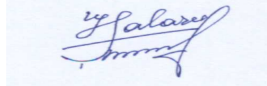


AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is submitted on behalf of **Republic of Moldova** in accordance with decision I/8

Name of officer responsible for submitting the national report:	Mr. Gheorghe SALARU, Minister of Environment, National Focal Point
Signature:	
Date:	December 30, 2010

Country	Republic of Moldova
<i>National Focal Point</i>	
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The present report was developed during the second part of 2010 by the the Ministry of Environment (MoE) of the Republic of Moldova.

During the process of drafting the report, several materials developed by national environmental NGOs: Ecological Movement of Moldova and its territorial organizations, Eco-Lex, Eco-Tiras, Mileiuekontakt International, and others were used as a basis documents.

The draft report was placed on the official web site of the ministry www.mediu.gov.md for consultations with governmental structures and public.

Public hearings for the draft report were organized on December 6, 2010 where representatives of civil society and mass-media participated.

The information from official sources: the web site of the Ministry of Environment, publications of RM Government and Parliament, official reports of the Ministry subordinated structures, studies of experts in the field and other sources were used as background for this report.

The Aarhus Convention is implemented in Republic of Moldova based on the Decision of the Parliament of Republic of Moldova No. 346-XIV from April 7, 1999 regarding the Aarhus Convention ratification.

Article 20 of the Republic of Moldova (RM) Law on International Treaties No. 595-XIV from September 24, 1999, in force from 02.03.2000 stipulates that provisions of international treaties, which by their formulation are susceptible of being applied in legal relations without adopting by special normative acts, have an executory character and are directly applicable in the legal system of Republic of Moldova. For other provisions of treaties appropriate acts are adopted.

Article 3

Paragraph 1: A clear, transparent and consistent framework to implement the Convention

The Ministry of Environment in conformity with point 7, sub point 15 of the Governmental Decision on approval of the Regulation regarding the establishment and operation of the Ministry of Environment, the structure and personnel of its central body no. 847 from 18.12.2009, is the structure responsible for the coordination of implementation of international treaties provisions in the field of environment, to which the Republic of Moldova is a Party.

Have there been any legislative changes in non-environmental (sectoral) legislation significant for the environment that may limit public participation in certain cases (e.g. facilitating construction of highways or inland navigation issues)?

Legal changes capable of limiting public participation in some cases did not happen.

Is there any mechanism in place to monitor implementation of the Convention's provisions and those of the relevant domestic legislation?

The National Program and Action Plan on Aarhus Convention Implementation in the Republic of Moldova was elaborated during 2010. Elaboration of monitoring mechanisms and performance indicators in the field was done as well. The draft Program and Action Plan was available for public consultations in June 2010 and transparency of the decision-making process was insured. The Program and Action Plan are ready to be transmitted to the Government for approval in the nearest future.

Paragraph 2: Assistance and guidance to the public in public participation matters

The Publication "Catalogue of the Republic of Moldova state bodies that collect and disseminate ecological information" was developed. Data on 30 state bodies, types of information, parameters and substances a subject to monitoring are present in this publication. The same information is on the web page of the Ministry of Environment: www.mediu.gov.md.

Which principal legal tools does the general administrative law provide to facilitate exercise by the members of the public of their procedural rights? Does environmental legislation provide for any additional such tools?

1. Constitution of the Republic of Moldova from July 29, 1994, art. 35.
2. Law on Environmental Protection from 16.06.1993;
3. Law on Petition from 19.07.1994;
4. Law on Environmental Expertise and Environmental Impact Assessment from 03.05.1996;
5. Law on administrative court from 10.02.2000;
6. Law on Access to Information from 11.05.2000;
7. The Civil Procedure Code from 12.06.2003;

8. Law on transparency of the decisional process from 13.11.2008.

What are the institutional and budgetary arrangements for capacity building (e.g. public relations departments, information booths, full- or part-time officers)?

In order to ensure a free access to official information, the Law on Access to Information, Art. 11, Para. 2, obliges the information providers:

- a) to provide office space appropriately equipped for research, which will be made available to information solicitors;
- b) to appoint and train officers who will be in charge for providing official information;
- c) to develop regulations on the rights and obligations of officers in the process of making available documents and official information, in accordance with the present law;
- d) to grant necessary assistance and help to information solicitors for search and identification of information;
- e) to provide effective access to the registers of information providers, which will be kept in accordance with the legislation on registers;
- f) to make their meetings open to the public, in accordance with the enforced law.

In order to facilitate free access to information, information providers should publish or use any other general and direct way of making available the documents to population containing:

- a) the description of the institution's structure and location;
- b) the description of the institution's functions, activity areas and activity forms;
- c) description of subdivisions and their functions, their working hours, including days and hours of working with the public of officers in charge of providing information and official documents;
- d) Final decisions on the main issues examined.

The information stipulated above will be made public without the application of the procedure of examination of requests about access to information.

In order to make the institution's activity transparent, facilitate access to information, create conditions for timely search for and identification of documents and information, public authorities/institutions should publish at least once per year guides with the list of ordinances, resolutions, other official documents issued by the corresponding institution, as well as guides describing the areas, in which it can provide information; the institutions should provide to the mass media official data about their activity, including areas, in which they can provide information. Being horizontal, this law in some cases did not correspond to the provisions of the Aarhus Convention.

Paragraph 3: Environmental education and awareness raising

Environmental education of population is under the responsibility of environmental protection institutions, education, health and culture institutions, public associations, and mass media.

Different methods for dissemination of environmental information are used: press conferences, meetings of staff and experts from the Ministry of environment and its sections with students from universities and pupils from schools and university students during ecological hours; presentations in the mass media and other informational activities; preparation and dissemination of press-releases in mass media.

Regular publishing of normative acts, informative bulletins and visions on specific environmental problems ensures the access of general public to environmental information.

The Ministry of Environment publishes the report "The State of Environment in the Republic of Moldova" annually in 1000 copies, the scientific magazine "The Environment", and ecological information bulletin.

In conformity with the legislation of the Republic of Moldova appropriate central bodies are responsible for the ecological training, education and dissemination of information. This

process is executed by: publishing appropriate literature, collaboration between representative ecological bodies and local educational bodies, NGOs, local public administration, regular publishing of reports on the state of environmental in the country. Series of books “The animal and vegetal kingdom of Moldova” in 7 volumes was published in 2007 and then it was granted to all public libraries and schools in the country. Environmental literature is published and disseminated by NGOs and REC Moldova.

According to the Government Decision No. 255 from 9.03.2005 regarding the National Strategy on creating the “Electronic Moldova” society, a list of central bodies which are obliged to use electronic ways to offer informational services to the population was created. The web page of the Ministry (www.mediu.gov.md) was actualized, and the information on day-by-day planned activity of the central environmental protection body, national environmental legislation, international environmental treaties to which Republic of Moldova is part, and other useful information was placed there. Projects within the Ministry of Environment have their own pages (www.clima.md, www.moldovapops.md, www.ozon.md, www.bsapm.md, www.cfu.md, www.biosafety.md) and there are links to them on the main web page of the ministry.

Awareness Campaigns are an efficient form to inform the population about practical environmental activities. The Ministry of Environment on a yearly basis organizes different contests for different groups of the population, including the national contest “The greenest and cleanest settlement” . The activities of forestation within the project “A tree for our lasting” - became already a tradition. In 2005 by the presidential order, a new project “Water – the spring of life” was established with the aim to arrange and manage springs and wells. Financing was partially from the National Environmental Fund. Usually all the media sources in the country are committed in the process of informing the public during preparation and implementation of the above mentioned activities.

Ecological hours for youth education are held on a quarterly basis. In cooperation with some NGOs, yearly, in September the Week of European Mobility and the action “In town without my car” are organized. Some NGOs are organizing conferences and seminars with financial and methodical support of ministry’s employees and subordinated structures. NGOs participate actively at the “Mold-Eco” annual exhibition organized by the MoE in collaboration with the exhibition center “Moldexpo”. The National Policy Dialogue on Environment and Sustainable Development was organized in 2010 with the support of OECD and UNDP. A big number of stakeholders, from Parliament, NGOs and local authorities was involved in promotion of Green Growth, environmental management at the local level, use of indicators for decision making, public participation.

How do curricula of lower-, medium- and higher-level education institutions address environmental and governance issues, in particular those addressed in the Convention? Are there any institutional arrangements that deal with this matter (e.g. memoranda of understanding between ministries of environment and education)?

Educational programs of general educational institutions are dealing with environmental issues in accordance with the studied subjects.

There is the Memorandum of mutual help for five years between the Ministry of Environment and Ministry of Education, according to which environmental lessons are conducted, various green school competitions and contests are organized on different levels. Ecology curriculum for primary, secondary and high school was tested during the 2009-2010 years.

Within the Faculty of Law of the Moldova State University there are courses on Environmental Law and European Environmental Law. In other higher education institutions similar courses are held.

Are there awareness-raising campaigns implemented by the environmental administration?

Environmental protection bodies perform daily activities to inform the public, using media sources, including radio and TV posts, which are based on yearly collaboration agreements. Currently the information regarding environmental activities is placed regularly on the web page of the Ministry of Environment www.mediu.gov.md. On world wide important ecological dates campaigns are implemented, radio and TV broadcasts are prepared. A big informational campaign was performed by the Ministry of Environment, Environmental project offices (for example the POPs Sustainable Management Office). This campaign on persistent organic pollutants, old pesticides and remediation methods for contaminated sites was held jointly by Ecological Movement of Moldova, REC Moldova, and Milieukontakt International. The Chemicals Communication Strategy was developed as part of development of the National Program on Sustainable Management of Chemicals in 2009 and could be used as part of the ministry's communication and awareness raising actions.

Are there any relevant capacity-building activities aimed at journalists and, if so, which institutions or organizations implement them?

In order to increase the capacity and interest of journalists in reflecting environmental issues, the Ministry has organized a contest. The results of this contest were announced on the World Environment Day. The best works (articles, interviews, radio and TV broadcasts) were awarded with prizes, including monetary ones. There is a common practice when journalists are included in official delegations on various environmental forums.

Special trainings on environmental themes are organized by Environmental Movement of Moldova, and Eco-Tiras, while Eco-Tiras held trainings for journalists from the left bank of Dniester River.

Do environmental non-governmental organizations (NGOs) participate in environmental awareness rising? If so, how do they do this, and what support do they receive from the government to implement such activities?

Environmental NGOs participate in awareness raising activities in the environmental field. Events for information dissemination (seminars, conferences, and round-tables), developing and publishing thematic informational materials (leaflets, posters, brochures, manuals, etc.) can be the examples of such activities. The State supports NGO activities, including the information, provided by NGOs into state environmental promotion activities; financial support through the National Ecologic Fund, providing consultations for partnership projects. For example, "Natura" magazine has been already published for 20 years by the Ecological Movement of Moldova (EMM). The Chisinau territorial branch of EMM is publishing the Water Magazine, where representatives of state structures are members of the Editing Board. Experts from Eco-Tiras, EcoLex, EcoContact, Biotica and other organizations are involved in promotional activities of thematic environmental information within the programs implemented by the MoE. Some of the modern informational Internet pages, created by NGOs from Moldova are: Green Media (EcoExpert and Salva-Eco), Dniester.info and Cubolta.info (Ormax).

Paragraph 4: Support for environmental NGOs

In the Republic of Moldova environmental NGOs are operating based on the provisions of the Law on Public Association from 17.05.1996, which govern relations linked to the rights of citizens to association and establishes principles of training, registration, functioning and closure of public associations. The scope and aims of public associations are established in their Charter, registered in the established order.

What is the level of complexity of the existing procedures for NGO registration (e.g. registration by a court or an administrative authority, length of procedure, expenses involved, required documentation, and need of legal assistance)?

The registration procedure is simple: the registration of the Charter of republican and international public associations is performed by the Ministry of Justice, and for local associations – by the local public administration bodies within the territorial limits where the association is formed.

In conformity with the Law on public associations, in Art. 19, para. 5, for the registration of the Charter of public association within a month since the date of its approval the following papers must be presented to the registration state body and the list of these papers cannot be enlarged:

- a) application signed by all members of the governing body of the given public association with the address of residence of each of them;
- b) two copies of the Charter of the public association;
- c) copy of the minutes of the constituent convention (conference) or a general meeting, which adopted the Charter of the public association - two copies. The minute has to contain information about the association's foundation, about the adaptation of its Charter and also about elections of its leaders;
- d) information about founders of the public associations (for natural persons - surname, name, date of birth, place of residence, citizenship; for a public association - copies of the certificate of registration of the public association; for unions (associations) of public associations - extracts from the minutes of the meeting of authority bodies when the decision about founders was made);
- e) application of persons mentioned in part (4), Article 17 of the present Law about their agreement to use personal name of a citizen in the name of the public association;
- g) document the actual residence of the public association;
- h) bank document confirming payment of the registration fee;
- i) decision of the highest organ of the public association in special cases provided by the law.

The registration of the Charter means registration of the public association that obtains from the registering body the Certificate of state registration. There were no cases of offering legal assistance for the process of NGO registration.

These are the basic normative acts that regulate the activity of public associations in Republic of Moldova:

1. The Constitution of the Republic of Moldova from July 29, 1994 (with modifications and completions), Art. 41.
2. The Civil Code of Republic of Moldova from June 6, 2002, Art. 180-183.
3. Law of Republic of Moldova on public associations from May 17, 1996.
4. Law of Republic of Moldova on environmental protection from June 16, 1993.

At the Ministry of Justice of the Republic of Moldova and at local administrative bodies were registered officially about 500 republican and international public associations, their activity being focused on environmental protection, promotion of environmental ideas, human behavior with animals, and others.

Is there an established practice of including NGOs in environmental decision-making structures (committees, etc.)?

One of the real possibilities of public participation in the process of environmental policy preparation is specialized Consultative Council under the MoE. This Council includes representatives from academic sector, general public (especially environmental NGOs), the main scope of this Council is to improve collaboration between the Ministry, society and business

sector. The Council should ensure collaboration between the Ministry's subdivisions from one hand and NGOs environment oriented associations from the other hand, in the decision making process regarding use of environmental resources, ecological training, education and information flow.

Members of environmental NGOs are elected to represent civil society in the administrative Council of the National Ecological Fund and Local ecological funds. NGO members are also present in different commissions, working groups, councils, created for the preparation and implementation of national and local campaigns, conferences, actions and other events related to the environment.

There is a structure at Governmental level that consists of public associations' representatives. It is called the Council for Participation and it consults the Prime minister on a wide range of issues, including the environmental ones, and environmental leaders are a part of this Council.

The Parliamentary commission in the field of environment created a group of experts, who are involved in the development of draft laws and Parliament's and Commission's decisions for a long time, as well as in the process of monitoring of environmental legislation implementation and other activities of the commission.

The Parliament approved the Decision of Cooperation with the Civil Society in 2005, according to which the involvement of NGO representatives in the activity of different working groups for the development of acts emitted by the Parliament is ensured.

The inter-ministerial Working Group for the realization of the recommendations of the Compliance Committee of the Convention on communication 30/2008 was set by the Order No. 29 of 30.03.2010 of the MoE. This working group included 5 NGOs representatives. The working group analysed the current situation on implementation of the Aarhus Convention in Moldova, while German Federal Ministry of Environment and Nuclear Safety in cooperation with Independent Institute for Environmental Concerns (UfU, Berlin) and Eco-TIRAS supported these activities, including study trip of a group of Moldovan civil servants and NGOs to Germany on Aarhus implementation issues.

Does the government provide financial support to environmental NGOs?

Environmental NGOs, as well as other NGOs, are not financed by the Government. But in the case when NGOs held ecological activities (forestation, arrangement of the river bed, wells), disseminate environmental information and held trainings, publish magazines, brochures, other types of publications, they can obtain financial support from the National Ecological Fund (NEF).

Unfortunately, this support has decreased significantly in the last 4-5 years due to the imposition of some discriminatory conditions for the projects developed by NGOs and infringement by the respective authorities of the NEF Regulation. Due to this fact the number of NGOs reduced twice, which had the significant impact in rural areas.

Paragraph 7: Public participation in international environmental decision-making processes

Is there a practice of including NGO members in delegations representing the State in international environmental negotiations or in any national-level discussion groups forming the official position for such negotiations?

Indeed such practice exists in the Republic of Moldova, but it is very limited: for participation on the Belgrade Conference 2007 representatives of one NGO were included in the official state delegation. NGO representatives were included in delegations for the International HCH and Pesticides Forums and the meetings, organized by the EAP Task Force Secretariat, OECD.

Paragraph 8: Prohibition of penalization for public participation

Have any libel, slander or similar provisions of civil or criminal law been used in the context of environmental decision-making processes?

No, they have not been used.

Have there been any cases of NGOs being ordered to pay damages (of a private entity or a public authority) in connection with their public interest environmental protection activities or litigation (e.g. due to a delay in a procedure)?

There were no such cases registered.

Article 4

Paragraph 1, chapeau: Ensuring provision of information and other general issues

The national legal framework that was intended to contribute to the implementation of provisions of Art. 4 of the Aarhus Convention, is represented by:

1. The Constitution of the Republic of Moldova from July 29, 1994, Art. 34, 37;
2. Law on Environmental Protection from June 16, 1993, Art. 3, item d), Art. 30;
3. Law on Sanitary-Epidemiological Security of the Population from June 16, 1993, Art. 6 b), 7;
4. Law on Petitioning from July 19, 1994;
5. Law on Ecological Expertise and Environmental Impact Assessment from May 29, 1996, Art. 10;
6. Law on Natural Resources from February 6, 1997, Art. 29;
7. Law on Radioactive Protection and Security No.1440-XIII from December 24, 1997, Art. 11;
8. Law on Production and Household Waste from October 9, 1997, Art. 5, 15;
9. Law on Atmospheric Air Protection from December 17, 1997, Art. 8;
10. Law on Hydrometeorological Activity from February 25, 1998, Art. 6, 11, 13;
11. Law on Drinking Water from February 10, 1999, Art. 9, p.5, Art. 13;
12. Law on Access to Information from May 11, 2000;
13. Governmental Decision No. 847 from 18.12.2009 on approval of the Regulation regarding the establishment and operation of the Ministry of Environment, the structure and personnel of its central body.

Article 10, para 3 of the Law on Access to Information states the following “Any person requesting access to information in accordance with the present law is under no obligation to justify his/her interest for the requested information”.

In conformity with Article 12 from this Law, official information and documents may be obtained by the requesting party on the basis of a written or verbal request.

Article 13 of the same Law establishes the means of accessing official information:

- a) listening to the information that can be presented verbally;
- b) examining the document or information (or parts thereof) on the institution's premises;
- c) releasing a copy of the requested document or information (or parts thereof);
- d) releasing a copy of the document's or information's translation (or parts thereof) into a language different from the original one, for an additional fee;
- e) sending by mail (including e-mail) the copy of the document or information (or parts thereof), a copy of the document's or information's translation into another language, upon the solicitor's request, for a corresponding fee.

The second paragraph of the same Article indicates that excerpts from registers, documents, information (or parts thereof) may be made available to the applicant, upon the applicant's request, in a reasonable and acceptable form that allows its:

- a) examination on the institution's premises;
- b) retyping, photocopying or copying by another method that would ensure the safety of the original;
- c) recording onto an electronic carrier, recording on audio or video tape or on any other bearer resulting from technological progress.

Article 16 of the Law on Access to Information establishes time limits for satisfying the request on access to information. The requested information and documents should be presented to the solicitor as soon as they become available, but not later than 15 working days after the day of registering the request. The manager of the public institution may extend for 5 working days the term during which the information and documents are supplied if:

- a) a great amount of information is requested, and selection is needed;
- b) additional consultations are necessary in order to carry out the request.

In this case solicitor should be informed about any extension of the term and the reasons for that, five days before the initial term expires.

The Law of the Republic of Moldova on Petitioning from July 19, 1994 establishes the fact that petitions are examined by respective bodies in 30 days, and if additional time for the examination is needed it should be announced immediately or during 15 days from the registration day of registration (Art. 8).

Motives for refusal to offer information are not established by law.

The limits established by the Article of the Law on Access to Information correspond to criteria indicated in para. 4 of the Convention.

According to Art. 17 of the Law on Access to Information if the requested structure doesn't possess the needed information the request could be readdressed to the structure that can satisfy the solicitor. In this case the solicitor should be informed within three working days of receipt of the request.

Art. 9 of the Law of the Republic of Moldova on Petitioning establishes the time limits for readdressing petitions for a different bodies This should be done within 3 working days from the registration.

If the access to information from the solicited documents is partially limited, the information keeper is obliged to present this information where the parts with limited access should be marked in accordance with national legislation as "state secret", "commercial secret", "and confidential personal information". The refusal to offer access to the information from the respective parts of the document is stated in Art. 19 of the correspondent law.

The refusal to offer official information or documents should be in written form with indication of refusal date, the name of the responsible person, the motives of refusal and references to the specific normative acts (name, number date of adoption, source of official publishing) on which the refusal is based, as well as the procedure for appealing the refuse, including affiliated time limits.

Nevertheless, information providers cannot be forced to provide prove for the absence of information. (Art. 19 of the Law on Access to Information).

Fees should be levied for providing official information and documents, except the cases specified by law. The fees are established by representative bodies. They should not exceed the costs incurred during the search and processing of the information or parts thereof, copying, sending it to the applicant and/or translating it from the state language, based on the request of the information solicitor.

Fees for providing analytical, processed or novel information carried out on the request of the information solicitor, should be established on the basis of a bilateral contract between the solicitor and the corresponding institution. (Art. 20 of the Law on Access to Information).

No fees will be levied for information requested by the information solicitor, if this information:

- a) influences directly the rights and freedoms of the information solicitor;
- b) is presented verbally;
- c) is solicited for examination on the institution's premises;
- d) contributes to the transparency of the public institution and is in the interest of society.

Are public authorities required to *keep records of information requests received and responses provided, including refusals*? If so, is there a practice in place to periodically report on such activities?

In compliance with legislation to date, submitted requests are registered within special Registers, provided with entry number. In this respect Art. 15, para. 1 of the *Law on Access to Information* outlines that, written requests regarding access to information will be registered according to the legislation on registers and petition.

Submitted responses are also registered in the established order. The practice of submitting reports on such activities is lacking.

Is there a separate body that oversees matters of access to environmental information (e.g. a data protection ombudsperson or a commission on access to administrative documents)?

No.

Paragraph 1 (a): The interest not having to be stated

Is there a requirement or practice of requesting certain basic data from the applicant for administrative purposes (e.g. for budgetary purposes, record keeping, statistics)?

The applicant can not be requested to provide additional information, including the purpose of achievement of records or others.

In conformity with Art. 12, para. 2 of the Law on Access to Information the written request will contain, among others, identification data of the requesting party.

Except for cases when personal information is being requested, the applicant may omit his/her identification data from the request.

There are no mechanisms to assist the information supplier in the case there are claims relating to the misuse of information.

Paragraph 2: Timeliness of information

In addition to the specific deadline, is there a requirement to provide information as soon as possible?

Art. 16 of the Law on Access to Information establishes that the information and documents requested will be presented to the applicant as soon as they become available, *but not later than 15 working days from the day, on which the request to access information has been registered.*

The deadline for providing information or document may be extended by *5 working days* by the head of the public institution in the following cases:

- a) request refers to a large volume of information that requires selection;
- b) Further consultations are needed to meet the request.

The applicant will be informed of any extension of the deadline for providing information

including the reasons for that, within *five days* before the initial deadline expiration.

Are there separate deadlines for refusals to provide information or for other specific cases?

The legislation does not provide any time limits regarding the refusal to offer the information of other cases. But, Art. 19 of the Law on Access to Information stipulates that the refusal to provide a piece of official information or document will be explained in writing; such an explanation will include the date, when the answer was made, the name of the officer in charge, the grounds for refusal with a mandatory reference to the normative act (title, number, adoption date, source of official publication) on which the refusal is based, as well as the procedure for contesting the refusal, including the prescription term.

What is the legal effect of a failure to respond to an information request?

Art. 4, para. 3 of the *Law on Petition* states that the petitioner, who did not receive a response within the deadline set forth by law, is entitled to notify the competent administrative court.

Art. 19, para. 1 of the Law on Access to Information provides an appeal challenging the refusal of the court.

Or under par. (3) Of Art. 21 of the same law, the person affected a right or legitimate interest may appeal any action or inaction of the person responsible for receiving and examining applications for access to information, including unjustified refusal to provide the requested information.

Paragraph 3 (a): Information not in the public authority's possession

What are the procedure and practice for handling situations when the public authority does not hold the requested information but should have it pursuant to the relevant legislation?

Art. 17 of the Law on Access to Information stipulates that the request for information can be readdressed to another keeper, after the mandatory notification of the information solicitor within three working days from the moment the request is received, on consent of the applicant.

But there are no practices or procedures referred to the cases when the authority does not have the information, when it should have it.

Paragraph 3 (b): Unreasonable or overly general requests

Do public authorities have a responsibility to try to clarify with the applicant requesting the information any questions which appear unreasonable or too general?

Current legislation does not provide, as a ground for refusal the fact that the request is manifestly unreasonable or formulated in a too general manner. However, the law obliges state authorities to concretize some issues with the applicant, which may be declared are “unreasonable or too general”.

Paragraph 3 (c): Confidentiality of administration

What mechanisms are in place to ensure free expression of professional opinion by the officials involved in internal communications or in preparing the relevant materials?

No such mechanisms have been developed.

Can materials that directly or indirectly serve as a basis for an administrative decision is

considered confidential?

Yes, provided that such information is covered by art. 7 par. (2) of the Law on Access to Information.

Paragraph 4 (d): Commercial confidentiality

In accordance with art. 7 par. (2) of the *Law on access to information*, the access to information is limited only to confidential information in business relations, provided by public bodies as confidential, regulated by law on commercial secrets or concerning the production, technology, administration, finance and other economic activities

Art. 5, par. 4 of the Law on Commercial Secret 110-XIII from July 6, 1994 states that information on environmental pollution *can not be subject to commercial confidentiality*.

Paragraph 4 (f): Personal data

How does the national legislation define personal data?

Yes. According to art. Article 8. (A) of the Law on access to information, the Personal information is considered the data that relates to an identified or identifiable individual person, whose disclosure would constitute a violation of individual privacy, is classified as confidential information about individuals. Under this Law, data regarding exclusively personal identification (data contained in the identity cards) does not constitute confidential information.

Can a legal person (entity) have personal data protection?

Given the content of the article cited above legal person can not get the protection of personal data.

Paragraph 4 (general)

Does the national legislation envisage a strict classification of certain types of information as confidential, or is there a requirement to balance the argument for and against the disclosure individually in each case?

According to Art. 7 of the Law on Access to Information, in the category of official information with limited access relates:

- a) information falling under the category of state secrets, covered by organic law and qualified as information protected by the state and related to its military, economic, technical-scientific, foreign policy, intelligence, counterintelligence and investigation activities, whose dissemination, disclosure, loss, seizure may threaten the national security;
- b) confidential information in business relations, presented by public bodies as confidential, regulated by legislation on trade secrets which relate to production, technology, management, finance and other economic activities, dissemination of which may affect the interests of entrepreneurs;
- c) personal information, the disclosure of which may be considered interference in one's private life, which is protected by the current legislation, access to which can be allowed only with the observation of the provisions of article 8 of the present law;
- d) information on operational and enforcement of criminal activity such representation only in cases where disclosure of information that may harm the prosecution, harm to the court trial, or deprive the person entitled to fair and impartial examination of his case, or endanger the life or physical safety of the person. All these aspects are regulated by law

- e) information that reflects the final or partial results of scientific or technical research, whose disclosure may deprive the researchers of their priority right of publication or have a negative impact on other rights protected by law

Other interpretations of this article are not provided.

In conformity with Art. 8 from the Law on State Secret No. 245 from 27.11.2008, is not defined as a state secret and can not be classified the information regarding:

- state of environment, quality of food and household items;
- accidents, catastrophes, dangerous natural phenomena and other extraordinary occurrences that can jeopardize the safety of citizens.

Paragraph 5: Forwarding requests submitted to the wrong authority

How are the deadlines referred to in article 4, paragraph 2, applied in cases where a public authority does not hold the information requested and forwards the request to another authority?

Art. 17 of the Law on Access to Information stipulates that the request for information can be readdressed to another keeper, after the mandatory notification of the information solicitor within three working days from the moment the request is received, on consent of the applicant, in the following cases:

- a) the requested information is not possessed by the notified holder;
- b) the requested information, held by another holder in a form that could meet the interests of the applicant in a greater extent.

Paragraph 8: Charges

Are charges for public information services regulated uniformly (e.g. in a published table of charges or fees)? If not, are there large differences between charges for information in different sectors?

Is there a charge for supplying information? If yes, what is the cost or range of costs per page for having official documents copied?

Is there a requirement and/or practice with regard to waiving or partially waiving the charges (e.g. by determining preferential rates for certain users or purposes)?

Art. 20 of the Law on Access to Information stipulates that fees will be retained for providing official information and documents, except for cases specified by law, in amounts and according to procedures set by representative bodies. Such fees will be disbursed into state budget.

However, the amount of fees should not exceed the size of the payment of expenses incurred by the holder of information to prepare **copies**, sending or transferring them to the applicant upon request.

Fee for providing upon request analytical, synthetic or previously unknown information is determined on the basis of a bilateral agreement between the owner and applicant of information.

Applicants are offered free of charge following categories of information:

- a) that directly relates to the rights and freedoms of the applicant;
- b) that is presented verbally;
- c) that is solicited for examination at the institution's premises;
- d) provision of which can help to elucidate the broader scope of activity of a public institution and meets the interests of society.

If the information the applicant provided incomplete or contains irregularities, the public institution is obliged to introduce changes and additions free of force, except when the

information requires additional costs and contingencies and outstanding efforts
If the information provided to the information applicant contains inaccuracies or incomplete data, the public institution is obliged to introduce changes and additions free of charge, except for cases when such corrections require additional costs and contingencies not planned in the primary presentation of information.

The public institution will inform the applicant in the most appropriate and detailed method for fees calculation for the information release.

In this respect, a special attention could be given to Government Decision No. 330 from 03.04.2006 on approval of official lists of free and paid services offered by the State Hydrometeorological Service and regarding the use of special means of the State Hydrometeorological Service.

Article 5

Paragraph 1 (a) and (b): Existence and quality of environmental data

Is there an institutionalized system of data transfer between the authorities of several branches of administration? If yes, what are the main features of the system (e.g. is environmental data provided free of charge within the system)?

Do various levels and kinds of environmental and sectoral authorities operate parallel data-processing systems? If so, are there any measures to make the information flow more effective and harmonize the data (e.g. linking several databases together, using standard definitions or operator codes)?

Are there mechanisms in place to ensure or control the quality (accuracy, categorization, comparability and timeliness) of environmental data included in the databases?

Is certain information provided in real-time mode (e.g. information on air quality in larger cities)?

Paragraph 1 (c): Environmental emergency information

How is communication of information to the public covered under the emergency planning legislation? Are there measures in place to coordinate emergency information dissemination efforts of the participating authorities?

Do polluters have an obligation to directly inform the public in emergencies?

Regulation of basic rules and conditions of work in creating and developing the national information infrastructure is achieved by the new Law on information system development and information resources № 467-XV of 21 November 2003.

This law regulates relations arising in the formation and use of automated state information resources, creation and use of information technology, systems and networks.

According to art. 11 of present Law, state information resources form an integrated complex of information resources, presented in the form of databases.

In the Republic of Moldova is operating an electronic database that includes texts of legal acts adopted started with 1991, including those with ecological character ones. The indicated database is posted on the website www.justice.gov.md.

State of Environment Reports of the Republic of Moldova are published once in 2-3 years in Romanian and English languages and posted on the web site www.mediu.gov.md. The last report was published in 2007.

Art. 11, par. 9 of the Law on Access to Information obliges the information holder to urgently inform the public on the information discovered in the course of its activity, if such information:

- a) can prevent or minimize danger to citizen's life and health;
- b) can prevent or diminish the risk of causing any danger;
- c) can prevent the publication of untruthful information, or can diminish its negative effect;
- d) has a special social significance.

The Republic of Moldova's Law on Hydrometeorological Activity (art. 11) obliges the State Hydrometeorological Service to develop general purpose forecasts for dissemination through mass media, as well as specialized forecasts (agrometeorological, aviation, climate, regarding the spread and movement of chemical pollutants and radioactive). And art. 13 of the same law states that warnings about dangerous hydrometeorological phenomena and extremely dangerous pollution of the environment shall be immediately transmitted to the population, central public administration bodies and legal entities interested in accordance with plans - schemes confirmed by the authorized bodies, using in this respect all informational means. In cases of considerable increase in the concentrations of harmful substances in the air or the danger of natural disaster (heavy rains, floods, frosts, heat, etc.) the Hydrometeorological Service broadcasts via media alert newsletters that indicate the level of hazard warning (yellow, orange, red code).

The information regarding the state of environment in real time does not run due to insufficient equipment. Because of lack of suitable monitoring tools, air pollution map of Chisinau, the capital of RM, is developed based on theoretical calculations, but not the actual state of the environment.

Article 10, par. g) of the RM Law on Radiation Protection and Safety refers to the competencies of the Department of Civil Protection and Emergency Situations on prevention and information of public administration bodies and the population about the danger and the occurrence of emergency situations related to large-scale radioactive accidents.

The institutional system for data transmitting between the state bodies was not created. State Hydrometeorological Service, is practically single possessor of the most complete system of owned data, and provides it upon request to state institutions and business regarding the quality of some components of the environment (air pollution in cities, water level).

The National Bureau of Statistics collects data from businesses about a range of environmental activities which are later integrated into Statistic Yearbook an available to public in electronic form on the website of this institution.

Of a special practical interest are the data basis hosted on web pages of projects implemented within the Ministry of Environment with international co-financing (POPs Sustainable Management, Ozone, Climate change and other offices).

Paragraph 2: Information on the type and scope of the available environmental information and practical arrangements for information dissemination

Is there an environmental meta-database (e.g. a catalogue of environmental data sources)?

A general environmental meta-database was not established yet. Each environmental institution has its own data warehouse which is not officially displayed. The quality and reliability of data on environmental state are not always satisfactory. The equipments of air quality control station in different cities of the republic are around 40 years old and can not ensure compliance with modern requirements.

Environmental data are placed on the sites of the State Hydrometeorological Service (www.meteo.md), National Bureau of Statistics (www.statistica.md) and on one of the first environmental databases, developed in the field of POPs (<http://popsmap.moldovapops.md>).

Paragraph 5: Dissemination of information: strategic and normative materials

Are environmental laws, strategies, policies, international agreements and the like, as well as information about their implementation, widely and easily accessible for the public?

General and unconditional access to environmental legislation, strategies, policies, international agreements and analog documents, as well as to information on their development is ensured permanently using all available methods, including: publication of these materials in separate brochures, press conferences, briefing sites, public hearings for their presentation, publication of laws and legal commentaries, strategies, plans etc. Also was edited and made available to the public the volume of entire environmental legislation of the Republic of Moldova in a large number of copies.

Paragraph 7: Dissemination of information: facts, analyses, explanatory materials and information on the performance of public functions relating to the environment

What kinds of environmental facts, analyses and explanatory materials are being published?

In order to ensure transparency and provide operative environmental information the Ministry of Environment conducted a series of actions:

- constant update of ministry web page;
- publishing quarterly scientific, information and ecological culture magazine "The Environment" (*Mediul Ambiant*);
- publishing annually Guide book about the Ministry;
- editing of Annual Report of the State Ecological Inspectorate.

Besides that the public is systematically informed regarding the most significant activities of the ministry through the press-releases and press conferences, the staff of the ministry participates in various radio and television broadcasts, along with publishing articles on environmental issues in the republican press.

The Ministry of Environment places relevant information about its activity in periodical publications "Nature", "The Water Journal", "Gutta", which are co-financed from National Ecological Fund.

Paragraph 8: Product information

Is there a legal requirement and/or practice of public participation in awarding or monitoring the use of eco-labels?

The eco-labeling practice does not exist because the provisions on eco-labeling in the Republic of Moldova are not at place; in consequence there are no set requirements for public participation at allocating, monitoring and use of eco-labeling. In this regard there has been prepared a draft law and Regulation on Eco-label which were not supported later.

The legislation of the Republic of Moldova by Law on Consumer Protection in the art. 20 Part 1 states the conditions on informing the consumer about the proposed products and services which is performed compulsory through identification product/service element and indicating their characteristics, that are placed on a visible location and have a readable look on the product label, packaging or technical data sheet, user guide or other document accompanying the product or service depending on what is required in compliance with their intended use.

Part 3 of the same article establishes that the manufacturer (packaging company) should provide information on the product name, manufacturer brand name and (if needed phone number), the regulatory act, the weight / volume, the basic qualitative characteristics, composition, supplements used, possible risks, the use, handling, storage, conservation, contraindications and

energetic value of the packed food, producing country, the warranty period, operating period, the validity and production date in accordance with technical regulations and national standards.

Paragraph 9: Pollutant release and transfer registers (PRTRs)

Please describe briefly your progress towards ratification of the Kiev Protocol.

If a PRTR system is already in place, what are its outstanding features (unique to the given Party, elements additional to those of the Protocol or the EC Regulation)?

Have the PRTR reporting obligations been harmonized with the other existing environmental and related reporting obligations (e.g. CO₂ reporting, chemical safety, accident prevention) to reduce parallel reporting?

The need for creation of Pollutant Release and Transfer Register is outlined in the National Strategy for the reduction and elimination of persistent organic pollutants and the National Implementation Plan under the Stockholm Convention on POPs, which was approved by RM Government Decision of 20.10.2004 No. 1155.

Similar provisions can be found in the Government Decision No. 973 of 18.10.2010 on approval of the National Programme on sound management of chemicals in the Republic of Moldova, which provides inter alia the evaluation of national capacities for implementation of the pollutant release and transfer register.

In the Republic of Moldova are kept cadastres of air emissions under the Framework Convention on Climate Change, and also under the Convention on Transboundary Air Pollution over Long Distances. According to statistics, annually in the Republic of Moldova are imported 24 types of substances included in the protocol; in the field of transport, use and transfer are involved more than 3500 enterprises.

Article 6

Paragraph 1: Activities falling under article 6

Does national legislation or practice apply the procedures of article 6 of the Convention exclusively to decision-making requiring an environmental impact assessment (EIA) or also to other types of decision-making?

As it was mentioned under art. 20 of the Law on International Treaties of the Republic of Moldova No. 595-XIV of 24 September 1999, in force from 02.03.2000, provisions of international treaties, that by type of formulation, are likely to be applied in the relations of law without the adoption of special laws, have legally enforceable character and are directly applicable in the legal and judicial system of Republic of Moldova. For the achievement of other provisions of the Treaties, there have to be adopted appropriate regulations.

Proceeding from this article. 6 of the Convention shall apply by taking into account the default decisions on environmental impact assessment of all types of planned actions listed in Annex 1 of the Convention. Besides, the Regulations on Environmental Impact Assessment (Annex 1 to the Law on Ecological Expertise and Environmental Impact Assessment) provided real opportunities for public participation in decision-making process referred to specific types of activity.

Under item 4 of the Regulation on Environmental Impact Assessment if necessary, by the branch ministry decision, the procedure for environmental impact assessment may have as subject other objects and types of activities depending on the expected impact on the environment.

Several cases have been certified when the Government ignored these provisions. For example, the construction of the 50km of railway Cahul-Giurgiulesti, in 2007-2008, began

without giving the public the possibility to get acquainted with the study of environmental impact assessment, which was developed with significant delay. Accordingly, public debates were not carried out in this project, although the site was in a wetland of international importance - the Lower Danube region. Without public involvement, in 2007-2009, were adopted decisions for the reconstruction of the cement plant in Rezina by switching it from natural gas as fuel to coal, the siting of a thermal power station in town Ungheni using coal as fuel, and other.

Paragraph 2: Notification of the public concerned

Does the national law define the public concerned and, if so, how?

The Law on Transparency in Decision Making No. 239 from 13.11.2008 states that interested parties are "citizens, associations formed in accordance with the law, private legal persons, who will be affected, could be affected by the decision and which may influence the decision making process."

According to art. 1 and 16 of the Provision on public participation in environmental decision-making, approved by Government Decision of Republic of Moldova on 25 January 2000, "the public is understood as one or more natural or legal persons, and in accordance with national legislation or practice, their associations, organizations or groups."

"Interested Public" is the community, which is referred or may be referred in certain decisions regarding the environment or who is interested in making such decisions and also non-governmental organizations that in accordance with national legislation in force undertakes actions to protect the environment and are considered interested organizations.

Are any special measures taken to encourage public participation in the most significant environmental decision-making cases?

No special actions to stimulate public participation in important decisions making processes concerning the environment have been developed, but local government bodies use different methods to stimulate public participation in solving local environmental problems.

What is the legal effect of failing to duly notify the public concerned?

In Art. 24 of the Law on Access to Information are established consequences resulting from violating the rights to access the information.

Depending on the severity of the consequences caused by an illegal refusal from the part of the public officer in charge, to provide official information and to provide access to the requested information, the court of law will impose sanctions in accordance with the current legislation, the reimbursement of the damage caused by an unjustified refusal to provide information, or by other actions that violated the right to free access to information, as well the immediate fulfillment of the applicant's request.

The Law on Transparency in Decision Making provides that affect the decision-making process by concealing information of public interest or distorting it is sanctioned by law. There are concrete cases on hiding environmental information of public interest brought to court.

The decision of the Steering Committee of the Aarhus Convention from September 25, 2009 on the failure of Republic of Moldova to meet provisions of the Convention, in the case of the NGO Eco-Tiras and the Agency "Moldsilva" notes the following violations:

1. Art. 4, para. 1 and 2 of the Convention manifested by the fact that the Agency Moldsilva did not provide copies of the lease contract for the Forrest Fund surfaces;
2. Para. 1 of art. 3 and para. 4 of Art. 4 of the Convention manifested by the fact that art. 48

of the Government Decision No. 187 from February 20, 2008 creates prerequisites to consider the information obtained from the lessees of forest land as confidential and on that ground refuse to provide information and to prohibit access to a larger volume of information.

3. The refusal of the Moldsilva Agency to motivate the failure to present the required information and explain the reasons for refusing to provide reveals the failure to respect art. 9, which in turn mean the failure to respect art. 4. 2), 3) and 7) of the Convention.
4. The failure to respect para. 7 of Art. 4 by the fact that the Agency Moldsilva did not fulfilled its obligation to respond in writing within a reasonable time frame after the last query of the applicant (January 2009).
5. Failure to comply with art. 9 para. 1) of the Convention by not executing the Decision of the Appeal Court from June 23, 2008, by which the Agency Moldsilva was required to provide the information requested by "Eco-Tiras.

Paragraph 3: Time frames for public participation

Beside the time frame of 30 days to inform the public about the start of the decision-making procedures, established by art. 3 d) of the Law on Environmental Protection, the legislation do not contain other time framing provisions.

At the same time, establishing the method of public consultation with regard to urban planning and landscaping before their approval, art. 27 of the Law on the Basis of Urban Construction and Planning do not contain any deadlines.

According to art. 13 of the Regulation on Environmental Impact Assessment, public access to documentation on environmental impact assessment and on the demand to perform environmental impact assessment must be open during 30 calendar days. In this time frame comments on the respective documents can be sent in writing to the person designated by local public administration bodies.

Local public administration bodies are obliged to send comments obtained from public discussion of the impact on the environment and their observations of the person who ordered the subject and the copy of these comments to the central environmental body within 14 days, before the deadline indicated in para. 13 on the mentioned Regulation.

In conformity with Art. 13 of the Decision on Environmental Impact Assessment, the solicitor sends the environmental impact assessment to the respective Ministry and to the authority, according to the profile of the subject or the type of activity, as well as to the local public administration on whose territory is planned the construction, enlargement, reconstruction, upgrading, conserving or demolition of the object or the development of a new type of activity. Local public administration bodies are obliged to inform through media, within five days after obtaining the environmental impact assessment results, how and where to get acquainted with these documents, obtain a copy, or based on it to perform the public ecological expertise and organize public discussions.

Paragraph 4: Early public participation

In accordance with art. 3d of the Law on Environmental Protection and art. 11 of the Regulation on Public Participation in environmental decision-making and public participation in decisions making on economic activities affecting the environment at local level is carried out by local public administration bodies and beneficiaries by informing the citizens of the administrative-territorial unit in which the activity is planned.

Local public administration bodies on whose territory is planned the development of project

documentation will create appropriate conditions for public participation in environmental decision-making, ensuring transparency of the activity declared by the beneficiary and inform the public about the intention to adopt economic activity projects.

The Chisinau Municipal Council, through the decision no. 1 / 4 from January 22, 2008 on transparency of public administration decision-making in the local public municipal authorities, forces the authors of draft decisions to involve the interested public by placing the document on the website and announcing the public debate at least 10 days before the formal discussion.

The public can get involved in environmental impact assessment (Public ecological expertise of an execution project of the building), but not in the initial phase when the land is allocated for the construction of different objectives with environmental impact. The law does not require the identification of land for construction which will enter the land auction, to be consulted with the interested public. Later, after the issuing of the urban planning certificate, it is very difficult to change anything in the authorities' and beneficiaries' intention.

Is public participation provided for in the screening and/or scoping phase of an EIA procedure?

Environmental assessment, according to Republic of Moldovan legislation, is divided into two categories:

A) For economic objects and activities of small and medium enterprises. In their case, the ecological expertise is performed.

B) For the objectives and activities with major environmental impact (their list is in annex 2 to the Law on Ecological Expertise and Environmental Impact Assessment). In their case are applied procedures for environmental impact assessment. The document of environmental impact assessment will also be subject of the state ecological expertise.

The Public Ecological Expertise can be performed by any public association, which has also included this type of activity in the Charter of the organization; it is enough to make a request to the public authority.

Since such a provision is part of the Charter of a small number of associations and organized groups of citizens are not allowed in this process, public participation is reduced.

The fact that public environmental expertise opinion, as well as of environmental impact assessment has a recommendatory character and becomes legally binding only after its confirmation by the state ecological expertise system, does not stimulate public associations to get involved in the assessment and expertise procedures.

Paragraph 5: Encouraging prospective applicants to enhance public participation

What is the developer's role in organizing public participation during the decision-making procedure?

Public participation in the process of drafting laws and regulations, draft laws, national programs, provisions, etc. is guaranteed by the central environmental body, which is responsible for this procedure.

The developer of the draft decision under Articles 11 and 12 of the Law on Transparency in Decision-Making, initiates the consultation process, provides information and organizes public hearings, seeks experts' opinions in the field, creates permanent or ad-hoc working groups involving representatives of civil society.

Responsible authority receives, within 15 days since the dissemination of the notice, recommendations, examine them, prepares the file on draft decision elaboration, places on the web page and / or the media a summary of recommendations. This law allows the initiation of

the consultative process at the proposal of a citizen, an association formed in accordance with the law and other stakeholders.

Paragraph 6: Ensuring access to information relevant to decision-making

Article 30 b) of the Law on Environmental Protection awards the right to obtain information and consultations on localization and construction projects objects with a negative effect on the environment, resettlement and rural and urban planning. And art. 10 item j) of the same law obliges the local public administration bodies to organize and carry out jointly with the applicant the public ecological expertise of the respective project documentation of the objects that may affect the environment or its components.

Paragraph 7: Public comments

What role do multilateral discussion techniques (e.g. public hearings, clarification meetings) play in the environmental decision-making procedures?

Organizing public discussions of draft decisions of the Chisinau Municipal Council (General Urban Plan, diagrams locating car parkings, petrol stations, etc.) have allowed the involvement in the process of a considerable number of citizens and thus improve the adopted document.

Paragraph 8: Taking due account of the results of public participation

Are there practical techniques for taking due account of public comments in cases where many comments have been received?

Although the legislation contains mandatory requirements, central and local authorities do not keep records of public participation; proposals and recommendations are not taken under control and are not shown in the prescribed manner.

Are there legal regulations to this end?

Can public comments which have already been submitted be viewed by other members of the public throughout the commenting procedure?

Public authorities, according to the Law on Transparency in Decision Making, ensure the access to adopted decisions by placing them on the official website, by displaying them in an area accessible to the public and / or press releases to the central or local media as appropriate, as well as by other means established by law. The existing law allows the repeated examination of the exposed comments by public representatives.

Article 7

What are the most important differences between definitions of plans, programmes and policies according to the national legislation (e.g. in scope, in details, in binding force)?

In the existing national legislation on planning are defined relations between the state, local bodies and other persons. Thus, the Law on Basis of Urban Planning and Spatial Arrangement contains a series of legal provisions on public participation and consulting. The law prescribes to carry out consultations with the public before the adoption of certain plans of urban construction

and planning. The advance notice and providing project documentation for public notification in order to perform common debate is mandatory.

All interested groups and state bodies must have equal access to the information about planned activities and also the possibility to participate in the decision making process.

Which types of strategic decisions are considered to be “relating to the environment”?

As strategic decisions relating to the environment, according to the Environmental Policy Concept of the Republic of Moldova are considered:

- The National Concept of Ecological agriculture, production and marketing of commercial organic and genetically unmodified products;
- The Concept of Ecological Security of the national army activity;
- The National Action Plan for environmental hygiene;
- The country’s spatial arrangement Plan;
- National Ecological Network;
- National Strategy for drinking water supply and sanitation.

Article 8

Are there any requirements for public participation at the conceptual stage of the legislative procedure?

National legislation provides that by involving the public in the process of formulation of laws, provisions and decisions on projects of national level, projects with cross-border influence and other legislative and normative documents, the central environment:

- 1) informs the public via media sources about the beginning of the drafting process for the mentioned documents;
- 2) organizes working groups (groups to integrate the population) involving NGO representatives and the public;
- 3) if necessary, organizes opinion polls regarding the relevance and need for regulatory act to be developed;
- 4) invites to the meetings of working groups representatives of the media, thus ensuring the transparency of working group activities;
- 5) send the draft documents relevant NGOs and other interested bodies for signature;
- 6) organizes press conferences, roundtables, TV and radio broadcasts, which present the essence of these acts;
- 7) considers requests, proposals that deserve attention, and if necessary change the content of draft documents that are at the stage of development;
- 8) proceeding approval of documents issued by higher authorities or after publication in the Official Journal of the Republic of Moldova organizes various measures to bring them to the public knowledge (press conferences, roundtables, press briefing etc.).

During 2009-2010, at the early stages of development of legislation such as Law on Water and the Law on Waste (author - Ministry of Environment), as well as the Law on sanitation, were created working groups with the involvement of civil society experts, their proposals were registered and included in the project text.

An important example of interested public involvement in the development of legislation is the case with the Law on Biosafety.

At the consultation stage of the respective document the Government and Parliament did not take into account the amendments proposed by the NGO “Biotica”.

An appropriate approach was sent to the president of the country, and as result that version of the Law was returned to the Parliament. After the introduction of the appropriate proposals, the document has been promulgated.

An important step in the implementation of art. 8 of the Convention can be considered the development and approval by the Ministry of Environment of the "Guidelines for public involvement in the development and adoption of draft normative legal acts in the field of environmental protection and use of natural resources." Unfortunately, once the "Guillotine" Law entered into force, the legal document has been canceled and another in its place has not been adopted.

What are the time limits given to the members of the public to form their opinion?

Depending on the importance of the document placed for debates, the time for these debates vary from 15 to 60 days.

Are drafts regulations and rules available through the Internet?

The draft normative acts and legal rules are posted on the official websites of the Government, Parliament, Ministry of Environment: www.mediu.gov.md

Are the public comments received in the course of the participation process under article 8 of the Convention communicated to the legislature?

The files on drafting the law, containing also comments from the public, provided during the conducted participatory process, are made available to relevant parliamentary committees and other decision makers. The general public has no access to these files.

Article 9

General issues

Do the courts apply the text of the Aarhus Convention directly?

If necessary, the courts apply the text of the Aarhus Convention, but official statistics on this is lacking.

According to the briefing note on the widespread practice of judicial enforcement in environmental protection, which is the background of the Explanatory Decision of the Supreme Court of Justice on environmental legislation enforcement practice, the Aarhus Convention is one of the international acts, and its provisions should be applied in the examination and resolution of environmental causes.

In particular, the settlement of cases stemming from the right to environmental information and public participation, the courts will apply not only to the Law on Access to Information, but also Aarhus Convention provisions.

Do the courts have only cassation or also reformatory rights in cases under this article?

In accordance with the national law, the court has the right to change and cancel the decision studied in accordance with art. 9.

Paragraphs 1 and 2: Remedies

How is the independence of the administrative review ensured?

National legislation ensures the independence of the review of the administrative body

decision.

How do the national law and adjudication interpret the phrase “NGOs promoting environmental protection and meeting any requirements under national law”?

According to national legislation NGOs that contribute to environmental protection are defined as non-governmental organizations acting for environmental protection.

Paragraph 3: The public’s right to challenge acts and omissions by private persons and authorities

Which level of legislation implements the requirements of article 9, paragraph 3?

Requirements indicated in item 3 of Article 9 of the Convention can be achieved under the Law on Petitions, the Law on Access to Information, the Law on Environmental Protection, the Law on Administrative Litigation and the Code of Civil Procedure.

Can members of the public initiate administrative cases through petitions, complaints or motions?

Yes, they can, according to the Law on Petitions, the Law on Access to Information, and the Law on Environmental Protection.

According to Art. 381 of the Contravention Code No. 218 from 24.10.2008, any person has the right for effective satisfaction by the competent court against acts that violate his/her legal rights, freedoms and interests.

Can a member of the public challenge decisions of the type regulated by articles 7 and 8 of the Convention by challenging them as contravening the provisions of the national law relating to the environment?

Yes, he/she can, according to the Law on Administrative Litigation and the Code of Civil Procedure.

What are the conditions of issuing an injunctive relief by the court in cases brought under article 9, paragraph 3, of the Convention and/or the relevant national legislation?

The judge or court may take measures to ensure the action at the request of participants in the trial according to Art. 174 of the Code of Civil Procedure. When it’s impossible to enforce the court decision insurance is accepted, and this can happen on any stage of the process. In this case several measures of insurance may be admitted. Among the insurance measures provided by the Law are:

1. to seize property or money of the defendant, including those which are at other people;
2. to prohibit the defendant to perform certain acts;
3. to prohibit other persons committing certain acts on the object in question

According to Art. 21 of the Law on Administrative Litigation, suspension of the contested administrative act may be claimed by the plaintiff to the administrative court while submitting the application. In well justified cases in order to prevent an imminent harm the court may order the suspension of the administrative and office activities.

Paragraph 4: Timely, adequate, effective, fair, equitable and not prohibitively expensive remedies

What kinds of sanctions are available in cases where an official fails to fulfill his or her responsibilities concerning access to information or public participation?

Criminal penalties are vindicated by Criminal Laws of the Republic of Moldova in following cases:

- willful concealment of data;
- presentation of erroneous data (about the excessive pollution damage to the environment, radioactive pollution, chemical, bacteriological or other dangerous consequences for life or health of population and health status affected by environmental pollution) by a responsible person or by a person who manages a commercial, public or other non-governmental organization, and by a legal person;

and if it caused by negligence:

- a) massive illness of humans;
- b) massive extinction of animals;
- c) death of a person;
- d) other serious consequences.

At the same time, failure to keep work obligations related to access to information and public involvement may constitute a disciplinary offense which is sanctioned in accordance with labor legislation.

Are there judges specializing in environmental cases?

Currently there is no sub-specialization of judges in settlement of environmental cases. However, all judges participate in seminars organized by the National Institute of Justice, including on environmental topics.

Association "Eco-Tiras" in partnership with the National Institute of Justice organized two seminars for judges on implementation of the Aarhus Convention, Chapter "Access to Justice" implementation on October 22 and November 2, 2010 with support of Rosa Luxemburg Foundation.

The curriculum for the Environmental Law trainees was developed by the National Institute of Justice in 2009.

Association "Eco-Tiras" elaborated and published the Guide for Judges on application of Aarhus Convention in 2010.

What overall costs do members of the public incur in bringing cases to court?

The legislation in force provides some incentives for the payment of state fees. Thus, under Article 85, para. (1), item a) CPC, exceptions can be made for:

- *the plaintiffs* – in the case of actions with respect to compensation for health damage caused by the bodily injury or other harm to health or the death as a result of a breach of environmental legislation;

- *the plaintiffs* - in the case of actions with respect to compensation for damage caused by environmental pollution and unreasonable use of natural resources.

Another reason for exemption from payment of state tax may be acting of the plaintiff in the interest of the society, which can be in the case of direct application of the law, if the person or NGO initiates an action to obtain compliance with environmental legislation.

State fees, from which the applicant is exempted, are paid by the defendant proportionally to the satisfied requirements of the action.

According to para. (3) of Art. 16 of the Law on Administrative Court, plaintiffs in actions arising out of administrative reports are exempted from the payment of the state tax.