

## **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**

Fourth session  
Chisinau, 29 June – 1 July 2011

Procedures and mechanisms facilitating  
the implementation of the Convention:  
Reports on implementation

#### **IMPLEMENTATION REPORT SUBMITTED BY LATVIA**

*Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.*

## **I. PROCESS BY WHICH THIS REPORT HAS BEEN PREPARED**

1. This document is based on the second Latvian report. In August 2010 respective Aarhus Convention<sup>1</sup> (the Convention) articles, reporting issues and excerpt from the second report were combined in a table. On 30 August 2010 a letter was sent to all responsible ministries and Environmental Consulting Council (ECC), inviting to update the report. Draft document was prepared on 10 November 2010, which was sent to ministries, ECC and non-governmental organizations (NGOs), and open to public discussion up to 7 December 2010. A meeting to publicly discuss the draft report was held on 16 November 2010.

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

2. The Convention is ratified by the Law on the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, passed by the Parliament on 18 April 2002. The Convention's requirements are integrated in various legislative acts, the most important being the Environmental Protection Law (EPL) (in force as of 29 November 2006), the Law on Environmental Impact Assessment (EIAL), the Law on Pollution, the Administrative Process Law (APL), the Territorial Planning Law and the Construction Law. At the same time, individuals can refer in court to the Convention as an international legal act, since Latvia has ratified it and it has become effective. All these laws are available online at: [www.likumi.lv](http://www.likumi.lv).

3. This national report shows the situation as of 8 December 2010.

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

### **Article 3, paragraph 2**

4. Section 8 of the Satversme (Constitution of the Republic of Latvia; hereinafter - Constitution) regulates human rights, i.e. rights to equality, justice and freedom of speech (including the rights to freely obtain, hold and distribute information and to express opinions), rights to participate in public activities (hereinafter, public authorities means also municipalities), and rights to apply in public authorities with submissions and to receive responses.

5. According to Article 115 of the Constitution, the State protects everyone's rights to live in beneficial environment, to reporting on environmental conditions and to care for their maintenance and improvement. This law obliges the State to ensure an efficient environmental protection system, but individuals are entitled to environmental information and to participate in environmental decision-making.

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<sup>1</sup> Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

6. According to the EPL (art. 10, para. 3, subpara. 3), the authorities appoint an officer responsible for the provision of assistance required by information searcher, and if necessary, for formulating the request.
7. The Information Transparency Law (ITL) describes the conditions for provision of information.
8. Availability of information in public authorities is regulated also by the APL, which governs the public legal relationship between the State and private individuals. The APL (Art.54, para. 1) provides that if a request is received from a private person regarding administrative process, the authority is obliged to provide the respective information held by them (an exception is if the information is legally classified as restricted information). The APL (Art. 56, para. 5 and Art. 98) also provides for the authority's obligation to provide an applicant with the required information or other assistance for a successful resolution of the issue.
9. Administrative acts (including those passed by environmental authorities) can be appealed in accordance with the APL. An appeal procedure is indicated in each administrative act issued.
10. On 17 December 2009 the Geospatial Information Law was adopted. On the basis of the said law access to geospatial information held by public authorities will be ensured via geoportal.
11. The Latvian State Web portal [www.latvija.lv](http://www.latvija.lv) is publicly available. The purpose of the portal is to ensure access to Latvian public authorities' internet resources and centralized access to electronic services provided by different institutions. Majority of e-services are already available at the portal.
12. Public authorities' homepages provide the opportunity to ask questions that have to be answered in legally set deadlines.
13. Structural units or officials within institutions are responsible for maintaining contact with the public.
14. Article 10 of the State Administration Structure Law (SASL) stipulates basic principles promoting use of procedural rights by the public, including the principle of good administration.
15. Foundation "Latvian Judicial Training Centre" provides continuing education for judges and court employees. It develops education programmes, sets education priorities considering various circumstances, including topicality of the issue, controversial case-law, etc.
16. Within the framework of inter-institutional cooperation a two-day workshop on access to justice pillar of the Convention was held in March 2008 for judges of the Constitutional Court and administrative courts. An informative material "Access to Justice in Environmental Matters" was issued afterwards.
17. Draft regulatory enactments drafted by the Ministry of Environment (MOE) are posted on the MOE's home page for public commentaries two weeks in advance of their announcement at the meeting of State secretaries (i.e., start of inter-institutional deliberations). Information on the

relevant draft regulatory enactment's development is permanently refreshed, including the actual draft, thus enabling the public to express its view on the draft.

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

18. The Latvian Environmental Protection Fund (LEPF) every year provides financing for the environmental education and information projects. The LEPF, which manages income from the State budget and, indirectly, natural resources tax, allocates financing through tenders, including to projects submitted by NGOs to promote environmental protection.

19. LEPF Consultative Council, which is composed of members delegated by NGOs and institutions associated with development of environmental education and environmental science, participates with a deliberate function in decision-making on allocation of financing.

20. Financing allocated in 2008-2010:

(a) under the project guideline "Environmental Education and Training": 166 projects (LVL 723 993 / EUR 1 034 274);

(b) under the project guideline, "Activities of the Mass Media and Publishing in the Field of Environmental Education and Training": 31 project (LVL 911 042 / EUR 1 301 487).

21. Promotion of environmental education and environmental awareness is also done through:

(a) Informative (including electronic) publishing, conferences, thematic events, exhibitions, competitions, excursions, lectures in schools and practical training at the Natural History Museum of Latvia, National Botanic Garden, in Specially Protected Nature Territories and elsewhere;

(b) volunteer work at specially protected nature territories, regular public joint work, involving children, youth, celebrities and soldiers of National Armed Forces and Civil Guards;

(c) Public activities, e.g. the annual campaign "Alive Water" to protect spawning fishes;

(d) The programme of Blue Flags as well as Green Flags, otherwise called eco-schooling;

(e) Programme for young environmental reporters;

(f) Competition for the best environmental journalist and best-kept parish;

(g) Activities of Environmental Education and Science Council (established by the EPL);

(h) Operation of the Latvian Environmental Interpretation Service;

(i) Annual days devoted to environmental issues, e.g., Climate Change and Environmental Days;

(j) Increase of support for study places and financing; development of new professions promoting environmental protection (e.g. specialists in ecotourism, environmental technologies) as well as development of State general secondary education and State standard in elementary education, and informal education programmes for adults.

22. Legislative acts are explained in the mass media.

23. A cooperation protocol on education for sustainable development was signed by the Ministry of Education and Science and the UNESCO<sup>2</sup> Latvian National Commission.
24. An upgrading of the education system is ongoing, and includes improvement of secondary education teachers' professional qualifications and of education programmes as well as the system for lifelong education and educational environment.
25. Although not mentioned in other legislative acts, the EPL provides that "environmental education" must cover issues of environmental and sustainable development education.
26. Environmental awareness among the public is being raised also through exemptions from natural resources tax payment system. One of the conditions for exemption from natural resources tax is obligation of industry to implement public involvement and information activities on the necessity of collection, sorting and appropriate recycling of environmentally hazardous goods and used packaging.
27. State Environmental Service may involve public environmental inspectors – persons authorized by the State Environmental Service - in environmental control in accordance with the EPL. In 2008 around 145 public environmental inspectors participated in inspectors' training; in 2009 – 60.
28. More than 80 youth organizations are active in Latvia, participating in the development of national policy and social work, representing the youth. For example, organizations "Jaunatnes vīzija" (Vision of Youth), "Radi vidi pats" (Create Environment Yourself), etc.

#### **Article 3, paragraph 4**

29. The segment of the public that promotes environmental protection has been allocated wide rights to access to environmental information, involvement and legal protection, without any criteria being set for NGOs. Regarding this, there is no separate NGO recognition procedure introduced in the country, and there is no need for it.
30. Activities of NGOs, including registration thereof, in the Republic of Latvia are governed, *inter alia*, by the Associations and Foundations Law.
31. Information regarding associations and foundations is entered into the Register of Associations and Foundations (the Register). An entry in the Register is made on the basis of an application or the adjudication of a court. Officials of the Register authority take a decision regarding the making of an entry, refusal to make an entry or postponing of the making of an entry in the Register within seven days of the receipt of an application. A Register authority official takes a decision within the same time limit regarding the making of an entry in the Register on the basis of the adjudication of a court. A State fee of LVL 8 (EUR 11) has to be paid for an entry in the Register.

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<sup>2</sup> United Nations Educational, Scientific and Cultural Organization.

32. LEPF is the main local environmental protection mechanism for the financing and support of the public, including NGOs. LEPF financing has been allocated to implementation of different projects in the domain of environmental protection:

- (a) in 2008: 116 NGO projects were financed (LVL 1 044 969 / EUR 1 492 812);
- (b) in 2009: 39 NGO projects were financed (LVL 435 645 / EUR 622 350);
- (c) in 2010: 8 NGO projects were financed (LVL 125 951 / EUR 179 930).

33. The MOE participates in and supports an annual forum of Latvian environmental NGOs and professional associations.

34. To promote cooperation between public authorities and public, the ECC was established, which is comprised of representatives of 20 NGOs; NGOs are also represented, e.g. in the Councils of Specially Protected Nature Territories, Agricultural and Environmental Protection, Forest Consulting, River Basin Management and Radiation Safety, as well as in the Biologic Safety Coordination Centre.

35. According to Chapter VI of the SASL, public authorities have the right to transfer certain tasks, along with allocated financing, to NGOs. Thus, activities of these organizations are also stimulated, e.g. Engure Lake nature park is managed by an NGO.

36. NGOs are involved in development of nature protection plans, as well as in working groups for development of policy documents and regulatory enactments.

### **Article 3, paragraph 7**

37. Latvia is following the activities of the Convention's Expert Group for Public Participation in International Forums

38. Respective specialists have been informed about the Almaty Guidelines and have been invited to apply the principles of access to information, participation and justice in their implementation of other international conventions.

39. Public participation is ensured in accordance with Paragraph 7 of the Cabinet of Ministers (CM) Regulation No.96 "Procedures, by which the National Position of the Republic of Latvia shall be Developed, Harmonised, Approved and Updated in Matters of the European Union" of 3 February 2009 and Paragraph 12 of the CM Regulation No.707 "Regulations on the Development of Documents for the Purpose of Protection of State Development Goals in International Organizations, the Harmonisation, Approval and Update Procedure thereof" of 3 August 2010. The relevant provisions stipulate that the responsible institution shall ensure the development, update and harmonisation of the State's official position with other responsible authorities, local governments, social partners' organizations, associations and foundations.

40. Although NGO members are seldom included in delegations representing the State in international environmental negotiations, environmental NGOs have the opportunity to comment Latvia's national positions. Representatives of environmental NGOs have been involved, for example, in COP14 and COP15 meetings of the United Nations Framework Convention on Climate Change.

41. ECC is informed on the planned activities during development of the MOE annual work plan. ECC has the opportunity to provide comments.

**Article 3, paragraph 8**

42. The principle that no legal activity can be punished is enforced in Article 1 of the Constitution. The rights covered by the Convention are enforced in State legislative acts, including Articles 92 and 115 of the Constitution.

43. It is directly stated that no civil claims for damages can be raised against a person who has exercised his or her rights by applying in administrative court (EPL, Article 9, para. 5, and APL, Article 4, para. 4).

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

44. In view of the ECC, rejection of a proposal to raise effectiveness of public authorities by centralized issuing of permits in order to ensure participation of specialists in the relevant field is an obstacle. The proposal was considered. However, the principle that preparation of permits takes place as close as possible to the public concerned, e.g., at a Regional Environmental Board (REB), was preserved.

45. Public information campaigns implemented by State environmental institutions on different environmental protection issues have decreased in 2009-2010. Allocation of financing to public environmental education as well as in the field of State support for raising environmental awareness has become more limited in 2009-2010. This is attributable to the limited resources of the State budget.

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

46. According to the Law on the Latvian Republic's International Agreements, the CM is responsible for execution of international agreement obligations. Should an international agreement approved by the Parliament contain other provisions than in Latvian legislative acts, the conditions of the international agreement(s) apply. All international agreements and their Latvian translations are published in the official journal of the Republic of Latvia.

47. During implementation of various projects, research and publications on the public's rights and the improvement of judicial system, as well as on the information society, were prepared.

48. Latvia hosted the third meeting of the Parties to the Convention in Riga, in June 2008. The organization and progress of the meeting facilitated deeper understanding by the public and public authorities of the Convention's purpose and its implementation.

49. On 10 June 2010 the Parliament approved the Sustainable Development Strategy of Latvia until 2030 (the Strategy). One of its strategic principles is public participation, including in environmental matters.

50. In 2008 Environmental State Bureau (ESB) implemented a project “Securing the operation of Aarhus Convention in Latvia” in order to provide valuable information to the public on the implemented environmental impact assessments (EIAs) and to make Latvia a full-fledged participant in international EIAs and public discussion meetings.

51. The public may engage in direct discussions with the Members of Parliament at the website [gudrasgalvas.lv](http://gudrasgalvas.lv)

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

52. [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.mk.gov.lv](http://www.mk.gov.lv), [www.zinisavastiesibas.lv](http://www.zinisavastiesibas.lv), [www.vitila.gov.lv](http://www.vitila.gov.lv), [www.lvaf.gov.lv](http://www.lvaf.gov.lv), [www.tm.gov.lv](http://www.tm.gov.lv), [www.reclatvija.lv](http://www.reclatvija.lv), [www.daba.gov.lv](http://www.daba.gov.lv), [www.lhei.lv](http://www.lhei.lv), [www.latvija.lv](http://www.latvija.lv), [www.eps.gov.lv](http://www.eps.gov.lv), [www.adazinatura.lv](http://www.adazinatura.lv), [www.mod.gov.lv](http://www.mod.gov.lv), [www.apa.lv](http://www.apa.lv), [www.muzizglitiba.lv](http://www.muzizglitiba.lv); [www.jaunatneslietas.lv](http://www.jaunatneslietas.lv); [www.vamoic.gov.lv](http://www.vamoic.gov.lv); [www.dabasmuzejs.gov.lv](http://www.dabasmuzejs.gov.lv); [www.vvd.gov.lv](http://www.vvd.gov.lv); [gudrasgalvas.lv](http://gudrasgalvas.lv).

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

### **Relevant definitions**

53. Environmental information is defined in paragraph 19 of Article 1 of the EPL. Article 1 of SASL defines a “public authority”, but Article 10 of the EPL states that authorities are bound by the requirement of providing environmental information. EPL Article 6 explains the meaning of “public”. This explanation has no discriminatory restrictions (see also comments to Article 5).

54. In the ITL, paragraph 1 of Article 10 provides that generally available information is provided to anyone willing to receive it, by considering the equality of persons. The purpose of this Law is to ensure that the public has access to information, which is at the disposal of institutions or which an institution in conformity with its competence has a duty to create. This Law determines uniform procedures by which private persons are entitled to obtain information from an institution and to utilise it.

55. On 1 January 2008 the Law of Applications entered into force. Its purpose is to facilitate participation of private persons in state administration. The law determines procedures by which private persons file applications and institutions examine and respond thereto.

56. Paragraphs 22, 38 of the CM Regulation No.1148 “Municipality Territorial Planning Regulations” of 6 October 2009; Articles 21, 26, 27 and 82<sup>1</sup> of the Law on Municipalities.



57. The purpose of the State limited liability company “Latvian Environment, Geology and Meteorology Centre” (LEGMC), established in 2009, is, *inter alia*, to ensure collection and dissemination of environmental information to the public and public authorities. LEGMC carries out the respective duties in accordance with a Delegation Contract on the basis of which MOE delegates to LEGMC certain administrative tasks.

**Article 4, paragraph 1**

58. Conditions and procedure for issue and denial of information are set by the ITL. According to Article 10 of the EPL environmental information that is at the disposal of public authorities shall be provided to the public.

59. Paragraph 2 of Article 11 of the ITL provides that all written requests for information shall be registered. According to general record keeping procedures answers, including refusals, are also registered (Law of Applications, Paragraph 5 of Article 3).

60. On 1 January 2007 the Ombudsman Law entered into force, establishing the ombudsman institution in Latvia. The Ombudsman, *inter alia*, oversees matters of access to information.

61. The supervision of protection of personal data is carried out by the Data State Inspectorate according to Paragraph 1 of Article 29 of the Personal Data Protection Law.

62. Paragraph 1 of Article 10 of the ITL and Paragraph 3 of Article 7 of the EPL provide that the person requesting information needs no justification for the need for requested information, and it cannot be denied on the basis that it does not relate to the applicant.

63. Paragraph 6 of Article 11 of the EPL stipulates that information has to be provided in the requested manner or format, except in cases where the requested information is already in another manner or format and is available to person requesting information or when reasonable grounds exist for providing the information in another manner or format, and requires informing person on these grounds.

**Article 4, paragraph 2**

64. General deadlines for processing of applications, complaints or recommendations are set by the Law of Applications. With respect to environmental information, a deadline for provision of information cannot be longer than two months in accordance with paragraph 1 of Article 11 of the EPL. It also provides that the response to the request must be issued as soon as possible.

65. According to Article 14, Paragraph 1, Clause 1 of the ITL within the period of seven days an institution, which has received a written request for information, has to inform the applicant on refusal to provide information.

**Article 4, paragraphs 3 and 4**

66. Cases where an information request can be denied are listed in the paragraphs 4 and 5 of Article 11 of the EPL, including the definition that information about emissions into the environment cannot be of limited access.

67. Article 19 of the State Statistics Law provides that requirements on non-disclosure of individual statistical data are not applicable to information about emissions into environment, environmental quality, environmental protection measures and use of natural resources.

68. According to Article 56, paragraphs 4 and 5, of the APL an institution that has jurisdiction over the matter shall accept a submission by a person even if it considers that the submission is not drawn up properly or is not well founded. An institution shall, insofar as possible, provide a submitter with the necessary information or other form of assistance for successful resolving of the matter in accordance with the interests of the submitter.

69. The following legislative acts define particular cases where information can be rejected: – Article 7 of the Law of Applications; paragraph 4 of Article 5 and paragraph 3 of Article 12 of the ITL; paragraph 4 of Article 11 of the EPL, with respect to nature protection; Articles 3 and 4 of the law “On Official Secrets”; Articles 18 and 19 of the State Statistics Law, with respect to individual statistical data; and the Personal Data Protection Law.

70. Personal Data Protection Law stipulates that personal data is any information related to an identified or identifiable natural person.

71. Information to which the ITL applies is classified as:

(a) generally accessible information;

(b) restricted access information.

The law “On Official Secrets” prescribes procedures for the keeping and use of official secrets and the protection and classification thereof.

72. The status of restricted access information can be also applied to information regarding locations of specially protected species habitats and specially protected biotopes.

73. EPL Paragraph 5 of Article 11 states that restriction on access to environmental information in every case can be outweighed by public interests in information transparency.

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

74. Paragraph 2 of Article 12 of the ITL; Article 4 of the Law of Applications; Paragraph 2 of Article 56 of the APL.

75. According to these legislative acts, public authorities not possessing the required information indicate to the applicant where it can be found, or within seven days transfer the request to authority holding the information, duly informing the applicant thereof.

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

76. Legislative acts prescribe an obligation to issue the part of information that is not classified as restricted information (Art. 10, para. 4, of the ITL; Art. 11, para. 3 of the EPL; Art. 54, para. 2, of the APL).

**Article 4, paragraph 7**

77. Articles 12 and 15 (Appeal procedure) of the ITL; Article 7 of the Law of Applications; paragraph 1 of Articles 11 and 9 of the EPL - the listed legislative acts contain reasons and deadlines for rejection, indicating appeal rights. According to Article 67 of the APL, denial has to be in writing.

**Article 4, paragraph 8**

78. Conditions for application of the fee for provision of information are stated in: Article 13 of the ITL; Article 11, paragraph 2, of the EPL; CM Regulation No.940 "Regulations regarding Paid Services for the Provision of Information", dated 21 November 2006.

79. According to the conditions of paragraph 2 of Article 11 of the EPL, environmental information collected and aggregated from State financing and environmental information included in public databases is free of charge. Should additional processing or preparation be required for provision of the information, a fee can be set. If the fee is set, the applicant is informed of its size, and indication should also be given in cases where this fee can be waived.

80. The amount of payment for paid services for the provision of information by institutions is prescribed by CM regulations. Paid services are as follows:

- (a) issuing of information from the archive of an institution;
- (b) the preparation and issuing of information from the databases of an institution;
- (c) the preparation and issuing of a copy or duplicate of documented information, if the amount of the relevant information is larger than 20 pages.

For example, the price of a copy of one A4 format page from an institutional inventory document is LVL 0,06 / EUR 0,08.

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

81. In view of the ECC, information on the implementation of environmental investment projects and on the planned effectiveness of activities is not always available. However, the relevant restrictions often can be explained by protection of commercial secrets and after the adoption of a decision its grounds is available.

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

82. Requests for information in public authorities are registered in accordance with the Law of Applications.

83. Information requests can be submitted electronically via public authorities' homepages, such requests respectively being registered and processed in accordance with requirements of the Electronic Documents Law.

84. Free access to increasing amount of information is provided on the internet.

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

85. [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.lvgma.gov.lv](http://www.lvgma.gov.lv), [www.vi.gov.lv](http://www.vi.gov.lv), [www.pvd.gov.lv](http://www.pvd.gov.lv), [www.lhei.lv](http://www.lhei.lv); [www.meteo.lv](http://www.meteo.lv); [www.nbd.gov.lv](http://www.nbd.gov.lv).

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

86. The obligation to collect and update environmental information is set out in the SASL, the EPL, and in the Law on Pollution.

87. Environmental information is defined in Clause 19 of Article 1 of the EPL.

88. “Public authority” is defined in Article 1 of the SASL; paragraphs 1 and 2 of Article 10 of the EPL stipulate which public authorities are bound by the requirement to provide access to environmental information.

89. “The public” is defined in Article 6 of the EPL. No discriminating restrictions are included in this definition.

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

90. Legislative acts list the competent authorities responsible for collection and distribution of environmental information.

91. A large part of the environmental information is available in LEGMC. To companies whose production amounts and environmental emissions exceed certain criteria, REB, upon issuing permissions for polluting activities, also set an obligation to report to LEGMC on an annual basis on created and conducted pollution (air, water and waste reports). LEGMC maintains registers of polluted and potentially polluted areas (pollution of territories, soil and groundwaters), carbon dioxide emissions and emission quota trading.

##### *Article 5, paragraph 1 (a)*

92. Article 10 of EPL provides that public authorities according to their areas of responsibility must gather, update and distribute environmental information, also using publicly available databases and websites; Article 16 lists information to be included in these.

93. According to Article 22 of the Law on Specially Protected Nature Territories, environmental authorities and the respective municipalities must ensure free access to the information at their disposal about protected territories.

*Article 5, paragraph 1 (b)*

94. Article 6 of the EPL stipulates that the public can provide public authorities with information on activities influencing environmental quality, as well as information on changes observed in nature as a result of such activities or measures.

95. Public authorities ensure the mutual exchange of necessary information in accordance with legislative requirements, including those of authorities' statutes and information exchange agreements.

96. The Law on Pollution and the CM Regulation No. 162 on "State Monitoring and Register of Polluting Substances", dated 8 April 2003, include requirements for operators for performing environmental monitoring and providing public authorities and public with the results.

97. Measures have been taken to create a unified nature database to enable harmonization of data from the already existent databases. Access will be provided to the involved institutions and, upon request, to other persons.

*Article 5, paragraph 1 (c)*

98. Provision and distribution of environmental information in emergencies is done in accordance with the Civil Defense Law, the State Civil Defense Plan, civil defense plans of municipalities and CM Regulation No. 530 "Procedure for Creation, Use and Financing of Civil Alarm and Notification System", dated 7 August 2007.

99. The State Civil Defense Plan includes the obligation to provide respective information and also identifies the institution responsible for providing emergency information, which in turn receives the information from the public authorities responsible for particular areas.

100. If pollution has developed that endangers human life, health or the environment, or there is reasonable threat of above, the operator must notify respective REB, according to paragraph 5 of Article 6 of the Law on Pollution; Articles 27, 28, 29 of the EPL.

101. According to the Civil Defense Law (Art. 7, para. 12, section 1), one of the State Fire and Rescue Service's obligations in civil defense is to inform the public in the event of a catastrophe, including of its threats and suggested actions. Paragraph 3 of Article 15 of this Law provides that the mass media must broadcast such information free of charge.

102. In the domain of environment cooperation and exchange of information takes place also in accordance with a respective order of the MOE.

**Article 5, paragraph 2**

103. Article 9 of the ITL provides that every authority must compile information, indicating the information group, name, source and details.

104. CM Regulation No.171 "Procedures by which Institutions Place Information on the Internet" of 6 March 2007 sets out the public authority's obligation vis-à-vis its Internet

homepage to provide information on services and ways of receiving them, on its functions and tasks, as well as to have search option.

105. Paragraph 1 of Article 10 of the EPL sets out the obligation for information holders to provide public access to the environmental information they hold, including on activities under authorities' control regarding environmental protection, on permits issued and contents of these permits, and on information on safety measures.

106. Nature Conservation Agency maintains a biological diversity information exchange system.

### **Article 5, paragraph 3**

107. Article 10, paragraph 3, and Article 16 of EPL provides that public authorities in accordance with their responsibilities create and update publicly accessible free databases, registers and Internet homepages, and publish there reports on environmental issues and environmental policy legislative acts.

108. According to CM Regulation No. 171 "Procedures by which Institutions Place Information on the Internet", dated 6 March 2007, all ministries and environmental institutions have publicly accessible Internet homepages.

109. In 2006 State information system "Database of Studies and Publications" (<http://petijumi.mk.gov.lv/ui/>) was established where information on environment studies is also available.

110. Information on the quality of environment is available electronically also via LEGMC homepage.

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

111. Article 10, paragraph 3, of the EPL provides that public authorities, in accordance with their responsibilities, prepare and publish reports on the state of the environment. Paragraph 6 of Article 10 of the EPL provides that reports on the state of the environment shall be included in publicly accessible databases.

112. LEGMC publishes, over the Internet, annual and four-year period reports on environmental quality as well as environmental loads, as well as Latvia's sustainable development indicators' reports. Reports on the state of the environment are available on the LEGMC website.

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

113. All legislative acts and policy planning document drafts are publicly available on the CM website, along with their status reports and database of approved policy planning documents. All developed legislative drafts and status reports are available on the website of the Parliament.

114. Article 16, paragraph 1, of the EPL states that publicly available databases cover environmental legislative acts, international agreements and European Union (EU) legislative acts, environmental policy documents and their implementation reports.

115. Regulatory enactments are widely, easily and free of charge accessible on the internet at [www.likumi.lv](http://www.likumi.lv). Regulatory enactments in the domain of nature and environment are accessible at the relevant institutions' websites and elsewhere.

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

116. Articles 38 and 39 of the EPL set out for voluntary environmental management activities: implementation of eco-labeling and of an environmental management and audit system, and also provision of better information to the public on operator's activities, as well as product information. Information on European eco-labeling and its implementation in Latvia is available on the LEGMC website (<http://www.meteo.lv/public/ekomarkejums.html>).

117. Article 6, paragraph 3, of the Law on Pollution stipulates operators' obligation to provide environmental protection institutions and the public with information on the results of monitoring defined by the permit and the impact of polluting activities on human health and environment (<http://www.meteo.lv/public/28012.html>).

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

118. In their annual public reports, public authorities must provide information on cooperation with the public in solving various environmental issues, as well as on public education and information measures taken. Public reports are published and posted on the websites of the respective authorities.

119. The Latvian Rural Consultation and Education Centre provides consulting in all regions of the country on environmentally friendly agriculture issues.

120. State Forest Service employees provide regular consulting to owners of forests, and publish information materials.

121. Nature Conservation Agency disseminates information on nature education activities, nature protection topicalities, studies and projects, analytical articles on trends in nature protection.

122. LEGMC publishes facts and analyses thereof on its website.

123. Information on the studies carried out during development of the Strategy is available at [www.latvija2030.lv](http://www.latvija2030.lv).

#### **Article 5, paragraph 8**

124. Choice of environmentally friendly products is encouraged by: EU eco-labeling; Eco-Management and Audit Scheme (EMAS) has been implemented in several municipalities; also

applicable are quality and management systems (ISO 9001 and ISO 14001), pure technologies, and various product labeling.

125. The association “Green Liberty” has done research on environmental influence of various products and human activities and environmentally friendly choices (see [www.zb-zeme.lv](http://www.zb-zeme.lv)).

126. The website of the Food and Veterinary Service provides information about food products, novel food and food additives.

127. Information about the labeling of chemical substances and products is publicly available. These are regulated by requirements of CM Regulation No. 107 “Procedure for Classification, Labeling and Packaging of Chemical Substances and Products”, dated 12 March 2002. Labels must contain all basic substance or product information, including environmental danger information.

128. Article 26.<sup>1</sup> of the Law on Circulation of Genetically Modified Organisms stipulates that food products containing genetically modified organisms, consisting of them or being produced from them, shall be placed for sale separately from other food products in such a way as to be easily identifiable.

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

129. Latvia has acceded to the Convention’s Protocol on Pollutant Release and Transfer Registers (the Kiev Protocol) by adopting on 21 February 2008 the law “On the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters”.

130. The Latvian Polluting Substances Register is available at the LEGMC website (<http://arcims.lvgma.gov.lv:8082/prtr/>). The register contains data and information on pollution released into the environment by major polluters – operators who have been issued permits for A and B category polluting activities.

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

131. In view of the ECC, information provided by public authorities is considered to be precise and legitimate in contrast to the data of the information systems maintained by NGOs which are not legally applicable. However, such assertion is not accurate. Public authorities need environmental information of good quality. Therefore data suppliers both from the private and public sector who provide data of the necessary quality are used.

132. Environmental institutions not always have sufficient access to the modern information technology.



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

133. Financial aid in preparation of environmental information and informing the public is provided by LEPF, supporting many environmental education projects.

134. Libraries of higher educational institutions and scientific libraries play an important role in information preparation, storage and distribution. Information technologies, i.e. computer networks, are developing rapidly, providing access to environmental information.

135. Stable cooperation exists between the State TV Educational Programmes Department and the Environmental Films Studio.

136. Along with the regular press and TV, the Latvian people also have access to specialized environmental media and TV programmes, e.g., the magazine "Environmental News" and Environmental Films Studio's TV programmes.

137. Implementation of a project "Creation of the anthropogenic load-limiting and informative infrastructure in the territories of NATURA 2000" co-financed by the EU Cohesion Fund has been started in 2010.

138. According to the requirements of national legislative acts, information gathered by public authorities is available at their respective websites, e.g. LEGMC provides public access to State financed environmental information.

139. A polluting activities (categories A and B) permits register is available on the ESB website ([www.vpvb.gov.lv](http://www.vpvb.gov.lv)).

140. Nature Conservation Agency provides access via its website to databases on micro-reserves for specially protected species and biotopes, fields of protected plant species, specially protected and rare trees, as well as to cadastre data of specially protected nature territories ([http://www.daba.gov.lv/public/lat/dati1/datu\\_bazes/](http://www.daba.gov.lv/public/lat/dati1/datu_bazes/)).

141. The creation of unified environmental information system is included in the MOE workplan.

142. Some municipalities, e.g. the Riga City Council and the Liepaja City Council, have one-stop agency-type information centres.

143. The Health Inspectorate once in three years prepares a report on the quality and harmlessness of drinking water in order to inform the users. The report is posted on the Health Inspectorate's website.

144. Information on the quality of bathing water is provided to the public by the Health Inspectorate and owner of the bathing ground.

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

145. [www.mk.gov.lv](http://www.mk.gov.lv), [www.saeima.lv](http://www.saeima.lv), [www.likumi.lv](http://www.likumi.lv), [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.lvgma.gov.lv](http://www.lvgma.gov.lv), [www.lvaf.gov.lv](http://www.lvaf.gov.lv), [www.daba.gov.lv](http://www.daba.gov.lv), [www.vgd.gov.lv](http://www.vgd.gov.lv), [www.vpvb.gov.lv](http://www.vpvb.gov.lv), [www.vvd.gov.lv](http://www.vvd.gov.lv), [www.dabasmuzejs.gov.lv](http://www.dabasmuzejs.gov.lv), [www.videsprojekti.lv](http://www.videsprojekti.lv), [www.lvif.gov.lv](http://www.lvif.gov.lv), [www.getlini.lv](http://www.getlini.lv), [www.zb-zeme.lv](http://www.zb-zeme.lv), [www.pvd.gov.lv](http://www.pvd.gov.lv), [www.lhei.lv](http://www.lhei.lv), [www.nbd.gov.lv/](http://www.nbd.gov.lv/), [www.vi.gov.lv](http://www.vi.gov.lv), [www.isec.gov.lv](http://www.isec.gov.lv), [www.muzizglitiba.lv](http://www.muzizglitiba.lv), [www.lanet.lv/links/lsschools.html](http://www.lanet.lv/links/lsschools.html), [www.meteo.lv](http://www.meteo.lv), [www.petijumi.mk.gov.lv/ui/](http://www.petijumi.mk.gov.lv/ui/), [www.latvija2030.lv](http://www.latvija2030.lv).

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

146. Public involvement is prescribed by the EPL, the Law on Pollution, the EIAL, CM Regulation No. 157 “Procedure for Strategic Assessment of Environmental Impact” of 23 March 2004, CM Regulation No. 87 “Procedure for Assessment of Environmental Impact of Proposed Activity” of 17 February 2004, CM Regulation No. 91 “Procedure for Issue of Proposed Activity’s Technical Regulations by Regional Environmental Board When No Environmental Assessment Is Required” of 17 February 2004, CM Regulation No. 294 “Application Procedure for A, B and C Category Polluting Activities and Issue of A and B Category Polluting Activities Permits” of 09 July 2002, CM Regulation No. 455 “Assessment Procedure of Impact on European Specially Protected Nature Territories (NATURA 2000)” of 06 June 2006, CM Regulation No. 686 “Regulations on Contents and Preparation Process of Specially Protected Nature Territories’ Nature Protection Plan” of 9 October 2007, CM Regulation No. 1148 “Municipality Territorial Planning Regulations” of 6 October 2009, the Territorial Planning Law, CM Regulation No.3 “Railway Construction Regulations” of 2 January 2008, CM Regulation No. 331 “Proposed Construction Public Discussions Procedure” of 22 May 2007 (hereinafter in this section the above-mentioned acts are referred to with respective number).

147. On 1 January 2011 amendments to the EIAL, the purpose of which is to facilitate more effective application of the EIA procedure and public participation, will enter into force. On the basis of the said amendments CM Regulation No. 87 will be substituted by new CM regulation.

148. National legislative acts also regulate cases, when proposed activities have a potential transboundary impact.

##### **Article 6, paragraph 1**

149. Articles 8 and 12 of the EPL stipulate that the public authorities take the measures required to timely provide the public willing to participate in decision-making with necessary information.

##### *Article 6, paragraph 1 (a)*

150. The requirements of the Convention’s Article 6 in Latvia are covered by two mutually connected procedures concerning decision-making on activities listed in the Convention’s

annex I:

(a) The EIAL lists activities to be performed by the EIA process and details thereof, as does CM Regulation No. 87 on public involvement process;

(b) The Law on Pollution and CM Regulation No. 294 set out the issuing procedure of polluting activities permits, including for public involvement in activities listed in the Convention's annex I.

*Article 6, paragraph 1 (b)*

151. Article 4 of the EIAL provides that EIA is also required, if international agreements or responsible authority requires so: , (a) according to initial assessment results; (b) if one or more proposed activities influence one territory, considering aggregate and mutual impact.

152. CM Regulation No.455 prescribes special procedure for assessment of activities the implementation of which does not require EIA in accordance with the EIAL.

153. According to Article 27 of Law on Pollution, in cases listed by CM B category permit application (for waste incineration equipment and in cases when REBs conclude that the activity could have considerable negative environmental impact) is also publicly available for opinion on the issue of the permit.

154. Public involvement is provided for also in decision-making on construction, if the latter has considerable environmental impact (Art. 12, paras. 1 and 2, of the Construction Law). The procedure for organizing public discussions on construction if EIA is not necessary is set in CM Regulation No. 331.

155. According to Article 12 of the Construction Law a local government shall, prior to taking a decision regarding construction, ensure public discussion regarding the intended construction, if the construction:

(a) substantially impairs living conditions of the population;

(b) substantially reduces the value of immovable property; or

(c) substantially affects the environment, but it does not require the EIA in accordance with the EIAL.

**Article 6, paragraph 2**

156. Anyone is entitled to join public consultation and express his/her opinion. The project developer has to evaluate public opinion on planned construction. According to EIAL and CM Regulation No. 87, prior to the project approval procedure, the public receives information on:

(a) Initial EIA results;

(b) The EIA procedure application for the project;

(c) The EIA working report and availability of it for proposals and public discussions;

(d) The EIA report, when it is submitted to ESB and public decides to meet and comment (the report is made available online).

157. Information is published in the official newspaper and in at least one local newspaper, as well as on ESB website and the website of the project developer, if such exists. In addition, owners of adjacent lands get special notification twice. ESB has created a list of NGOs that have expressed interest in information on new proposals.

158. Procedure for issue of polluting activities permit contains similar regulations with respect to public information and involvement issues covered by the Law "On Pollution" and CM Regulations No.294. Information about A category or, in certain cases – B category, permit applications must be communicated:

- (a) Publicly – by providing information in place of planned activities, operator's office and municipality;
- (b) Individually – by notifying owners (holders) of properties adjacent to proposed polluting activity site or those located in directly influenced area;
- (c) In the official newspaper and in at least one local newspaper;
- (d) On the Internet – on the operator's or website of the respective REB website;
- (e) On new polluting activities – also in Latvian official or local radio;
- (f) The activity developer is obliged to organize a public discussion on the issue of the permit.

159. Local government in its website or local newspaper publishes information on commencement of public discussion on construction and informs about the opportunities of getting acquainted with the relevant information.

160. Article 6 of the EPL stipulates general rights of each private person, also associations, organisations and groups of persons in the environmental field. The public concerned has not been particularly defined.

161. If during the EIA process informing of the public has not been performed and a public discussion has not taken place in accordance with the procedures specified by the CM, the competent authority sends the final statement to the developer for revision, indicating the deficiencies to be eliminated, or assigns the initiator to ensure the informing of the public and a public discussion. Each person has the right to appeal any decision taken in accordance with the EIAL, also any activity or inactivity, if with this decision the rights of the public to information or participation in the process of EIA as specified in regulatory enactments have been violated or ignored. (EIAL, Arts. 20 and 26.)

### **Article 6, paragraph 3**

162. Respective legislative acts provide for certain deadlines for public involvement in the processes of EIA and permit issuing.

163. During EIA, there are three notifications and every time there is a 20-day period for recommendations. This deadline can be prolonged for 40 days during the review period of the working report. Public information should appear not later than seven days prior to the public discussion.

164. During discussion of permit conditions, the public has 40 days from the notification of the publication day to submit written suggestions or opinions to the REB on the issuance of the permit or conditions thereof.

**Article 6, paragraph 4**

165. According to legislative requirements, during the EIA the public has the right to receive information and express its opinions during the initial, working report and final report public discussion stages. The public also has the right to express opinions during the public discussion of construction and polluting activities' permit.

166. Interested NGOs that have applied to the ESB are informed as soon as the EIA procedure is started. Adjacent land owners are notified and invited to individually express their opinions on proposed activities.

167. The EIA evaluates alternatives and chooses the best option. Cases are known, when an alternative has been rejected due to active public involvement.

**Article 6, paragraph 5**

168. The developer is responsible for public information provision as well as discussions during the EIA and permit application assessment processes.

169. Before submitting a permit application operator has to perform the EIA, including identification of, information and consultation with the public concerned in accordance with the EIAL.

170. According to CM Regulation No. 91, NGOs interested in planned activities in certain territories can apply to the REB to receive updated information.

**Article 6, paragraph 6**

171. Respectively, the information supplied to the public authority is made publicly available in accordance with the ITL, the EPL, the Law on Pollution and the EIAL.

172. No cases are reported, when EIA documentation would be classified on the basis of commercial confidentiality or intellectual property rights.

173. Access to this information is ensured by: (a) the EIAL requirement to provide respective information to public and particularly interested persons; (b) the Law on Pollution, which provides that the application submitted and documents thereof are made publicly available (Art. 27); and (c) CM Regulation No. 294, which states in addition what information has to be made public, including information acquired after public information or after public discussion (Chapter III).

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

174. Both the EIA and the permit issuing procedures foresee the public's right to submit recommendations or opinions within the deadlines provided or during public discussions without any restrictions (Law on Pollution, Arts. 27 and 28; CM Regulation No. 294; EIAL; CM Regulation No. 87).

175. Every participant in the public discussion is entitled to submit his/her written opinion within seven days following the meeting, which is attached to public discussion report.

176. The responsible authority has the right to return the EIA report and the obligation to demand public information and discussion if this hasn't been done.

177. Public participation rights are provided also during the public discussion on construction.

### **Article 6, paragraph 8**

178. According to legislative requirements, public opinions have to be evaluated in the EIA report.

179. The EPL (Art. 12, paras. 6 and 7) stipulates that public authorities in decision-making processes evaluate public opinion and countermeasure individual rights and interests to public gains and losses, observing sustainable development principles.

180. Following Article 3 of the EIAL decisions have to be taken considering proposals received during public discussions. Article 22 of the Law reinforces that decision on acceptance of the proposed activity has to be adopted considering also opinion of the public.

181. According to the paragraph 6 of Article 28 of the Law on Pollution, prior to issuing of a permit, the REB has to evaluate the recommendations received during public discussion.

182. CM Regulation No.87 (subpara.26.10) provides that during public discussion, written proposals and the initial public discussion results have to be gathered and evaluated.

183. During EIA and the permission-issuing process the proposer has to prepare and submit to responsible authority a report on the public discussion and its results, attaching the written proposals received.

184. Authority can obligate a proposer to amend proposed activities considering public opinion expression during discussions.

185. According to paragraph 35 of CM Regulation No. 294, should the public recommend a denial of the permit for polluting activities, the REB issues permit or pass motivated decision on denial to issue permit only after the operator will have at least 14 days to provide written explanation.

**Article 6, paragraph 9**

186. Article 20 of the EIAL provides that the responsible authority publishes notification in at least one local newspaper and official newspaper notifying that the decision on the EIA final report has been issued, informing about opportunities for familiarization with both documents (available also at ESB website). Article 23, paragraph 2, obliges the responsible authority to post the decision within three days of its adoption on the authority's website (if there exists one) and within five weekdays to submit it for publishing in at least one local government's newspaper or other local newspaper, indicating the public authority where the public may familiarize itself with the decision's contents, grounds and information on the public discussion process as well as measures to be taken in order to prevent or reduce the adverse impact on the environment.

187. Section V of CM Regulation No. 294 provides that in cases of public discussion, operator has eight days from the day when the REB has issued or prolonged the permit, or amended the permit conditions to inform public of the polluting activity, by placing notifications at the site of planned polluting activity and at the respective municipality and by individually notifying the owners of adjacent properties and those directly affected.

**Article 6, paragraph 10**

188. The Law on Pollution and CM Regulation No. 294 prescribe public involvement options and procedure also in cases when the permit is prolonged or reviewed including if the competent authority has regarded amendment to the activity as significant. Amendment to the activity as a result of which operational indicators of the installation exceed indicators mentioned in annexes to the law is a significant amendment.

189. The EIAL and CM Regulation No. 87 also provide for public involvement in cases where amendments are planned in activities listed in annex I (i.e. activities requiring EIA), should these amendments comply with certain milestones.

**Article 6, paragraph 11**

190. See Sections XXXIII to XXXVI of this report on Article 6bis and Annex Ibis of the Convention.

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

191. Although Latvian legislation provides for a public involvement option in decision-making on environmental issues, people are not always aware of their rights and opportunities. For example, the local population pretty often signs-in protesting against some proposed activity. If this opinion is not favoured when decision on the proposed activity's acceptance or refusal is adopted the population may come to a conclusion that its interests have been unlawfully violated.

192. Sometimes during the EIA process when certain activity is being discussed, alternatives (site and technology) are not properly examined. However, in view of the competent authority, usually this is not regarded as shortcoming. This can be often explained by the fact that the competent authority has enough facts and documents to adopt a well-founded decision.

193. In view of the ECC, the public has limited opportunities to participate in the process of issuing permits for polluting activities. For example, when a permit is issued for commencement of a polluting activity, it is possible to contest it. Later, however, when a permit is issued for continuation of the relevant polluting activity the public does not have an opportunity to participate and express its opinion even if violations occur.

194. However, the said assertion is not accurate. If in accordance with permit conditions it is possible to initiate or continue such polluting activity which may substantially negatively affect human health or the environment, the conditions of the permit may be disputed while the relevant permit is in effect (Law on Pollution, Article 50, Paragraph 3). Sanctions prescribed by law may be applied to the guilty person in case the polluting activity is performed without respective permit and in case the activity does not conform to requirements set by law. According to Article 6 of the EPL the public is entitled to request that acts or omissions, which deteriorate the quality of the environment, damage human health or endangers life, legal interests or property are terminated. The competent authorities have to consider the information submitted by the public.

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

195. ESB cooperation with NGOs, in particular their informing the latter of applications received. Similar cooperation has been created between REBs and NGOs active in the region.

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

196. [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.vpvb.gov.lv](http://www.vpvb.gov.lv), [www.pvd.gov.lv](http://www.pvd.gov.lv), [www.em.gov.lv](http://www.em.gov.lv), [www.lvgma.gov.lv](http://www.lvgma.gov.lv).

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

197. Legislation is in force to ensure obligations and procedures for public involvement in environmental planning and the programme developing process. The following legislative acts were passed and improved: the EPL; the EIAL and CM Regulation No. 157 (passed 23 March 2004) "Procedure for Strategic Environmental Impact Assessment"; section VI of the SASL; CM Regulation No.300 "Rules of Procedure of the Cabinet of Ministers" of 7 April 2009; the Territorial Planning Law; and CM Regulation No. 1148 (passed 6 October 2009) "Municipality Territorial Planning Regulations", where the procedure is detailed for public involvement in municipality territory planning; CM Regulation No.597 "Procedures for Environmental Noise Assessment" of 13 July 2004; CM Regulation No.686 "Regulations on Contents and Preparation Process of Specially Protected Nature Territories' Nature Protection Plan" of 9 October 2007; CM Regulation No.236 "Regulations for the Spatial Planning of a Planning Region" of 5 April 2005; CM Regulation No.565 "Procedures for the Development, Implementation, Monitoring



and Public Discussion of the National Development Plan” of 29 June 2004; CM Regulation No.970 “Procedure for Public Participation in the Development Planning Process” of 25 August 2009; CM Regulation No.1178 “Regulations on the Development and Impact Assessment of Development Planning Documents” of 13 October 2009; CM Instruction No.19 “Procedure for the Initial Impact Assessment of a Draft Regulatory Enactment” of 15 December 2009. (Hereinafter in this section the above-mentioned acts are referred with respective number.)

198. The ECC has been established in accordance with Article 14 of the EPL, bringing together the representatives of environmentally active organizations and professional associations. Therefore, public authorities have an addressee, and know where to send or present drafts of documents.

199. The annual working plan posted on MOE homepage provides a listing of works planned, including projects for documents, with the deadline and responsible official.

200. Article 4 of the EIAL and paragraph 2 of CM Regulation No.157 detail the planning documents requiring strategic EIA. Article 23.<sup>5</sup> of the EIAL and CM Regulation No.157 (Paragraph 2, section V) detail the procedure for public involvement in strategic EIA.

201. The responsible authorities organize regular public activities, i.e. they explain public involvement procedures vis-à-vis the development of planning documents.

202. According to legislation, planning has to be done on three levels: national, regional and local. At the moment, public rights are described in more detail at the local planning level, without any criteria for a person’s eligibility to participate.

203. On 1 January 2009 the Development Planning System Law entered into force. The law refers also to development planning in the domain of environmental protection and its purpose is to promote sustainable and stable development of the State, as well as the improvement of the quality of life of population, by determining the development planning system. This law applies to the development planning in public authorities. In accordance with the participation principle incorporated in Article 5 of the law all interested persons (including NGOs) have a possibility to participate in the drawing up of the development planning document.

204. According to the CM Regulation No.1178 policy planning documents are guidelines, plan and concept. Guidelines is a document aimed at reaching specific goals significant for the State and embracing wide scope of issues and developed for a period of five to seven years. Plan is a document developed for policy implementation in a particular branch for a period up to three years, for implementation of guidelines supported by a decision-making authority or for execution of a task assigned by a higher authority. Concept is a document by which a decision-making authority is informed of a certain problem, of the substance of the necessary legislative regulation, of possible further action or of possible variants for solving a problem.

205. The public, acting through NGOs, has participated in the development of land policy, landscape policy, the Strategy and other documents.

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

206. The general attitude towards public involvement in environmental policy development is described by Article 8 of the EPL.

207. CM Regulation No.300 contains provisions on NGO involvement in the development process of policy documents and legislative acts as well as the need for public discussion, and authorizes NGO representatives to participate in meetings of the State Secretaries, where legislative acts and policy documents of all ministries are discussed.

208. The public is invited to express its opinions on any reviewed policy document available on CM homepage after a hearing at the State Secretaries' Meeting. Public authorities are obliged to inform interested parties and to organize consultations on publicly sensitive issues according to the SASL, Article 48.

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

209. Notwithstanding the adequate supply of information the public not always is aware of its participation opportunities.

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

210. The strategic EIA procedure is the main implementation instrument of the Convention's article 7, practical implementation of which is incumbent upon the public authorities.

211. Public environment authorities include colleagues from NGOs in their legislative acts development work groups.

212. MOE with participation of the public has developed Environmental Policy Guidelines for 2009–2015. The guidelines were approved on 31 July 2009 by order of the CM and are freely accessible on the internet in Latvian (<http://www.vidm.gov.lv/lat/dokumenti/ppd/>) and English ([http://www.vidm.gov.lv/eng/dokumenti/politikas\\_planosanas\\_dokumenti/](http://www.vidm.gov.lv/eng/dokumenti/politikas_planosanas_dokumenti/)).

213. Broad public participation took place during the Strategy development. Public participation project "Latvia 2030. Your Choice" was established in order to create dialogue between the Strategy development experts and the public, and to facilitate debate both among experts and broader public. On 10 October 2008 the first national forum "Take-off. Latvia 2030" took place where every interested person could familiarize itself with the first draft of the Strategy, to discuss it with the experts in different thematic workshops and make suggestions to the authors. Ideas generated at the forum were used for preparation of the draft Strategy.

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

214. [www.mk.gov.lv](http://www.mk.gov.lv), [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.vpvb.gov.lv](http://www.vpvb.gov.lv), [www.latvija2030.lv](http://www.latvija2030.lv).

**XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8**

215. Article 13 of the EPL describes the early involvement of public or its representatives in the preparation and discussion of environmental legislative acts.

216. CM Regulation No.300 “Rules of Procedure of the Cabinet of Ministers”, dated 7 April 2009, contains provisions for NGO involvement in the development of policy documents or legislative acts. The requirement for inclusion of annotation with legislative drafts is included here; this also should cover potential environmental impact, as well as information on public involvement and opinion.

217. Representatives of NGOs as well as individual specialists in the field are often included in draft legislation work groups.

218. The deadline for comments on the initial draft is usually two weeks. If an NGO has submitted its opinion within the prescribed term, its objections have to be taken into account or agreement must be reached in a coordination meeting.

219. Draft legislation is freely accessible on the websites of the ministries and the CM. Draft laws are available at the Parliament’s website. Results of the public participation are submitted to the legislator in the form of annotation in case of draft regulatory enactments and in other appropriate form in case of draft development planning documents.

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

220. Legislative acts sometimes have to be developed in a short time, therefore encumbering appropriate public participation and risking with the quality of the draft regulatory enactment. To solve this problem, the MOE workplan is published on the Ministry’s website and the personnel is advised to involve public in the legislative process more actively by adequately hearing the interested parties etc.

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

221. The MOE involves ECC in discussions on various draft legislation. MOE regularly cooperates with particular professional associations and NGOs, especially in the areas of waste

management, packaging use and the turnover of chemicals. Professional associations are involved not only in discussion of legislative acts, but also in their preparation.

222. State Chancellery ensures implementation of the memorandum of cooperation between NGOs and the CM, including regular meetings with representatives of NGOs on topical issues.

223. The obligation to annotate every legislative draft and to reflect adequately the results of public participation in draft development planning documents, secures practical implementation of Article 8.

224. Explanatory seminars are organized on significant legislative initiatives, e.g., seminars have been organized by the Baltic Environmental Forum on legislative regulation and development thereof regarding chemical substances and products.

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

225. [www.vidm.gov.lv](http://www.vidm.gov.lv), [www.mk.gov.lv](http://www.mk.gov.lv), [www.saeima.lv](http://www.saeima.lv), [www.bef.lv](http://www.bef.lv), [www.daba.gov.lv](http://www.daba.gov.lv).

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

226. In Latvia, the meaning of “public authority” as defined in article 2 of the Convention covers the public authorities (institutions, structural units, officials) carrying out governmental functions, as well as other institutions(including private) to whom public government authority has been transferred according to the APL ,Article 1, and section V of the SASL.

227. The meaning of “public” is explained in EPL, Article 6, EIAL, Article 3, and APL, Article 1.

228. Prohibition of discrimination is included in Article 91 of the Constitution. Article 101 of the Constitution sets out every citizen’s rights to involvement in government activities which can include decision-making. APL, Article 6, provides for the introduction of the equality principle, i.e. at equal actual and legal circumstances, the authorities and courts pass equal decisions.

229. In hearing cases on environmental issues, the courts may apply the Convention directly. E.g., on 25 May 2007, the Constitutional Court decided to initiate the case on Riga Territorial Planning for 2006–2018, with respect to Riga Free Port Territory’s conformity with Article 115 of the Constitution.

230. The decision was based on the Convention, incl. Paragraph5 Article 2 and Paragraph3 Article 9. The judgment in the case (No.2007-11-03) was passed on 17 January 2008. The Constitutional Court has applied the Convention in a number of other cases, too.

231. Interpreting Article 115 of the Constitution, the Constitutional Court decided that subjective environmental rights of the public are detailed by the Convention, as well as by national legislation, and that territorial planning is also an environmental area where Article 115

allocates wide rights (see Constitutional Court decision in case No. 2006-09-03 on “Conformity of Part of Garkalne Territorial Planning with respect to Construction on Baltezers Lake Overflowing Territory with Constitution Articles 1 and 15”, sect. 11, of 8 February 2007).

232. Such interpretation of Constitution Article 115 opens wide public opportunities to appeal in the Constitutional Court municipalities’ territorial planning decisions, where territorial development solutions are not compatible with environmental requirements or where considerable breaches were made during drafting. Since June 2006, when the case of Conformity of Garkalne Parish Territorial Planning with Constitution Article 115 was initiated in the Constitutional Court, several more cases have started in the Constitution Court, where the public is debating the conformity of territorial plans with Article 115 of the Constitution.

233. The public’s right to protect environmental rights as well as to oppose public authority actions or inactivity contradicting with legislative acts is stated in EPL, Article 9, with information pertaining to procedure stipulated in the APL. Art. 105, Para. 1, and Art. 302, Paragraph 1 of the APL stipulate that the case in a court of first instance and the appeal in a court of second instance is heard on its merits, except for cases prescribed by law. Administrative process participants can appeal the second instance court decision in cassation procedure, except for cases prescribed by law. The exceptional cases prescribed by law relate to, for example, refusal to provide information (Article 15 of the ITL). In such case the judgment of a court of first instance may be immediately appealed in accordance with cassation procedure.

234. APL, Article 77, provides that the appeal submission for an administrative act has to be written or oral to the authority issuing administrative act. If the submission is oral, the authority transcribes it and applicant signs it. This submission is sent to a higher authority within seven days’ time.

235. Article 83 of the Constitution defines the principle of court independence, according to which judges are independent and bound only by the law. According to the law “On Judicial Power”, Article 1, paragraphs 1 and 2, along with lawmaking and executive powers, Latvia has an independent judiciary, operating in accordance with the “rule of law” principle. Article 10 of this Law stresses that, in decision-making, judges are independent and bound only by the law, and that the State guarantees the court independence.

### **Article 9, paragraph 1**

236. As regards environmental information, Article 9 of the EPL states that any person believing that an information request has been ignored, unlawfully rejected or not duly answered, or otherwise has been restricted in his/her rights to environmental information, is entitled to appeal and question the respective action or omission as prescribed by the APL, which covers the administrative and court procedure. Moreover, any person who considers that its fundamental rights as defined in the Constitution are infringed upon by legal norms that do not comply with the norms of a higher legal force, may submit a constitutional complaint to the Constitutional Court which adjudicates matters regarding the compliance of laws and other regulatory enactments with the Constitution.

237. Denial of an information request by an authority must be in writing (ITL, Art. 12).

Administrative acts are written, except in cases listed in law, when a written format is not adequate (APL, Arts. 67 and 69). However, a person can demand that this be done in writing.

238. Independence of the administrative review is indirectly ensured by providing that the contested administrative act is reviewed by a higher authority.

239. Independence of judicial review is ensured by application of principles and guarantees for the independence of the judiciary. For example, prohibition on interference with the work of a court, immunity of judges etc. (Chapter 2 of the law “On Judicial Power”).

240. To ensure a faster and cheaper pre-court appeal procedure, the applicant for information is entitled to appeal respective decisions or omissions to a higher authority (unless special legislation indicates another authority) according to the APL. Regarding environmental issues (EIA and polluting activities permits), it is stated that the ESB has a competence to review decisions or omissions of environmental authorities. Appeal to this authority is free of charge.

241. Citizens’ right to rely on the binding nature of final decision is protected by the legal confidence principle in the Constitution and in APL, Article 10. According to the APL and SASL, a decision of higher authority is binding for lower authority.

242. According to the APL, Article 81, paragraph 5, an appealed administrative act becomes final in the form that is included in the decision on an appealed administrative act. It is to be executed and appealed in this form. A court decision has legal force. The legal force of the court decision assures its binding effect for the authority.

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

243. Article 9, paragraph 2, of the Convention, according to Latvian legislation, primarily concerns decision-making on the assessment and permission of planned activity, namely EIA and process of issuing polluting activity’s permits. The main legislative acts regulating these two processes are the EIAL and the Law on Pollution; these also cover the public’s right to a participation appeal procedure for a decision taken during the respective process.

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

244. APL regulation concerns every public authority’s decision or omission that violates not only environmental legislation. According to the APL, a private person can appeal to the court an administrative act issued by an authority or its actual activity. To ensure a review procedure, administrative courts have been in operation from 1 February 2004.

245. As far as environmental legislation breaches are concerned, additional regulation is included in EPL, Article 9, and the Law on Compensation of Losses Created by State Authorities. EPL, Article 6, provides that every private person and groups of persons, organizations are entitled, inter alia:

(a) To demand the public authority, official or private enterprise to stop the activity or omission degrading environmental quality or harmful to human health or life, legal interests or property;

(b) To support environmental protection measures and cooperate with the public authorities to prohibit activities and decisions that can harm environmental quality or that contradict to legislative requirements;

(c) To provide public authorities with information on activities influencing environmental quality, as well as information on negative environmental changes resulting from such activities.

246. The authority receiving such an application is obliged to review it and respond within the set deadlines, as well as to ensure a solution of the indicated situation.

247. In cases prescribed by law the court may decide on injunctive relief (see commentary to Article 9, paragraph 4 *infra*).

248. Any person who considers that its fundamental rights as defined in the Constitution are infringed upon by legal norms that do not comply with the norms of a higher legal force (including the domain of environmental law), may submit a constitutional complaint to the Constitutional Court.

249. In 1995, the State Human Rights Office was created as an independent human rights protection authority, and was replaced by Ombudsman in 2007. It is entitled, inter alia, to assess public authorities' decisions or omissions, consult the public, review complaints and promote mutual agreement between parties.

#### **Article 9, paragraph 4**

250. Appeal options and rights of public authority's decision or activity defined by the APL are considered to be adequate and efficient means, providing:

(a) Pre-court review in higher authority;

(b) Assessment of the authority's decision or activity in an independent, legally established court, i.e. Administrative Court.

251. If the authority is not issuing required information, such action can be appealed and questioned as the authority's activity. Private persons can appeal and question an authority's activities just like they can any administrative act.

252. The APL provides for a person's right to compensation, if the authority's administrative act or activity has resulted in damages. APL, Article 93, provides that indemnification of losses can be claimed simultaneously with an appeal of administrative act to a higher authority or, if this is not possible, simultaneously with an appeal of an administrative act in court. Indemnification can also be claimed simultaneously with an appeal of an authority's action. The APL provides private persons with a simplified and efficient compensation claims procedure.

253. According to Latvian Administrative Violations Code (LAVC) Article 201<sup>3</sup>, the State or NGO officials refusing to publish information in the mass media are punished by a fine up to hundred LVL (€142); for provision of incorrect information, up to 250 LVL (€356).

254. LAVC, Article 84, defines the fine for concealing or misrepresenting environmental information (e.g., in the EIA process), which is from 50 to 1000 LVL (€70–1396).

255. The administrative process in authorities is free of charge, but the administrative process in court is available upon payment of a State fee (20 LVL / €28).

256. Considering the relatively small number of cases, nearly no judges specialize in environmental rights.

257. Court decision collections are published regularly and decisions are available from the court authorities. An electronic database of court decisions is available for a fee ([www.lursoft.lv/lbdb](http://www.lursoft.lv/lbdb)). Constitutional Court decisions are available online free of charge at: [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv). Administrative courts decisions are available online free of charge at: [www.tiesas.lv](http://www.tiesas.lv). Case-law collections and adjudications in administrative, civil and criminal cases are accessible free of charge at the website of the Supreme Court of the Republic of Latvia (<http://www.at.gov.lv/lv/info/summary/>).

258. Decisions of other authorities are available in accordance with the ITL.

259. APL, section 22, provides for injunctive relief that can be applied at every stage of the case. According to APL, Paragraph 1 of Article 195, if there is a reason to believe that the contested administrative act or consequences of the non-issue of an administrative act might cause significant harm or damages, the prevention or compensation of which would be considerably encumbered or would require incommensurate resources, and if examination of information at disposal of the court reveals that the contested act is *prima facie* illegal, the court may, pursuant to the reasoned request of an applicant, take a decision on injunctive relief.

260. APL, Article 258, provides that a court decision be announced to administrative process participants immediately after its passing, by issuing the decision's transcript and ensuring availability of the court decision to any person, as prescribed by law.

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

261. The legislation database of the official journal "Latvijas Vēstnesis" is available online free of charge ([www.likumi.lv](http://www.likumi.lv)). Fee-based databases are also available.

262. The Latvian courts website ([www.tiesas.lv](http://www.tiesas.lv)) indicates options for court submissions.

263. APL, Article 67, paragraph 2, section 9, and paragraph 7, provide that decisions must contain an indication of the right to appeal this decision. If an administrative act contains no indication of deadlines and a place for appeal, the appeal period is one year instead of one month.

264. Informative publications have been prepared on access to administrative and judicial review procedures.



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

265. One of the obstacles to the timely hearing of cases is that of overloaded courts. If the process is relatively fast in the authority (depending on the nature of case, two weeks to one month), the court process can be considerably longer. Various projects are being developed and implemented to increase capacity of the courts.

266. Sometimes a private person and an institution have different views on whether a particular decision can be challenged. Namely, whether the relevant decision is only an interim decision before adoption of the final decision and does not create direct legal consequences for the addressee, or it is an administrative act that can be challenged.

267. Private persons often want more opportunities for administrative review in order to avoid necessity to have recourse to the court as legal proceedings are associated with additional expenses.

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

268. General statistics of court activities are available on the Ministry of Justice website ([www.tm.gov.lv](http://www.tm.gov.lv)). More detailed statistics are gathered by the Court Administration ([www.ta.gov.lv](http://www.ta.gov.lv)).

269. The State Environmental Service gathers information on cases of administrative violations in the environmental area and uses the Penal Register, where all violations, punished persons and applied penalties are listed.

270. In administrative cases which are too complicated for a party, upon the authority's or court's decision, considering the financial state of the individual, his/her representative gets paid from the State budget in the amount and procedure established by the CM.

271. Administrative process in court is available for a reasonable State fee (20 LVL / €28). According to APL, Article 128, paragraph 3, a court, considering person's financial state, can fully or partially release a person from the duty to pay the State fee. Low-income persons can apply for State-provided legal assistance, including representation at the court.

272. At administrative proceedings in court the principle of objective investigation is applied which, *inter alia*, provides that in order to determine the true facts of a matter, the court shall give instructions and make recommendations to the participants in the administrative proceeding, as well as collect evidence on its own initiative, thus reducing the applicant's expenses related to the legal proceedings.

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

273. [www.saeima.lv](http://www.saeima.lv), [www.likumi.lv](http://www.likumi.lv), [www.tm.gov.lv](http://www.tm.gov.lv), [www.ta.gov.lv](http://www.ta.gov.lv), [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv), [www.tiesas.lv](http://www.tiesas.lv), [www.reclatvija.lv](http://www.reclatvija.lv); fee-based - <http://home.nais.lv>, [www.lursoft.lv/lbdb](http://www.lursoft.lv/lbdb), [www.latlex.lv](http://www.latlex.lv).

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION 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**

274. The Convention promotes public understanding of the human impact on the environment. This understanding together with widely available information can help to raise public consciousness and can help encourage environmentally friendly action. With the better quality information now available, there is more reason for public involvement in decision-making and is more difficult to pass decisions with a negative impact on environmental and public living conditions. Overall, improved of public understanding and involvement in decision-making is fostering public development, where public, incl. coming generation's interests to live in beneficial environment are considered.

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

**Paragraph 1 of article 6 bis and:**

**Paragraph 1 of annex I bis**

275. The Republic of Latvia has acceded to the Convention's amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMOs) of 27 May 2005 by adopting the law "On Amendment to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters" of 14 February 2008.

276. Regulation on access to information and public participation in the domain of GMO circulation has been incorporated into Chapter V of the Law on Circulation of Genetically Modified Organisms (GMO Law), CM Regulation No.457 "Regulations Regarding the Procedures by which Genetically Modified Organisms Shall be Released into the Environment or Placed on the Market, the Procedures for Monitoring and Issuance of Permits, as well as the Procedures for the Provision of Information Regarding the Circulation of Genetically Modified Organisms and Public Involvement in the Decision Taking Process" of 26 May 2009 (CM Regulation No.457), CM Regulation No.1078 "Methodology for the Risk Assessment of Genetically Modified Organisms" of 22 December 2008. Article 8 of the EPL provides public participation rights in adoption of decisions regarding release of the GMOs into the environment.

277. GMO Law, Article 3, Paragraph 4, comprises a principle of public information and participation which provides that authorities promote public education and informing, hear out and evaluate public opinion regarding issues related to the circulation of GMOs. Chapter V of the GMO Law contains provisions on openness and availability of information, public participation in decision-making process, obligation to provide information as well as requirements for circulation of information.

278. A permit to release a GMO into the environment or place on the market is issued by the Food and Veterinary Service (Service) after examination of the relevant submission.

279. According to CM Regulation No.457, Section 5, the Service shall post on the website thereof in the State Information System – into the Register of GMO Circulation (GMO Register) - the following information:

- (a) environmental risk assessment of the GMOs;
- (b) summary information on the release of GMOs into the environment or placing on the market;
- (c) other documents submitted by a person, to which the status of restricted access has not been assigned;
- (d) the risk assessment report;
- (e) the time period by which the public may express its opinion and provide proposals, indicating the place of submission thereof;
- (f) the decision, including the conditions referred to in the permit on the release of GMOs into the environment or placing on the market, and the report on the public opinion;
- (g) information regarding the locations for the release into the environment of GMOs;
- (h) information regarding the locations for the cultivation of GMOs;
- (i) report on the results of the release into the environment or placing on the market monitoring.

280. A person, who performs activities with GMOs is obliged, in conformity with Article 30 of the GMO Law, to inform the relevant competent authorities and the public, without delay, regarding the cases when scientifically substantiated opinions regarding the possible adverse effect of GMOs on human and animal health or the environment have been received, as well as when the harm has already been caused to human and animal health or the environment or there are direct hazards that such harm could be caused, or negative changes in the environment have been observed in connection with the release of the GMO. Similarly paragraph 47 of the CM Regulation No.457 provides that if information is received regarding the adverse effects on health or the environment caused by the GMOs to be released into the environment or placed on the market or regarding a prohibited placing on the market of GMOs, the Service shall, within one day after receipt of information, inform the public thereof.

#### **Paragraph 2 of annex I bis**

281. No exceptions have been provided for to the public participation procedure.

### **Paragraph 3 of annex I bis**

282. According to CM Regulation No.457, Section 5, the Service not later than within three working days after receipt of a submission makes available to the public summary information on the intended release of GMOs into the environment or placing on the market and environmental risk assessment of the GMOs. Not later than within three working days after receipt of a risk assessment report done by the Scientific Expert Commission the Service makes it available to the public.

### **Paragraph 4 of annex I bis**

283. Paragraph 8 of the CM Regulation No.457 stipulates that the following information shall not be considered as confidential;

- (a) the given name, surname, address of the person (for a legal person – the name and legal address);
- (b) the description of the GMO, which allows the identification thereof;
- (c) the purpose of the release of the GMO, the place and anticipated use thereof;
- (d) the monitoring programme and emergency action plan; and
- (e) the environmental risk assessment of the GMO.

### **Paragraph 5 of annex I bis**

284. According to Article 27 of the GMO Law competent authorities provide the public with information regarding the circulation of GMOs in accordance with the requirements of the regulatory enactments regulating the circulation of GMOs. Transparency of decision-making procedures and provision of access to the relevant procedural information to the public is ensured by requirements of the CM Regulation No.457, especially Section 5. (See commentary to Paragraph 1 of annex I bis, *supra*, especially the last paragraph.)

### **Paragraph 6 of annex I bis**

285. Paragraph 1 of Article 28 of the GMO Law stipulates that the public – any natural person, as well as associations and foundations, have the right to submit recommendations or express an opinion prior to competent authority issuing a permit for the release into the environment or placing on the market of GMOs.

286. Any person, within 30 days after putting of the risk assessment report into the GMO Register, may express its opinion and submit written proposals to the Service on the release into the environment or placing on the market of the GMOs. (Paragraph 46 of the CM Regulation No.457.)

### **Paragraph 7 of annex I bis**

287. The competent authority involves the public into the decision-making process prior to taking the decision regarding release into the environment or placing on the market of GMOs. (Paragraph 3 of Article 28 of the GMO Law.)

288. The Scientific Expert Commission prepares a report on the public opinion. The Service, taking into account the risk assessment report, the report on the public opinion and the proposals of the Supervisory Council of Genetically Modified Organisms, issues a permit or a decision regarding the refusal to issue a permit, indicating the grounds for refusal. (Paras. 10, 13 of the CM Regulation No.457.)

**Paragraph 8 of annex I bis**

289. According to CM Regulation No.457, Section 5, the Service not later than within three working days after taking of a decision puts into the GMO Register the following information;

- (a) the decision, including the conditions referred to in the permit on the release of GMOs into the environment or placing on the market, and the report on the public opinion;
- (b) information regarding the locations for the release into the environment of GMOs;
- (c) information regarding the locations for the cultivation of GMOs.

Not later than within three working days after receipt thereof the report on the results of the release into the environment or placing on the market monitoring is put into the GMO Register.

**Paragraph 2 of article 6 bis**

290. The requirements are mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

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

291. The public not always is provided with sufficient and easy-to-perceive information on the availability on the market of food products containing GMOs, consisting of or produced from them. For example, the relevant information is difficult to read on the product labelling, not always the products have been placed separately.

292. Impartial information from independent experts on environmental risks arising from particular GMOs is not available.

293. Decisions on placing on the market are taken at the EU level, thus hampering effective public participation.

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

294. To date Latvia has applied precautionary principle in relation to the living GMOs. In 2008 the MOE started a three-month electronic opinion survey on the topic "*Pro or contra* GMOs in Latvia". 37440 respondents participated in the survey and the results clearly demonstrated that the public in Latvia is against genetically modified food and would like to see Latvia as a GMO-free area.

295. A local government may set a prohibition by issuing binding rules for the cultivation of genetically modified crops in the relevant administrative territory or in a particular territory thereof upon its own initiative or on the basis of a proposal of the public, duly informing the public and consulting therewith in advance of adoption of the said rules. (GMO Law, Article 22.)

296. From 1 December 2009 till 8 December 2010 96 administrative territories (of the whole 109) on the basis of public consultation adopted decision on the ban of cultivation of genetically modified crops.

297. A map and list of local governments which have banned cultivation of genetically modified crops is available at the websites of the MOE and the Ministry of Agriculture,

298. The MOE has provided organizational and informative support to NGOs in organizing seminars, conferences, press conferences and other events regarding GMOs.

299. On 16 June 2009 an informative seminar – discussion “GMOs – risks and benefits” was organized by the Ministry of Agriculture.

300. When developing the Latvian position on decisions regarding permissions of GMOs to be decided at the EU level the responsible institution (Ministry of Agriculture) sends the position for discussion, *inter alia*, to a special working group where environmental NGOs are also represented.

301. No applications for permits have been received by Latvian authorities regarding release into the environment or placing on the market of GMOs. Consequently, no practical application of the provisions on public participation in such decisions has occurred.

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

302.

[http://www.vidm.gov.lv/lat/darbibas\\_veidi/gmo/](http://www.vidm.gov.lv/lat/darbibas_veidi/gmo/) (LV);

[http://www.vidm.gov.lv/eng/darbibas\\_veidi/gmo/](http://www.vidm.gov.lv/eng/darbibas_veidi/gmo/) (EN);

[http://www.pvd.gov.lv/lat/lab\\_izvlne/datubzes/darbbas\\_ar\\_mo;](http://www.pvd.gov.lv/lat/lab_izvlne/datubzes/darbbas_ar_mo;)

[http://www.zm.gov.lv/?sadala=1290.SSS.](http://www.zm.gov.lv/?sadala=1290.SSS)

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