

**CONSOLIDATED NATIONAL REPORT FOR 2010
ON THE IMPLEMENTATION OF THE AARHUS CONVENTION IN UKRAINE**

Name of officer responsible for submitting the national report:	Ivan Makarenko, Deputy Minister of Environmental Protection of Ukraine
Signature:	Ivan Makarenko
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Details of the preparation of the report

Party	Ukraine
National Focal Centre	
Full name of the institution:	Ministry of Environmental Protection of Ukraine (MEPU) Aarhus Information and Training Centre of the Government Ecological Institute of the MEPU
Name and title of officer:	Kirill Khoroshylov, Head of the Directorate for Communications and Public Liaison of the Ministry of Environmental Protection Vasilina Polishchuk, Senior Expert in the Public Liaison and Information Department Svetlana Aridova, Head of the Media Relations Department Tatiana Bezolyuk, Senior Expert in the Public Liaison and Information Department

Postal address:	35 Uritskogo Street, Kyiv, 03035, Ukraine
Telephone	+38 -044- 206-33-02, +38 -044- 206-31-74
Fax:	+38 -044- 206-33-02, +38 -044- 206-31-74
E-mail:	bezolyuk@menr.gov.ua polishuk@menr.gov.ua k.khoroshylov@menr.gov.ua
Contact officer for national report (if different):	
Full name of institution:	

Name and address of the officer:	Svetlana Aridova, Head of the Media Relations Department, Directorate for Communications and Public Liaison of the MEPU
Postal address:	35 Uritskogo Street, 03035 Kyiv, Ukraine
Telephone:	+38 -044- 206-33-02
Fax:	+38 -044- 206-33-02
E-mail:	aridova@menr.gov.ua

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. In compliance with Ukraine's international obligations to implement the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention), the Ministry of Environmental Protection of Ukraine (MEPU) has prepared this consolidated national report for 2010 on the Implementation of the Aarhus Convention in Ukraine (the 2010 National Report).
2. Pursuant to decision I/8 of the UNECE Aarhus Convention Compliance Committee (October 2002, Lucca, Italy), the 2010 National Report has been prepared in a new consolidated (revised) version that takes into account the text of the previous report, prepared in 2007.
3. In order to create a shared database and a means of comparison with the reports of other countries, the general recommendations of the UNECE Aarhus Convention Secretariat have been taken into account, together with the recommended list of questions and standard format for the preparation of national reports for 2010.
4. The MEPU organized public consultations and invited MEPU territorial branches and central government bodies to participate in preparing the 2010 National Report.
5. By its instruction of October 2010, the MEPU set up a working group to produce a draft and final version of the Consolidated National Report for 2010 on the Implementation of the Aarhus Convention in Ukraine:
 - Ivan Makarenko, Deputy Minister of Environmental Protection
 - Kirill Khoroshylov, Directorate for Communications and Public Liaison
 - Vasilina Polischuk, Senior Expert in the Public Liaison and Information Department
 - Svetlana Aridova, Head of the Media Relations Department of the Directorate for Communications and Public Liaison
 - Tatiana Bezolyuk, Senior Expert in the Media Relations Department of the Directorate for Communications and Public Liaison.
6. MEPU territorial branches submitted their suggestions for the preliminary and final versions of the report taking into consideration suggestions from the public in their regions. On their own initiative, some territorial bodies (namely, the Directorates for Environmental Protection in the Zaporizhia, Khmelnytskyi and Cherkasy *Oblasts*) prepared their own reports on the implementation of the Aarhus Convention in their regions using the standard format provided by the Aarhus Convention Secretariat.
7. Public consultations were carried out on the draft 2010 National Report, which was drawn up based on suggestions from the public and information from Directorates for Environmental Protection in the *oblasts* and the cities of Kyiv and Sevastopol, the Republican Committee for Environmental Protection of the Autonomous Republic of Crimea, and state environmental inspectorates in the *oblasts* and the cities of Kyiv and Sevastopol (end of October – end of November 2010).
8. A notice on public participation in consultations on the draft report was published by the Directorate for Communications and Public Liaison on the MEPU's web site, accompanied by a preliminary version of the 2010 report.
9. MEPU territorial bodies sent emails to regional environmental NGOs inviting them to participate in producing the draft of the 2010 National Report.
10. Comments and suggestions were examined at the public councils of MEPU territorial bodies and the MEPU public council. The following subdivisions of the MEPU were involved in the

preparation of the National Report: Directorate for Communications and Public Liaison, Legal Department, Environmental Security Department, Department for State Environmental Monitoring and Air, Economy and Finance Department, Directorate for International Cooperation and European Integration, and Directorate for State Environmental Review.

11. The State Geological Service and the State Service for Surveying, Cartography and Land Registration, executive agencies within the MEPU, also took part in preparing the report.

12. The Ministry of Environmental Protection informed the Supreme Court and the following central government bodies of the preparation of the 2010 National Report: Office of the Attorney General, Ministry of Foreign Affairs, State Judicial Administration, Ministry of Justice, Ministry of Internal Affairs, Ministry of Defence, Ministry of Transport and Communications, Ministry of Education and Science, Ministry of Economics, Ministry of Health, State Television and Radio Broadcasting Committee, Ministry for Agricultural Policy, Ministry for the Coal Industry, Ministry of Fuel and Energy, Ministry for Industrial Policy, Ministry of Housing and Municipal Economy, Ministry for Emergencies and Protection of the Population from the Consequences of the Chernobyl Disaster, State Highway Service, State Forestry Committee, State Water Resources Authority, State Agricultural Resources Agency, State Nuclear Regulation Committee, State Commission for the Regulation of Financial Services Markets, State Department of Food, National Commission for Energy Regulation, Ukrmorrechflot (Ukrainian maritime and river fleet).

13. During the preparation of the 2010 National Report a permanent working dialogue was maintained with active voluntary environmental organizations and their suggestions and comments were taken into account. These organizations included: the National Ecology and Natural History Centre for Young Students and Pupils of the Ministry of Education and Science (Kyiv), Ecology-Law-Man (Lviv), the Zaporizhia Aarhus Information Centre, the All-Ukraine Ecological League (Kyiv), MAMA-86 (Kyiv), Environmental Watch (Kyiv), Living Planet (Kyiv), EcoLaw-Kyiv (Kyiv), Ukrainian Conservation Society, Towards Clean Sources (Kyiv) and the Ukrainian Botanical Society (Kyiv).

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

14. After the Convention's ratification by Ukraine, a raft of legislation at various levels (laws, Presidential decrees and Governmental decisions and orders) was drafted in order to ensure the application of the Convention in Ukraine. A central mechanism therefore exists for implementing the Convention. At the same time, the legislation aimed to ensure that citizens could exercise their rights under the Convention and therefore established a decentralized mechanism for implementing the Convention.

15. The implementation of several progressive decisions fulfilling the Convention (such as the creation of a country-wide electronic information network giving the public access to environmental information) has been hindered by a lack of funds earmarked for this purpose.

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

16. The Aarhus Convention was signed by Ukraine at the Fourth Ministerial Conference "Environment for Europe" on 25 June 1998 in Aarhus (Denmark). The Supreme Council (Ukrainian parliament) was the second among signatory countries to ratify the Convention, on 6 July 1999. In order to implement the Convention in Ukraine and adapt the national legislation to its requirements, in 2002 the Supreme Council introduced amendments to certain legislative acts, and as a result:

- The new version of Ukraine's Environmental Protection Act specifies the mandatory involvement of the public in the development of state environmental programmes and

supplements the articles on the civil rights of participation in the discussion and introduction of environmental proposals, free access to environmental information, participation in public hearings and the conduct of public environmental reviews, and the right of appeal to the courts against the actions of state bodies and local self-government and their officials where violations of environmental civil rights laid down by the Convention are involved. The Act provides for the establishment and operation of a national computerized environmental information and analysis system network for ensuring access to environmental information, extends the powers of voluntary environmental associations, and more clearly defined the system for providing information about the state of the environment (environmental information). The Act was supplemented by a new article on the provision of environmental information which clearly defines the system for the provision of environmental information by state bodies and local self-government.

- The State Environmental Review Act specifies the content of environmental impact statements which are placed in the media by applicants for state environmental reviews.
- Amendments made to the Act on Local Self-government in Ukraine provide for the creation and operation of local electronic environmental information and analysis systems at the level of the executive bodies of village, settlement and town/city councils. These form part of the national electronic environmental information and analysis system network providing access to environmental information.
- The Administrative Offences Code of Ukraine provides for the administrative accountability of civil servants and officials in the event of their refusing to provide environmental information or not providing it in good time.

17. In addition, since Ukraine's ratification of the Convention a host of other legislation has been drafted. The Ministry of Environmental Protection is constantly widening and improving its contact with the public.

18. In compliance with requirements under the Convention, an annual report on the use of targeted financing for environmental protection and conservation of resources drawn from the State Environmental Protection Fund is published by the Ministry of Environmental Protection in the media, as well as in a separate edition. Copies are sent to the Cabinet of Ministers, government bodies and environmental voluntary organizations.

19. A meeting was first held as part of the 2004 European Union Programme on 4 March 2004 in Lviv. Fifty representatives from eight *oblasts* took part as well as representatives from regional environmental voluntary organizations connected to state *oblast* directorates for environmental protection. Such consultations have since been held as a matter of course.

20. One of the main outcomes of the Project was the production of handbooks on the implementation of the Aarhus Convention with the involvement of the Ministry of Environmental Protection. Separate versions are available for civil servants and NGOs. These handbooks contain information and advice on providing information to the public and involving it in decision-making. They include sections on access to information, public participation in decision-making and access to justice. There is also a separate section containing training materials that can be used by event organizers.

21. The preparation of an analytical report on access to environmental information, participation in decision-making and access to justice in environmental matters, produced with the aim of assessing the extent to which the Ukrainian Government ensures rights under the Aarhus Convention, is an example of the provision of information to the public and its involvement in reports on the fulfilment of multilateral environmental agreements. The work was carried out by the voluntary organization Eco-law Kyiv as part of the Access Initiative in Ukraine.

22. The UNEP project "Public Involvement in the Development of Ukraine's National Reports for

MEAs”, part of the Access Initiative, was accompanied by active public involvement in preparing reports at every stage.

23. Ukraine’s 2007 National Report on the Implementation of the Aarhus Convention was drawn up by the Ministry of Environmental Protection after four rounds of consultations on the draft report which involved almost all central government bodies and environmental organizations from every region.

24. In compliance with paragraph 3 of decision II/5 b of the Second Meeting of the Parties to the Convention held in Almaty from 25-27 May 2005, the Ministry of Environmental Protection produced a strategy and schedule for the implementation of the Convention.

25. In September 2006, the MEPU drew up a draft list of the principal measures proposed for inclusion in the implementation strategy and schedule. This document was brought to the attention of voluntary organizations and the Compliance Committee of the Aarhus Convention. In the course of discussions the parties made business-like recommendations.

26. The delay in implementing paragraph 3 of decision II/5(b) (paragraph 3) can be attributed to the very complex social and political situation that has existed in Ukraine since the second half of 2005, continued throughout 2006, and is still on-going. This is connected with the election of a new Supreme Council (Parliament) and, moreover, the subsequent changes in the Government of Ukraine, including the leadership of the MEPU. This social and political situation meant that the MEPU was not able to arrange financing for the development of a strategy and schedule until 2007.

27. Financing could only be allocated after a tender procedure (call for bids) was held, involving legal organizations with an environmental orientation and voluntary organizations with experience of drafting environmental legislation.

28. In consideration of obligations under the Aarhus Convention with respect to access to environmental information and participation in decision-making, the Ministry of Environmental Protection published a draft of the strategy and schedule for implementing the Convention that was prepared by the Ukrainian branch of the international voluntary organization Human Ecology in 2007 on the instructions of the Ministry of Environmental Protection after a tender was held. However, this draft caused an outcry from voluntary organizations. Given this categorical reaction from national NGOs and their involvement in the Ministry of Environmental Protection’s public council, the Ministry could not use Human Ecology’s work as the basis for a submission to the Aarhus Convention Secretariat.

29. Against the background of continuing difficulties relating to elections to the Supreme Council at different times and repeated changes to the makeup of the Ukrainian Government and senior levels of the Ministry of Environmental Protection, and the lack of a single stable national coordinator, the Government approved the Action Plan to implement decision III/6f of the Parties (Government Order No. 1628 of 27.12.2008). This plan provided for:

- amendments to the Environmental Protection Act to clarify the definition of “environmental information”;
- ratification of amendments to the Aarhus Convention on genetically modified organisms;
- a government decision on public participation in discussion of environmental issues;
- clarification of the status of regional Aarhus centres.

30. Government Order No. 1628 of 27.12.2008 instructs the Ministry of Environmental Protection to ensure the publication of notices and conclusions of state environmental reviews, the creation of a working group on the implementation of the decision of parties to the Aarhus Convention, the organization of training for civil servants, and the publication of a training handbook as well as of an

Aarhus booklet for the public.

31. In consideration of the fact that state bodies possess information in line with their powers and functions and that Ukrainian legislation requires state bodies to bring information (including environmental information) to the attention of the public in a timely fashion in accordance with their powers, and with the aim of ensuring the maximum application of the principles outlined in the Aarhus Convention and in decision III/6f, the Ukrainian Government decided after 2007 to improve the mechanism for public participation in the formulation and implementation of state policy, including environmental policy, by drafting new decisions that had not been specified by the plan.

32. On 26 November 2009 the Government passed Decision No. 1302 on additional measures to ensure public participation in the formulation and implementation of state policy. In furtherance of this decision, on 6 January 2010 the Government passed an additional decision, Decision No. 10 on the approval of the procedure for involving citizens in the formulation and implementation of state policy.

33. These Decisions require ministries and other central government bodies, the Crimean Cabinet of Ministers, and the state administrations of *oblasts*, the cities of Kyiv and Sevastopol, and districts of Kyiv and Sevastopol to hold meetings with civil society institutions, democratically constitute public councils attached to central and local government bodies and ensure their effective operation.

34. The procedure for conducting public consultations on the formulation and implementation of state policy was also approved. The implementation of this government document has tangibly involved the public in state affairs, given the public free access to information on the actions of government bodies and also ensured openness and transparency by these bodies. Public consultations enable government bodies to conduct a systematic dialogue with the public, improve the quality of decision-making on important state and social issues by taking into consideration suggestions from the public, and enable the public to be involved in producing draft decisions.

35. During the process of implementing these government decisions, the Government began to receive suggestions from several voluntary organizations that they amalgamate for greater effectiveness and also about a small change to the formation of public councils and their terms of office. The Government subsequently organized open consultations with civil society and government bodies. All of the comments and suggestions received were made public and taken into consideration. As a result, on 3 November 2010 the Government passed a new decision, Decision No. 996 on ensuring public participation in the formulation and implementation of state policy. The previous decisions, Decision No. 1302 of 26.11.2009 and Decision No. 10 of 06.01.2010, lost effect - their provisions were amended to take account of suggestions from civil society.

36. Several government decisions and orders were passed at the same time:

- Government Decision No. 924 of 12.10.2010 on the personal reception of citizens by members of the Government and Decision No. 976 of 05.11.2008 on the public review of the activities of government bodies;
- Government Order No. 784 of 28.05.2008 on measures to be taken by government bodies to implement the Conceptual framework on support to the development of civil society in 2008;
- Government Order No. 85 of 13.01.2010 on the conceptual framework for the draft act on the fundamental principles of state communications policy;
- Government Order No. 1912 of 29.09.2010 on measures to improve government communications to the public, which specified that such information must include:
 - the aim and reasons for a decision taken by a government body;
 - the effect of the decision on citizens and social groups on which it might have an impact;
 - possible negative outcomes of the decision and measures to minimize these;
 - a short-term forecast of events following the decision;
 - a long-term forecast of events;
 - the government body's scope of responsibility with respect to the implementation the decision,

- and the name of the body, institution or person responsible for successful implementation;
- the mechanism for implementing the decision;
- the timeframe for implementing the decision;
- criteria for assessing the effectiveness of the decision;
- how the decision may be received by the public.

37. No amendments have been made to Ukrainian legislation that might limit public participation in environmental decision-making in the period following the last report. On the contrary, amendments have been passed that have widened the opportunity for the public to participate in making decisions alongside government bodies, including in environmental matters.

38. Ukraine does not have a special ombudsman or commissioner to monitor the compliance of national legislation with the Aarhus Convention. However, pursuant to Act No.776/97VR on the Supreme Council Commissioner for Human Rights, Ukraine does have an ombudsman. The Ukrainian ombudsman exercises parliamentary control over the observance of human and civil rights and freedoms enshrined in the Constitution as well as the protection of the rights of everyone on the territory of Ukraine and within its jurisdiction. The Act only applies to relations between Ukrainian citizens (regardless of their place of residence), foreigners, or stateless persons on the territory of Ukraine, and state and local self-government bodies and their officials and personnel. The Ombudsman's objective is to protect the human and civil rights and freedoms enshrined in the Constitution, laws and international treaties of Ukraine, including the Aarhus Convention.

39. In addition, voluntary environmental organizations actively take responsibility for monitoring the implementation of the Convention.

40. The Ministry of Environmental Protection's public council also monitors implementation of the Convention. It pays particular attention to the consideration of environmental factors and sustainable development in individual decisions to allow construction. It has also paid attention to the format of public hearings as a form of public consultation.

41. Public access to information, facilitation of its involvement in decision-making and access to justice in environmental issues are regulated by a raft of legislation, namely:

- Constitution (articles 34, 36, 38, 40);
- Citizens' Associations Act (1992);
- All-Ukraine and Local Referendum Act (1991);
- Information Act (1992);
- Access to Judicial Decisions Act;
- Citizens' Communications Act (1996);
- Act on the Procedure for Media Coverage of the Activities of State and Local Self-Government Bodies (1997);
- Act on the Principles of State Regulatory Policy in the Area of Economic Activity;
- Use of Nuclear Energy and Radiation Safety Act;
- Act on Local Self-Government in Ukraine;
- Planning and Development Act;
- Protection of the Population and Territories from Technogenic and Natural Emergencies Act;
- Administrative Offences Code of Ukraine (which provides for the administrative accountability of civil servants and officials in the event of their refusing to provide environmental information or not providing it in good time);
- Presidential Decree of 1997 on measures to guarantee the constitutional rights of citizens to submit communications;
- Presidential Decree of 2000 on measures to develop the national component of the global Internet information network and ensure broad access to the network in Ukraine;
- Presidential Decree of 2001 on the preparation of proposals to ensure the transparent and open

government ;

- Presidential Decree of 2002 on additional measures to guarantee the exercise by citizens of the constitutional right to submit communications;
- Presidential Decree of 2002 on additional measures to ensure open government;
- Presidential Decree of 2004 on creation of the conditions for the broader participation of the public in the formulation and implementation of state policy;
- Cabinet of Ministers Decision of 1998 on the procedure for conducting public hearings on questions of nuclear energy use and radiation safety;
- Cabinet of Ministers Decision of 2002 on the procedure for publishing information concerning the activities of government bodies on the internet;
- Cabinet of Ministers Decision of 2002 on measures for ensuring open government;
- Cabinet of Ministers Decision of 2004 on the official publication of regulatory acts adopted by local self-government bodies and the territorial agencies of central government bodies and their officials and the amendment of the procedure for publishing information concerning the activities of government bodies on the internet;
- Cabinet of Ministers Decision of 2004 on amendments to the publication of information concerning the activities of government bodies on the internet;
- Cabinet of Ministers Decision of 2003 on measures to establish “electronic government”;
- Cabinet of Ministers Instruction of 2004 on work by central and local government bodies to ensure openness in their activities, communication with the public and interaction with the media;
- Cabinet of Ministers Decision of 2005 on additional measures to encourage public participation in the management of state affairs;
- Cabinet of Ministers Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of government policy, which orders the ministries and other central government bodies, the Cabinet of Ministers of the Autonomous Republic of Crimea, and the administrations of the *oblasts*, the cities of Kyiv and Sevastopol, and the districts of Kyiv and Sevastopol to democratically form public councils attached to central and local government bodies and to ensure that they are consulted on the formulation and implementation of government policy, including policies that impact the environment.

42. Moreover, the rights laid out in the Aarhus Convention are enshrined in legislation, namely:

- Environmental Protection Act;
- State Environmental Review Act;
- Air Protection Act;
- Flora Act;
- Fauna Act;
- Nature Reserves Act;
- Supreme Council Decision No. 2169-IV of 04.11.04 on informing the public of matters that concern the environment.

43. Supreme Council Decision No. 2169-IV of 04.11.04 on informing the public of matters that concern the environment sets out the procedure for producing and adopting two regulations, on providing the public through the media with quarterly information on the most environmentally polluting sites (10 sites) and on national electronic environmental information and analysis system networks.

44. The Ministry of Environmental Protection has also passed the following legislation:

- Regulations on the procedure for providing environmental information (Order No. 169 of 18.12.2003, registered by the Ministry of Justice as No. 156/8755 of 04.02.2004);
- Regulations on public participation in environmental decision-making (Order No. 168 of 18.12.2003r, registered by the Ministry of Justice as No. 155/8754 of 04.02.04r);
- Regulations on the provision of quarterly information to the public through the media (Order No. 397 of 01.11.05r registered by the Ministry of Justice as No. 1510/11790 of 15.12.2005r).

45. This legislation sets out the procedures for providing and publishing environmental information, the exercise of the public's right to participate in environmental decision-making, conducting public consultations and receiving reliable information on polluting enterprises and their environmental impact.
46. Overall, the Constitution, the Citizens' Communications Act, the Decrees of the President on Measures to guarantee the constitutional rights of citizens to submit communications and on Additional measures to guarantee the exercise by citizens of the constitutional right to submit communications, decisions of the Government and other legislation have created the legal basis for the vital aspect of social relations constituted by the citizen's right to submit communications, which is an important step towards the democratization of government.
47. The Supreme Council includes a department for citizens' communications, while the Secretariat of the Cabinet of Ministers operates a department for communications between the government and the public. Central government bodies have set up departments, directorates, divisions and sections for interacting with the public (such as the Public Liaison Department of the Ministry of Internal Affairs, the Information and Media Relations Directorate of the Ministry for Emergencies, the Directorate for the Reception and Consideration of Citizens' Communications and the Secretariat of the Authorized Representative for European Court of Human Rights Affairs of the Ministry of Justice, and the MEPU's Communications and Public Liaison Directorate, etc.).
48. Web portals have been set up for the Cabinet of Ministers and all the central government bodies. Public consultation councils are attached to the Cabinet of Ministers and central government bodies. The MEPU has public councils attached not only to the central administration but also to its territorial branches in all the regions of Ukraine. Cooperation between the MEPU and the public councils mainly concerns the involvement of the public in decision-making in environmental matters, objective reporting of the MEPU's activities, and the consultation of the public on acute environmental problems.
49. As a result of the Ukrainian-Danish project "Support to Ukraine to implement the Aarhus Convention" and with the support of the EU project "Environmental Information, Education and Public Awareness", in May 2003 an Aarhus Information and Training Centre (Aarhus Centre) was set up on MEPU premises.
50. The work of the Aarhus Centre includes keeping the public informed about environmental issues and international environmental legislation, involving highly qualified experts in the processes of teaching, raising awareness and continual professional development, and involving the public in decision-making and in the implementation of environmental policy at national and international levels.
51. Similar Aarhus centres have been attached to all the MEPU's territorial bodies and are financed from their budgets. Any improvement in the activities of the regional centres therefore depends on additional financial support.
52. The Cabinet of Ministers and central government bodies (including the Ministry of Environmental Protection) have opened public reception centres, while environmental public reception centres have been set up by the state environmental protection directorates and state environmental inspectorates in the *oblasts*, the cities of Kyiv and Sevastopol, and the Autonomous Republic of Crimea. Since these public reception centres became operational, a mechanism for considering citizens' communications, complaints and suggestions has been developed.
53. In order to improve the handling of citizens' communications, eliminate shortcomings and causes for complaint and make more accountable officials who take an overly formal and bureaucratic attitude to handling complaints, a Presidential Decree on Measures to guarantee the constitutional

rights of citizens to submit communications was issued on 19 March 1997. In particular, the Decree obliges government bodies to make regular provision for the personal reception of citizens at work or at home in accordance with an approved schedule. The Decree stresses that ensuring the comprehensive consideration of citizens' communications, the prompt solution of their problems and the satisfaction of their legitimate rights and interests is a priority for central government and local self-government, a responsibility of their officials and civil servants, and a factor in maintaining social, political and economic stability.

54. For this purpose, the heads of central government and local self-government bodies are required radically to reorganize the way in which those bodies handle citizens' communications, in particular by providing for:

- the unimpeded and regular (no less than once a month) personal reception of citizens by officials and civil servants, including during non-working time depending on citizens' place of work and residence, the undeviating observance of reception schedules, the designation of special areas for receiving citizens, and the appropriate furnishing of these areas;
- the collective review, at least twice a year, of work on citizens' communications, with the participation of representatives of the courts, the public prosecutor's service, other state bodies, voluntary organizations, and the media;
- the annual preparation and publication of analytical reports by the corresponding bodies on progress in dealing with citizens' communications, the systematic publication through the media of information on the work being done on communications and the solution of the problems raised in those communications;
- the increased personal accountability of officials and civil servants for properly organizing the work and the satisfactory settlement of the problems raised, taking into consideration that the work of officials and civil servants with citizens' communications must be seen as the most important criteria for evaluating their professional proficiency, their suitability for their position, and promotion. Every unresolved issue raised in communications that falls under the responsibility of the relevant body, official or civil servant and that has led to a subsequent communication to a higher authority must be analyzed in-depth and, if there are signs of procrastination, excessive formality and bureaucracy, must result in the parties responsible being unavoidably called to account under the law;
- since 2003, periodic personal reports on the work of dealing with citizens' communications have been made by the heads of central, *oblast* and Kyiv and Sevastopol city state administrations to the President of Ukraine, and by the heads of *raion* (district) state administrations to the heads of *oblast* state administrations;
- citizens are personally received by the Head of the Secretariat of the President of Ukraine and his deputy in connection with matters of special public significance.

55. The public receptions organized in compliance with the above-mentioned specific legislative acts of the President, Supreme Council and Government take place at all levels of government. This is the case for land management, fishery, forestry, agriculture authorities and so on. By order of the Ministry of Environmental Protection, all territorial bodies compile "environmental passports" for the *oblasts* and annual regional environmental status reports for the *oblasts*. These documents are collated and published in hard copy and electronically.

56. In virtually every *oblast* (region), environmental protection programmes are produced by the MEPU's territorial bodies together with *oblast* councils, *oblast* state administrations and civil society, are approved at regional level and operate within the specific region in question.

57. The right provided for by article 3 of the Aarhus Convention giving the public access to information on judicial decisions concerning the environment is enshrined in law. This is consistently reflected in continuing education programmes for government legal experts and judges.

58. Environmental education serves to foster environmental awareness and a culture of

environmental responsibility, especially among teenagers. Education as a whole, as part of state policy, is recognized as one of the most important strategic areas in the transition of society to sustainable development.

59. The Conceptual Framework for Environmental Education in Ukraine (approved by the Board of the Ministry of Education and Science, Record No. 13/6-19 of 20.12.2001) was produced and approved in order to promote environmental education in Ukraine. The Framework takes account of the current situation and perspectives for the development of public awareness. It revises the content of education and child development in accordance with the fundamental provisions of the National Doctrine on the Development of Education.

60. There is a special children's site, www.children.kmu.gov.ua, that forms part of the Government's official site.

61. Regional ecology and natural history centres and stations for young naturalists operate with methodological and practical guidance from the Ministry of Education and Science's National Ecology and Natural History Centre for Young Students and Pupils (Kyiv). These make a significant and professional contribution to fostering environmental awareness, environmental responsibility and the habit of communing with nature among children and young people.

62. A special course is provided for biology, geography and chemistry teachers from all over Ukraine on "Current environmental issues and environmental education for school pupils". There are also continuing education courses for leaders of groups of naturalists that include an exchange of useful teaching experience and new methods for youth environmental education.

63. At the initiative and with the support of the Zaporizhia *oblast* state administration and the state environmental protection directorate in Zaporizhia *oblast* a course on "the ecology of the native land" was introduced into regional educational institutions as of 1 September 2006. The project has been a success in this industrially developed and technogenically stressed region. It has now been rolled out to other regions.

64. Under the guidance of the Ecology Department of the Zaporizhia National University and the Zaporizhia *oblast* administration, well-known scientists, innovative teachers, practitioners and ecologists have developed educational curricula and textbooks. The teaching material is divided into three levels: "I'm only one of many" (1st-10th grade); "Nature expects..." (5-9th grade); and "The environment - guarantor of my existence". At present, this ecology course is being taken by 154,000 students in 7,628 classes at 568 comprehensive educational institutions in Zaporizhia *oblast*.

65. Numerous measures involving MEPU officials and representatives of voluntary environmental organizations play an important role in environmental education and making a practical contribution to the improvement of the environment:

- environmental protection days: "Environment Day", "World Environment Day" and "International Black Sea Day";
- exhibitions: "Chernobyl: Ecology, Humankind and Health", the annual "Ecology" exhibition and fair and "Multi-coloured Ukraine";
- the "Nature-humankind-industry-ecology" nationwide competition for young inventors and innovators.

66. Pursuant to Presidential Decree No. 855 of 06.08.1998 on Environment Day and the corresponding Government Order No. 777 of 31.03.2010, activities for Environment Day take place on the third Saturday of April every year:

- creating new tree plantations (woods, forest belts to protect fields, and plantations at the boundaries of protected areas adjoining water bodies);

- tidying up parks, public gardens and avenues of trees;
- creating new parks;
- planting individual trees and bushes;
- planting new lawns and flower beds;
- tidying up bins;
- picking up rubbish from the banks of rivers, lakes and ponds;
- cleaning up bodies of water;
- active state and public measures to ensure compliance with environmental legislation;
- tidying up the grounds of enterprises, institutions and organizations;
- educational activities to raise environmental awareness among the public (conferences, seminars, round tables, festivals, environmental exhibitions etc.);
- partnerships between the authorities and the public to carry out these activities.

67. The nongovernmental organization All-Ukraine Ecological League, which primarily focuses on awareness-raising, publishes two periodicals: *Ecological Bulletin* and *Ecology* (a journal of abstracts) devoted to the research being done by Ukrainian scientists in the fields of ecology, economic environmental management mechanisms, environmental law and policy, environmental responsibility and education. A series of 10 environmental maps were published with the League's support, showing the ecological condition of water bodies and the air, environmental hazards, the incidence of medical problems and the environmental and economic balance of Ukraine. In order to spread experience of environmental education, awareness-raising and protection, a series comprising three sets of books has been published, entitled *Environmental Education*, *Environmental Projects* and *The State of the Environment*.

68. The All-Ukraine Ecology League also initiated the *Ecological Encyclopaedia*, a scientific reference publication that draws on Ukrainian and international scientific findings to present the latest information on every aspect of ecology.

69. The regional centre for environmental education of Odessa State Ecological University is working constantly to raise the level of environmental education of its students. An example was the youth festival "Thinking about our home planet" (Odessa, October 2005).

70. Since 2005, the publishing house Ekoinform, under the patronage of the Ministry of Education and Science and the Ministry of Environmental Protection, has regularly held a nationwide competition for the "Junior Water Prize". This is the national stage of the international "Stockholm Junior Water Prize" and one of the key elements of the Ukraine-wide "Green Shoots of the Future" project, which is founded on the principles of environmental education, raising environmental awareness and fostering environmental responsibility among the young.

71. The Yavoriv national park (Lviv *Oblast*) has introduced an educational programme called "Stork" into local schools. It also organizes the "Primula Festival" and "the White Bird with the Black Sign" environmental projects. With the help of voluntary organizations for children, the Vinnitsa National Park (Chernovitskaya *Oblast*) organized the "Bukovina in Miniature" display, and rubbish carried in by the tide was cleared from a 20-km stretch of coast in the Kazantip National Park (Autonomous Republic of Crimea).

72. National activities involving the public and children's environmental organizations are carried out on a yearly basis as part of Ukrainian Environment Day (the third Saturday of April) and International Earth Day (22 April).

73. In Poltava, at the initiative of the voluntary organization Public Environmental Council for the Poltava Area together with the city's higher-education institutions, an annual event known as "Students for the Environment" is being held, the main purpose of which is to clean up the banks of Poltava's rivers.

74. Annual in-service training seminars are held for the employees of the MEPU's territorial bodies on public and media relations.

75. The Vinnitsa *Oblast* Directorate for Environmental Protection has established systematic and productive cooperation with the ecological research and monitoring laboratory of Vinnitsa National Technical University, which provides sound scientific knowledge and teaching methodologies and significant experience of environmental education. The department's scientists develop geo-informational and mathematical models of ecological processes and systems and create geo-informational analytical systems for environmental monitoring and management.

76. In addition to the above activities, the MEPU is carrying out a range of environmental education measures:

- a series of environmental television programmes broadcast by national and *oblast* public channels;
- a series of daily radio programmes which highlight topical environmental issues, provide environmental education, and raise environmental awareness in society;
- press conferences, conferences, and round tables of senior MEPU officials on the main television channels;
- films on the activities of the MEP;
- the public is systematically informed about topical environmental issues through a number of national and regional publications.

77. In 2006, the State Forestry Committee began an annual national campaign entitled "The future of the forest in your hands". Experience has shown that this campaign arouses widespread public interest, in particular among young people in education. Every year over 100,000 people take part in this Ukraine-wide project, including 50,000 young people in education. Children's drawing and writing competitions on the theme of "People and the Forest" are also held as part of this campaign.

78. Environmental voluntary organizations and individual citizens can find out more about environmental problems as inter-departmental commissions, committees on environmental issues and working groups involve the public in their work, and their documentation is published in the media and on the internet.

79. The MEPU and its territorial bodies invite journalists to public consultations (i.e. public hearings, seminars, conferences and meetings). At such meetings, journalists have the opportunity to receive detailed information on specific environmental problems. This also demonstrates the real implementation of rights enshrined in the Aarhus Convention.

80. The MEPU organizes an annual competition for journalists who write on environmental topics.

81. The State Committee for Television and Radio actively helps the electronic and print media to systematically cover the entire spectrum of questions relating to technogenic and environmental security and environmental protection.

82. The Society and the Environment resource and analysis centre in cooperation with the Lviv Directorate for Environmental Protection and with OSCE funding carried out a pilot project to rate the environmental performance of 45 polluting enterprises in the Lviv area. In 2007 polluting enterprises began to be constantly monitored.

83. The Ukraine-wide NGO Living Planet, with the assistance of the MEPU, carried out national nature conservation projects entitled "Let's Wake up the Earth" and "Plant a Tree", a children's creative arts competition "Green Shoots of the Future", a competition between schools to pick up litter from parks, and environmental awareness campaigns entitled "Saving Energy", "The House Where

You Live”, and “The Town Where You Live”. Illustrated textbooks and workbooks containing a great deal of interesting information, graphics and presentational material were published both electronically and in hard copy for participants, school children between 8 and 14.

84. NGOs in every region of Ukraine benefit from constant support from the Ministry of Environmental Protection in carrying out their projects, in the shape of participation of senior figures and experts, commemorative certificates and financial support.

85. In 2008 and 2009, the project “Support to Ukraine to implement the Espoo and Aarhus Conventions, No. 2008/164491” (Area 6) was carried out. Some of the conclusions drawn by the foreign experts engaged on the project did not correspond to reality (the supposed lack of a timeframe for the public consultation process and failure of legislation to specify various forms of public consultation, unfair criticism of the websites of the Ministry of Environmental Protection and its territorial bodies and so on). However, on the whole the report has been given attention, studied and systematized and will be taken into account in future work to implement the Aarhus Convention.

86. In all cases, the procedure for registering voluntary environmental organizations fulfils general requirements. Voluntary organizations themselves consider it fair.

87. The practice is to include NGOs in environmental decision-making structures. Representatives of voluntary environmental organizations sit on the National Commission on the Red Book (approved by Cabinet of Ministers Decision No. 1165 of 26.09.2007), the Coordination Council on the Formation of a National Eco-Network (approved by Cabinet of Ministers Decision No. 1603 of 29.11.2001), the Inter-departmental Coordination Council on the Development of Water Resources (approved by a Cabinet of Ministers Decision), the Coordination Council on the Implementation of the Provisions of the Framework Convention on the Protection and Sustainable Development of the Carpathians (MEPU Order No. 535 of 31.12.2004) etc. In addition to scientists and leading experts, representatives of local government and the public are usually invited to participate in the work of the Inter-departmental Commission (in permanent operation since 1967) attached to the State Water Management Committee in connection with establishment of the operating regimes of the Dnieper, Dniester and Danube reservoirs and the flow of the rivers Northern Donets, Southern Bug, Psel, Vorskla, and Ros.

88. Local-level voluntary environmental organizations can obtain financial support from local environmental protection funds directly for the implementation of nature conservation measures (provided their proposals are selected at tender).

89. The government provides financial support to environmental NGOs. NGOs that are active in implementing conservation measures and tender successfully receive financial support directly for these measures at national government level from the State Environmental Protection Fund.

90. Some ministries have special funds for supporting NGOs as specified by the procedure for allocating these resources (the Ministry of Internal Affairs, the Ministry of Agricultural Policy and the Ministry of Education and Science).

91. It is usual to include NGO members in delegations representing the State in international environmental negotiations.

92. The Ministry of Foreign Affairs perpetually endeavours to broaden the participation of representatives of the Ukrainian public in international environmental decision-making processes, in accordance with the principles of the Aarhus Convention: it is common practice for Ukrainian delegations at international conferences to include representatives of NGOs that actively work on the given topic.

93. The fundamental principles of the Aarhus Convention - public access to information and

participation in the decision-making process – form an element of MEPU officials’ work to implement other international conventions and agreements in Ukraine (the Convention on Biodiversity, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Convention to Combat Desertification, Vienna Convention for the Protection of the Ozone Layer, UN Convention on Climate Change, etc).

94. MEPU officials that directly deal with the Aarhus Convention actively cooperate with officials responsible for the implementation in Ukraine of other international conventions ratified by Ukraine.

95. Citizens can be held accountable for submitting unlawful communications, i.e. communications that contain libellous, insulting or slanderous remarks about government bodies and their officials, civil servants, or heads of organizations, or incitements to national, racial or religious enmity or other unlawful acts. If a citizen submits a communication containing false information, a court may require him/her to compensate the expenses incurred in checking the communication (the Citizens’ Communications Act, 1996).

96. Cases have arisen of NGOs being ordered to pay damages. Enterprises have filed counter-claims against citizens who are endeavouring to protect the environment. The courts have sometimes decided that the citizens have caused non-pecuniary (“moral”) damage. There have also been cases where citizens have won all their environmental claims in court.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

97. No difficulties have been noted as environmental education and awareness-raising is a fundamental and well-developed area in Ukraine.

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

98. No information was provided under this heading.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3, 4, 5, 6, 7, 8, 9, 6 bis and Appendix 1 bis

99. Web portal of the Ukrainian Cabinet of Ministers

<http://www.kmu.gov.ua>

Government site for young people
(Ukrainian Cabinet of Ministers)

<http://children.kmu.gov.ua>

www.children.kmu.gov.ua

MEPU web portal

<http://www.menr.gov.ua>

Web portal of the Crimean Cabinet of Ministers

<http://www.crimea-portal.gov.ua>

State Directorates for Environmental Protection in the *oblasts*:

Vinnitsia

<http://www.vstu.edu.ua/vineco/>

Zakarpattia

<http://www.ecores.uzh.ukrtel.net>

Kharkiv

<http://www.ecodepart.kharkov.ua>

Chernivtsi

<http://www.ecology.cv.ua>

Lviv

<http://www.ekology.lviv.ua>
Odessa
<http://www.ecology.odessa.gov.ua>
Zaporizhia
<http://www.zdn.gov.ua>
City of Zaporizhia Aarhus Centre
<http://www.npo.vo.uz>
Sumy
<http://www.eco.sumy.ua>
Luhanks
<http://www.gts.lg.ua>
Rivne
<http://www.ecorivne.gov.ua>
Mykolaiv
<http://www.duecomk.gov.ua>
Poltava
<http://www.eco-poltava.gov.ua>
Kirovohrad
<http://kirecolog.kr.ua>
Zhytomyr
www.donps.zhitomir.net

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

100. The authorities are obliged to keep records of information requests. The Presidential Decree of 13 August 2002 on Additional measures to guarantee the exercise by citizens of the constitutional right to submit communications established a procedure for handling and recording the details of communications and provided for an at least twice yearly review of work with citizens' communications by board and presidium meetings attended by representatives of the courts, the public prosecution services, other government bodies, the voluntary organizations and media. This procedure provides for the annual preparation and publication of analytical reports by the corresponding bodies work with citizens' communications, the systematic publicization through the media of the work being done and solutions to the problems raised in these communications. Since 2003, periodic personal reports on the work of dealing with citizens' communications have been made by the heads of central, *oblast* and Kyiv and Sevastopol city administrations to the President of Ukraine, and by the heads of *raion* (district) administrations to the heads of *oblast* administrations.

101. There is no separate body to oversee matters of access to environmental information. Instead, compliance with the legislation on citizens' communications is monitored, within their respective spheres of competence, by the Parliament, the President and Cabinet of Ministers of Ukraine, the Parliamentary Human Rights Commissioner (Ombudsman), the Parliament of the Autonomous Republic of Crimea, local branches of central government and local self-government bodies, as well as by ministries and other central government bodies, and the enterprises, institutions and organizations under their authority. Compliance with the legislation, including checking that companies provide environmental information to citizens, is supervised by the public prosecution services of Ukraine.

102. As anonymous communications are not considered, only confirmation of the authorship of the applicant may be required. Article 32 of the Information Act contains requirements relating to requests for information. According to this article, a request must contain the full name of the applicant, the address for reply and the document or written or verbal information in which he or she is interested. That is, the applicant is not obliged to provide any other information in the request. Article 5 of the Citizens' Communications Act contains requirements relating to communications, which must contain: the full name and address of the citizen, the gist of the question, comment, complaint, proposal,

application, request or claim, the signature of the applicant and the date.

103. The Citizens' Communications Act establishes the time frame within which citizens' communications must be considered, namely, not more than one month from the date of receipt, while those which do not require further study must be considered promptly, and not later than fifteen days after receipt.

104. The Citizens' Communications Act stipulates that if a question raised in a communication received by a state body, an enterprise, institution or organization, irrespective of the form of ownership, does not fall within its competence, the communication shall be transmitted through the proper channels to the relevant body or official within five days, and the citizen who submitted the communication shall be notified accordingly.

105. Civil or administrative liability measures may be applied to the officials concerned.

106. If the documents requested cannot be provided within the time frame, an extension is possible under the Information Act. Furthermore, if a question raised in a communication received by a state body, an enterprise, institution or organization, irrespective of the form of ownership, does not fall within its competence, the communication shall be transmitted through the proper channels to the relevant body or official within five days, and the citizen who submitted the communication shall be notified accordingly.

107. To this end, compliance with the legislation on citizens' communications is checked, within their respective spheres of competence, by the Parliament and national deputies, the President and Cabinet of Ministers of Ukraine, the Parliamentary Human Rights Commissioner (Ombudsman), the Parliament of the Autonomous Republic of Crimea, local government and self-government, as well as by ministries and other central government bodies, in respect of the enterprises, institutions and organizations under their authority.

108. Compliance with the legislation is supervised by the public prosecution services of Ukraine. Within the limits of their authority, the public prosecutors take measures to restore impaired rights, protect the legitimate interests of citizens, and bring offenders to account.

109. Under the provisions of the Citizens' Communications Act, if a communication does not contain the data necessary for the body or official to take a well-founded decision, it is returned to the applicant with an appropriate explanation.

110. Under Government Decision No. 1893 of 27.11.1998 approving the instructions on the registration, storage and use of documents, files, publications and other physical storage media that contain confidential information belonging to the State, central government bodies must keep lists of confidential information belonging to the State within the central government body concerned.

111. The approved lists of confidential information kept by each central government body are all unique. The materials that serve as a basis for a judgment on administrative liability may be indirectly confidential.

112. Under the Constitution, environmental information may not be classified by anyone. The following may not be classified as confidential information belonging to the State and used by central government bodies or local self-government bodies, enterprises, institutions and organizations of any form of ownership: information concerning the state of the environment, the quality of food products or consumer goods, accidents, disasters, hazardous natural phenomena and other emergency situations which have occurred or could occur and threaten public safety, public health, and the public's standard of living.

113. Citizens and legal persons who possess information of a professional, business, industrial, banking, commercial or other nature obtained by their own means or information that is the subject of their professional, business, industrial, banking, commercial or other interests and does not reveal a secret provided for by law may independently determine the conditions of access to that information, including its categorization as confidential, and establish a system (methods) for protecting it.

114. If a public release of information could have potential adverse effects on the Ukrainian economy, the original provider of information must consult on including this information on a list of confidential information belonging to the State. The compilation of such a list means that justification is necessary.

115. The Citizens' Communications Act does not allow information received in a citizen's communication to be disclosed, i.e. information about the citizen's personal life without his/her consent or other information that might prejudice his/her rights and legitimate interests.

116. Judicial bodies may examine a claim in respect of the confidentiality of classified information that has been made public through other means, taking into account the legislative framework.

117. Information can be divided into two types of confidentiality: confidential information on a list of confidential information belonging to the State within a central government body and information defined as a state secret under the established procedure. Information may be freely accessible or restricted. In accordance with article 30 of the Information Act, with respect to its legal status restricted information can be divided into confidential and secret. Confidential information is information on a list of confidential information that is owned or used by or at the disposal of individual natural or legal persons and disseminated as they wish and on the conditions they lay down.

118. The Citizens' Communications Act stipulates that if a question raised in a communication received by a central government body, a local self-government body, an enterprise, institution or organization, irrespective of the form of ownership, does not fall within its competence, the communication shall be transmitted through the proper channels to the relevant body or official within five days, and the citizen who submitted the communication shall be notified accordingly.

119. According to information provided by the Ministry of the Economy, charges for services associated with the supply of information (art. 4.8 of the Guidelines on Reporting Requirements) are regulated, in particular, by Cabinet of Ministers Decree No. 7-93 of 21 January 1993 on State Fees and MEPU Order No. 169 of 18 November 2003 on the approval of the regulations on the procedure for providing environmental information, registered by the Ministry of Justice.

120. Neither of these pieces of legislation assumes payment for services associated with the provision of copies of official documents on environmental matters. However, under article 24 of the State Statistics Act (No. 2614 of 17.09.2002) and the Cabinet of Ministers Decision approving the Regulations on the conduct of statistical surveys and the provision of paid services by state statistical bodies (No. 1659 of 08.11.2000), statistical information, and in particular information of an environmental nature, can be provided, on request, on a paying basis. The cost of the information requested is calculated on the basis of Goskomstat Order No. 73 of 16 March 2005 registered by the Ministry of Justice as No. 334/10614 of 25.03.2005 on establishing the cost of a man-day and the cost of information per page.

121. All information relating to central government bodies (the Ministry of Environmental Protection, the Ministry of Agricultural Policy, the State Forestry Committee and so on) and their territorial branches, which is deemed freely accessible under the procedure established by law, and which concerns the environment, shall be provided by the relevant state body and shall be provided on request to interested members of the public, free of charge.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

122. No difficulties have been encountered as access to environmental information is a fundamental and well-developed area in Ukraine.

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

123. No information was provided under this heading.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

124. See Section VI above.

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

125. Pursuant to article 25 of the Environmental Protection Act of 25 June 1991, the MEPU prepares and publishes an annual national report on the state of the environment in Ukraine. After consideration by Parliament, the report is posted on the internet, published in a separate edition and circulated to state bodies, institutions, organizations and voluntary organizations.

126. According to the Ministry of Defence, the Armed Forces of Ukraine have set up a database on hazardous facilities and the environmental status of military units and establishments. This information can be transmitted free of charge to other state bodies provided that state secrets are preserved. The Ministry of Defence's information system Nika enables the exchange of environmental data, as well as the transmission of information concerning emergency situations in real time. Information is provided in emergencies within the framework of the national system of response to technogenic and natural emergency situations.

127. According to the Ministry for Agricultural Policy, pursuant to Cabinet of Ministers Decision No. 391 of 30 March 1998 on the approval of the regulations on the state environmental monitoring system, the Ministry carries out environmental monitoring together with enterprises, institutions and organizations under its authority which are responsible for monitoring national and regional (local) environmental protection programmes. Under the rules on exchanging environmental information set out in the Agreement on cooperation in environmental monitoring between the Ministry of Environmental Protection and the Ministry of Agricultural Policy of 08.02.07, the Ministry of Agricultural Policy, as a constituent entity of the state environmental monitoring system, must provide the Ministry of Environmental Protection with information received from environmental monitoring at national and regional level free of charge. At national level, this comprises: analytical information on indicators for agricultural soils, crop and livestock production, and agricultural surface waters (agrochemical, radiological, toxicological and zootechnical indicators). The information is provided by 25 April each year. In its turn, the MEPU provides the Ministry of Agricultural Policy quarterly with the "State of Ukraine's Environment" analytical and informational digest.

128. The Agreement on cooperation in environmental monitoring (paragraphs 2 and 7) specifies that the authority to exchange information on a regional level may only be delegated with the agreement of the parties. This authority will be fully delegated after national and regional databases have been set up on the condition of the soil on agricultural land. The methodological and legal basis for setting up these databases is currently being established. Constituent entities of the state environmental monitoring system that are under the authority of the Ministry of Agricultural Policy are adopting GPS in order to provide the precise location of plots of land kept under surveillance. This allows the monitoring system to be harmonized with other authorities that keep track of environmental factors. In

order to ensure that monitoring data is reliable, the Ministry of Agricultural Policy has set up an analysis quality control system that includes both internal and external checks by laboratories. A system of inter-authority control is also being developed.

129. Rules for the exchange of environmental monitoring data have been established under the bilateral agreement of 8 February 2007 between the MEPU and the Ministry of Health on cooperation in environmental monitoring, in accordance with the provisions of Cabinet of Ministers Decision No. 391 of 30 March 1998 on the approval of the regulations on the state environmental monitoring system.

130. Unified requirements have been introduced in every region of Ukraine for the exchange of information between constituent entities of the *oblast*-level environmental monitoring system. The fundamental principles for sharing information and general procedure for the formulation, receipt and provision of environmental monitoring data have been established.

131. Under Cabinet of Ministers Decision No. 391 of 30.03.1998, enterprises, institutions and organizations, regardless of their subordination to another authority and their form of ownership, whose activities lead or might lead to environmental degradation must carry out environmental monitoring of their production processes and the state of industrial areas, and collect, store and provide free of charge data and/or consolidated information for complex processing to the constituent entities of the state environmental monitoring system. Moreover, this same decision specifies that information must be transferred between the constituent entities of the state environmental monitoring system (the MEPU, Ministry of Emergencies, Ministry of Health, Ministry of Agricultural Policy, Ministry of Housing and Utilities, State Water Resources Authority, State Forestry Committee and State Land Resources Agency) free of charge.

132. For the purpose of implementing the above-mentioned Decision of the Cabinet of Ministers No. 391 of 30 March 1998, the MEPU has drawn up and concluded bilateral agreements on cooperation in environmental monitoring with constituent entities of the state environmental monitoring system. These agreements have been produced and rules on the exchange of ecological information between constituent entities of the state environmental monitoring system are now being agreed at national and regional levels.

133. The state targeted environmental monitoring programme establishes a method for analyzing the uniformity of measurements used by the analysis units of monitoring system entities as well as the organization and implementation of external measurement quality control within the monitoring system, to ensure the quality of environmental data entered into environmental databases.

134. State public health monitoring is performed by the O.M. Marzeev Institute for Hygiene and Medical Ecology, part of the Ukrainian Academy of Sciences, as the main scientific institution involved in Ukraine's sanitary and disease prevention service. The monitoring system incorporates components and mechanisms that ensure the quality of data entered into the general database.

135. The state sanitary and disease prevention service of the Ministry of Health disseminates real-time information at regional and national levels through the media (radio and television broadcasts, press articles, press releases, bulletins, press conferences, meetings, seminars, and the like)

136. An example of information being obtained in real time at site level is the firm Stirol which has five automatic air quality monitoring stations in and around its plant.

137. Article 10 of the Use of Nuclear Energy and Radiation Safety Act provides for the right of citizens and their associations to obtain information concerning the use of nuclear energy and radiation safety. State bodies, institutions that form part of the state radiation monitoring system, and enterprises, institutions and organizations whose activity involves the use of nuclear energy and their

officials are obliged to periodically disseminate through the media official information about radiation on sites where uranium ore extraction plants, nuclear installations and facilities for handling radioactive waste and sources of ionizing radiation are located as well as information concerning the safety of nuclear installations and radioactive waste processing facilities that are planned or under construction, or which are operational, or which are being decommissioned, except for information that constitutes a state secret.

138. The website of the State Atomic Regulatory Committee was set up in 2001 to inform the public about nuclear and radiation safety conditions in Ukraine and the activities of the regulatory body aimed at implementing State policy in the field of nuclear energy. Since then the website has carried daily information concerning the current state of Ukraine's nuclear power reactors and their malfunctions and brief weekly reports on their operational safety, together with news, laws and regulations, draft documents, action plans, vacancies and other information.

139. Under the Environmental Protection Act (Art. 66), in the event of an accident involving pollution of the environment, enterprises, institutions and organizations are obliged immediately to initiate accident management procedures. At the same time, the officials or owners of enterprises and the managers of institutions and organizations are obliged to report the accident and the accident management measures taken to the executive committee of the local council and the specially mandated government bodies in the environmental and public safety sector.

140. In accordance with the provisions of article 8 of the Protection of the Population and Territories from Technogenic and Natural Emergencies Act, the provision of information and warnings relating to the protection of the population and territories from technogenic and natural emergencies is a basic principle and a fundamental and inseparable component of the entire system of measures for ensuring such protection.

141. Information relating to the protection of the population and territories from technogenic and natural emergencies consists of information concerning technogenic and natural emergency situations which are predicted or have already arisen, together with their classification, extent and impact, and ways and means of responding to them.

142. Information relating to the protection of the population and territories from technogenic and natural emergencies and to the activities of central and local government bodies and the executive bodies of councils in this sphere is public and open, unless otherwise provided by law.

143. Central and local government bodies and the executive bodies of councils are required to provide the public through the media with up-to-date and reliable information on the state of protection of the population and territories from technogenic and natural emergencies, the occurrence of such situations, ways and means of protecting from them, and the implementation of measures to ensure safety.

144. Article 15 of the Ambient Air Protection Act provides for measures to protect the ambient air in the event of a technogenic or natural emergency. Enterprises, institutions, organizations and individual economic agents responsible for the emission of pollutants or the effects of physical and biological factors that could lead to technogenic and natural emergency situations or environmental emergencies are obliged to develop and agree in advance special measures to protect the ambient air in accordance with the law. In the event of the occurrence of such an environmental emergency, the managers of enterprises, institutions and organizations and individual economic agents must immediately, under the procedure established by the Protection of the Population and Territories from Technogenic and Natural Emergencies Act, inform the bodies responsible for state supervision in the ambient air protection sector and take measures to protect the ambient air and deal with the causes and consequences of its becoming polluted.

145. Article 10 of the Use of Nuclear Energy and Radiation Safety Act provides for the rights of citizens and their associations to obtain information relating to the use of nuclear energy and radiation safety.

146. Citizens and their associations have the right to request and obtain from the relevant enterprises, institutions and organizations, within their sphere of competence, full and reliable information concerning the safety of nuclear installations and facilities intended for handling radioactive waste which are being planned or built, as well those which are operational or being decommissioned, with the exception of information that constitutes a state secret. Citizens have the right to obtain information from institutions of the state system for monitoring the radiological situation on the territory of Ukraine concerning radiation emission levels on Ukrainian territory and in the places where they live or work.

147. Officials of enterprises, institutions and organizations who refuse to provide such information or deliberately distort or conceal objective data on safety-related issues arising from the use of nuclear energy may be held liable under the law. For fact-finding purposes, citizens of the Ukraine have the right to visit, under the established procedure, nuclear installations and, moreover, facilities for handling radioactive waste. In order that citizens may exercise their rights, state bodies, institutions of the state radiological situation monitoring system, and enterprises, institutions and organizations whose activities involve the use of nuclear energy and their officials must:

- periodically disseminate through the media official information regarding the radiological radiation on sites where uranium ore extracting plants, nuclear installations, radioactive waste processing facilities and sources of ionizing radiation are located and operated, as well as information concerning the safety of such installations or facilities that are planned or under construction, or which are operational, or which are being decommissioned, except for information that constitutes a state secret;
- provide citizens of Ukraine with the opportunity, at their request, directly to visit nuclear installations and facilities for handling radioactive waste for fact-finding purposes, under the established procedure.

148. In Lviv *Oblast*, following the initial management of an accidental release of yellow phosphorus into the environment in July 2007 near the villages of Ozhidiv and Zakomarye, a plan to carry out phase II accident recovery work involving restoration of the area around the site of the accident, environmental monitoring of the area and social protection was adopted on 16.07.2007 for the population of the Busk, Brody, Zolochivskyyi, Kamianka-Buzka and Radekhiv *Raions* of Lviv *Oblast* that had been affected by the railway accident on 16 July 2007.

149. The MEPU web portal carries national and regional reports on the state of the environment, special reports on the state of the environment, regional environmental “passports”, lists of the most polluting facilities, registers of waste disposal facilities, waste processing and reclamation sites, waste production sites, etc., and other registers, inventories and references to sources of information. Moreover, the state environmental monitoring programme provides for technological and organizational measures to be developed to ensure that the system for providing environmental monitoring data operates smoothly.

150. One source of environmental data on agricultural land in Ukraine is executive authorities whose terms of reference include the monitoring of agricultural land, namely, the Ministry for Agricultural Policy, the MEPU, the State Land Resources Agency, the State Water Resources Authority and the Ukrainian Academy of Agricultural Sciences.

151. The State Atomic Regulation Committee of Ukraine, with the participation of its public council, prepares an annual status report, in Ukrainian, Russian and English, on nuclear and radiation safety in Ukraine. The report provides information on the Committee’s work to improve nuclear and

radiation safety in Ukraine and on important issues of nuclear and radiation safety towards which future activities should be directed.

152. The MEPU prepares and submits for consideration by the Supreme Council (Parliament) an annual national report on the state of the environment in Ukraine, which after consideration by Parliament is published as a separate edition and posted to the internet. The Parliament of the Autonomous Republic of Crimea, the *oblast* councils, and the Kyiv and Sevastopol city councils prepare annual reports on the state of the environment in their respective areas which are then published in the media.

153. The public has extensive, unimpeded and direct access to environmental legislation, strategies, policies, international agreements and other legislation through the internet and the web portals of the Supreme Council (Parliament), the Cabinet of Ministers (the Ukrainian government) and central government bodies.

154. Permanent access to the legislation, policy documents, and international treaties, conventions and agreements on environmental matters is ensured by publishing the documents (or references) on the MEPU's web portal.

155. Scientific operatives and other experts involved in disseminating environmental information are incentivized to fulfil their duties and other tasks, including the active dissemination of environmental information.

156. There are no restrictions on the publication of environmental information, with the exception of confidential information and state secrets. Facts, analyses and explanatory information concerning the state of the environment are published in national reports on the state of the environment. This information includes factual environmental data, such as the quality of ambient air, water and land and anthropogenic pollution (of the atmosphere, hydrosphere and lithosphere), as well as data on waste, animal and plant population trends and so on. Furthermore, the report contains information on environmental policy, the implementation of national and international environmental programmes, environmental management, state environmental compliance assurance, public participation and environmental education.

157. The State Atomic Regulation Committee provides information on its work and measures to ensure the safe operation of nuclear facilities in the journal *Nuclear and Radiation Safety*, which is included in the International Nuclear Information System (INIS). The journal is distributed to Ukrainian libraries.

158. The Ministry for Agricultural Policy includes information on scientifically-based, environmentally safe systems for using mineral fertilizers and chemical pesticides and the possible consequences of incorrect manufacturing processes in publications on environmental matters.

159. The activities of the national voluntary organization Living Planet are of interest with regard to eco-labelling. In pursuit of the objective outlined in its articles of association, Living Planet has introduced a system for assessing the conformity of the environmental aspects of products and services with the requirements of the ISO 14000 series of international standards. For this purpose it has set up an environmental labelling certification body within its structure, which in 2004 obtained accreditation under the international System of Independent Certification as a body operating product and service certification systems in conformity with the requirements of the international standard ISO\Guide 65. Living Planet's certification body will represent Ukraine in the Global Eco-labelling Network (GEN) and the International Federation of Organic Agriculture Movements (IFOAM). It is also a member of the Ukrainian Association of Accredited Compliance Assurance Bodies and the Ukrainian quality society.

160. The MEPU coordinates this area with the general agreement of the State Consumer Standards Committee, the Ukrainian Chamber of Trade and Industry, the Ukrainian Consumers' Association and Living Planet.

161. The sanitary and disease prevention service provides information on the quality of food products and inspections of food production facilities, public catering facilities and food retail outlets, including dairy processing plants, through the media.

162. Ukraine currently maintains separate emission (discharge) inventories drawn up in statistical reporting form. These site-specific data are presented in the form of generalized information and are confidential.

163. In May 2003, the Protocol on Pollutant Release and Transfer Registers (PRTR) was passed and signed at the fifth "Environment for Europe" conference. At the initiative of USAID, a working group for implementing Pollutant Release and Transfer Registers in Ukraine was set up. The group concluded that Ukraine possessed the legislative framework that would allow a registration system for pollutant emissions (discharges) and transfers to be created. However, in order for an international PRTR system to be set up, changes and additions would need to be made to individual elements of the national system. For example, the statistical PRTR reporting system currently employed by enterprises can only be used if it is substantially modified. International classifications of chemical compounds must be introduced, and their qualitative and quantitative composition analyzed.

164. The expediency of ratifying the Protocol on Pollutant Release and Transfer Registers (PRTR) is being carefully considered.

165. At the same time, Ukraine applies a system for reporting on the state of the environment and emissions which could be used as a basis for implementation of the provisions of the PRTR Protocol.

166. Ukraine currently maintains separate emission (discharge) inventories drawn up in statistical reporting form. These site data are presented in the form of generalized information.

167. A series of projects have been carried out and a number of working groups set up regarding the introduction of an PRTR. An analysis of legislation and the possibility of implementing such a Register has been carried out. Working groups have been set up under the MEPU as well as in the context of projects, for example the PRTR working group, which was coordinated by the Ukrainian Centre for Land and Resource Management, in pilot UNEP projects in the *oblasts*.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

168. No information was provided under this heading.

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

169. No information was provided under this heading.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

See Section VI above.

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

173. In accordance with the Environmental Review Act and the Regulations on public participation in environmental decision-making (MEPU Order 168 of 18 December 2003), public participation is mandatory in a state environmental review to assess the impact of hazardous facilities and activities on the environment. A list of activities and sites that pose an increased environmental risk is contained in Cabinet of Ministers Decision No. 554 of 27 July 1995. This list resembles annex I to the Aarhus Convention.

174. Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy specifies the procedure for consulting the public on state policy. It aims to ensure genuine public engagement in state affairs, provides for free access to information on the activities of government bodies and also ensures that these bodies operate in an open and transparent manner. Public consultations enable government bodies to conduct a systematic dialogue with the public, improve the quality of decision-making on important state and social issues by taking into consideration suggestions from the public, and enable the public to be involved in producing draft decisions.

175. Paragraph 2.4 of the Regulations on the provision of environmental information specifies that “The specially mandated government body for the environment and natural resources of Ukraine, its local branches, other central government bodies, enterprises, institutions and organizations shall release information through the media on:

2.4.5 intentions regarding the location of facilities that represent an increased environmental risk which require environmental impact assessment”.

176. The State Environmental Inspectorate has drawn up a list of over 200 facilities that represent an increased environmental risk. Information on 10 of them has been published quarterly in the media beginning from 01.04.2005.

177. The Regulations on public participation in environmental decision-making (MEPU Order No. 168 of 18.12.2003) lay out the types of decisions on matters that have or may have an adverse environmental impact in which the public must be involved:

- the development of international, national, regional, local and other territorial programmes, local action plans, strategies and other documents;
- the preparation of draft legislation and other regulatory acts;
- the conduct of state environmental reviews with the environmental impact assessment of hazardous facilities and types of activity;
- issuing the appropriate documents on the use of natural resources, the deliberate release of genetically modified organisms into the environment, and activities relating to environmental pollution and the processing of hazardous substances and waste and their disposal;
- expenditure relating to the implementation of conservation measures funded from environmental protection funds.

178. The list of activities and facilities that represent an increased environmental risk and for which a state environmental review is mandatory (adopted by Cabinet of Ministers Decision No. 554 of 27.07.1995, as amended by No. 142 of 14.02.2001) is compiled by the Ministry of Environmental Protection and the Ministry of Health. It includes the list of activities referred to in article 6.1 of the Aarhus Convention and other environmentally dangerous activities and facilities.

179. Amendments to the Act on Planning and the Development of Territories adopted in 2008 insert Section IV-1 on public participation, which specifies in detail the decisions in which public

opinion must be considered and for which public hearings must be held. These decisions include: planning schemes for the territories of administrative and territorial units; general plans for residential settlements; detailed territorial plans; territorial development projects; and the urban planning feasibility study for the location of built infrastructure.

180. Under the State Building Standards (DBN A.2.2-1-1-2003), adopted by Order No. 214 of 15.12.2003 of the State Construction Committee and brought into force on 01.04.2004, at the stage of preparing documentation for the environmental impact assessment (EIA) the developer and the entity carrying out the EIA must draw up, agree and publish in the media a notification of intent including a list of the expected effects of the planned activity; collect and systematize the existing documentation on the state of the natural, human and industrial environments in line with the list of environmental effects, and alternatives for the planned activity depending on their danger to the environment. The developer of the planned activity must ensure that the public are informed of public discussion of the planned activity and that the public discussion takes place. The state building standards take full account of the current list of activities and installations that present an increased environmental risk in accordance with Cabinet of Ministers Decision No. 554 of 27.07.1995 amended by No. 142 of 14.02.2001, which includes the list of activities referred to in annex 1 of the Aarhus Convention.

181. The Regulations on public participation in environmental decision-making adopted by MEPU Order No. 168 of 18 December 2003 and registered with the Ministry of Justice define the term “public concerned” [literally “interested public”] as “the public affected by the implementation of decisions in matters which have or could have an adverse effect on the state of the environment”.

182. Special measures have been taken by the Government to charge state bodies with organising public consultations through Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy. This decision approves the procedure for holding public consultations on the formulation and implementation of state policy.

183. Public consultations must be held on draft legislation that is socially significant and concerns the rights and duties of citizens and also legislation that bestows benefits or privileges on specific categories of economic entity or delegates powers of central government departments or local self-government; regulatory acts; and national and regional economic, social and cultural development programmes and decisions relating to their implementation.

184. Public consultations take the form of public discussions and public opinion surveys.

185. The public concerned may file a claim to a court. This may serve as grounds for a decision that was taken in breach of rules on public consultation to be declared legally invalid.

186. Open public discussion begins on the date of publication by the government body and must last for no less than a month (Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy).

187. Under the regulations on public participation in environmental decision-making, adopted by MEPU Order No. 168 of 18 December 2003 and registered by the Ministry of Justice, the duration of a public discussion may not exceed:

- 3 months – for international, national and regional programmes, plans, strategies, concept documents and draft legislation; the carrying out of an activity that has or could have an adverse effect on the state of the environment, or decisions relating to expenditure associated with the implementation of conservation measures chargeable to the State Environmental Protection Fund;
- 2 months – for local programmes, action plans and strategies; decision-making relating to expenditure associated with the implementation of conservation measures chargeable to local environmental protection funds;

- 1 month – for issuing the appropriate documents for the use of natural resources and the deliberate introduction of genetically modified organisms into the environment, and for decisions relating to an activity that has or could have an adverse effect on the state of the environment.

188. At its own initiative or at the request of the public, the decision-maker may extend the duration of the public discussion if any data, information or evidence received during the course of that discussion creates a fundamentally new set of circumstances, for the period necessary to take these circumstances into account, but not more than 1 month.

189. The government body and its public council work out a plan that includes a list of questions; the form, time frames and stages of consultation; and the procedure for providing notification of their conduct and for taking into consideration their results. Government bodies publish notifications of public consultations in the media and on their web portals.

190. The decision-maker chooses the date and place for a public discussion to be held and informs participants in the public discussion process no later than 30 days before it begins in the media (radio, TV, press, internet and specialist publications) by sending this information to the public concerned by normal or electronic mail, posting announcements in public places and information centres, or informing them through representative consultative and deliberative bodies.

191. The notification of a public discussion contains details of:

- the suggested procedure, place, date and time for the discussion to be conducted;
- a summary of the draft concept document, strategy, programme, local action plan, legislative or regulatory act or statement by a developer of its intention to locate, build or reconstruct a facility or to carry out another activity that has or may have an adverse environmental impact;
- the decision-maker; an address where additional information may be consulted and to which requests for information, comments, suggestions and recommendations can be sent;
- time frames for submitting requests for information, comments and suggestions;
- opportunities for public participation.

192. The legislative framework (Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy) provides for public participation in the early stages of the decision-making procedure: in the planning, impact assessment, project consideration, construction, and activity stages.

193. Public participation is hence provided for in the screening and/or scoping phase of an EIA procedure.

194. Under article 9 of the State Environmental Review Act and the State Building Standards (DBN A.2.2-1-2003) that were approved by Order No. 214 of 15.12.2003 of the State Construction Committee and brought into force on 1 April 2004, public participation takes place at a stage when alternatives are still open.

195. Project drafters must involve the public at the design stage (Art. 9 of the State Environmental Review Act, GSN A.2.2-1-2003).

196. Articles 2 and 8 of the Planning and Development of Territories Act provide for public and private interests to be taken into account during planning, building and other land use. In order to ensure that public interests are taken into account during planning, the specially mandated body for urban planning and architecture of the Autonomous Republic of Crimea and *oblast* and *raion* administrations in accordance with their competencies:

- inform the public through the media and self-government bodies (including the self-government bodies of adjacent administrative and territorial units) in writing about the development of

planning schemes for the respective territory;

- invite representatives of the respective territory's society and of village and town councils and their executives to participate in discussion of planning schemes at regional level;
- produce proposals to accommodate the interests of the territory's public if planning-related disputes arise at regional level.

197. There have been no reports of complete sets of EIA documentation being classified so far.

198. Comprehensive discussions in the form of public hearings and meetings or via the media make it possible to adjust projects in the pre-investment exploratory stage, as well as in the implementation process.

199. Public discussions are recorded using stenographic or audiovisual methods. Representatives of the project developer are obliged to give oral answers to the public's questions during public discussions or in written form after they have finished. The course and outcomes of the public discussion are entered into a record that is signed by the chair and the secretary elected during the discussion by its participants. The outcomes of the discussion must be taken into account to the greatest possible extent in the draft decision. After the decision-maker has made its decision, it must inform the public through the media within 30 calendar days at most.

200. Journalists are invited to public discussions, who report comments to members of the public who have not attended. Comments can also be viewed during the public discussion procedure itself.

201. The government body must inform the public of the results of the open public discussion through publishing information on its official site or by another generally accepted means no later than two weeks after the end of the discussion (Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy). This can be used as evidence in a legal claim, meaning that a mechanism exists for the public to challenge decisions by a government body in line with paragraph 2 of article 9 of the Aarhus Convention.

202. The Regulations on public participation in decision-making on environmental matters, approved by MEPU Order No. 168 of 18.12.2003 and registered by the Ministry of Justice, specify that decisions taken in breach of these Regulations may be challenged by interested parties under the procedure established by law.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

203. No information was provided under this heading.

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

204. No information was provided under this heading.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

205. See Section VI above.

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

206. On 26 November 2009 the Government passed Decision No. 1302 on additional measures to ensure public participation in the formulation and implementation of state policy. In furtherance of this

decision, on 6 January 2010 the Government passed an additional decision, Decision No. 10, on the approval of the procedure for involving citizens in the formulation and implementation of state policy.

207. These Decisions require ministries and other central government bodies, the Crimean Cabinet of Ministers, and the state administrations of *oblasts*, the cities of Kyiv and Sevastopol, and districts of Kyiv and Sevastopol to hold meetings with civil society institutions, democratically constitute public councils attached to central and local government bodies and ensure their effective operation.

208. A procedure for conducting public consultations on the formulation and implementation of state policy was also approved. The implementation of this government Decision has tangibly ensured public participation in state affairs, gave the public free access to information on the activities of government bodies and also ensured openness and transparency by these bodies. Public consultations enable government bodies to conduct a systematic dialogue with the public, improve the quality of decision-making on important state and social issues by taking into consideration suggestions from the public, and enable the public to be involved in producing draft decisions.

209. During the process of implementing these government decisions, the Government began to receive suggestions from several voluntary organizations about their amalgamation for greater efficiency and also about a small change to the formation of public councils and their terms of office. The Government subsequently organized open consultations with civil society and government bodies. All of the comments and suggestions received were made public and taken into consideration. As a result, on 3 November 2010 the Government passed a new decision, Decision No. 996 on ensuring public participation in the formulation and implementation of state policy. The previous decisions, Decision No. 1302 of 26.11.2009 and Decision No. 10 of 06.01.2010, lost effect. Their provisions were amended to take account of suggestions from civil society.

210. A plan is a document that sets out the most important aspects of a future measure, analyses the problems relating to the measure, and details ways to solve these.

211. A programme (for example, for the economic and social development of a region) is compiled taking account of indicators and priority areas set out by the President's Action Plan, the Cabinet of Minister's Programme of Activity and the state strategy for regional development until 2015.

212. The term "policy" is used by Ukrainian state bodies to mean state, information, IT, external trade, regional, regulatory, poverty reduction, innovation, tariff, agricultural, pricing, economic, social policy and so on.

213. The MEPU sets out the political priorities, strategic areas and targets for the implementation of state policy in environmental matters, the efficient use of resources, environmental security and topographical, geodetic and cartographical activity.

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

214. No information was provided under this heading.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

215. No information was provided under this heading.

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

216. No information was provided under this heading.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

217. See Section VI above.

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

218. There are no special legislative requirements for public participation at the conceptual stage of the legislative procedure, or for time limits for presenting legislative and other information to the public to form their ideas. Central government bodies place draft rules and regulations on their internet sites. The public has the opportunity to comment directly through representative consultative bodies. The results of public participation are taken into account to the greatest possible extent, provided they are not inconsistent with the legislation in force and help to improve the ecological state of the environment.

219. Open public discussion begins from the date of publication by a government body and lasts no less than a month (Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy).

220. All central government bodies publish draft legislation and rules on their internet sites. The public has the opportunity to make comments directly through representative consultative bodies.

221. The government body must make the outcome of the open public consultation process available to the public by publishing it on its official site or using another generally accepted means no later than two weeks after its completion (Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy).

222. Government Decision No. 996 of 03.11.2010 on ensuring public participation in the formulation and implementation of state policy requires ministries, other central government bodies, the Council of Ministers of the Autonomous Republic of Crimea, and the state administrations of *oblasts*, Kyiv and Sevastopol cities, and the districts of Kyiv and Sevastopol, to democratically form public councils attached to the central and local government bodies and also to ensure that they effectively consult the public on the formulation and implementation of state policy, including those that have an environmental impact. The Ministry of Justice is particularly noteworthy in this respect as it regularly forms working groups to draft legislation, which always include representatives of public associations.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

223. No information was provided under this heading.

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

224. No information was provided under this heading.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

225. See Section VI above.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING

THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

226. The provisions of article 9 are implemented through administrative, commercial and civil legal procedure. Claims of contravention of the right to access to environmental information or the right to participate in environmental decision-making, as well as challenges to other decisions and actions/failures to act of state bodies, are heard in administrative courts. Claims that an enterprise has contravened environmental legislation are lodged with commercial courts (if the claimant is a legal entity) or civil courts (if the claimant is a natural person).

227. There are no specialized environmental judges, courts or divisions of courts that hear cases on rights to information or the right to participate in environmental decision-making.

228. Any claim filed to protect rights guaranteed by the Constitution, as well as claims relating to the environment, is examined according to the general rules of the type of procedure in question. There are no special rules on the time frame for hearing such actions, the cost of initiating and examining such actions, legal aid and so forth. So, for example, the procedure for examining a claim appealing a refusal to provide environmental information is no different from the procedure for examining a claim challenging a refusal to provide information in any other area.

229. The courts apply the text of the Aarhus Convention directly. Article 19 of the International Agreements Act specifies that international agreements to which the Supreme Council has consented form part of national legislation and are to be applied in the same way as national legislation.

230. In this connection, courts have in a few instances incorrectly interpreted the Convention's provisions, which underlines the need to raise awareness among judges of the provisions of the Convention and their official interpretation by the Compliance Committee.

231. The Access to Judicial Decisions Act, intended to ensure the openness of the activities of the courts of general jurisdiction and the predictability of judicial decisions and to further the unified application of the law, was adopted on 22 December 2005. In fulfilment of this Act, Cabinet of Ministers Decision No. 740 of 25.10.2006 adopted the procedure for the maintenance of the Unified State Register of Judicial Decisions. Electronic copies of the judgments of the Supreme Court, higher specialist courts, appeal and local administrative courts, appeal and local commercial courts and general appellate courts have consistently been entered into the Register since 1 June 2006, and the judgments of general local courts since 1 January 2007. Judgments entered into the Register are available free, 24 hours a day, from the official website of the judicial authorities.

232. Thus, in the national legislation, the rights of the representatives of the public under article 9 of the Aarhus Convention with respect to access to information relating to judicial decisions.

233. According to information supplied by the Supreme Court, cases disputing the action or failure to act of a natural or legal person, state bodies, local self-government bodies and the officials of these bodies, relating to a contravention of national legislation relating to the environment are heard by courts of general jurisdiction in civil, administrative or commercial proceedings. Legislation on civil, administrative and commercial procedure allows impugned judgments not only to be rescinded but also to be varied or for a new judgment to be issued (approved) on the merits of a claim at both the appellate and cassational stage.

234. Laws implement the requirements of article 9, paragraph 3. Under the Code of Administrative Procedure, natural and legal persons have the right to appeal against any decision, action or failure to act of state bodies before an administrative court. Decisions and actions of state bodies that contravene national environmental legislation may also be disputed before an administrative court.

235. As regards private individuals, their actions or failures to act that infringe national

environmental legislation may be challenged in commercial or civil courts (depending on the status of the claimant). Under chapter 2, article 293 of the Civil Code, an activity by a natural or legal person that destroys, damages or pollutes the environment is unlawful. Anyone has the right to demand the cessation of such an activity. A court may order the termination of such activity.

236. The Citizens' Communications Act gives citizens the right to send individual or group complaints about a breach of their rights to the authorities or private legal entities. The recipient of such a complaint is obliged within a certain time frame to examine the complaint and take a reasoned decision.

237. However, despite this right, access to justice through an administrative complaint is not effective as it is extremely rare for the body examining the complaint to revoke the decisions of the body whose decisions or actions are in dispute.

238. In Ukraine the public has the right to challenge any decision, action or failure to act of a state body, including on the grounds of articles 7 and 8.

239. A preliminary court injunction (as a means of securing a claim) in administrative proceedings is granted where there is an evident risk of harm being caused to the claimant's rights, freedoms and interests before a judgment is issued on the case, or where the defence of these rights, freedoms and interests is impossible without a court injunction, or their restitution will necessitate significant effort and cost, or if there are clear signs of an illegal decision or action by the respondent.

240. A preliminary court injunction may be granted in civil proceedings if the failure to issue such an injunction could render execution of the judgment more difficult or impossible.

241. In addition, the court may require a deposit that is sufficient to prevent abuse of the injunction. The size of the deposit is determined by the court according to the circumstances of the case. Moreover, if the defendant wins the case, s/he has the right to claim compensation from the claimant for losses incurred as a result of the injunction. These conditions discourage the public from filing petitions requesting a preliminary injunction.

242. The Administrative Offences Code of Ukraine provides for the administrative accountability of civil servants and officials for refusing to provide environmental information or not providing it in good time. The fine varies between five and 17 euros.

243. Under current legislation, at the same time as issuing a judgment on the wrongfulness of a refusal to provide information, a court may (at the request of the claimant) issue a separate report that raises the question of prosecuting the guilty parties and rectifying the factors that led to a breach of legislation. However, the number of administrative prosecutions of officials compared to the number of contraventions of article 4 of the Convention that are recognized by the courts is abysmally low.

244. Judges do not specialize in environmental cases. A computer allocates cases to judges in order.

245. Costs depend on the type of proceedings and the category of claim. The court fee for filing an administrative claim is not prohibitive (it is less than four euros). It costs twice as much to file an administrative or cassational appeal.

246. Procedural laws and the state duty (court fee) that is fixed by legislation completely fulfil Ukraine's international obligation to guarantee access to a quick procedure that requires minimal or no fees for a case to be examined.

247. In civil and commercial cases, court fees are a little higher but still do not impede access to justice.

248. However, claimants are obliged to pay for a lawyer (if they wish to be represented by a professional) as well as for legal and other expert reports that they initiate and expenses incurred by witnesses and expert witnesses. If s/he loses, the claimant must pay the respondent costs. This does not happen automatically – a winning respondent must file an application.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

249. No information was provided under this heading.

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

250. No information was provided under this heading.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

251. See Section VI above.

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

252. The Convention is facilitating transition to the democratic principles of a civil society, improving the public's awareness of environmental issues, provides the public with the opportunity to express its opinion, which has to be taken into consideration by state bodies.

253. The MEPU is actively working on raising awareness of the Aarhus Convention among voluntary organizations, individual citizens, the state environmental protection directorates in the *oblasts* and the cities of Kyiv and Sevastopol, the Republican Committee for the Protection of the Environment in the Autonomous Republic of Crimea, the state environmental inspectorates in the *oblasts* and the cities of Kyiv and Sevastopol, and especially central government and local self-government.

254. The ensuing implementation of the Aarhus Convention in Ukraine is consolidating the legal mechanism for giving effect to the right of citizens to access to information, participation in decision-making and access to justice in environmental matters, as well as to broader access to information controlled by central government and local self-government bodies concerning permits for the use of natural resources, environmental pollution, direct polluters, the environmental impact of the construction and operation of new installations in the energy and metal production and processing sectors, the mineral industry, the chemical industry, the waste-water, waste treatment and recovery and petroleum and natural gas extraction sectors, the corresponding reports, lists and inventories, and the release of genetically modified organisms.

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

255. A number of initiatives have been taken in Ukraine to fulfil the Convention's requirements with respect to the deliberate release of genetically modified organisms into the environment. The following legislation has been amended or drafted:

- Article 25-1 was added to the Environmental Protection Act, which provides for provision of information to the public as well as public access to information on the deliberate release of

genetically modified organisms into the environment.

- The Act on the quality and safety of food products and raw food ingredients introduces compulsory labelling for food products and food raw materials that contain genetically modified organisms and their components.
- The Environmental Protection, Environmental Review, and Fauna Acts provide for state environmental review in connection with modern biotechnology.
- The Regulations on public participation in decision-making in environmental matters provide for public involvement during consideration of whether to grant permission to deliberately release genetically modified organisms into the environment.

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

256. No information was provided under this heading.

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

257. No information was provided under this heading.

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

258. See Section VI above.