulations also state that an electronic filing system must be organised so as to ensure accurate and complete retrieval of documents related to the same topic.

In accordance with the [Access to Public Administration Files Act](#), the right to access to documents includes entries in journals, registers, and other lists of the documents related to the relevant case. The right of access to documents also applies to such lists using electronic data processing.

The database of legislation Retsinformation ([www.retsinfo.dk](http://www.retsinfo.dk)) contains all Danish legislation, including environmental legislation. The central information centre, [Miljøministeriets Informationscenter](#), advises the public and enterprises etc. on the use of the database.

The Environmental Information Act lays down that anyone, under the conditions and with the exceptions consequential upon the [Access to Public Administration Files Act](#) and the Public Administration Act, has a right to environmental information.

(c)

A statutory order stipulates that environmental information covered by the Environmental Information Act must increasingly be held on electronic databases which are easily accessible by the public through public communication networks. The same statutory order also states that authorities and bodies must take all reasonable measures to maintain environmental information which they possess, or which is being stored for them, in a form or format which is easily reproduced and easily available via electronic IT communication or other electronic media.

The Environmental Information Act authorises the Minister for the Environment to lay down regulations on which environmental information is to be reported to the public. This authority

**Deleted:** In 2001, the Danish Emergency Management Agency issued a nationwide nuclear disaster recovery plan, which lays down the organisation and measures of the emergency services to be initiated to protect the public in the event of an accident at a nuclear plant. One of the primary goals of the nuclear disaster recovery plan is to inform the public and the relevant authorities of how they should act in relation to radiation hazards. ¶

¶ According to the Emergency Management Act, for each of their areas, the individual ministries must plan for the maintenance and continuation of the functions in society in the event of accidents and disasters, including acts of war, and they must plan for providing support to the defence forces. ¶

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has been applied in a statutory order which stipulates the information to be reported to the public.

MIM has a well-developed website [www.mim.dk](http://www.mim.dk), where it is possible to retrieve diverse environmental information.

Since 1997, as a result of a governmental decision, new publications issued by the ministries and agencies have been made public electronically in parallel with the printed version.

Environmental data is published on the MIM website and more data will increasingly be put on the website. Hence, database and concrete data which will be published in electronically publications. The Ministry of the environment has since 1998 increasingly made databases available on the websites.

Public authorities have increasingly given the public access to databases via “The Danish Nature & Environment Portal”: <http://www.miljoportal.dk/English/>.

The board of the “The Danish Nature & Environment Portal” has just given the Minister of the Environment a report of the status of the portal. From the report it follows that the portal has been elaborated and expanded since the establishment the 1<sup>st</sup> of January 2007 and in the near future, the portal will be further expanded with data concerning the pollution of soil and surface water.

Concerning the scope of the Danish Environmental Protection Agency, there is access to a wide range of data via [www.mst.dk](http://www.mst.dk). This includes data presentations, databases and concrete data concerning chemicals, pesticides, environmental technology, waste etc.

With regards to the Agency for Spatial and Environmental Planning some data are distributed to the The Danish Nature & Environment Portal”: <http://www.miljoportal.dk/English/> and [www.plansystem.dk](http://www.plansystem.dk). Plansystem.dk contains data concerning spatial planning. Other dates are submitted via [www.mim.dk](http://www.mim.dk) and other dates are part of other websites, i.e. <http://www.statistikbanken.dk/statbank5a/default.asp?w=1024>.

With regards to the Danish Energy Agency data concerning different licences and different monitoring programmes concerning the environment are put on the website <http://www.ens.dk/en-us/Sider/forside.aspx>

All bills are presented on the MIM website at the same time as they are sent to hearing. There is also access to information regarding acts whilst they are being processed by the Danish Parliament, including how far the act is in the Parliamentary procedure, minutes, etc.

MIM also publishes strategies, programmes, and political objectives adopted on the Internet.

The MIM website includes lists of the publications that have been issued; guidelines, technical reports, annual reports, and newsletters.

In addition to the Ministry of the Environment website, there is also information on municipality websites.

The Ministry of Food, Agriculture and Fisheries has similar rules on publication for its area. The Statutory Order on GMOs states that the Plant Directorate website shall make public information on location etc. of fields with genetically modified crops as well as

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Deleted: Publication of environment data is on the MIM website. This includes databases and specific data that are processed and presented in electronic publications. Information regarding environmental data is available on the MIM database list ().

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control and analysis results. Another statutory order stipulates that the municipal council must first publish its proposal and later the final action plan to combat giant hogweed. According to the Fertiliser Application and Plant Coverage Act, farmers' fertiliser accounts have been made public on the internet since January 2008.

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(d)

The Danish Planning Act lies down that the Minister for the Environment must issue one or more reports no less than every four years, and with the involvement of the relevant national environmental, industrial, labour market, and consumer organisations, on the state of the environment in Denmark, as well as on nature and environmental policy.

**Deleted:** According to the Fertiliser Act, farmers' fertiliser accounts must be made public on the internet from January 2008.

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In Denmark, the report of the state of the environment and Denmark's National Strategy for Sustainable Development are published. The reports cover the entire environment area. The relevant national environmental, industrial, labour market and consumer organisations are involved in the reports.

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The Ministry also publishes a popular report of environmental indicators, providing the public with easy-to-access information on developments in the state of the environment.

The report is available on the National Environmental Research Institute website (www.dmu.dk). This website also makes public replies to hearings in connection with the preparation of the new report on the state of the environment.

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(e)

The database of legislation, Retsinformation ([www.retsinfo.dk](http://www.retsinfo.dk)) contains all Danish regulations. MIM issues many publications regarding the environment, including the above mentioned. All the publications are available on the Internet. The central information centre Miljøministeriets Informationscenter informs about the environment in Denmark. Furthermore, MIM carries out general information activities.

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These take place through dissemination of the international contracts, conventions, and environmental agreements, as well as other important international environmental documents via the MIM website.

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The Environmental Information Act states that authorities and bodies subject to the Act must arrange the environmental information which is relevant for their function and which they possess or which is stored on their behalf, so that it can actively and systematically be communicated, also electronically, to the public. In addition, the Minister is granted authority to lay down more detailed rules on communicating environmental information, including on which information is to be communicated and on updating and on electronic communication of environmental information. This authority has been applied in a statutory order which stipulates the information to be communicated to the public.

Information is available on the Ministry of the Environment website, municipality websites, Danmarks Miljøportal and Plansystem.dk.

(f)

In connection with the Danish Environmental Protection Act there is a duty to provide information on certain heavily polluting enterprises through green accounts. Other enterprises are able to have published voluntary green accounts.

On the basis of the various plans for the aquatic environment, farmers have been submitting fertiliser accounts for a number of years. Since January 2008, these have been made public on the internet.

**Deleted:** From January 2008, these will be made public on the internet.

Through product labelling (e.g. the EU ecolabel, the Flower, and the Nordic ecolabel, the Swan) enterprises can confirm that a product meets specific environmental quality requirements.

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Enterprises can also register according to the voluntary European Community environmental management scheme (EMAS). An EMAS-registered enterprise in Denmark must annually publish a statement regarding its environmental performance verified by an independent third party. Danish enterprises are encouraged to adopt the EMAS scheme by the Danish Environmental Protection Agency.

(g)

In connection with the presentation of bills and action plans or strategies for the environmental policy area, analyses of the initiatives in the bills and action plans must be carried out. For example, this applies for presentation of bills and other governmental proposals, where a strategic environmental impact assessment is carried out. The assessment is published at the same time as the proposal is presented.

On the Ministry of the Environment and the Ministry of Food Agriculture and Fisheries websites, as well as those of their respective institutions, there are charts of the organisation of the individual authorities and their responsibilities. At decentral level there are similar websites for regions and municipalities.

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(h)

On the Danish EPA website there is a full catalogue of approved pesticides. The list of banned pesticides is also on the website. The list of banned substances covers active substances which cannot be used in pesticides or groups of pesticides in Denmark.

Administration of the ecolabels the Flower and the Swan in Denmark is headed by Ecolabelling Denmark assisted by an ecolabelling board set up by the Minister for the Environment following recommendations from a number of organisations representing the interests of retailers, industry, the environment, and consumers.

(i)

The provision is implemented specifically in the Protocol on Pollutant Release and Transfer Registers (PRTR). The Protocol was signed at the meeting of ministers in Kiev on 21 May 2003. A total of 36 countries as well as the EU have signed the Protocol, including Denmark. Denmark ratified the protocol October 13th, 2008 and the protocol went into force October 8th, 2009.

**Deleted:** Denmark expects to ratify the Protocol during 2008.

The Ministry of the Environment has launched a register with information on enterprises' environmental situation. The register is available on the Danish EPA website (www.DK-PRTR.dk) and it is part of the work to provide the public with easy access to environmental information. The system is under constant development to make enterprise reporting more efficient and to increase public access to the information.

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Denmark has merged the legislation for green accounts and the EU PRTR-regulation into one national regulation.

**Deleted:** Denmark has issued a PRTR statutory order to implement the Protocol in Danish law.¶

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## Article 6

### **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. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
  - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
  - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
  - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

(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. 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. [As regards activities covered by the annex number 15, these requirements are incorporated into the Approval of Livestock Holdings Act part 3.](#)

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(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.

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(j)

Article 6, paragraph 10 regarding reconsideration has been implemented in the Environmental Protection Act and the Statutory Order on Approval of Listed Activities.

The Minister for the Environment has access to lay down 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 Genetic Engineering. 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:

- that hearings must be announced in national newspapers and on the Danish Environmental Protection Agency website. The trial releases must also be announced in local newspapers.
- that the Danish Environmental Protection Agency will 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.
- 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 Danish Environmental Protection Agency 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 in national newspapers and on the Danish Environmental Protection Agency 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 Danish Environmental Protection Agency are incorporated in a memo for the Minister, and this forms the basis for the Minister's decision. The memo is subsequently made public on the Danish Environmental Protection Agency website.

Under the Ministry of Food, Agriculture and Fisheries, the Statutory Order on GMOs stipulates rules on the duty to provide information on cultivation of genetically modified crops.

### Article 7

**List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

The 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 and NATURA 2000 planning.

Danish environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

There is a provision in the Danish Environmental Protection Act under which regulations can be made on public participation in preparation of plans and programmes within the scope of the Act. The authority allows the Minister for the Environment to lay down regulations on public participation in the preparation and amendment of plans and programmes within the scope of the Act. Within the framework hereof, it will also be possible to apply the authority 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 on 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 Environmental Protection Agency of a national waste plan [and a national nitrate action plan](#). With regard to the Ministry of Food, Agriculture and Fisheries, 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 Nature Protection Board of Appeal [has](#) issued a thematic supplement in the journal NK-Orienterer about initial experience with the legislation. On the basis of about 85 cases, various themes are reviewed, including the threshold for execution of environmental assessment.

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## Article 8

**Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

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. Memorandums are prepared of 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.borger.dk/forside/lovgivning/hoeringsportalen](http://www.borger.dk/forside/lovgivning/hoeringsportalen)). The Ministry of the Environment's draft acts and statutory orders are also always published on relevant agency web pages.

## Article 9

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

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
  - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
  - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

(b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;

(c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;

- (d) With respect to **paragraph 4**, measures taken to ensure that:
  - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
  - (ii) Such procedures otherwise meet the requirements of this paragraph;

(e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

(a)

(i)

The ordinary rules of legal procedure state that anyone with an individual legal interest can **bring an action before the courts**,

(ii)

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According to the Environmental Information Act, a decision regarding access to documents can be appealed to the authority representing the appeals body for the case relating to the request for access to documents. Refusal of a request for access to documents that is notified by a body or a supply company covered by the Act can be appealed to the Environmental Appeal Board.

(from the 1<sup>st</sup> of January 2011, the Environmental Appeal Board is merged with the Nature Appeal Board.)

The right of appeal is supplemented by the non-statutory administrative law principle of resumption. It is also possible to bring a case before the Ombudsman of the Danish Parliament and the authorities responsible for the supervision of municipalities.

Regulations in the Administration of Justice Act apply to parts of the Environmental Information Act. This means that the decisions mentioned above can be appealed in accordance with the regulations in the Administration of Justice Act.

(iii)

Regarding the right to demand reasons in writing and binding decisions, see under article 9 paragraph 4.

(b)

The Danish regulations on review do not contain access to judicial review that, on their own, meets the requirements of the Convention. This is because environmental organisations cannot always expect to be afforded capacity to sue. Therefore, extensive access to administrative recourse at the special boards for the environmental area has been implemented. To a certain extent there is further access to appeal in connection with the minimum requirements of the Convention in that the Danish regulations also cover other types of decision and other Acts than those related to the Convention's annex activities.

Right of appeal has been introduced for nationwide associations and organisations that have protection of nature and the environment as their primary objective. There are also requirements that such associations have articles of association or similar that documents the objective and that they cover all of Denmark and have a professional and stable organisation.

Special regulations have also been introduced on right of appeal for organisations representing important recreational interests. Organisations (nationwide and local) that protect the environment and also organisations using nature have thus been afforded an extended right of appeal.

(c)

There are administrative possibilities to go to the Ombudsman, the Regional State Administration, or the Police in order to contest actions and omissions by private individuals or public authorities that do not comply with the provisions of national environmental law. It is also possible to appeal to the Ombudsman.

The competence of the Ombudsman covers the entire public administration. He must decide whether authorities or people under his jurisdiction are acting in breach of current law or whether in some other way they are guilty of errors or neglect in the performance of their duties. Control includes both decisions and other administrative activities. Appeals can be submitted by anyone, and the appeal must be submitted within one year of the condition being 'committed'. His powers of sanction are to state criticism, issue recommendations, or to otherwise give his opinion regarding a case. In accordance with the declaration issued during negotiations on the institution

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of the Ombudsman, Denmark recognised the possibility to bring cases before the Ombudsman as a possibility for review by an independent administrative body.

The Regional State Administration carries out supervision of municipalities. The Regional State Administration supervises that municipalities and municipal associations comply with the legislation that applies in particular for public authorities. The Regional State Administration does not supervise to the extent that special appeals or supervisory authorities can take a position on the case in question. The Regional State Administration can make statements on the legality of municipal measures or omissions and it can annul municipal decisions that have been made contrary to legislation. Under circumstances stated in the legislation, the Regional State Administration can also impose default fines, institute damages and declaratory actions, as well as enter into agreements on penalties under the law of tort.

There can be reports to the environmental authorities or the Police regarding non-compliance with environmental regulations.

There is a constitutional right to test cases in the courts. The right to test a case in the courts requires that the person raising the case complies with the relevant regulations.

On behalf of the European Commission, in 2007 a firm of consultants prepared a report on how EU countries have complied with article 9(3). The report for Denmark (Measures on access to justice in environmental matters (article 9(3)) concludes that the Danish system is in general sufficient.

(d)

Court decisions regarding:

- access to documents with environmental information,
  - public participation in decisions on specific activities with impacts on the environment,
  - consistency with environmental legislation of actions and omissions by private or public authorities,
- are available to the public, cf. the Environmental Information Act.

Furthermore, the Administration of Justice Act provides for general access to documents regarding judgements, Court orders, etc.

It is general practice that administrative decisions are notified in writing. This practice is supplemented by the principle of good administrative practice, under which written queries from the public must be answered in writing, just as particularly significant decisions must be notified in writing. Moreover, according to the Public Administration Act, the public can demand written grounds for a decision that was reported verbally, except where the decision is in favour of the person concerned. The decisions of the administration are binding.

With regard to cases on access to documents with environmental information, the Environmental Information Act states that refusals must have a reason and be accompanied by advice on appeals. Refusal must be in writing, if the request was in writing or if the applicant so requested. The requirement on written documents applies to both authorities and bodies covered by the Act, as well as each refusal, including refusals to receive information in a specific form.

The decisions of the Ombudsman are written but not binding; in practice the administration generally follows the recommendations of the Ombudsman. The Ombudsman's position in a case does not limit the access of the courts to review the case subsequently.

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Decisions by the courts are in writing, binding, and can be enforced.

In matters for the Nature Protection Board a charge has been set of DKK 500 (EUR 67) for bringing cases. A bill has in November 2010 been forwarded to the Danish Parliament, suggesting a charge of DKK 500 (EUR 67) for private persons and DKK 3.000 (EUR 402) enterprises, organisations and authorities.

**Deleted:** Administrative review is essentially free in Denmark. However, i

For judicial reviews, a court fee is due for instituting legal proceedings. In addition, there are usually costs for legal assistance and expert assistance etc.

The Administration of Justice Act provides for the possibility to obtain free process and legal aid. Free process means among other things that the relevant party is assigned a lawyer to conduct the case, paid for by the public purse. Furthermore, there is a certain amount of public legal aid. Legal aid covers advice and completion of individual written notifications and reports of the usual type, including application for free process, process documents from legal cases, and participation in meetings etc. Legal aid can also be granted for appeals against decisions by public authorities. Moreover, to a certain extent, the courts may appoint a lawyer for pending legal cases.

In accordance with legal practice, private individuals can, to a certain extent, have an injunction imposed against the acts of others that conflict with regulations of a public law nature.

(e)

See the reply under article 3 paragraph 2.

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

**Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:**

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(a) With respect to **paragraph 1** of article 6 bis and:

**(i) Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;

**(ii) Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;

**(iii) Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market, as well as the assessment report where available;

**(iv) Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;

**(v) Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:

a. The nature of possible decisions;

b. The public authority responsible for making the decision;

c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;

d. An indication of the public authority from which relevant information can be obtained;

e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;

(vi) Paragraph 6 of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;

(vii) Paragraph 7 of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;

Ad i)

The Danish regulations on releases of GMOs into the environment are in the Act on the Environment and Genetic Engineering. The regulatory framework to ensure effective information and public participation are listed in § 9 a

Ad ii)

In the regulation there are no exemptions on this area.

Ad iii)

The regulation on public participation is implemented in the statutory order nr. 1319, November 20<sup>th</sup>, 2006 as changed by statutory order 1211 of October 11<sup>th</sup>, 2007. In chapter 4 there is the following regulation

Ad iv)

Ad iv).

In the statutory order no.1319 of 20<sup>th</sup> November 2006 as changed by statutory order 1211 of 11<sup>th</sup> October 2007 I implemented that the information listed in Art 6, paragraph. 4 BIS cannot be disclosed. In § 6 there is regulation on the minimum level of information that a decision on the deliberate release of GMO's must contain.

Public registers as mentioned under ad iii) must contain the same amount of information. From § 10 it follows that a decision must contain the same amount of information as implied in the in the EU-regulation, that the Danish regulation is implementing. The public register must contain the same amount of information.

Ad v)

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- a. Possible decisions are decisions on the release as well as on the marketing.
- b. The Danish Environmental Protection Agency is responsible for the handling on decision son the deliberate release and marketing of GMO's as regards to non-food. As regards to foodstuff the responsible authorities are the Danish Veterinary and Food Administration and the Danish Plant Directorate.
- c. In practice the public participation is organised through that the application (the SNIF-part (Summary Notification Information Format) and a summary of the application is sent in a hearing to about 50 organisations etc. Furthermore this information can be found on the webpage [www.mst.dk](http://www.mst.dk) and in newspapers. The public is given the opportunity to make comments. The application, however without disclosed information, will be handed out upon request.
- d. Reference to c)
- e. Reference to c)

Ad vi)

Reference to c)

Ad vii)

The comments of the hearing will be a part of the basis on which the Minister is going to take a decision. There will be made note to the minister. The note is published on the website: [www.mst.dk](http://www.mst.dk)

Ad viii)

All decisions and register of decisions are on the website [www.mst.dk](http://www.mst.dk)

Ad b)

The Danish Environment Protection Agency finds that the conditions in annex I complements and supports the Danish legislation as those conditions are already implemented in Danish legislation. Furthermore this is complementary to that the Danish legislation is in conformity with the aims of the Cartagena- Protocol on Bio-Safety.

Ad xxxiv)

No obstacles experienced in the implementation of Article 6 BIS and annex I BIS.

Ad XXXV) There are no statistics on hearings. There are no cases where there has not been public participation. As earlier stated it is implemented in the regulation that there shall be public hearings..

XXXVI) Hjemmeside:

[www.mst.dk](http://www.mst.dk)

[www.retsinfo.dk](http://www.retsinfo.dk)

[www.pdir.dk](http://www.pdir.dk)