

## AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is submitted on behalf of SLOVENIA in accordance with decision I/8 and II/10

<b>Name of officer responsible for submitting the national report:</b>	<b>Prof. Dr. Roko ŽARNIČ, Minister of the Environment and Spatial Planning</b>
<b>Signature:</b>	
<b>Date:</b>	<b>7.12.2010</b>

### IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

<b>Party</b>	<b>Slovenia</b>
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**I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED**

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

*Answer:*

The report was prepared by the Ministry of the Environment and Spatial Planning (MoE). In regard to content falling within the competence of other public authorities, the Environmental Agency was consulted. In the first phase of the consultation process the public was given possibility of sending suggestions regarding the content of the implementation report. In this phase MoE received one suggestion from the Legal Information Centre of Non-governmental Organizations. The suggestion was considered when preparing this report. Later on the public was consulted through the publication of the report on the official website of the Ministry, which enabled comments to be submitted on the draft in November 2010. During this period, the Information Commissioner, as the Appellate Body, which in practice addresses actual complaints by applicants with regards to denied access to information of a public character, the nature of which is that of environmental information, submitted comments. As a base for the preparation of the report National legislation, comments on the legislation, the Internet, official sites and other literature were used.

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

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

*Answer:*

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

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

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

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
  - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating whether the measures to coordinate are ongoing;
  - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which the access to information was provided;
  - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g. inviting NGO members to participate in the Party's delegations in international environmental negotiations or involving NGOs in forming the Party's official position for such negotiations) including the stages at which the access to information was provided;
  - (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;
  - (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

*Answer:*

(a) In 2003, Slovenia adopted the Act on Public Access to Information (Official Gazette RS , No. 24/03, 61/05, 96/05-UPB1, 109/05-ZDavP-1B, 113/05-ZInfP, 28/06, 51/06-UPB2, 117/06-ZDavP-2; hereinafter referred to as: ZDIJZ) as a general act governing the procedure which ensures everyone free access to information of a public character held by State bodies, local

governmental bodies, public agencies, public funds and other public law entities, holders of public powers and public service contractors. The Government makes these documents publicly available on an annual basis; their contents are specifically defined by the Decree on communication and re-use of information of public character (Official Gazette RS, No. 76/05 and 119/07). Furthermore, article 9 of the Act requires that each body appoint one or more officials competent for the transmission of information of a public character. With respect to the environment, article 110 of the Environmental Protection Act (Official Gazette RS, No. 41/04, 20/06, 28/06 Skl.US: U-I-51/06-5, 39/06-UPB1, 49/2006-ZMetD, 66/06 Odl.US: U-I-51/06-10, 112/06 Odl.US: U-I-40/06-10, 33/07-ZPNačrt, 57/08-ZFO-1A, 70/2008, 108/09; EPA) sets out the obligation for national and municipal authorities, public agencies, public trust funds and other bodies governed by public law, holders of public powers and providers of public services, to facilitate access to environmental data for all interested parties when prescribed by law or regulations governing access of the public to publicly available information. Furthermore, article 108 of the EPA provides for the transmission of environmental data to the Internet. In accordance with the regulations governing access of public to the public information the ministry shall transmit to the Internet in particular the following:

1. municipal regulations concerning the environment that have not been published in the Official Gazette of the Republic of Slovenia,
2. National Environmental Action programme and environmental action programmes,
3. environmental premises,
4. environmental reports,
5. environmental monitoring data or summaries of environmental monitoring data,
6. environmental protection consents and permits, except data not available to the public under the regulations, or a reference to the authority from which consents or permits may be obtained, and
7. environmental reports and reports on impacts on the environment or a reference to the authority from which the reports may be obtained.

(b) Slovenia has adopted the National Programme on Environmental Protection, a general framework for the strategic orientation of environmental policy with the aim of improving the general state of the environment, quality of life and protection of natural resources during a four-year period (2004 – 2008). This programme establishes as one of the priorities the promotion of education and environmental awareness with the aim of furthering general knowledge of environmental issues. Furthermore the Resolution of National Programme of Environmental Protection 2005 – 2012 was adopted. Among the main features for the successful implementation of the Programme are the measures in the area of public communication and education of the environmental protection, which can consequently change social habits, system of values and way of life. In achieving this aim access to environmental information, public participation in shaping the environmental policy and informing of the public must be assured. There is also a need to improve cooperation and partnership among different social groups and non-governmental organizations among European states which can be achieved through:

- assuring access to information, participation and court with the ratification of Aarhus Convention by all the EU member states,
- support to the citizens in collecting of information regarding the state and trends of the environment in relation to social, economical and medical trends,
- general environmental awareness,
- further development of general rules and rules of conduct in regard to the environment.

Furthermore, the Government adopted the Strategy of the Government for the Cooperation with Non-governmental Organizations, which further promotes different means for the cooperation with the nongovernmental organizations (NGOs) in the process of adoption and implementation of public policy (public participation in the adoption of legal acts and other strategic documents).

(c) The Environmental Protection Act represents the legal basis for the recognition of NGOs undertaking environmental protection activities in the public interest (Official Gazette RS, No. 112/06). The Act, which sets out detailed conditions and measures for recognition, was adopted in 2006. NGOs fulfilling the criteria set in this Act is given the right to act in administrative and judicial procedures without having to claim a legal interest, which is conferred upon them *ex lege*. The Nature Conservation Act (Official Gazette RS, No. 56/99 (31/00 popr.), 110/02-ZGO-1, 119/02, 22/03-UPB1, 41/04, 96/04-UPB2, 61/06-ZDru-1, 63/07 Odl.US: Up-395/06-24, U-I-64/07-13, 117/07 Odl.US: U-I-76/07-9, 32/08 Odl.US: U-I-386/06-32, 8/10-ZSKZ-B) contains the procedure for the recognition of associations performing nature conservation activities in the public interest. These associations are given the *ex lege* right to represent the interests of nature protection in all administrative and judicial procedures;

(d) Slovenia, as member of the European Union (EU), fully complies with the rules and procedures adopted at Community level on the promotion of the application of the Convention's principles in matters relating to the environment;

(e) It can be derived from the Constitution that nobody can be penalized or persecuted for exercising rights protected under the Convention.

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

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

*Answer:*

The Act setting forth more detailed conditions and measures for the recognition of NGOs undertaking environmental protection activities in the public interest was adopted in November 2006

PIC established progress from the last report, since in 2009 statuses were finally begun to be awarded. Similarly, the Environmental Protection Act was amended - first in 2008, with the "alleviation" of the legal requirement with regards to the necessary audit of operations for award of status so that in case of award of status the Ministry refunds 50% of the costs of an audit; and furthermore, at the end of 2009, this condition was completely eliminated from the Act. At present, the status of operation in the public interest is awarded to 10 NGOs, which is in actuality still too little; nonetheless, the procedures are now progressing without delays. In any case, a considerable shift for the better has occurred since the year 2008.

Based on the proposals for the last report or issues to which it drew attention, PIC furthermore finds that the problem of previous lack of recognition of the position of an accessory party in procedure of an Organization with the status of operation in the public interest, in accordance with the Nature Conservation Act, has been resolved. With the amendments of the Environmental Protection Act in 2008, it was established that Organisations with the mentioned status should be awarded the status also in accordance with the Environmental Protection Act, if the audit condition was fulfilled (which was eliminated in 2009). This indicates that with regards to rights to participation in procedure, at present the status awarded based on the Nature Conservation Act is equivalent to the status under the Environmental Protection Act.

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

Provide further information on the **practical application of the general provisions of article 3.**

*Answer:*

The promotion of environmental education and awareness is undertaken through governmental co-financing of environmental NGOs and of different projects for the promotion of environmental protection that indirectly contribute to public environmental awareness.

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

Give relevant web site addresses, if available:

<http://www.mop.gov.si>

<http://www.mju.gov.si>

<http://www.ip-rs.si>

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

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person may have access to information without having to state an interest;
  - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
  - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
  - (i) Provide for exemptions from requests;
  - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;

(e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;

(f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;

(g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

*Answer:*

(a) Article 13 of the Environmental Protection Act applies the principle of accessibility according to which environmental information shall be made public and every person have the right to access environmental information in accordance with the law. Furthermore, article 5 of the Act on Public Access to Information, applicable as a *lex generalis*, sets forth the free access principle which entitles applicants to have free access to information of a public character. Each applicant has, upon request, the right to acquire information from the relevant body for on-site consultation or by receiving a transcript, copy or electronic record. Each applicant has, upon request, the right to acquire information of a public character from the relevant body for on-site consultation or by receiving a transcript, copy or electronic record. Selection of the manner of access (on-site consultation, copy or electronic record of information) is limited by paragraph 2 of article 25 of the ZDIJZ, based on which the body, which is obliged to communicate information of a public character, may deny a photocopy of the requested information, if the copy is protected in accordance with the law governing copyright. In this case, the applicant is not entitled to a photocopy of the document; the body provides only access to on-site consultation. In practice, the above provision applies both in cases of documents ordered by legal entities of the private sector, as also in cases when a certain document (for example, environmental studies) is ordered by a body, which, under obligation of this Convention, references protected copyrighted work. In practice, the question of transfer of material copyrights to public sector bodies represents a problem. In case a body does not explicitly transfer the material copyright (i.e. copy and distribution right) by a contract to the Republic of Slovenia, the owner of copyright is still the natural person and consequently, the work is protected copyright work, which may not be copied. This problem is indicated also in the decision of the Information Commissioner no. 090-68/2010 of 12. 8. 2010, which is at present subject to a deliberation of the Administrative Court of the RS. The body obliged to communicate information (Slovenian Roads Agency) rejected the communication of a copy of documentation by referencing copyrighted work, although the documentation was ordered and paid for by the body itself for its own needs. The novel of the Act on Public Access to Information additionally confers to every applicant, under the same conditions as all other persons, to acquire the right to re-use information for commercial or non-commercial purposes. The body shall make its public information available through electronic means where possible and appropriate though this shall not imply an obligation, for the purpose of the re-use of information, to provide transformation of one form into other or provide extracts from documents, where this would involve disproportionate effort, going beyond a simple operation, nor continue with the provision of certain information only for the purpose of re-use by other bodies or other persons.

(b) Article 24 of the Act on Public Access to Information provides that the competent body must decide on the applicant's request immediately, and at the latest within 20 working days from the receipt of the full request. In cases when the body requires more time for the transmission of the requested information due to the volume of the information, the deadline may not be extended

for more than 30 working days. When the applicant in his request appeals to the prevailing public interest for the disclosure, the liable body shall submit a decision proposal to the competent body within the time limit of 15 working days after the receipt of request, with the competent body deciding on the request within the time limit of further 15 working days, after the receipt of the decision proposal. In case the body does not communicate the information to the applicant within the above stated deadlines, the applicant has the right to an appeal to the Information Commissioner.

(c) Exceptions to the disclosure of information are dealt with under article 6 of the Act on Public Access to Information, which fully transposes the requirements of the Convention.

Exceptions relate to:

1. information which, pursuant to the Act governing classified data, is defined as classified;
2. information which is defined as a business secret in accordance with the Act governing companies;
3. personal data the disclosure of which would constitute an infringement of the protection of personal data in accordance with the Act governing the protection of personal data;
4. information the disclosure of which would constitute an infringement of the confidentiality of individual information on reporting units, in accordance with the Act governing Government statistics activities;
5. information the disclosure of which would constitute an infringement of the tax procedure confidentiality or of tax secret in accordance with the Act governing tax procedure;
6. information acquired or drawn up for the purposes of criminal prosecution or in relation to criminal prosecution, or misdemeanors procedure, and the disclosure of which would prejudice the implementation of such procedure;
7. information acquired or drawn up for the purposes of administrative procedure, and the disclosure of which would prejudice the implementation of such procedure;
8. information acquired or drawn up for the purposes of civil, non-litigious civil procedure or other court proceedings, and the disclosure of which would prejudice the implementation of such procedure;
9. information from the document that is in the process of being drawn up and is still subject of consultation by the body, and the disclosure of which would lead to misunderstanding of its contents;
10. information on natural or cultural value which, in accordance with the Act governing the conservation of nature or cultural heritage, is not accessible to public for the purpose of protection of (that) natural or cultural value;
11. information from the document drawn up in connection with internal operations or activities of bodies, and the disclosure of which would cause disturbances in operations or activities of the body.

The novel of the Act on Public Access to Information (Official Gazette RS, No. 61/05) provided for a complete conformity with the Convention with the addition of the prevailing public interest for the disclosure. The access to the requested information shall be allowed, if public interest for disclosure prevails over public interest or interest of other persons for restricting access to information, except in the following cases:

- for information which, pursuant to the Act governing classified data, is denoted with one of the two highest levels of secrecy;
- for information which contain or are prepared on the basis of classified information of foreign country or international organization, with which the Republic of Slovenia concluded an international agreement on the exchange or transmission of classified information;



- for information which contain or are prepared on the basis of tax data, transmitted to the bodies of the Republic of Slovenia by a body of a foreign country.

Without prejudice to these provisions, the access to the requested information shall be allowed:

- if it concerns the data on the use of public funds or information related to the execution of public functions or employment relationship of the civil servant

- if it concerns the data related to environmental emissions, waste, dangerous substances in factory or information contained in safety report and also other data in relation to which the Environment Protection Act so stipulates.

(d) Article 20 of the Act applies to the conduct of the body in cases where it does not hold the requested information. It must immediately, and at the latest within three working days, assign the request to the competent body for resolving the request in relation to its substance;

(e) Article 7 of the applies to partial disclosure of a document, which can be separated out without jeopardizing its confidentiality. The body must separate out such information from the document and refer the contents of the remaining document to the applicant;

(f) The Act provides that the decision must be made within 20 working days from the day of the receipt of the full request or, in exceptional circumstances, not more than 30 days. Pursuant to its article 27, the applicant has the right to appeal against the decision by which the body has refused the request. The applicant has the right of appeal also in the case if the applicant deems that the information obtained is not the public information he had stated in his request or when the information received is not in the form he requested.

The Commissioner for Access to Public Information shall decide on the appeal. Appellate proceeding shall be implemented in accordance with the provisions laid down in the Act governing general administrative procedure.

(g) According to article 34 of the Act, on-site consultation of the requested information shall be free of charge. The body may charge the applicant for costs relating to transmission of a transcript, copy or electronic record of the requested information.

The novel of the Act on Public Access to Information enabled the body to charge for the re-use of information for commercial purposes, except in case of re-use for the purpose of providing information, ensuring the freedom of expression, culture and art and media's re-use of information.

However, the price may not exceed the costs of collecting, producing, reproducing, and disseminating, together with a reasonable return on investment. The price must be adjusted for cost-effectiveness, set within a common accounting period and consistent with applicable accounting principles of the body concerned. The cost calculation method for the price is itself public information, and the body must in accordance with this Act, transmit it to every applicant which so requests.

The body does not charge for the re-use of information if it transmits the same information to the internet free of charge

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

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

*Answer:*

The provisions of the Convention are fully transposed into national legislation with the novel of

the Act on Public Access to Information (**Official Gazette RS**, No. 61/05 and 28/06).

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

Provide further information on the **practical application of the provisions on access to information in article 4**, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

*Answer:*

The substance of decisions are published on the official page of the Information Commissioner <http://www.ip-rs.si> and on the official page of the Environmental Agency, where the statistics on the state of affairs is published:

<http://www.arso.gov.si/o%20agenciji/katalog%20informacij%20javnega%20zna%C4%8Daja/>

The statistics for the year 2010 on the state of affairs in the procedures of request for the access to public information:

- during 2009, 228 (Ministry of the Environment and Spatial Planning, Environmental Agency of the Republic of Slovenia, Inspectorate of the RS for the Environment and Spatial Planning, Slovenian Nuclear Safety Administration) and 64266 (Surveying and Mapping Authority of the Republic of Slovenia) requests for information of a public character and 535 requests (Surveying and Mapping Authority of the Republic of Slovenia) for reconsideration were submitted;
- 63 requests (MoE 33, Environmental Agency of the Republic of Slovenia 8, Inspectorate of the RS for the environment and spatial planning 22, Slovenian Nuclear Safety Administration 0) and 2 requests (Surveying and Mapping Authority of the Republic of Slovenia) were denied;
- during 2009, 14 appeals (MoE 7, Environmental Agency of the Republic of Slovenia 1, Inspectorate of the RS for the environment and spatial planning 6, Slovenian Nuclear Safety Administration 0) and 2 appeals (Surveying and Mapping Authority of the Republic of Slovenia) were filed;
- there were no administrative disputes against final decisions;
- there were no judicial decisions, which would grant the applicant's appeal in an administrative dispute.

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

Give relevant web site addresses, if available:

<http://www.ip-rs.si>

[http://www.mop.gov.si/si/o\\_ministrstvu/informacije\\_javnega\\_znacaja/porocilo\\_o\\_stanju/](http://www.mop.gov.si/si/o_ministrstvu/informacije_javnega_znacaja/porocilo_o_stanju/)

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

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

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

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

*Answer:*

- (a) Article 96 of the Environmental Protection Act obligates the State to carry out the monitoring of natural phenomena, the state of the environment and environmental pollution. Article 27 contains measures applicable to environmental accidents. An entity having caused an environmental accident has to immediately inform the authority responsible for disseminating information as designated under regulations on the protection against natural and other disasters;
- (b) Article 106 of the Act applies to the disclosure of environmental data to the public through an environmental report. In cooperation with other ministries, the MoE draws up a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and are available to the public;
- (c) Article 108 of the Act provides for the uploading of environmental data on the Internet in

accordance with the Act on Public Access to Information. The Ministry makes available on the Internet environmental studies, reports, monitoring data or summaries of monitoring data and reports on environmental impacts, or a reference to the authority from which the reports may be obtained (article 108 of the Environmental Protection Act);

(d) Article 106 of the Environmental Protection Act provides for the disclosure of environmental data to the public through environmental reports. In cooperation with other ministries, the MoE prepares a report on the environment at least every four years. Every other year, the Ministry prepares a report on the environment and parts thereof comprising environmental indicators. All these reports are published and made available to the public;

(e) Art. 10 Act on Public Access to Information, amended with a novel (Official Gazette RS, No. 61/05 and 28/06) provides transmission of information to the World Wide Web. ) Each body is obliged to transmit to the World Wide Web the following public information:

1. consolidated texts of regulations relating to the field of work of the body, linked to the state register of regulations on the Web;

2. programmes, strategies, views, opinions and instructions of general nature or important for the interaction of the body with natural and legal persons or for deciding on their rights or obligations respectively, studies, and other similar documents relating to the field of work of the body;

3. proposals for regulations, programmes, strategies, and other similar documents relating to the field of work of the body;

4. all publications and tendering documentation in accordance with regulations governing public procurements;

5. information on their activities and administrative, judicial and other services;

6. all public information requested by the applicants at least three times;

7. other public information.

Each body should facilitate, free of charge, access to information referred to in the preceding paragraph;

(f) Article 104 of the Environmental Protection Act concerns the establishment of environmental registers. Accordingly, the Ministry must keep and manage a register containing:

- Records of persons having an environmental protection permit under the Act;
- Records of providers of environmental public utility services;
- Records of persons having authorizations or certificates for performing environmental protection activities in accordance with the Act and regulations issued under it;

(g) Article 105 of the Environmental Protection Act concerns the environmental information system. In order to perform State tasks in the field of environmental protection, including the disclosure of environmental data to the public, the Ministry ensures the establishment and management of an environmental information system;

(h) Article 31 of the Act regulates the granting of eco-labels. In order to promote the production of products or provision of services that have a less detrimental impact on the environment throughout their life-cycle than other products of the same kind, and thus contribute to the efficient use of environmental components and a high level of environmental protection, the Ministry can award eco- labels. Article 32 applies to a system of environmental management of organizations which aims to promote more appropriate environmental management and public information on the impacts of their activities on the environment. For this purpose, the Ministry can enable companies, traders, institutes and other organizations or parts or associations thereof to participate in the Community Eco-Management and Audit Scheme (EMAS);

(i) Article 105 of the Environmental Protection Act applies to an environmental information system. In order to perform State tasks in the field of environmental protection, including disclosing environmental data to the public, the Ministry must ensure the establishment and management of an environmental information system.

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

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

*Answer:*

The provisions of the Convention are fully transposed into national legislation.

Legal Information Centre of Non-governmental Organizations suggests more active role of Ministry of the Environment in informing the public. In drafting the last report, PIC underlined that the Ministry of the Environment and Spatial Planning has changed the manner of notification of Non-governmental Organizations from active to passive. Previously, the Organizations were notified on important events, following the change, the Ministry only facilitates access to information via its webpage. Positive shifts in the relationship to Non-governmental Organizations and the public are noticeable in terms of better identification of target public and engagement with it. Similarly, there were more cases of good practice in terms of cooperation between the public and Non-governmental Organizations (for example, for preparation of the draft of the Climate Change Act, a work group was formed for funding of environmental NGOs, which includes also representatives of NGOs, the drafting of the National spatial plan for the construction of the road in Mežiška dolina is proceeding in good cooperation). Despite the above, providing information to NGOs could be generally better. In the sense of realization of the third pillar of the Convention, informing NGOs with a status in public interest in the field of environment on procedures representing important changes in the environment would be particularly necessary. Through informing of NGOs with a status in public interest, both on the basis of the Environmental Protection Act as also on the basis of the Nature Conservation Act (at present, there are 33 such NGOs), the participation of the public would also improve.

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

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

*Answer:*

A public relation office has been established at the MoE as a point of contact, and the MoE maintains a website where all required information is available. In addition, it releases every month an information bulletin in English and Slovenian, which is targeted at raising awareness and the level of knowledge among various groups of the public. The Environmental Agency of the Republic of Slovenia (ARSO) has also established an environmental information system with horizontal connection of environmental data. The Catalogue of Data Sources (CDS) on the environment represents an overview of the data collected both by state agencies and other institutions. In this manner Slovenia fulfils the requirements of the national environmental legislation and the Directive of the European Parliament and of the Council on public access to environmental information (2003/4/EC), as also the provision of article 8 of the Act on the Access to Information of Public Character, on the obligation of the body to regularly maintain

and publish a Catalogue of Information of Public Character. The metadata (data on data) collected in the Catalogue enables users via the web portal to search based on the following environmental topics: air, environmental changes, waters, nature, noise, chemicals and biotechnology, waste, energy, radiation, industry and environment, environmental impact assessment, ground, natural and other disasters, legislation, etc.

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

Give relevant web site addresses, if available:

[www.mop.gov.si](http://www.mop.gov.si)

<http://www.arso.gov.si/>

<http://eionet-si.arso.gov.si/Eionet-SI>

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

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
  - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

- (f) With respect to **paragraph 6**, measures taken to ensure that:
  - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
  - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;
- (k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

*Answer:*

Procedures for public participation in decisions on specific activities are found in the Environmental Protection Act. Its article 58 provides that during the environmental impact assessment (EIA) procedure, the Ministry must make available to the public the application for the environmental permit, environmental impact report, written opinion on the revision carried out and the draft decision on the environmental permit, and allow the public to give its opinions and comments. Article 65 provides that the Ministry informs the public that the environmental permit has been granted within 30 days from the adoption of the decision through a locally established method, on the Internet and in one of the daily newspapers covering the whole territory. The announcement must include in particular:

- a. The content of the decision and the main conditions for the implementation of the planned activity, where specified;
- b. The main reasoning for the decision;
- c. The description of the most important measures for prevention, reduction or elimination of the adverse effects of the planned activity on the environment when the environmental permit is granted; and
- d. An indication of the opinions and comments by the public and the member State that have been considered.

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

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

*Answer:*

The provisions of the Convention are fully transposed into national legislation.

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

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

*Answer:*

The public participates in these procedures, but no statistics are available on this topic.

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

Give relevant web site addresses, if available:

[www.mop.gov.si](http://www.mop.gov.si)

[www.arso.gov.si](http://www.arso.gov.si)

**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**

**List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

*Answer:*

The following provisions of the Environmental Protection Act are applicable to the participation of the public during the preparation of plans and programmes related to the environment:

Article 37

During the procedure for the preparation of the national environmental action programme and operational environmental protection programmes, the Ministry must make the draft programmes available to the public for comment. Through a public announcement on the Internet and in one of the daily national newspapers, the Ministry must inform the public of the location of the programme and of the procedure for submitting comments. Access to the drafts



and the possibility to provide comments must cover a period of at least 30 days. The ministry shall consider the opinions and comments of the public and take them into account, as appropriate, in the drawing-up of the programmes. It must notify the public of the adoption of the programme on the Internet and in one of the daily national newspapers. Such notification must include the reasoning for the decisions adopted and information on public participation in the drawing-up of the programme.

#### Article 40

An integrated EIA is carried out for a plan or amendment to a plan adopted pursuant to the law by the competent authority of the State or municipality for the area of spatial planning, water management, forest management, hunting, fisheries, mining, agriculture, energy, industry, transport, waste and waste water management, drinking water supply, telecommunications and tourism, where such plan or amendment lays down or foresees an activity affecting the environment for which an EIA must be carried out or when it covers a special protection area under the regulations on nature conservation or such area is likely to be affected by the implementation of the plan. Pursuant to article 43, the public is involved when the environmental report for the EIA is determined to be appropriate and the developer of the plan must, within the adoption procedure, make the plan, environmental report and its revision available to the public during at least 30 days and ensure public discussion. The developer of the plan publishes in one of the daily national newspapers, through a locally established method and on the Internet a public announcement indicating the place and time of the public display and discussion of the plan, and procedure for submitting comments. Where the developer is the competent authority of the municipality, the public announcement has to be published in a newspaper covering the territory of the municipality instead of the territory of the State.

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

**Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.**

*Answer:*

The public participates in the process of preparation of legislation intended for the adoption of environmental policy (e.g. the National Programme on Environmental Protection), as well as in the preparation of legislation on spatial and sectoral plans for the management of natural resources.

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

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

*Answer:*

The provisions of the Convention are fully transposed into national legislation.

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

**Provide further information on the practical application of the provisions on public**

participation in decisions on specific activities in article 7.

*Answer:*

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

Give relevant web site addresses, if available:

[www.mop.gov.si](http://www.mop.gov.si)

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

**Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

*Answer:*

Recommendations of the Convention on participation of the public in the procedure of drafting implementing regulations are, in comparison to article 7 of the Convention, of a more general nature.

On the initiative of the Association for freedom of animals, the Constitutional Court of the RS assessed the constitutionality of the regulations based on which the Minister of the Environment and Spatial Planning permitted killing of 100 bears in 2006: Decree on protected wild animal species and Rules on killing of bears. The Constitutional Court annulled both implementing regulations. Of all unlawful issues alleged by the Association, the Court focused only on one: the breach of the Aarhus Convention. This Convention, among other things, guarantees the public the right to participation in adoption of regulations, significant for the environment. The Constitutional Court went even further than the Association's initiative. It has ruled that even the umbrella act for the area of nature conservation is unconstitutional since it does not govern the participation of the public in adoption of implementing regulations. The Parliament remedied the unconstitutionality of the Nature Conservation Act by amending the Environmental Protection Act, where the new article 34.a defines the rules for participation of the public in adoption of regulations in all areas related to environmental protection.

Act amending the Environmental Protection Act (Official Gazette RS, No.70/08; EPA-1B) under article 34.a defines the procedure of participation of the public in adoption of regulations, which could significantly influence the environment, as required under article 8 of the Aarhus Convention.

Thus, the Ministries and competent bodies of local communities in the procedure of adopting regulations, which could significantly impact the environment, must inform the widest public on a draft of the regulation and enable expressing of opinions and comments for each individual

regulation.  
 Regulations, which could significantly impact the environment, are regulations issued in the area of environmental protection, nature conservation, and management, use or preservation of parts of the environment, including treatment of genetically modified organisms and other regulations impacting the environment.  
 In accordance with the Instructions on public participation in adopting regulations, which may significantly impact the environment, the Ministry's webpage publishes drafts of regulations and invitations for participation in their drafting. Deadline for comments is stated in the publication and must not be shorter than 30 days.  
 Comments may be submitted:

- in electronic form to the e-mail address of an employee of the Ministry, stated in the published draft material, or
- to the postal address: Ministry of the Environment and Spatial Planning, Dunajska c. 48, Ljubljana, stating the title of the regulation and its numbers.

Position on public comments for an individual regulation, which will include the reasons for their consideration or lack of consideration in drafting of the regulation, will also be published on the world wide web, following the publication of the regulation in the Official Gazette RS.

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

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

*Answer:*

The provisions of the Convention are fully transposed into national legislation.

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

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

*Answer:*

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

Give relevant web site addresses, if available:

<http://www.mop.gov.si>

[http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/ministrstvo/pdf/navodilo\\_akti.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/ministrstvo/pdf/navodilo_akti.pdf)

<http://www.uradni-list.si/1/objava.jsp?urlid=200832&stevilka=1223>

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

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
  - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
  - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
  - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
  - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

*Answer:*

The right to legal protection is guaranteed to anybody who believes his request for information was not considered, wrongfully refused or inadequately answered. The right to an appeal is governed by article 27 of the Act on the Access to Information of Public Character and is available to an applicant against the decision by which the body denied the request and against the decree by which the body dismissed the matter. The applicant reserves the right to an appeal also in case he believes that the information, which he gained access to, is not the information of public character, which he stated in the request or if he does not receive the information in the requested form. The Information Commissioner rules on the appeals based on provisions of the general administrative procedure.

Further, article 31 of the Act on Access to Information of Public Character establishes judicial protection against the Commissioner with an administrative dispute. In Slovenian positive law, the Constitution defines under paragraph 1 of article 157 that proceedings before an Administrative Court (i.e. administrative dispute) may be instituted by an individual believing that any of his rights or legal entitlements were infringed with a specific administrative act (for example, Decision on issue of a site permit). Implementation of the provision of paragraph 1 of article 157 of the Constitution is represented by the Administrative Dispute Act (Official Gazette RS, No. 105/06, hereinafter referred to as ZUS-1), which stipulates that in an administrative dispute judicial protection is provided for the rights and legal entitlements of individuals and organizations against decisions and actions of State bodies, local community bodies and holders of public authorisations.

In an administrative dispute, the Court rules on the legality of final administrative acts, which interfere with the judicial status of the plaintiff. The administrative act is an administrative decision and other public law, unilateral, individual regulatory act, issued within the framework of implementation of the administrative function by which the body decided on the right, obligation or legal entitlement of the individual, legal entity or other entity, which may be a party to the procedure of issue of the act. An administrative dispute shall not be permitted if the party, who had an opportunity to submit an appeal against the administrative act, did not file an appeal or filed the appeal late. The law thus requires exhaustion of legal means within the administrative procedure as a condition for instatement of an administrative dispute.

General Administrative Procedure Act stipulates under articles 42 and 43 which persons have the position of a party and which persons may participate in a procedure as accessory participants. The position of a party may be held by any natural person and legal entity under private or public law, at whose request the procedure has been instated or against whom the procedure is under way. Parties may also be others (a group of individuals, etc.), if they are holders of rights and obligations, which are the subject of an administrative procedure. An individual, who shows legal interest, may hold the position of an accessory intervenient (participant). This person shows legal interest by claiming to enter the proceedings because of protection of his legal entitlements. Legal entitlement is direct personal entitlement in accordance with the law or other regulation. An accessory participant in the procedure holds the same rights and obligations as a party.

EPA recognises as a party any person located in the area on which the intended intervention causes environmental burden, which may affect human health or property. A party in the procedure of issue of an environmental consent and environmental permit is the holder of the intended intervention. This party is a person residing in this area or the owner or other possessor of property. The position of an accessory participant in the procedure for issue of an environmental consent and environmental permit is also held by a Non-governmental Organization operating in public interest in the field of environment, which has been awarded the status in accordance with provisions of article 152 of the EPA.

*Protection of rights on the »actio popularis« basis (article 15 of EPA):*

The Constitution stipulates under paragraph 2 of the stated article that an individual may raise an administrative dispute believing that with an individual action or act of a public authority, one of his constitutional rights has been infringed, if other judicial protection is not provided, In relation to this option, reference to infringement of the right to a healthy living environment (article 72 of the Constitution) could be made if appropriate. However, it is questionable if the Court would not adopt the position that in this case other judicial protection is provided. Article 14 of the EPA governs the so-called »actio popularis« by which nationals or their associations, societies and organizations are able, for implementation of the right to a healthy and clean environment, to demand from the Court with a suit that the Court orders the carrier of the environmental intervention to suspend, or to prohibit the start, of the environmental intervention, if it is highly likely that it would cause direct danger for the environment, critical load or injury of the environment or direct danger to human life and health. The stated provision in our opinion also enables implementation of the requirement of the Aarhus Convention under paragraph 3 of article 9, under which, the States Parties undertake to provide members of the public (meeting

the criteria, laid down in their national law) access to administrative or judicial procedures to challenge acts and activities, which contravene the provisions of its national law relating to the environment.

Under Slovenian law, the person who shows a legal interest may challenge the legality of implementing regulations and other general legal acts before the Constitutional Court. The legal interest may be shown by any person demonstrating that such an act (remaining valid) would infringe his rights, obligations or property entitlements. Thus, within this framework, members of the public concerned could challenge plans, programmes and all other acts of formation of environmental policy, if these have the nature of general legal acts, as also all implementing regulations. Thus, they could challenge before the Constitutional Court, spatial (planning) acts, forest economy plans and plans of water management. All of the above, of course, with fulfilment of the condition of show of legal interest.

In the past, the Constitutional Court has, at least in relation to spatial planning acts, addressed the question of presence of a legal interest relatively broadly, so that in some cases, for example, it granted the interest to environmental Non-governmental organizations.

Under EPA, the stated issues are governed in a more suitable manner, by definition of persons who have the right to express an opinion and comment on programmes and to participate in the procedure of environmental impact assessment. The option of judicial protection of this right, in case of its infringement, is also defined.

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

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

*Answer:*

The act which regulates in detail the granting of the status of an NGO operating in the public interest in the environmental area was adopted in 2006.

PIC finds that it is still the implementation of the third pillar of the Convention in the legislation, and particularly in practice, that is still the weakest. Based on the proposals for the last report or issues to which PIC drew attention, it needs to be told that the problem of previous lack of recognition of the position of an accessory party in a procedure, even though the organisation had the status of operation in the public interest in accordance with the Nature Conservation Act, has been resolved. With the amendments of the Environmental Protection Act in 2008, it was established that organisations with the mentioned status shall be awarded the status also in accordance with the Environmental Protection Act, if the audit condition was fulfilled (which was eliminated in 2009). This indicates that with regards to rights to participation in a procedure, now the status awarded based on the Nature Conservation Act is equivalent to the status under the Environmental Protection Act.

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

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

*Answer:*

PIC still finds, both through education as also through study of legal practice, that the actual access to legal means is the most pressing matter of implementation of the Aarhus Convention. In view of the fact that this is the most important right (without protection the right itself does not exist its entirety, since in case of non-enforcement, the person entitled to this right has no way for its implementation), the implementation of the entire Convention is put under question. The State has not done enough on fulfilment of obligation under item 5 of article 9 of the Convention, under which the State must ensure that the information is provided to the public on the access to administrative and judicial review procedures and it shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial or other barriers to access to justice. In view of the fact that efficient legal protection is actually the most important element of any right, which without appropriate protection itself does not exist its entirety, since in case of non-enforcement the person entitled to this right has no way for its implementation, this lack still puts under question the implementation of the entire Convention. Certain rights of the Aarhus Convention are of such nature, including for example the timely inclusion of public and obligation of consideration of suggestions and comments of the public, that their, not necessarily direct, but indirect protection with the possibility of challenging final documents drafted with participation of the public, is necessary. If the public has the opportunity, both in terms of the procedure as also in terms of the content itself, to challenge an individual act before the Court, the attention of those competent for the management of the procedure and establishment of the justification of submitted comments and suggestions of the public will be considerably greater and consequently, the quality of the procedure and the content of acts adopted in such a manner will also increase. This is especially important since, due to numerous regulations governing the field of the environment, legal protection is not transparent, while efficient legal protection assumes good legal knowledge of the field. Case law shows that this is not developed sufficiently, too little legal means are invested in the protection of the rights of the Aarhus Convention. Since, due to financially unfavourable position of environmental Non-governmental organization (with status) in turn due to financial undernourishment, the NGO cannot finance attorney's services, the implementation of non-governmental legal aid in combination with attorneys is necessary to cover this lack. Despite the fact that the MoE has begun to understand this issue and through its invitations to tender partly financially supports also such endeavours, there is no special webpage, which would contain user-friendly information on legal means in the field of environment. In relation to the problem described under item 1, more intensive informing of NGOs, with the status of operating in public interest on the basis of the Environmental Protection Act and Nature Preservation Act, along appropriate financing of legal support, would also result in actual implementation of legal means in environmental procedures. Case law would be formulated and given rights under the Convention would be perfected which would lead to improved practice also under the 1st and the 2nd pillar. PIC further warns with regards to the provision of paragraph 5 of article 11 of the Environmental Protection Act, addressing subsidiary responsibility of the State and the municipalities in case of damage due to overburdening of the environment (under article 9, the polluter is primarily responsible). The system of liability is suitably implemented based on the protected value. However, paragraph 5 of article 11 stipulates: "Costs of subsidiary measures of the State or municipality do not cover the costs of damage claims of injured parties due to consequences of overburdening of the environment." In the opinion of PIC, this represents a deviation from the general procedural rule on burden of possible judicial fees, if the damage claim needs to be enforced in judicial procedure. Although the provision itself does not explicitly address court fees, the term »damage claims« probably presumes also such a situation. With knowledge on the practice, it is probably not possible to imagine that the State would, only on the basis of a damage claim, which the national(s) would address to the State in writing, pay damages in accordance with article 11. Most likely, judicial proceedings will be necessary; however, paragraph 5 of article 11 presents consequences, which would discourage potential plaintiffs from such a suit.

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

Give relevant web site addresses, if available:

<http://www.mop.gov.si>

<http://www.ip-rs.si>

**Articles 10-22 are not for national implementation.**

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

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

*Answer:*

By ratifying the Convention, Slovenia has proved its commitment to the promotion of civil society and sustainable development, and to the better enforcement of environmental legislation in our country and in Europe. The review of the state of implementation of the Convention indicates that most of the areas of environmental protection are already regulated consistently with the Convention while the adoption of implementing legislation, which, with further adaptations can be consistent with the *acquis communautaire* of the EU and broader systematization and effectiveness of existing solutions, means and programmes. The consequence of ratification and its consistent implementation should further enhance and improve the activity of NGOs and civil society, and develop democratic processes on the regional and international levels.

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

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

- (a) With respect to **paragraph 1** of article 6 bis and:
  - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
  - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's



regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;

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

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

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

- a. The nature of possible decisions;
- b. The public authority responsible for making the decision;
- c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
- d. An indication of the public authority from which relevant information can be obtained;
- e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;

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

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

(viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

(b) With respect to **paragraph 2** of article 6 bis, how the requirements made in accordance with the provisions of annex I bis are complementary to and 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.

*Answer:*

Management of Genetically Modified Organisms Act, Official Gazette RS, No.(67/02, 73/04, 23/05-UPB1 and 21/10; hereinafter referred to as: ZRGSO) defines that the State shall,

within its competences, particularly in monitoring regulations, public finance policy, encouragements and reliefs, in definition of conditions and contents of public education and information and in encouraging research work and development, ensure integral consideration of treatment of GMOs and measures for prevention of possible harmful impact on the environment and human health (Principle of Unity).

Paragraph 10 of article 3 stipulates that public has the right to be informed on treatment of GMOs and included in procedures of issuing permits in accordance with this Act (Principle of Freedom of Information).

Item 4 of article 7 of ZRGSO defines that, among others, it is the task of the Commission for treatment of GMO (hereinafter referred to as: Commission) to notify and inform the public on the state and development in the field of use of gene technology and treatment of GMOs, on its positions and opinions and on its work.

The Scientific committee for work with GMOs in contained use (hereinafter referred to as: Committee for contained use) and the Scientific committee for deliberate release of GMOs into the environment and placing products on the market (hereinafter referred to as: Committee for release of GMOs) must, in accordance with paragraph 2 of article 10 of ZRGSO issue annual reports on their work for the previous year, which they submit to the Government and which the Government publishes in a manner to make them accessible to the public.

Article 12 of the ZRGSO defines that data on work with GMOs in contained use, deliberate release of GMOs in the environment and placing of products on the market and data on procedures and activities of ministries competent for treatment of GMOs in accordance with this Act, are public in accordance with regulations in the field of environmental protection and regulations governing access to information of public character. Regardless of the provisions of previous paragraph, the competent ministries shall not disclose data, which is protected as confidential in accordance with this Act, to third parties.

Furthermore, article 13 of ZRGSO governs the subsidiary obligation of the State that in case when it the State which is responsible, in accordance with the law, to ensure measures for reduction or remedy of consequences of harmful effects, which occurred because of work with GMOs in contained use, deliberate release of GMOs into the environment or placing of products on the market, the Ministry shall ensure preparation and execution of these measures. The Ministry shall notify the public on consequences and measures from the previous paragraph via the ministry responsible for external affairs and also notify the competent bodies of neighbouring countries, if the harmful effects could have consequences on the environment and human health in those countries.

Article 19 of ZRGSO defines that the Ministry shall, in a procedure of issue of a permit for work with GMOs in contained use in risk class 3 or 4, provide the public with access to the application and risk assessment under paragraph 2 of article 22 of this Act and to the opinion of the committee for contained use on intended work and a public consultation on the intended work. A public announcement including the location and time for on-site access and the public consultation from the previous paragraph and on the manner of providing opinions and comments shall be published in public media. The time period during which the Ministry provides access to and giving of opinions and comments may be min. 15 and max. 30 days and is not included in the deadline for issue of the permit under article 22 of this Act. The Ministry shall, in the explanation of the decision on the permit, include also its position on opinions and comments of the public, submitted within the framework of the public consultation and in the manner under paragraph 2 of this article. The costs of the execution of the public consultation under paragraph 1 of this article shall be borne by the applicant.

Paragraph 3 of article 11a defines that the Ministry shall, within 3 months after the notice from paragraph 1 of this article, draw a report on an accident, details of the circumstances of the accident, types and quantity of MGOs and executed measures and their success and analysis of the accident, including, where appropriate, recommendations for accidents in the future. The report shall be adopted by the Government, which shall immediately inform the public.

Article 34 governs such participation of the public. The Ministry shall, in a procedure of issue of a permit for deliberate release of GMOs into the environment in accordance with article 32 of ZRGSO, provide the public with access to technical documentation and risk assessment as under paragraph 1 of article 31 of this Act and access to the opinion of the committee for the deliberate release of GMOs on intended deliberate release and a public consultation on the intended release. A public announcement including the location and time for on-site access and the public consultation from the previous paragraph and on the manner of providing opinions and comments shall be published in public media. The time period during which the Ministry provides access to and for expressing of opinions and comments may be min. 15 and max. 30 days and is not included in the deadline for issue of the permit under article 32 of this Act. The Ministry shall, in the explanation of the decision on the permit, include also its position on opinions and comments of the public, submitted within the framework of the public consultation and in the manner under paragraph 2 of this article. The costs of the execution of the public consultation under paragraph 1 of this article shall be borne by the applicant.

Paragraph 7 of article 35 of the ZRGSO stipulates that the Ministry shall inform the public on new data and changes, which occur following the issue of a permit for deliberate release of GMOs into the environment and on the decision related to these.

In accordance with paragraph 2 of article 45 of the ZRGSO, the permit for placing products on the market, with the exception of data which is protected as confidential in accordance with this Act, and the risk assessment under article 39 of ZRGSO must be accessible by the public in accordance with the regulations in the field of environmental protection.

Article 46 also governs the participation and information of the public in a manner, which ensures the participation of the public in the procedure of issue of a permit for placing products on the market and informing of the public on products and their placing in the market in accordance with provisions under article 24 of Directive 2001/18/EC.

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

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.

*Answer:*

The provisions of the Convention are fully transposed into national legislation.

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

**Provide further information on the practical application of the provisions on public**

participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, e.g. **are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?**

*Answer:*

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

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

<http://www.mop.gov.si>

<http://www.biotechnology-gmo.gov.si/>