



Italian Ministry for the Environment, Land Protection and Sea

SECOND UPDATE OF THE NATIONAL REPORT OF ITALY ON THE IMPLEMENTATION OF THE AARHUS CONVENTION December 2010

CERTIFICATION SHEET

The following report is submitted on behalf of ITALY in accordance with decision I/8 and II/10.
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Signature: Giuliana Gasparrini

Date: 23/12/2010

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

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IMPLEMENTATION REPORT

Italy

Based on the reporting format annexed to decision I/8 and II/10

1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material, which was used as a basis for preparing the report.

The draft report for 2010 was prepared by the Ministry for the Environment, Land Protection and Sea and integrated by the National Institute for Environmental Protection and Research (ISPRA).¹ Regional authorities also contributed to the report. A number of elements have been taken from previous studies. One Region (Umbria) submitted to the MoE on a voluntary basis the Regional Report on the Implementation of the Aarhus Convention and other relevant documentation.

For the purpose of receiving comments from the public, the draft national report has been translated into Italian and subsequently sent by email to recognised environmental associations on November 26th, 2010, and was published in the web site of the MoE for the general public. Until December 23rd no submissions have been received.

2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

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

¹ From August 2008 ISPRA has substituted and merged the functions of the former National Agency for Environmental Protection and Technical Services (APAT), the Central Institute for Applied Marine Research (ICRAM) and the National Institute for Wildlife (ISF)

ARTICLE 3

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

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

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

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

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

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

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

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

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

In any case the “access right” should be compatible with general rules on privacy (Legislative Decree 196/2003)

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

At the **national level** since 2002, a network of local environmental education centres has been established within the framework of the National System for Environmental Information, Training and Education. The centres, some of which are located in natural protected areas, are coordinated at regional level and managed by local government in cooperation with various stakeholders, such as environmental NGOs, private enterprises, universities, research centres. They mainly focus on promoting public awareness, and addressing various categories of learners of different ages; some projects are carried out within or in collaboration with schools.

The second edition of the Programme on environmental information and education (INFEA) , jointly coordinated by the MoE and the Regions and drawing on public (national and regional) and private financial resources, was carried on for the period 2005-2009 with a revised document on orientation and objectives. The Ministry for Education also participated in some of the activities under the INFEA Programme. Each Region realizes its own biennial INFEA programme supported by funds by the MoE.

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

On the Aarhus Convention itself, in 2010 the MoE , together with the University of Bologna, organized a workshop focused on awareness raising on provisions by art.9 of the Aarhus Convention, information on the Task force on access to justice and a debate with NGOs and general public on access to justice in environmental matters in Italy. The proceedings will be published in 2011.

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

Environmental education is carried out also by the parks' authorities (i.e. natural protected areas established at the national, regional or local level – and managed by *ad hoc* public bodies). Another interesting activity at the regional level is the promotion of “ecomuseums” as instruments to maintain and teach traditions and reinforce the links among museums, local communities and the territory.

The system of environmental agencies, composed of ISPRA and the Regional and Provincial Agencies, which collect, process and monitor scientific and technical data for all environmental media (air, water, soil), coordinates activities on environmental education in order to reinforce their scientific base and improve their quality. For example ISPRA, during the period 2005-2010, has organized various workshops on the most important issues related to environmental education. In particular, in order to sensitize the Italian public on the issue of climate change ISPRA has organized the National Climate Change Conference and the Youth National Climate Change Conference (September 2007); as a follow up in 2010 has prepared a didactical kit on the impact of human activities on climate change and has conducted an analysis on the Italian best practices on

climate change communication. On biodiversity issues it has realized a pilot project on orienteering into the biodiversity and various workshops.

Finally, various projects on environmental education are carried out every year in formal educational institutions in collaboration with external organizations (generally environmental organizations), for example the 2007 SEARCH project on education to prevention of indoor air pollution related risks (successfully ended); the second part of the project will be more focused on awareness raising in energy use and prevention of respiratory disease in schools' indoor environment.

At the **international level**, Italy actively contributes to the implementation of the UN-ECE Strategy on Education for Sustainable Development. In support to the Marrakech process, from 2006 Italy has set up and chaired a Task Force on Education to Sustainable Consumption. The work of the TF has led to the approval, in 2008, of guidelines for the integration of education on sustainable consumption into formal education programs.

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

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

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

In accordance with the principle of "legitimate interests", legal standing can be conferred by judges not only upon recognized NGOs, but also upon other organizations/groups (including local ones) representing an interest that could be prejudiced by the decision, once a concrete and stable connection with the territory is established (i.e. upon all relevant environmental organizations);

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

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

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

- The EU proposal, presented during preparation of the World Summit on Sustainable Development, for global guidelines on Principle 10 (unfortunately rejected) and for global guidelines on public participation adopted by UNEP in 2009;
- The preparation of the Guidance on Public Participation in Transboundary EIA, adopted under the Convention on Environmental Impact Assessment in a Transboundary Context (by providing both funding and case studies);
- The improvement of information and public participation as provided for by the Barcelona Convention on the Mediterranean Sea Protection (UNEP/MAP): Italy is committed to re-focus the Regional Action Centre on Remote Sensing (ERS/RAC) by extending its activities to environmental information and communication;
- The enforcement of the principles on access to information and public participation within the United Nations Convention to Combat Desertification through information projects and the organization of the International Conference on the Role of Women in Combat Desertification
- The promotion of public awareness and participation within CBD
- Support and more interactive participation of major groups in the UN-CSD and strengthening of civil society participation within UNEP.

In 2007 the MoE, in order to raise the awareness of its own officials dealing with international negotiations in environmental fora, has organized an internal consultation on the Almaty Guidelines and has duly informed the Ministry of Foreign Affairs on the Guidelines contents. In 2008, together with the University of Bologna, has organized a national workshop to inform the civil society with regard to public participation in international fora and to collect experiences of participation and indications by Italian NGOs.

It is general praxis that, when the MoE organizes an international event, it invites the civil society to actively participate. This was the case for example with the 2004 International Forum on Partnership for Sustainable Development, with a series of events organized in 2006-2007 on bioenergy and climate change (in particular the 2007 Climate Change National Conference), with the 2009 G8-Environment in Siracusa and with the 2010 Ministerial Conference on Environment and Health in Parma.

With regard to participation in international conferences on environment and sustainable development, preparatory meetings are usually held at the national level for the major events (e.g. Summits on Sustainable Development and the United Nations Convention on Climate Change), with the participation of major groups. In certain cases, NGOs and other stakeholders form part of the Italian delegation (in particular, since a number of years, at least one representative by NGOs is present within the Italian delegation dealing with climate change).

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

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

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

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

The recent cuts in the public administrations' budget (due to the economic crises) pose challenges to keep financial support to environmental NGOs at the same level.

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

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

INFEA- There are 150 centres for environmental information, education and training co-financed by the MoE. 4 million € assigned by the MoE in 2008-2009 for the regional INFEA activities. The Office for the Relationship with the Public (URP) of the MoE has been created in 2007 and its organization is proceeding. From 2007 to 2009 a permanent working group made proposals for necessary Ministerial decree, goals and practical arrangements for the URP, and conducted a pilot phase in order to collect and classify relevant information. With the adoption of Ministerial Decree 135/2009 the Secretary General of the MoE is in charge of external communication, including the URP. In order to supply both immediate answers and more complex information a call center, a front office, a database and an e-mail address are being set up to respond to enquiries by the public. ISPRA has as well its own URP in order to coordinate environmental information detained by regional agencies and to facilitate integrated access for the public.

There are 19 EMAS and eco-labelling schools operating in Italy

7 new environmental associations have been registered by the MoE between 2007 and 2010 (52 in 2004; 73 in 2007; 80 in 2010).

In 2009 Umbria Region has signed with the UNESCO Italian National Commission a collaboration Charter for the UN Decade of Education for Sustainable Development (DESS) and has established a three-year Action Plan on Sustainable Development Education (2009/2011) and the Regional Center for Information, Documentation and Environmental Education (C.R.I.D.E.A.).

6. Give relevant web site addresses, if available:

www.minambiente.it

<http://www.isprambiente.it>

http://www.minambiente.it/home_it/menu.html?mp=/menu/menu_attivita/&m=Associazioni di Protezione Ambientale Ri.html&lang=it (List of recognized environmental associations)

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

<http://www.regione.umbria.it/Mediacenter/FE/CategoriaMedia.aspx?idc=721&explicit=SI> (Environmental activities of Umbria Region)

ARTICLE 4

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

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

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

Legislative Decree 195/2005 introduces in particular provisions on:

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

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

Deadlines for providing the information to the applicant are set (30 days as general rule or 60 days for complex information with the duty for the p.a. to give explanation for the delay). Against the silence or a denial from the p.a. the applicant may act through judicial or administrative review (see answer to art. 9)

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

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

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

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

In December 2009 the MoE has submitted to the Parliament the first implementation report of Legislative Decree 2005/195 (see below).

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

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

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

The public is not yet fully aware of the scope of legislation related to access to information. Access often depends on the local community's level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved.

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

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

First report on the implementation of Legislative Decree 2005/195. The information provided by the first report are generally in line with those provided in the present report to the Aarhus Convention. In particular the First report describes the MoE web site reorganization; databases establishment, URP organization, communication campaigns and evaluation on the level and quality on access to environmental information.

The MoE has prepared a form for the collection of data on access requests addressed to public authorities, with reference to years 2006-2007-2008. The then Research and Sustainable Development Department of the MoE has managed forms sent by public authority and has assisted them by setting up an informatic and telephonic "window". It has also prepared a database to collect and prepare statistical analysis on the forms received.

From this work it emerges that the number of requests of access to environmental information increased dramatically compared with 2002 (see data on implementation of former Directive 90/313/CE). The accesses to environmental information increased during the years 2006-2008 as well; in particular it relates to information on environmental monitoring activities and, geographically, it relates mainly to the north of Italy.

10. Give relevant web site addresses, if available:

ARTICLE 5

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

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

- The website (www.minambiente.it). The site was reorganized in 2009 with regard to different users and to contents; it displays relevant legislation (including international treaties and EU legislation), general information for the public divided into key thematic areas, a specific section on the Aarhus Convention, updated with national implementation reports and other relevant documents, and on-line publication of a wide range of environmental documentation; it also facilitates Internet access for the visually impaired in line with Law 4/2004 on access to informatics tools for disable people and Legislative Decree 82/2005, as modified, “Digital Administration Code” ;
- The report on the State of the Environment (see below);
- The Environment National Library, established by Law 426/1998, which avails itself of 2 officers trained for the assistance of the public and the classification of volumes and books. The Library owns almost 3000 books, magazines and documents.

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

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

In particular, the website of ISPRA contains a vast bulk of documentation, divided into different environmental themes (such as water, air, environmental certification, emergencies, industries, technologies and infrastructures). It also contains the EMAS newsletter and the online version of *IdeAmbiente*, a monthly magazine which is also sent in hard copy to authorities, enterprises, journalists, NGOs and stakeholders in general and, through web conferences, allows public participation to national and international events (for example the website was used to let the public participate at the preliminary phases of the organisation of the National Conference on the Climate Change in 2007. For this initiative ISPRA received a special mention during the Administration Prize Awards). Information are available in Italian, French and English. In 2010 it has launched the E-TV, providing on-line interviews and news about ISPRA activities and environmental data issues. Two specific web-sites (on scientific laboratories and on biodiversity) are under preparation.

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

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

ISPRA, in collaboration with ARPAs and APPAs, publishes different annual reports (both in Italian and English); the reference text is the Yearbook of Environmental Data, also available in a version divided into key contents and in a pocket-size called “vademecum” containing Yearbook

results synthesis. Other relevant publications are: the Waste Report, the Urban Environment Quality Report and the Climate Indicators in Italy, which offer environmental information with different levels of details with regard to the national territory.

ISPRA also manages environmental databases and makes these available to the general public through its website. These include GELSO (good practices for local sustainability), CORINAIR-IPCC (inventory of emissions to air), INES (national register on pollutant releases and transfers; see below), BRACE (national database on air quality), Meteorological Marine Data and Database of the Local Agenda 21 and local sustainable planning

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

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

The main nodes are represented by:

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

The system has also been established a network of libraries and documentation centres and organises an annual national conference aimed at raising public awareness. The SINAnet plays an important part in INSPIRE Directive implementation in Italy, through technical and scientific support to the competent authority.

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

(b) **Public information and communication** (by the public administration) is regulated in general terms (not specifically on environmental issues) by a corpus of legislation. According to these laws, public administrations must comply with criteria of transparency and impartiality and, therefore, establish and coordinate the appropriate structures for informing the public (Legislative Decrees 29/1993 and 80/1998, as modified by 165/2001). Furthermore, each public administration must designate a responsible officer for access to documents, establish an Office for Relationship with the Public (URP) (Legislative Decree 29/1993, see also response to art. 3) and undertake communication activities, through the use of the media and advertising, dissemination of publications, postings, organization of and participation in events, the designation of a spokesperson and a Press Office (law 150/2000). At the national level, public administrations have to adopt a

Public Communications Plan, communication programmes and specific publicity projects and set up a coordination structure composed by the Director of the URP, the Director of the Press Office and the spokesperson (Directive on public function February the 7th 2002). Finally, the law indicates the professional skills necessary to cover the position of public officer in charge for the communication and information services (Law 29/1993 and Presidential Decree 422/2001).

The Presidency of the Council of Ministers is in charge of identifying communications with social/ethical value, including those containing environmental information, to be spread out via the media. Along this line, the MoE has set up and sponsored several information and communication campaigns, by TV and radio spot, website, projects in schools, addressed to different audience, and in particular children and kids (Ecobeach, Biodiversity, National Bicycle Day).

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

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

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

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

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

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

Law 69/2009 on economic development, simplification, competitively, provides for reduction of numbers and re-organization of p.a. websites, improvement of quality of services and on-line information to the citizens.

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

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

During the 2009 G8-Environment was published the last version of RSA “Environmental challenges. Summary of the state of the environment in Italy”. The document, available on the MoE

website, is edited in Italian and English and offers information and key to the reading to update Sustainable Development Strategy of our Country in the context of global economic crisis, and to adapt the environmental *governance* to the complex challenges such as the efficient management of water resources, biodiversity and energy resources, that are also the pillars of global climate changes mitigation and adaptation policies and measures.

The 2009 RSA is divided into six chapters:

- 1) Climate change and energy
- 2) Transports and mobility
- 3) Industrial production and innovation
- 4) Waste management
- 5) Management of natural resources and soil
- 6) Cross-cutting instruments for environmental policy

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

(e) Regarding the **accessibility to environmental laws, decrees, international treaties** both the MoE and ISPRA have made them available on their web sites allowing a broader access of the public to those. A number of international treaties, including the Aarhus convention, have been translated into Italian. Moreover ISPRA manages a comparative repertoire of international norms and treaties accessible through its website.

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

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

EMAS as well as integrated product policies have been applied with success to tourist sites. Similarly, environmental reporting is encouraged on the basis of the Corporate Social Responsibility of enterprises. An example of best practice is represented by the autonomous Province of Trento that in 2009 has enabled the EMAS certification in 51 Municipalities, 2 Public Services Agencies and 2 Parks.

Moreover, in the context of projects promoting Corporate and Social Responsibility, companies are encouraged to adopt voluntarily high social and environmental standard, and make them public.

(g) Concerning **product information for consumers**, a large number of Italian enterprises apply the EU eco-labelling scheme (first place in the EU), covering 13 categories of products (e.g. tourist services, detergents, paper, tissues, shoes, paint). MoE and ISPRA are acting at different levels to promote the use of eco-labelling and product information. They organize seminars for local authorities on eco-labelling schemes and green public procurement. In 2008 the National Plan for Green Public Procurement (GPP) was adopted. It provides for a general frame about GPP, defines national goals, identifies priority goods, services and interventions' categories for environmental impacts and sales volume, on the basis of which sets down the minimum standard for environmental protection. The Plan is managed through consultations of stakeholders and consumers associations.

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

(h) From 1999 to 2007, the **national register on pollutant releases and transfers** consisted of the INES register, (Legislative Decree 372/1999 subsequently amended and substituted by Legislative Decree 59/2005). The INES register is an inventory containing qualitative and quantitative information on pollutants released into water and into air by specific facilities defined at the EU level. Those facilities listed in EU Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) and fulfilling the criteria set out in Ministerial Decree of 23 November 2001 must report under INES. Every year the data for the INES Register are collected through an on line procedure. The competent authorities validate the data and send the results to ISPRA, which analyses the data, draws up statistics and fills in the INES register. These data are sent to the EU by the MoE every three years. Five national reporting (from 2002 to 2006) and two reporting cycles to the EU (year 2002 and 2004 as requested by EPER) have been completed.

ISPRA is in charge of providing and disseminating environmental information related to the INES register. E-mail addresses are available to facilitate the public request of information on the Register, the collection of data, and interpretation of the information contained therein and its accessibility.

In Italy the EU Regulation 166/2006 regarding the establishment of an European Pollutant Emission Register (E-PRTR) has requested the creation of a new and broader national register of emission (PRTR Register) to substitute the still existing INES Register. The Italian Government is preparing the necessary national implementation acts (in particular establishing sanctions, competent authorities, data communication and public awareness). In the meanwhile the data collection is managed on a yearly base. EU Regulation 166/2006 foresees annual national reports: at the moment in Italy 3 data collection cycles have been completed (referred to 2007-2008-2009). Italy data collection 2007-2008 are available in EU database. The national website for the new register is under adjustment and its contents will be soon available to be consulted.

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

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

The implementation of EU Regulation 166/2006 has implied the addition of new critical tasks for the environmental authority, such as the management of a larger number of data derived by the increased number of industrial activities requested to report, and the obligation to evaluate the data quality. These changes have raised the need to identify new competent authorities and the establishment of data quality evaluation procedures. Moreover a new or improved website would be

needed in order to collect and host this quantity of data, because the present website contains only INES data.

13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

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

At regional level the Emilia Romagna region has adopted regional law 11/2004 (regional development of information society) that fosters and spreads information and communication technology use in the regional territory, assures to people equal opportunities of access to knowledge and new services and contrasts digital divide.

1036 organisations registered with EMAS (of which 199 Local Authorities) and more than 12.400 ISO 14001 certifications by the end of 2009

1538 industrial sites certified with EMAS (Italy placed third in Europe)

7 industrial districts certified with EMAS.

Up to October 2010 the MoE has allocated grants to 405 organization certified UNI EN ISO14001 and other 103 have been admitted to the financing.

14. Give relevant web site addresses, if available:

www.minambiente.it (MoE)

www.protezionecivile.it (National Civil Protection)

www.isprambiente.it (Institute for Environmental Protection and Research)

www.sinanet.isprambiente.it (National Environmental Informative System, SINAnet)

<http://2009sustainabilityreport.telecomitalia.it/it> (Environmental report by Telecom Italia SpA)

http://sostenibilita.bilanciinterattivi.com/eni_2010_ita/index.php?id=109 (Environmental report by ENI)

http://www.enel.it/it-IT/doc/azienda/sostenibilita/sostenibilita_2009_pA.pdf (Environmental report by ENEL)

<http://www.rfi.it/cms/v/index.jsp?vgnextoid=12468c3e13e0a110VgnVCM10000080a3e90aRCRD> (Environmental report by Gruppo Ferrovie dello Stato)

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

www.dichiarazioneines.it (INES questionnaire)

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

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

www.giunta.provincia.tn.it/giunta_provinciale/mauro_gilmozzi/-sviluppo_sostenibile/pagina39.html

(EMAS activities in the autonomous Province of Trento)

ARTICLE 6

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

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

The main legislative act covering the EIA procedure is Legislative Decree 152/2006 "Norms on the Environment", Part 2, Title III, (art. 19-29) as modified by Legislative Decree 128/2010, that lists the projects subject to the national EIA procedure. It foresees a list of activities (identical to annex I to EU Directive 85/337, as subsequently modified, on the assessment of the effects of certain public and private projects on the environment) for which EIA is compulsory at the national level since they are deemed to have a significant impact. Additional activities (those listed in annex II to the EU Directive) are also subject to EIA procedure at the regional level. These additional activities are listed in Annex III of Legislative Decree 152/2006 as modified (projects that are subject to an obligatory regional EIA) while Annex IV shows those subject to a screening procedure to assess whether or not they are likely to have a significant impact. The criteria to be subject to EIA (screening) are listed in annex V: this procedure serves to evaluate whether a project could have a significant or negative impact on the environment. Projects listed in Annex IV that are located in specified protected areas (including coastal and marine protected areas) are automatically subject to an EIA. The public is entitled to participate both in the EIA and in the screening procedure. In the screening procedure the public concerned may send comments to the relevant public authority within 45 days from the presentation of the draft project and of its screening evaluation.

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

National legislation now foresees the possibility to provide written comments within 60 days (previous law allowed 45 days) from the day the documentation has been deposited and made available to the public. In order to favour the public, some flexibility on deadlines for submitting comments has been applied. The competent authority can also decide to organize consultations through a public hearing where the EIA study, further technical opinions and observations by the public are discussed. The hearing by the competent authority is concluded with a report on the works and on the findings, which are relevant for the final decision.

The outcome of the EIA procedure in Italy is a Decree on the "environmental compatibility" of the proposed activity issued by the MoE and the Minister for Cultural Heritage on the basis of the opinion of an independent EIA/SEA Commission charged with assessing the documentation

provided by the proponent. The assessment made by the EIA/SEA Commission is based *inter alia* on the comments provided by the public and on reasoned opinion. The opinion and the subsequent Decree can turn out to be either negative, in which case the project is not deemed to be environmentally compatible and is therefore not executed, or positive, in which case specific conditions for the execution of the project (including mitigation measures) are prescribed. The final decision (the assessment by the EIA/SEA Commission and the Decree on environmental compatibility) is published in newspapers, in the Official Journal and in the MoE's website.

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

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

Legislative Decree 59/2005 on full implementation of of EU Directive 96/61 on Integrated Pollution Prevention and Control (IPPC) and Legislative Decree 152/2006 "Norms on the Environment", Part 2, Title IIIbis, (art. 29bis- quattordecies) as modified by Legislative Decree 128/2010 foresee a similar procedure for public participation when issuing "integrated environmental authorization" (AIA). In this case the possibility for public comments is of 30 days.

Legislation on EIA and IPPC, like any other sectoral environmental legislation, is complemented by **general provisions** on public participation in administrative decisions (**Law 241/90**) that focus on aspects not specifically regulated by sectoral legislation. According to this law, persons likely to be directly affected by the decision as well as anybody having a public or a private interest in a future decision by a public authority, including associations representing common interests, can participate in the decision-making where such interests are likely to be affected. More specifically, the concerned public, so defined, is entitled to receive the relevant information, to have access to all documents and to give comments which have to be taken into consideration.

For judicial remedies on the right to access and public participation, see the section on art.9.

Finally, concerning paragraph 11, the decision-making process on **deliberate release of genetically modified organisms (GMOs)** is regulated under the framework of EU law (EU Directive 18/2001 on the deliberate release into the environment of genetically modified organisms and EU Regulation 1829/2003 on genetically modified food and feed), which includes requirements for public information and consultation. EU Directive 18/2001 has been implemented through Legislative Decree 224/2003 that established the National Competent Authority for the release of GMOs within the MoE, which has the duty to inform and consult with the public. Consultation with the public at the national level in this context refers only to the experimental release of GMOs, since notification for commercial release is dealt with through a centralised EU procedure, which foresees consultation with the public through the competent EU authorities (i.e. the Commission or the European Food Safety Agency).

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

A National portal linked to the Cartagena Protocol's Biosafety Clearing House (BCH) has been created in order to foster public participation and implement the Protocol's requirements (ratified by Italy in 2004). The BCH is a mechanism to facilitate the exchange of information on Living Modified Organisms (LMOs) and assist the Parties to better comply with their obligations under the Cartagena Protocol, including access to information and public participation. The national BCH is a dynamic and up-dated tool that provides a variety of information on legislation, permissions, licences and capacity building activities on GMO. In the national portal (hosted by the site of the MoE) to facilitate public participation, a mailing list for the consultation of all competent institutional actors and relevant stakeholders has been created. Any individual, group or institution is entitled to request to be included in this mailing list.

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

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

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

Italy has ratified the **2005 Almaty amendment** on GMO in December 2008. Its implementation has not required modifications to national legislation as described above.

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

It has to be noted that following the entry into force of legislative decree 128/2010 now also the re-gassification plants are subject to EIA procedure (including applicable provisions on public participation).

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

17. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

A web page in the site of the MoE has been created since 2007 to facilitate consultation and public participation to EIA and AIA-IPPC procedures. In particular the public can now consult and send comments on line regarding all documents related to national EIA and AIA-IPPC procedures without having to contact or personally go to different competent offices.

Umbria regional law n.12 of 2010 on environmental assessment provides specific criteria about public assistance, access to information, public participation in decision making.

18. Give relevant web site addresses, if available:

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

<https://bch.minambiente.it> (webpage of the Italian BCH)

ARTICLE 7

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

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

Voluntary **Local Agenda 21** (LA21) processes are successfully spread throughout Italy, involving more than 900 local authorities: the MoE initially has co-financed the process by periodical calls for tender to support the initiation and strengthening of Local Agenda 21 and to coach the local administrations. Now this program is concluded in order to allow full and autonomous utilization of this instrument by the local authorities. Public participation is implicit in the Local Agenda 21 process, since local programmes for sustainable development are discussed in a consultative forum, in which the public and stakeholders are represented.

Furthermore, while the importance of programmes for urban sustainability has been increasing during the last few years, municipalities are key-players in this sector due to subsidiarity principle. Local Agenda 21 has been proved a powerful instrument to boost awareness and public participation by citizens in the decision making-process at the local level

Following the development of guidelines on the application of Local Agenda 21 for local administrations, from 2003 ISPRA is carrying out a monitoring project on their state of implementation, especially with regard to major urban communities (118 cities) and is inserting relevant good practices in the GELSO database. This information is at the disposal of public administrations and citizens, and is especially useful to understand about successful outcomes or critical situations.

The coordination body of LA21, together with the MoE, ISPRA and other bodies, organizes conferences and thematic workshops with regard to various aspects of sustainable development and public participation.

Legislative decree 152/2006, "Norms on the Environment", Part 2, Title II, as modified by Legislative Decree 128/2010, dealing with **Strategic Environmental Assessment (SEA)** and fully implementing EU Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment, addresses public consultation on the environmental impacts of a proposed plan or programme which could have a significative impact on the environment or on cultural heritage. The SEA should be conducted for plans or programmes at the national, regional or transboundary level. The procedure for public consultation is similar to the one for the EIA: the notice is published in the official Gazette or in the regional bulletins of interested regions, the documentations is at the disposal of the public which is allowed 60 days for commenting. Comments from the public are taken into consideration while the competent authority takes the final decision, accompanied by a reasoned opinion. To be an Italian citizen is not a requisite in order to participate to the consultations, so the principle of non-discrimination is guaranteed. Furthermore, the Coordination Table between Central and Regional authorities guarantees that the same

standards for public participation are applied everywhere in the national territory. In order to conduct SEA national consultations, Italy is strongly oriented toward the use of internet tools, so the authorities concerned shall make available all documents for consultation on their websites. Since legislative decree entered into force in July 2007 and has been recently modified, practical experiences are still limited. During 2010, 11 national SEAs were discussed. Nowadays those procedures are not yet concluded; the MoE gained experience about the step on consultation of the public, but not yet on the last step after the adoption of the plan/programme, i.e. on the publication of the statement summarising how environmental consideration have been integrated into the P/P. From this first year of experience on consultation, in the light of observations received on plans and programmes, it emerges that there is a preponderant participation by public administrations (78%), and lower participation by private companies (13%) and the public or NGOs (9%).

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

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

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

Italy, especially the South, benefits from European Union Structural Funds, the main EU financial instrument aimed at reducing regional, economic and social disparities under the overarching principle of environmental sustainability. The national legal framework implementing EU Regulation 1083/2006 (for the years 2007-2013) provides for public participation mechanisms: environmental NGOs and socio-economic organizations are members (even if without decisional power) of the Monitoring Committees of Operative Programs (national or regional), which meet periodically, led by the National or Local Management Authorities. All Operative Programs foresee a socio economic partenariat roundtable which participate to the implementation of the Operative Program. More and more regions allow the participation of citizens' organizations and groups in "integrated projects" that focuses on a specific area by implementing various interventions under a shared strategy. National public participation in the programming and management cycle of structural funds to which SEA procedures applies, have been enhanced also though the application of Legislative decree 152/2006 as modified.

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

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

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

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

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

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

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

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

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

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

By February 2010, 931 Italian municipalities signed the Aalborg Chart of Sustainable European Cities, embracing the model of public participation in the management of local affairs. The Umbria Region, on the basis of practical experience gained in 2008-2009 on SEA application, has elaborated an Action Programme for public participation in SEA at regional level.

23. Give relevant web site addresses, if available:

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

http://www.minambiente.it/home_it/menu.html?mp=/menu/menu_attivita/&m=Valutazione_Ambientale_Strategica_VAS.html&lang=it (MoE webpage on SEA)

ARTICLE 8

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

An institutionalised procedure for public participation in preparing national legislation (i.e. laws adopted by Parliament or Legislative Decrees adopted by Government within the framework established by a Parliamentary law) currently does not exist. However, there are some mechanisms for public involvement in legislative activities. For example, for parliamentary hearings, members of the public (or their associations) are invited - or put themselves forward - to comment on issues under discussion by a parliamentary committee. Another frequently used tool for public consultation, stipulated by Law 352/70, are *petitions* (proposals for legislation or motion based on common interest) that can be put forward by a group representing at least 50,000 citizens and are considered directly by the Parliamentary Committee or transmitted to Government. These are common at the local level.

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

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

The referendum enjoys widespread use for repealing or abrogating legislative acts, either partially or entirely. A referendum takes place if proposed by at least 500,000 citizens, or by five Regions. The provisions subject to a referendum are automatically repealed if this is favoured by a simple majority of votes and at least half of all eligible citizens have participated in the vote. Mechanisms for public consultation and procedures for the presentation and early examination of citizens' petitions and requests, are regulated at the local level.

At the regional level the funding Statutes of Regions and subsequent implementing laws state the principle of public participation (both by individuals and by associations) to legislative, administrative and governance functions of regional institutions (see for example the funding Statutes of Umbria, Tuscany and Emilia Romagna).

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

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

27. Give relevant web site addresses, if available:

ARTICLE 9

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

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

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

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

Access to judicial procedure before the TAR is still available to an interested party that has not been satisfied;

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

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

(c) Concerning **article 9, para. 3**, each person/group of persons, whose right or “legitimate interest” has been breached by a public authority’s decision or omission, has legal standing to act in court against that public authority’s decision or omission. Furthermore, according to Law 349/1986, all environmental NGOs recognized by the MoE can challenge public decisions or omissions, both at the national and at the local level through a review procedure. For the criteria for recognition, see answer to question 3.

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

Furthermore, any person whose right has been breached by another private person can challenge that act or omission directly before a court and request both tort compensation for the damage and criminal sanctions.

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

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

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

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

The above-mentioned authorities charged with monitoring have the power to ascertain whether infringement of environmental law or permits has occurred and, if so, to apply administrative

penalties (e.g. fines, suspensions of permits), or, where applicable, to initiate criminal proceeding by signalling an infringement to the judiciary.

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

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

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

Public access to judicial remedies is guaranteed in principle. However, in practice, there are often cases of long waiting times to go through the judicial process (judicial congestion).

The mechanism for inspections is complex and involves too many public authorities.

Furthermore, despite some fragmented initiatives (for instance free legal advice provided by local environmental protection agencies or other institutions), costs still represent an obstacle, especially with regard to lawyers' fees. As the judicial system is regulated in a comprehensive way, it is difficult to foresee specific provisions targeting only "environmental" justice.

30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Assessment of financial barriers:

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

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

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

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

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

However, it is a general practice that the TAR declares that each party should bear its own costs.

Costs depend on the subject-matter and amount/value in controversy (so called *contributo unificato*) and on lawyers' fees which vary from 4,000-5,000 € to 100,000-150,000 €.

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

Members of *Legambiente* have reported that environmental NGOs costs and lawyers' fees are a major obstacle. An NGO member has expressed worrying for an increase in the *contributo unificato* and for the insufficient level of funds available for parties entitled of State assistance.

However, lawyers often provide legal assistance *pro bono*, which may be the case for large and well known associations, since lawyers can count on publicity and prestige deriving from these activities.

Lastly, the jurisprudence shows a general trend not to grant *locus standi* to non-recognised NGOs to initiate environmental proceedings, but this can be seen in the light of increasing requests and subsequent granting of recognitions to environmental NGOs (see response to art.3)

31. Give relevant web site addresses, if available:

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.