Format for the Aarhus Convention
implementation report in accordance with Decision IV/4 (ECE/MP.PP/2011/2/Add.1)

 The following report is submitted on behalf of the French Republic in accordance with decisions I/8, II/10 and IV/4.

|  |
| --- |
| Name of officer responsible for submitting the national report: Nicolas Fairisé (Focal point)  |
| Signature:  |
| Date:  |

 Implementation report

 Please provide the following details on the origin of this report

|  |
| --- |
| **Party: French Republic**  |
| **National Focal Point: Ministry for Inclusive Ecological Transition – Department of the Commissioner General for Sustainable Development**  |
| Full name of the institution:  |
| Name and title of officer:  |
| Postal address: Tour Sequoia - 92055 La Défense CEDEX - France  |
| Telephone:  |
| Fax:  |
| E-mail: questions.participation-public@developpement-durable.gouv.fr  |
| **Contact officer for national report (if different):**  |
| Full name of the institution:  |
| Name and title of officer:  |
| Postal address:  |
| Telephone:  |
| Fax:  |
| E-mail:  |

 I. Process by which the report has been prepared

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

|  |
| --- |
|  |
| *Answer:* 1. - This implementation report was submitted to State agencies and to the main institutions concerned (the National Commission for Public Debate, ‘the CNDP’; the National Company of Public Inquiry Commissioners, ‘the CNCE’; the main nature and environmental protection associations; etc.) in February 2017. 2. - The updated draft report was available for public consultation on the website of the Ministry for Inclusive Ecological Transition from 16 May to 1 June 2017.  |
|  |

 II. Particular circumstances relevant for understanding the report

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

|  |
| --- |
|  |
| *Answer:*  |
|  |

 III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8

|  |
| --- |
|  |
| **List legislative, regulatory and other measures that implement the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8, of the Convention.**  |
| Explain how these paragraphs have been implemented. In particular, describe: (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness; |
| (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection; |
| (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including: |
| (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are ongoing;  |
| (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided; (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party’s delegation in international environmental negotiations, or involving NGOs in forming the Party’s official position for such negotiations), including the stages at which access to information was provided; (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums; (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;  |
| (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed. |
|  |
|  |
| *Answer:* 3. - Article 27 of Act No. 83-634 of 13 July 1983 on the Rights and Duties of Public Officials provides that it is the duty of public officials to comply with requests for information from the public while observing, in particular, professional confidentiality. 4. - Act No. 2000-321 of 12 April 2000 on the Rights of Citizens in their Relations with the Administrative Authorities facilitates procedures for requesting information from administrative authorities. This aim was emphasized in Act No. 2013-1005 of 12 November 2013 enabling the Government to Simplify Relations between Administrative Authorities and Citizens. This law provides for the development of widespread electronic communications with administrative authorities and also for “greater public participation in the preparation of official government documents”. 5. - Article 8 of the Charter for the Environment provides that “education and training on the environment must help citizens to exercise the rights and duties defined by this Charter”. 6. - Under Framework Act No. 2013-595 of 8 July 2013 for School Reform, environmental education will be strengthened and future teachers will receive training on environmental issues. 7. - In September 2013, France held its second environmental conference, which adopted some ten measures on environmental education. 8. - Associations are governed by the Act of 1 July 1901 on the contract of association. Specific provisions relating to environmental protection associations are set out in Book I, Title IV of the Environmental Code. 9. - In certain circumstances, environmental protection associations may be granted recognition by the State. Such recognition may be required for participation in consultative commissions. 10. - Regardless of whether they are officially recognized or not, associations may receive grants, *inter alia* in the form of multi-year agreements on objectives over a period of four years. 11. - Article L.141-3 of the Environmental Code creates a set of basic requirements for recognized environmental associations and recognized foundations of public benefit to be nominated to sit on consultative bodies that examine environmental and sustainable development policies. 12. - In the sphere of nuclear power, associations designated as ‘Local Information Commissions’ have the general duty of monitoring, providing information and consulting on nuclear safety, protection from radioactivity and the impact of nuclear operations on people and the environment (Article L. 125-17 *et seq*. of the Environmental Code). In 2000, the Local Commissions established a national federation, the National Association of Local Information Commissions (ANCCLI). 13. - In 2015, in the run-up to the World Climate Conference in Paris (‘COP21’), the CNDP joined with a number of foreign partners to organize a Planetary Citizen Debate on Climate and Energy. This involved organizing 97 debates as a framework for consulting citizens in 76 countries around the world. The results were presented to UNFCCC negotiators at the United Nations General Assembly in New York and in Paris during COP21 in Autumn 2015. 14. - The French authorities brought together representatives of civil society to prepare for COP21. Regular meetings were organized in order to understand non-state actors’ expectations and take these into account during the negotiation process, in the aim of ensuring that everyone supported the draft Agreement. 15. In addition, a dedicated Civil Society Area was specially created at COP21; this was located near the conference centre reserved for the negotiations. 16. - Finally, a call for international projects was launched in January 2015 to encourage civil society initiatives that would engage the largest possible number of citizens around the issue of climate change (600 projects received the official COP21 label as a symbol of France’s institutional support). 17. - In addition, the Ministry for Europe and Foreign Affairs drew non-state actors into the task force on the 2030 Agenda and the Sustainable Development Goals, in order to broaden and deepen France’s contribution to the negotiations, which took place between July 2013 and September 2015. 18. - The 1789 Declaration of Human and Civic Rights is considered by the Constitutional Council to form part of the country’s corpus of constitutional principles; it recognizes that all citizens are equal in the eyes of the law (Article 6), prohibits arbitrary arrests and detentions (Article 7) and proclaims: “No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established law and order” (Article 10). The Constitution guarantees the independence of the courts and the Constitutional Council has highlighted the independence of the administrative courts as a fundamental principle acknowledged in French law (Constitutional Council, 22 July 1980, No. 80-119 DC). 19. - France is also a party to the Convention for the Protection of Human Rights and Fundamental Freedoms (‘the European Convention on Human Rights’), which guarantees the right to security and to freedom of thought, opinion, expression and association, under the supervision of its Court (the ECHR). 20. - Finally, Act No. 2016-1691 of 9 December 2016 on Transparency, Combating Corruption and Modernizing the Economic Life of the Nation has reformed the provisions for protecting whistle-blowers (Chapter II). 21. - Article 8 of the Act provides for a procedure based on graduated reporting channels, first within and then outside the workplace. However, in case of serious and imminent danger or in the event of a risk of irreparable damage, this procedure can be disregarded. 22. - The identity of the whistle-blower and of anybody referred to in the report shall remain confidential and, subject to certain conditions, the whistle-blower shall be immune from criminal prosecution and from any form of discrimination or sanction within the workplace. 23. - The warning may be reported directly to the Defender of Rights (the national Ombudsman – an independent authority created in 2011 on the basis of the Constitution), who plays the crucial role of referring it to the appropriate authority.  |
|  |

IV. Obstacles encountered in the implementation of article 3

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

|  |
| --- |
|  |
| *Answer:* 24. - Some organizations considered the state of emergency then in force to have been a source of restrictions on civil society participation in COP21. 25. - They have further expressed dissatisfaction that the reforms relating to the recognition of associations, introduced by Decree No. 2011-832 of 12 July 2011, have reduced the number of officially recognized associations from its previous level.  |
|  |

 V. Further information on the practical application of the general provisions of article 3

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

|  |
| --- |
|  |
| *Answer:* |
|  |

 VI. Website addresses relevant to the implementation of article 3

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 26. - Environmental conference : http://www.ecologique-solidaire.gouv.fr/conference-environnementale Constitutional Council: [www.conseil-constitutionnel.fr](http://www.conseil-constitutionnel.fr/) Ministry responsible for agriculture: <http://agriculture.gouv.fr/>Ministry responsible for the environment: <http://www.ecologique-solidaire.gouv.fr/>Ministry of Justice: [www.justice.gouv.fr/](http://www.justice.gouv.fr/) French Agency for Biodiversity: <http://www.afbiodiversite.fr/>Environment and Energy Agency: <http://www.ademe.fr/>National Natural History Museum: [www.mnhn.fr/](http://www.mnhn.fr/) National parks: [www.parcs-nationaux.org](http://www.parcs-nationaux.org/) Regional Natural Parks: [www.parcs-naturels-regionaux.fr](http://www.parcs-naturels-regionaux.fr/) National Institute for the Industrial Environment and Hazards: [www.ineris.fr](http://www.ineris.fr/) ‘France Nature Environnement’ association: [www.fne.asso.fr](http://www.fne.asso.fr/) Bird Protection League: [www.lpo.fr](http://www.lpo.fr/) ‘Ecole et Nature’ network: [www.ecole-et-nature.org](http://www.ecole-et-nature.org/) ‘Eau et Rivières de Bretagne’ association: [www.eau-et-rivieres.asso.fr/](http://www.eau-et-rivieres.asso.fr/) Friends of the Earth France: <http://www.amisdelaterre.org/>Water agencies: [www.lesagencesdeleau.fr](http://www.lesagencesdeleau.fr/) Committee for the Environment and Sustainable Development: [www.comite21.org](http://www.comite21.org/) ‘Service Civique’ (National Volunteer Service) Agency: [http://www.service-civique.gouv.fr](http://www.service-civique.gouv.fr/) National Commission for Public Debate (CNDP): <https://www.debatpublic.fr/> National Association of Local Information Commissions (ANCCLI): http://www.anccli.org/  |
|  |

 VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4

|  |
| --- |
|  |
| **List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.** |
| Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:(a) With respect to **paragraph 1**, measures taken to ensure that:(i) Any person may have access to information without having to state an interest;(ii) Copies of the actual documentation containing or comprising the requested information are supplied;(iii) The information is supplied in the form requested; |
| (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected; |
| (c) With respect to **paragraphs 3 and 4**, measures taken to: |
| 1. Provide for exemptions from requests;
 |
| (ii) Ensure that the public interest test at the end of paragraph 4 is applied;(d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action; |
| (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;(f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;(g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met. |
|  |
|  |
| *Answer:*27. - Article 7 of the Charter for the Environment guarantees the right to access environmental information held by the public authorities and to participate in making any decisions that have an environmental impact. 28. - Article L. 110-1 II (4) of the Environmental Code enshrines the right for everybody to have access to environmental information held by public authorities as one of the general principles of environmental law. 29. - Directive 2003/4/EC on access to information, which takes into account article 4 of the Aarhus Convention, has been transposed into French law, notably through Book I, Title II of the Environmental Code, ‘Information and participation for citizens’. Chapter IV is entitled ‘Right to access information relating to the environment’. Other articles in the Code relate to access to information on specific subjects such as chemicals, nuclear power, hazards, waste, air and water quality. 30. - Public authorities have to provide environmental information held by or for them to anyone on request. Everyone has this right without having to demonstrate an interest (Book III, Title I, Chapter I of the Code Governing Relationships between the Public and the Administrative Authorities, or ‘the CRPA’). 31. - Article L. 311-9 of the CRPA specifies how access to administrative documents is to be secured: by means of free on-site consultation; by means of the issue of a copy at the applicant’s expense, provided that such expense shall not exceed the cost of reproduction; by electronic mail or by publication of the information online. 32. - A great deal of information about the environment is available on the Internet – for example, via the public environmental information portal *Tout sur l’environnement* [‘All about the environment’] (on 1 March 2017, almost 115,000 resources were indexed there, with 185 contributors). 33. - Article R. 124-1 of the Environmental Code stipulates that any request for information must receive a response within a month of receipt, or within two months where the volume or complexity of the information requested so warrants. 34. - In listing the grounds for refusal of a request for information, Article L. 124-4 of the Environmental Code refers to Articles L. 311-5 to L. 311-8 of the CRPA: these cover France’s foreign policy, public security, national defence, etc. The Commission on Access to Administrative Documents (‘the CADA’), an independent administrative authority, ensures freedom of access to administrative documents. 35. - Article R. 124-1 III of the Environmental Code provides that where the request relates to information that it does not hold, the public authority in receipt of the request must pass it on and inform the applicant of this. 36. - Article L. 311-7 of the CRPA establishes an obligation to supply information in part: where the information requested contains references that may not be disclosed, the information is supplied to the applicant after obscuring or separating out those references. 37. - Articles L. 124-6 I and R. 124-1 I of the Environmental Code require the public authority in receipt of a request to give an explicit answer. A decision to deny the request must be notified to the applicant in writing indicating the reasons for the refusal. 38. - Article R. 311-9 of the CRPA lays down the conditions for calculating the cost of reproducing documents. The applicant is advised of the total charge, and the administrative authority may require payment in advance.  |
|  |

VIII. Obstacles encountered in the implementation of article 4

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

|  |
| --- |
|  |
| *Answer:* 39. - According to some organizations, difficulties in accessing administrative documents may arise from lack of resources to process requests in some administrative authorities or from a culture of secrecy. There are increasingly long delays in processing requests, notably on the part of the CADA. Moreover, according to some organizations, commercial or industrial confidentiality is too often invoked in order to block free access to information. However, there is provision for the possibility of review in the event of improper use of this power. 40. - Environmental information is spread across different Internet sites: action to bring the available data together is ongoing.  |
|  |

 IX. Further information on the practical application of the provisions of article 4

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

|  |
| --- |
|  |
| *Answer:* 41. - The CADA considered 5,818 requests for opinions and advice in 2015, of which 7.6% concerned the environment and 11.9% related to urban planning. 42. - Article R. 124-2 of the Environmental Code requires public authorities to designate a person responsible for access to environmental information, who has the duty of accepting requests for information and any appeals on such requests and of ensuring that appeals are dealt with. The person may also be asked to draft an annual report on requests for access to environmental information (Article R. 124-3 of the Code). 43. - The network of persons responsible for access to administrative documents and for issues relating to the reuse of public information currently numbers 1,600.  |
|  |

 X. Website addresses relevant to the implementation of article 4

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 44. - Data and Statistical Studies Service of the Ministry responsible for the environment: www.stats.environnement.developpement-durable.gouv.fr European Environment Information and Observation Network (Eionet) for France: nfp-fr.eionet.europa.eu French Agency for Biodiversity: http://www.afbiodiversite.fr/ Environment and Energy Agency: http://www.ademe.fr/ Biodiversity indicators from the National Biodiversity Monitoring Centre (ONB): indicateurs-biodiversite.naturefrance.fr National Sea and Coast Monitoring Centre (ONML): www.onml.fr National Monitoring Centre for Natural Hazards (ONRN): http://www.onrn.fr/ French Research Institute for Exploitation of the Sea (IFREMER): www.ifremer.fr Bureau for Geological and Mining Research: www.brgm.fr Centre for Documentation, Research and Experimentation on Accidental Water Pollution (CEDRE): www.cedre.fr National index of environmental impact assessments: www.fichier-etudesimpact.developpement-durable.gouv.fr Subterranean water information: www.ades.eaufrance.fr Information on wetlands: www.ramsar.org River flows and water levels: www.hydro.eaufrance.fr Information on tools for integrated water management and water-related regulatory texts: www.gesteau.eaufrance.frProgrammes for monitoring water conditions: www.surveillance.eaufrance.frReference framework for water data: www.sandre.eaufrance.fr Health classification of bathing sites: baignades.sante.gouv.fr/editorial/en/accueil.html Public health classification of shellfish zones: www.zones-conchylicoles.eaufrance.fr Regulatory information on technological hazards: www.ineris.fr/aida Commission on Access to Administrative Documents: www.cada.fr Levels of radioactivity in the environment: [http://www.mesure-radioactivite.fr](http://www.mesure-radioactivite.fr/)  Natural Heritage of France: http://inpn.mnhn.fr/accueil/index National Monitoring Centre for Natural Hazards (ONRN): www.onrn.fr Public health: http://www.santepubliquefrance.fr/ National Agency for Food, Environmental and Workplace Safety (ANSES): www.anses.fr National Institute of Health and Medical Research (Inserm): www.inserm.fr French Soils Information System (Gis Sol): www.gissol.fr Drinking-water monitoring analyses: www.sante.gouv.fr/resultats-du-controle-sanitaire-de-la-qualite-de-l-eau-potable.htmlPortal for information on public sanitation: assainissement.developpement-durable.gouv.fr Directory of people responsible for access to administrative documents: http://www.cada.fr/personnes-responsables,6059.html Recognized air-quality monitoring associations (AASQA): www.atmo-france.orgEnvironmental studies by the Ministry responsible for the environment: [www.side.developpement-durable.gouv.fr](http://www.side.developpement-durable.gouv.fr/) Web sites of regional directorates for the environment, planning and housing (DREAL)Public environmental information portal: www.toutsurlenvironnement.fr The national data.gouv.fr portal, which gives access to over 355,000 items of free, reusable public information.  |
|  |

 XI. Legislative, regulatory and other measures implementing the provisions on the collection and dissemination of environmental information in article 5

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

|  |
| --- |
|  |
| *Answer:*45. - The Ministry responsible for the environment has an active policy of collecting and disseminating environmental information. 46. - For hazards, the ***prim.net*** site gives access to a number of ‘channels’ on preventing major hazards, a database showing inherent hazards for each locality, an electronic catalogue of relevant publications, a site presenting case-law on major hazards and a geographic information system (*Cartorisque*) presenting and pinpointing hazards in France. In addition, *Géoidd*, at ***www.statistiques.developpement-durable.gouv.fr/cartographie/ar/cartographie-interactive-geoidd-france.html***, makes data available to the public in map form, while the *Eider* web tool, at ***www.stats.environnement.developpement-durable.gouv.fr/Eider/***, offers data series and tables organized thematically. 47. - On water, see the national water data portal (***www.eaufrance.fr***). The National Water and Aquatic Environments Office (ONEMA) has set up and coordinates an information system to collect, store and disseminate data on water, aquatic environments and their uses and public water distribution and sanitation services. A national water data scheme, provided for by Article R.213-12-2 of the Environmental Code, sets out the procedures for producing, storing and exploiting data in the Water Information System (SIE). A great deal of information is available about the main decisions relating to water (Articles R. 214-19, R. 214-37, R. 214-49 of the Code). 48. - A new information system to store and disseminate impact studies (SICoDEI) is being rolled out. It is expected to come into operation nationally in 2018, and will make impact studies produced by developers available on the Internet. 49. - Information on pollution and hazard prevention is available on several dedicated websites: air quality, installations classified for environmental protection purposes (‘ICPEs’), soil pollution, biocides. 50. - A report presenting a complete panorama of the state of the environment throughout France is published every four years. The next edition is planned for 2018. Similarly, at the regional scale, a regional environmental profile is regularly updated and published.Article 5, paragraph 1 (a)51. - Article L. 124-7 II of the Environmental Code provides that the public authorities shall ensure that the information on the environment collected by or for them is precise, up to date and can be used in comparisons.Article 5, paragraph 1 (b)52. - The competent administrative authority shall be informed of activities which are likely to have significant effects on the environment at ICPEs (Articles L. 512-1 to L. 512-13 of the Environmental Code) or of installations, schemes or activities that have an impact on water (Articles L. 214-1 to L. 214-11 of the Code). Since early 2017, installations with the most significant impact have been subject to an environmental permit scheme governed by Book I, Title VIII of the Code. Article 5, paragraph 1 (c)53. - Article L. 125-2 and Articles R. 125-9 *et seq*. of the Environmental Code provide that citizens have the right to information on major hazards to which they are exposed and on protection measures affecting them. 54. - Where floods are concerned, a high-water warning service – the Central Service for Hydrometeorology and Flood Warning Support (SCHAPI) – has a nationwide information, guidance, assistance, advisory and training role for agencies operating in the field of high-water forecasting and water resources, *inter alia* through a dedicated website (***www.vigicrues.gouv.fr***). 55. - Where air quality is concerned, Article L. 223-1 of the Environmental Code provides for the Prefect [the central government’s representative in a *département* or region] to warn the public when air quality limit values are exceeded. 56. - Public authorities shall take measures to inform the public of their right to access information relating to the environment and shall designate information officers responsible for ensuring this access and handling requests and any appeals from the public (Articles L. 124-7 and R. 124-2 of the Environmental Code). 57. - Public authorities shall establish directories or lists of categories of the environmental information they hold, which can be accessed free of charge and indicate where that information is available to the public (Articles L. 124-7 and R. 124-4 of the Environmental Code). 58. - Article L. 124-8 of the Environmental Code requires public dissemination of certain categories of information relating to the environment, which are defined in Article R. 124-5 of the Code and include *inter alia*: (a) Reports by public authorities on the state of the environment;(b) International treaties, conventions and agreements, European Union, national, regional and local laws or regulations concerning the environment; (c) Plans, programmes and documents defining public policies relating to the environment; (d) Many other databases on specific topics, including water, air and hazards, which are maintained by technical bodies. 59. - The four-yearly reports on the state of the environment in France are published on the website of the Statistics Service of the Ministry responsible for the environment and on the Ministry’s main website. 60. - The *Légifrance* website publishes all legal texts. It provides amended legislative texts, allowing the user to track their history, and a large case-law database. 61. - Community law centres and legal access centres at *département* level offer free consultations with lawyers. 62. - Under Article L. 225-102-1 of the Commercial Code, publicly traded companies and some unquoted companies must include in their annual reports a section on social responsibility and environmental management and how they take into account the social and environmental repercussions of their activities. 63. - Articles R. 225-105 and R. 225-105-1 of the Commercial Code establish a list of information required from all the companies concerned and a list of the additional information to be provided only by publicly traded companies. 64. - In the area of environmental legislation, public information is facilitated through explanatory memoranda on the rationale for legislation, reports of parliamentary committees, accounts of parliamentary debates, progress reports published by the Ministry responsible for the environment, and more specific and ad hoc reports such as those issued by the General Council for the Environment and Sustainable Development, which are accessible on the Internet. 65. - General administrative law requires the publication of all official government documents in all spheres. 66. - An official French environmental label, *NF-Environnement*, has been in existence since 1991. It is the property of the French Standards Association (AFNOR), and has an associated logo which, when attached to a product, guarantees that it meets specific criteria. The purpose of the *NF-Environnement* label is to guide consumer choice while encouraging industries to improve the environmental quality of their products. A list of environmental labels may be consulted at ***www.afnor.fr***. 67. - Article L. 112-10 of the Consumer Code arranged a trial period during which consumers were to be informed of the carbon-equivalent content of products and packaging as well as the consumption of natural resources and the environmental impact that can be attributed to products over their lifespan. 68. - This trial period has led to the conclusion that it is necessary – in the expectation of a European Union measure – to take an approach that will be progressive, proactive, adapted to the given sector of economic activity, consistent with measures at the European level, compatible with international trade rules and based on the methodological reference frameworks developed by the French Standards Association and the Environment and Energy Agency. 69. - Article L. 121-15-4 of the Consumer Code requires advertisements for products covered by EU energy labelling to include a reference to the energy efficiency class of these products that is as visible as the price labelling. 70. - Article 228 of Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment requires the provision of information relating to the quantity of carbon dioxide emitted by the mode or modes of transport used to carry out a given transport service. 71. - Article 229 of the same Act allows environmental protection associations to file civil claims against misleading business practices and advertisements that contain environmental information. 72. - Act No. 2014-344 of 17 March 2014 on Consumer Protection aims to promote responsible consumption and the durability and reparability of products. Article 90 of Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth provides that producers who make any environmental announcement or claim as part of the voluntary environmental footprinting scheme must at the same time make available information on all the main environmental characteristics of the product. 73. - The Ministry responsible for the environment collects and publishes on its website the information required for the French register of pollutant emissions. 74. - Under the Order of 24 December 2002 on annual declaration of pollutant emissions from ICPEs that are subject to authorization, each operator must submit a single statement of the pollutant emissions originating from its installations. This statement is submitted on the GEREP website, and the Ministry disseminates the data collected to the general public at ***http://www.georisques.gouv.fr/dossiers/irep-registre-des-emissions-polluantes***. In 2015, data from over 15,000 establishments were made available in this way. CO2 emissions covered by the Emissions Trading Directive must be declared at the same time.75. - France supplies the European Commission with the data needed for the European Pollutant Release and Transfer Register on an annual basis (3,586 establishments in 2015). They have been available on the European Commission website since 2007. 76. - Various types of data relating to water pollution are available on the website of the Ministry responsible for the environment: a list of data banks and networks run by the water information network (DISCEAU database); the national data bank on underground water (ADES); and the data bank on hydrometry (HYDRO).  |
|  |

XII. Obstacles encountered in the implementation of article 5

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

|  |
| --- |
|  |
| *Answer:*77. - Practices relating to collecting and disseminating environmental information are inconsistent, since it is split between multiple institutions and websites. A major project to bring together all public data and make them available to citizens is currently underway. Some organizations consider that work still remains to be done on collecting and making available data in digital format, and they are pressing for a national inventory system for nuclear-related pollution data to be set up, like those that already exist for ICPEs and for water. Some organizations have also expressed dissatisfaction that the *Légifrance* website does not include all judgments delivered at first instance, making it difficult to access these. The public participation reform of August 2016 went a long way to answering this criticism by making information more generally available in digital format.  |

XIII. Further information on the practical application of the provisions of article 5

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

|  |
| --- |
|  |
| *Answer:*78. - In 2016, the *Tout sur l’environnement* portal recorded 130,000 hits and 406,000 pages viewed. 79. - In 2016, the web site of the Ministry’s Monitoring and Statistics Service recorded 770,500 hits and 2,066,000 pages viewed. 80. - In 2016, the *Géoïdd* web tool recorded 12,200 hits and 54,001 maps consulted. 81. - In 2016, the *Eider* web tool recorded 23,800 hits with a view to consulting the data series/tables made available through the tool. 82. - The sites of the Regional Directorates for the Environment, Planning and Housing (decentralized departments of the Ministry) responsible for issuing flood warnings post daily information updates and bulletins online, at least during critical periods. ***www.vigicrues.gouv.fr*** produces a national monitoring map for flood forecasting. 83. - The ***prim.net*** information site on major hazards receives an average of 150,000 visitors a month (source: 2010 statistics). 84. - Finally, the CADA and the Ministry responsible for the environment are monitoring how the compilation of environment-related lists and directories is being implemented. To date, 115 statements have been submitted to the Ministry and 104 people have been designated responsible for access to environmental information.  |

 XIV. Website addresses relevant to the implementation of article 5

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 85. - Ministry for Europe and Foreign Affairs: http://www.diplomatie.gouv.fr/fr/ Treaties and agreements concluded by France: http://basedoc.diplomatie.gouv.fr/Traites/Accords\_Traites.phpNational index of environmental impact assessments: http://www.fichier-etudesimpact.developpement-durable.gouv.fr/diffusion/recherche E-PRTR register on the European Commission web site: [http://prtr.ec.europa.eu](http://prtr.ec.europa.eu/)*Légifrance* website: [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr/) Journal officiel de la République française [Official Journal of the Republic of France]: [http://www.journal-officiel.gouv.fr](http://www.journal-officiel.gouv.fr/) /  |
|  |

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

|  |
| --- |
|  |
| **List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.** |
| Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe: |
| (a) With respect to **paragraph 1**, measures taken to ensure that:  |
| (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention; |
| (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;  |
| (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;  |
| (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**; |
| (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;  |
| (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;  |
| (f) With respect to **paragraph 6**, measures taken to ensure that: |
| (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure; |
| (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;  |
| (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;  |
| (h)With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation; |
| (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures; |
| (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate; |
| (k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.  |
|  |
|  |
| *Answer:*86. - The principle of public participation has constitutional status (Article 7 of the Charter for the Environment) and is one of the major principles of environmental law (Article L. 110-1 II (5) of the Environmental Code). 87. - The chief legislative measures corresponding to the provisions of article 6 of the Convention appear in Book I, Title II of the Environmental Code, ‘Information and participation for citizens’, and are set out in Articles L. 120-1 *et seq*. This part of the Code has recently been amended by Order No. 2016-1060 of 3 August 2016 and Implementing Decree No. 2017-626 of 25 April 2017. This reform follows the report of the National Council for Ecological Transition’s Special Commission on the Democratization of Dialogue on the Environment, entitled *Environmental democracy: debate and decide*. The Order provides *inter alia* for: - definition of the objectives of public participation and of the rights of the public; - greater use of consultation in advance of decision-making procedures; - modernizing the later stages of public participation, notably through paperless procedures. 88. - Article L. 103-2 of the Planning Code provides for mandatory prior consultation in a number of situations. 89. - French law provides that projects subject to environmental impact assessment (‘EIA’) (see Article L. 122-1 of the Environmental Code) shall be subject to a public inquiry (see Article L. 123-1 of the Code): this covers projects mentioned in Annex I to the Convention. Even before the public inquiry and the application for development consent or before the preparation of a plan or programme, advance participation procedures may be set in motion (Article L. 121-1-A of the Code). The most significant spatial development or infrastructure projects shall be submitted to mandatory public debate or must be publicized (Article R. 121-2 of the Code). 90. - When it comes to the projects mentioned in article 6, paragraph 1 (b), a case-by-case prior examination procedure determines whether or not the environmental impacts of the project under consideration justify conducting an EIA and, in consequence, a public participation procedure. This prior examination procedure concerns *inter alia* the projects listed in Annex II to Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive). 91. - Other procedures may be organized on an exceptional basis, such as local referenda initiated by local authorities, provided for under paragraph 2 of Article 72-1 of the Constitution and regulated by Articles L. 1112-1 *et seq*. of the General Local Government Code. In addition, Order No. 2016-488 of 21 April 2016 established a local consultation procedure for projects likely to have an impact on the environment (Articles L. 123-20 *et seq*. of the Environmental Code). The first local consultation of this type took place on 26 June 2016 with regard to the planned airport at Notre-Dame-des-Landes. 92. - Certain activities are exempt from public participation procedures because of the imperatives of maintaining secrecy in the national defence. 93. - National legislation does not define “the public concerned”; therefore anyone who is interested may participate in a public inquiry. 94. - At least fifteen days before the opening of a public inquiry and throughout its course, the public shall be formally notified of all the items listed in article 6, paragraph 2, by all appropriate means (see Articles L. 123-10, R. 123-9 and R. 123-11 of the Environmental Code). 95. - For projects that are subject to public debate, the developer must, in conjunction with the CNDP, compile a file intended for the general public, which presents the project, any alternatives and the decision-making procedure. The duration of the debate shall be up to four months for projects and up to six months for plans and programmes (Articles L. 121-8 and L. 121-11 of the Environmental Code). The length of the inquiry must not be less than 30 days where the project is subject to EIA (Article L. 123-9 of the Code). 96. - Articles L. 121-1-A *et seq*. of the Environmental Code concern advance public participation during the preparation of plans and programmes that have an environmental impact. This advance participation may take two forms: public debate and prior consultation. 97. - For highly significant spatial development or infrastructure projects, the developer must request the CNDP to consider whether or not it is appropriate to organize a public debate. For significant projects, the developer must publicize the fundamental characteristics and the objectives of the project. Order No. 2016-1060 extended the right to refer such projects to the CNDP to 10,000 adult EU citizens who are resident in France (Article L. 121-8 of the Environmental Code). The public debate organized by the CNDP, an independent administrative authority, must facilitate “debate of alternative solutions, including the non-implementation of a given project” (Article L. 121-1 of the Code). 98. - Prior consultation is a new procedure for projects, plans and programmes subject to environmental assessment, established by Order No. 2016-1060 (Article L. 121-15-1 of the Environmental Code). The public now has a citizen’s right to initiate a request that the State’s representative organize such a consultation (Articles L. 121-17-1 *et seq*. of the Code). 99. - The procedures provided for in Articles L. 121-1 and L. 122-1-2 of the Environmental Code, described above with regard to paragraph 4, meet the objectives set by paragraph 5. 100. - The public inquiry documentation file shall include the EIA and all documents and opinions issued on the project (Article R. 123-8 of the Environmental Code) and may be consulted *inter alia* on the Internet (Articles L. 123-12 and R. 123-9 to R. 123-11 of the Code). For the purposes of public debate, the documents sent to the CNDP must describe the objectives and the main characteristics of the project (Article L. 121-8 of the Code). 101. - Order No. 2016-1060 of 3 August 2016 has modernized the public inquiry process through the partial introduction of paperless procedures. The public may as a matter of course submit their comments and proposals by email or by any other means specified in the formal notification of the opening of the inquiry (Article L. 123-13 of the Environmental Code). 102. - At the end of a public debate, the project developer or the public entity responsible for preparing the plan/programme must take a decision on the principle of continuing the project and on the conditions for continuation (Article L. 121-13 of the Environmental Code). 103. - At the end of a public inquiry, the inquiry commissioner publishes a report and the conclusions reached, with grounds for the latter (Article L. 123-15 of the Environmental Code). 104. - The project owner and the decision-making authority must take into account the public’s comments and proposals (Articles L. 122-1-1 and L. 123-1 of the Environmental Code). 105. - Finally, a local authority or a public institution for intermunicipal cooperation sponsoring a project that has led to unfavourable conclusions must give careful consideration to reasons for resubmitting the application for development consent or the request for the project to be declared of public interest (Article L.123-16 of the Environmental Code). 106. - Where a decision has been made to grant or refuse permission to a project that is subject to EIA, the competent authority must notify the public of the decision (Article L. 122-1-1 of the Environmental Code). The decision must be an explicit one (Article L. 123-2 II of the Code). 107. - A public interest declaration must include the reasons and considerations that substantiate the project’s general public importance, taking into account *inter alia* the result of the public consultation (Article L. 126-1 of the Environmental Code and Article L. 122-1 of the Compulsory Purchase Code). 108. - Changes or extensions to projects that are subject to environmental assessment under Article R. 122-2 of the Environmental Code are subject to public participation. 109. - Article L. 181-14 of the Environmental Code requires the operator to resubmit the application for development consent in the event of a significant change to the activities, installations, schemes or works covered by the environmental permit. 110. - There are two authorization procedures for the deliberate release of genetically modified organisms (GMOs) into the environment: authorizations for any purpose other than placement on the market (in particular, for field trials) (Article L.533-3 of the Environmental Code) and authorizations for placement on the market (Article L. 533-5 of the Code). 111. - The documents submitted to the competent administrative authority by an applicant for one of the above authorizations must include *inter alia* an assessment of the health and environmental effects and risks of the GMOs. The High Council for Biotechnologies (‘the HCB’), which includes an Economic, Ethics and Social Committee made up of civil society representatives, issues an opinion on every application for authorization. The National Agency for Food, Environmental and Workplace Safety (ANSES) is also authorized to assess the safety of food that consists of or is produced from GMOs. The opinions of these bodies are published on their respective web sites. 112. - For every application for field trials, a public consultation procedure is initiated via the Internet. The application for authorization, the HCB opinion and a public information file are posted online for each trial. 113. - For every application for placement on the market, an EU-wide public consultation procedure is conducted via the Internet. Applications submitted under Regulation (EC) No. 1829/2003 on genetically modified food and feed are subject to consultation online at ***http://ec.europa.eu/food/plant/gmo/public\_consultations\_en***. 114. - Applications submitted under Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms are subject to consultation via the website of the European Commission’s Joint Research Centre at ***http://gmoinfo.jrc.ec.europa.eu/Default.aspx#***.  |
|  |

XVI. Obstacles encountered in the implementation of article 6

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

|  |
| --- |
|  |
| *Answer:*115. - Criticisms from the public and organizations relate mainly to the nature of information made available to the public, which is sometimes too technical, to the effectiveness of measures for taking into account the outcome of the public participation procedure, to weak structural relationships between the projects concerned and the regulatory frameworks of the relevant plans and programmes, and to the failure to consider alternatives to a given project. However, ‘non-technical summaries’ are being systematically produced in order to promote the general public’s understanding. The environmental authorities are vigilant on this last point; moreover, it is their judgments that enable the public to identify the issues surrounding projects. In addition, the CNDP is expanding the use of independent supplementary assessments in the context of public debate or consultation procedures (Article L. 121-1 of the Environmental Code). In fact, *Environmental democracy: debate and decide* highlighted “the public’s paradoxical relative lack of interest in traditional forms of consultation” and noted several criticisms, in particular: - insufficient public participation during the preparation of plans and programmes; - failure to take full account of the provisions on prior consultation; - lateness in putting the public inquiry procedure in motion, which blocks the issue of the desirability of the project being raised. The reform introduced by Order No. 2016-1060 of 3 August 2016 responds to these criticisms. Some organizations also consider that the lack of resources of decentralized administrative authorities restricts their capacities for monitoring, analysis and supervision. Some organizations also consider that the issue of increasing the number of nuclear power stations in France suffers from lack of consultation. On this last point, Article 126 of Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth makes a nuclear operator’s proposals put forward in connection with the periodic re-examination of the operation of an electronuclear reactor beyond 35 years’ service henceforth subject to public inquiry and then to the Nuclear Safety Authority’s authorization procedure (Article L. 593-19 of the Environmental Code).  |

XVII. Further information on the practical application of the provisions of article 6

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

|  |
| --- |
|  |
| *Answer:*116. - Where no public inquiry is to take place, any project, plan or programme subject to environmental assessment shall be subject to public participation by electronic means (Article L. 123-19 of the Environmental Code), with the same documents made available as those in a public inquiry file. In 2015, the CNDP organized six public debates and received referrals concerning nine new projects. 117. - 11 October 2016 saw the publication of a Public Participation Charter, which itself was drawn up using a participatory approach. Relying on voluntary implementation, it is intended as a tool to bring together the best practices in public participation, and sets out the values and principles that define the foundations of trustworthy participation procedures.  |

 XVIII. Website addresses relevant to the implementation of article 6

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 118. - Site giving access to debates, consultations and forums across France: http://www.vie-publique.fr/forums/ ‘Environmental Dialogue’ page on the website of the Ministry responsible for the environment (the Richard Report can be consulted here): http://www.ecologique-solidaire.gouv.fr/dialogue-environnemental#e2 Public Participation Charter: http://www.ecologique-solidaire.gouv.fr/charte-participation-du-public National Federation of Commissioners of Inquiry (CNCE): www.cnce.fr  |
|  |

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

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

|  |
| --- |
|  |
| *Answer:*119. - France has transposed Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (the Strategic Environmental Assessment Directive) and Directive 2003/35/EC of 26 May 2003 into *inter alia* Articles L. 122-4 *et seq*. and R. 122-17 *et seq*. of the Environmental Code. 120. - Following Order No. 2016-1060 of 3 August 2016, Article L. 121-8-1 of the Environmental Code now provides that it is mandatory to refer national plans or programmes subject to environmental assessment to the CNDP. The CNDP shall decide the most appropriate method of public participation (Article L. 121-9 of the Code). A plan or programme which is not subject to public debate may be made subject to prior consultation under Article L. 121-15-1 of the Environmental Code. 121. - The public is also invited to participate in the preparation of plans and programmes subject to environmental assessment through the public inquiry procedure (Article L. 123-1 of the Environmental Code) or through the electronic participation procedure (Article L. 123-19 of the Code).  |

 XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

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

|  |
| --- |
|  |
| *Answer:*122. - Article L. 121-10 of the Environmental Code allows the government to call on the CNDP to organize a national public debate on any planned reform which would have a significant effect on the environment or on spatial planning and development. In addition, Order No. 2016-1060 of 3 August 2016 enables 500,000 individuals to apply to the CNDP. 123. - More broadly, the public has the opportunity to participate in the preparation of policies relating to the environment by consulting the representatives of the public concerned within consultative bodies such as the National Council for Ecological Transition. 124. - Several articles of the Environmental Code have introduced public information and participation procedures with regard to marine environmental policy (*inter alia* Articles L. 219-2 and L. 219-3 of the Code).  |

XXI. Obstacles encountered in the implementation of article 7

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

|  |
| --- |
|  |
| *Answer:*125. - *Environmental democracy: debate and decide* put forward a proposal to establish advance participation on plans and programmes, and this was implemented by Order No. 2016-1060. Some organizations consider that there are gaps in public participation relating to the development of multi-year energy planning (PPE), notably so far as concerns the nuclear aspect.  |

XXII. Further information on the practical application of the provisions of article 7

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

|  |
| --- |
|  |
| *Answer:*126. - In numerical terms, the application of the general provisions of article 7 of the Convention mostly concerns draft urban planning documents. There is genuine public involvement in these throughout their preparation, under the prior consultation procedure laid down by the Planning Code (Article L. 103-2).  |

 XXIII. Website addresses relevant to the implementation of article 7

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 127. - www.consultations-publiques.developpement-durable.gouv.fr  |
|  |

 XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

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

|  |
| --- |
|  |
| *Answer:* 128. - In order to give Article 7 of the Charter for the Environment its full effect and to allow a citizen to participate in a public decision-making process that may affect the environment, an Act of 27 December 2012, an Order of 5 August 2013 and the Order of 3 August 2016 reformed the inter-institutional mechanism for public participation. 129. - Since the implementation of Order No. 2016-1060, the conditions for public participation in the preparation of these decisions have been defined in Articles L. 123-19-1 *et seq*. of the Environmental Code and apply *inter alia* to regulatory decisions of all public authorities and legal entities governed by private law who are responsible for managing a public service, where they are acting under public authority powers. 130. - The right to participate in a public decision-making process is open to any natural person or legal entity without discrimination and without their having to demonstrate an interest. 131. - Arrangements shall be made for public participation to be achieved electronically, making the draft decision available with an accompanying Note. A summary of public comments and proposals must be compiled, and final adoption of the draft decision cannot take place until they have been considered (Article L. 123-19-1 of the Environmental Code).  |

XXV. Obstacles encountered in the implementation of article 8

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

|  |
| --- |
|  |
| *Answer:*132. - According to some organizations, the public may have difficulty participating effectively in the preparation of laws, regulations and standards which they find too technical. Provisions subject to consultation do not express the issues clearly enough, and insufficient time is allowed for these consultations.  |

XXVI. Further information on the practical application of the provisions of article 8

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

|  |
| --- |
|  |
| *Answer:*133. - The draft order on public participation and information was subject to public consultation at ***www.consultations-publiques.developpement-durable.gouv.fr***.  |

 XXVII. Website addresses relevant to the implementation of article 8

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 134. - [www.consultations-publiques.developpement-durable.gouv.fr/](http://www.consultations-publiques.developpement-durable.gouv.fr/)  |
|  |

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

|  |
| --- |
|  |
| **List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.** |
| Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:(a) With respect to **paragraph 1**, measures taken to ensure that:(i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law; |
| (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law; |
| (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused; |
| (b) Measures taken to ensure that, within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6; |
| (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment; |
| (d) With respect to **paragraph 4**, measures taken to ensure that: |
| (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;(ii) Such procedures otherwise meet the requirements of this paragraph;(e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review. |
|  |
|  |
| *Answer:*135. - In French law, any natural person or legal entity demonstrating a legal interest may obtain access to justice. This also applies to participation and access to information. 136. - French law distinguishes between judicial procedure, which guarantees access to the courts in the event of difficulties encountered in the supply of environmental information, and administrative procedure, which guarantees access to environmental information.137. - Article L. 340-1 of the CRPA established the CADA as an independent administrative authority responsible for ensuring freedom of access to administrative documents. 138. - Applicants who have been refused information have two options for bringing interim proceedings against the refusal: - an interim application for the decision refusing to supply a document to be suspended (Article L. 521-1 of the Code of Administrative Justice, ‘the CJA’); - an interim application for access under ‘appropriate measures’ proceedings (Article L. 521-3 of the CJA). 139. - If the competent authority reiterates its initial refusal, the applicant may institute administrative proceedings to have the decision annulled on grounds of misuse of powers. 140. - It is not necessary to be represented by a lawyer in proceedings before a court of first instance for annulment of an administrative act on grounds of misuse of powers. Applicants whose financial resources fall below certain thresholds may benefit from legal aid (Act No. 91-647 of 10 July 1991, as amended). 141. - While it is mandatory to consult the CADA, its written reasoned opinions are not binding on administrative authorities – although, in practice, the latter follow them in 77.8% of cases. 142. - As to court decisions, judgments shall be written and reasoned (Article L. 9 of the CJA) and are enforceable (Article L. 11 of the CJA). 143. - The constitutional principle of the separation of powers prohibits the courts from taking administrative action. However, in two situations, the administrative courts may, at the request of the applicant, order an administrative authority to comply with a final court ruling: - when the final court ruling “necessarily entails” adoption of a given implementing measure (Article L. 911-1 of the CJA); - when it “necessarily entails” taking a decision following a fresh investigation of the case (Article L. 911-2 of the CJA). 144. - The court may make the deadline for the administrative authority to comply with the ruling subject to a fine (Article L. 911-3 of the CJA). 145. - The administrative courts place a liberal interpretation on the applicant’s interest in seeking annulment on grounds of misuse of powers. The interest is considered sufficient if the injury suffered is not excessively uncertain or indirect. For example, in order to determine an association’s legal standing, the administrative court has focused in particular on the interests that it seeks to defend, as declared in its articles of association, and on its territorial scope (Council of State, 17 March 2014, Association des consommateurs de la Fontaulière). 146. - The concept of “the public concerned” does not exist in domestic law, which refers to persons having legal standing to bring an action. 147. - The Environmental Code sets out the rights of environmental protection associations to bring court actions (Articles L. 142-1 and L. 142-2 of the Code). 148. - The criterion applied in domestic law for any remedy is legal standing.149. - Before the civil courts, it is possible to obtain an interim injunction for preservation or restoration to prevent imminent damage or stop clearly illicit activities. Such injunctions may be ordered subject to a fine in an amount set by the court in the event of a delay in compliance.150. - Outside the jurisdiction of the courts hearing interim applications, an injunction for redress may also be obtained, subject to a fine for non-performance, by filing an application to the competent court.151. - Since France submitted its last Implementation Report, access to justice in environmental matters has seen major advances with regard to the criteria for legal standing and sufficient legal interest to institute proceedings. Article 89 of the Act of 18 November 2016 on Modernizing Justice for the 21st Century introduced environmental class actions into French law (new Article L. 142-3-1 of the Environmental Code). An environmental class action is open to legal entities or natural persons who have sustained losses resulting from damage to the environment caused by a legal entity or a natural person, where the applicants’ common cause is a similar failure to fulfil *ex lege* or contractual obligations; - a class action may be brought before a civil or an administrative court; - it allows the applicant to obtain an order to bring the infringement to an end and/or to compensate for personal injuries or material losses; - associations that may bring a class action are officially recognized associations whose objects, as stated in their articles of association, include defending victims of personal injuries or defending the economic interests of their members, as well as officially recognized environmental protection associations; - the losses that may be compensated are those mentioned in Article L. 142-2 of the Environmental Code. The other major development is the insertion into the Civil Code of provisions relating to compensation for pure environmental damage – that is, damage independent of any detriment to people or property (Articles 1246 *et seq*. of the Civil Code, established by Article 4 bis of Act No. 2016-1087 of 8 August 2016 on the Recovery of Biodiversity, Nature and Landscapes). A loss consisting of significant detriment to elements or functions of ecosystems or to the collective human benefits derived from the environment constitutes pure environmental damage. Any person responsible for such damage is obliged to compensate for it. The claim for compensation can be brought by any person with “legal standing and sufficient legal interest to institute proceedings”, such as the State, the French Agency for Biodiversity, local authorities and groupings of local authorities within an affected area, as well as public institutions and nature protection and environmental protection associations which have been officially recognized or established for at least five years at the time the claim is made. Priority must be given to compensation in the form of restoring the affected environment to its natural state; only if restoration measures are legally or practically impossible or prove inadequate can the court award damages. The court may make implementation of its ruling subject to a fine. Finally, the court may, on application from the parties who have established their entitlement to compensation, order reasonable preventive or remedial measures. 152. - As a signatory to the European Convention on Human Rights, France has an obligation to respect Articles 6 and 13 of that Convention, which guarantee the right to a fair trial and an effective remedy. 153. - Judgments of the administrative courts are enforceable (Article L. 11 of the CJA). 154. - In addition, the CJA provides for “injunctive relief” procedures. 155. - Firstly, Article L. 521-1 of the CJA provides that in urgent cases and where a serious doubt has been established as to the lawfulness of a disputed decision, the court hearing an interim application can suspend the enforcement of a decision or of some of its effects. A negative decision may be suspended.156. - Articles L. 554-11 and L. 554-12 of the CJA provide for two special suspension procedures to protect nature or the environment, both of which obviate the need to demonstrate urgency. The first may be used against development consents wrongly granted to projects without a prior EIA. The second allows suspension of a planning decision that is subject to a prior public inquiry but either no inquiry has been held or the inquiry commissioner has issued an unfavourable opinion. Similarly, Article L.123-16 of the Environmental Code provides that an administrative court must grant an application for the suspension of a decision taken after unfavourable conclusions by the inquiry commissioner, if there is serious doubt as to the legality of this decision.157. - Secondly, Book IX of the CJA offers remedies to parties who have obtained a favourable court decision that has become final, enabling them to secure the enforcement of decisions which the administrative authorities fail to implement within a reasonable time. 158. - Public access to the opinions of the CADA and to court decisions is guaranteed by French law. The most significant opinions are accessible on the Internet, with the environment being one of designated subject areas. Some of the CADA’s opinions are published in its public report (Article R. 341-17 of the CRPA). 159. - Hearings in open court, the public nature of judicial decisions and the free communication of court decisions and orders to anyone on request are guaranteed under Article 6, paragraph 1, of the European Convention on Human Rights and constitute basic safeguards. Justice is done in the name of the French people (Article L. 2 of the CJA), proceedings take place in open court (Article L. 6 of the CJA), and courts hand down their rulings in public (Article R. 741-1 of the CJA). 160. - Under Article 1 of Decree No. 2002-1064 of 7 August 2002 on public dissemination of the law over the Internet, rulings that constitute national case-law, notably those of the Council of State and the Court of Cassation, are to be made available free of charge. When they are of particular interest, the judgments of courts of first instance and lower appeal courts are sometimes posted online. However, some organizations have expressed dissatisfaction that not all legal rulings are included but are accessible only to members of the courts in question. 161. - The conditions governing the public provision of information on available remedies are set out in Article R. 421-5 of the CJA. These provisions are supplemented by Article R. 112-5 of the CRPA, under which the administrative authorities must, when so requested, provide an acknowledgement mentioning the available remedies against an implicit refusal, with their deadlines. Furthermore, the Council of State has ruled that the notice of a decision must mention any applicable mandatory prior administrative appeal and the authority with which it should be lodged (Council of State, 15 November 2006, M. Toquet). This includes the CADA, to which a referral must be made in advance of any legal action relating to a request for environmental information (Article L. 342-1 of the CRPA). 162. - France has established a system of assistance designed to eliminate or reduce financial obstacles to access to justice: Act No. 91-647 of 10 July 1991 and Implementing Decree No. 91-1266 of 19 December 1991 together establish legal aid, which comprises two separate legal arrangements: one specifically to help with court proceedings (*aide juridictionnelle*) and the other to facilitate access to legal advice and to assistance in non-judicial procedures (*aide à l’accès au droit*).  |
|  |

XXIX. Obstacles encountered in the implementation of article 9

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

|  |
| --- |
|  |
| *Answer :*163. - According to some organizations, access to justice remains expensive for certain people who cannot benefit from legal aid for court proceedings, notably in cases involving appeal on a point of law before the Council of State. The organizations consulted expressed dissatisfaction at the large number of decisions taken by prosecuting authorities not to pursue cases involving minor environmental offences because they have insufficient human resources. Finally, some organizations take the view that recent reforms have reduced opportunities to seek remedies in matters concerning urban planning and commercial development consents.  |

XXX. Further information on the practical application of the provisions of article 9

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

|  |
| --- |
|  |
| *Answer :*164. - Regarding public access to environmental information, the figures from the CADA on requests for access in respect of urban planning and the environment are as follows:

| Sector | 2012 | 2013 | 2014 | 2015 |
| --- | --- | --- | --- | --- |
| Urban planning  | 16.80% | 5.30% | 12.40% | 11.90% |
| Environment | 6.50% | 8.50% | 6.60% | 7.60% |

*Source: CADA annual reports for 2012, 2014 and 2015.* 165. - Two thirds of proceedings in this sector relate to natural and technological hazards. 166. - As to convictions and sentences handed down for damage to the environment (ordinary offences and Class 5 minor offences), National Police Records and ‘Minos’ Information Centre statistics provide the following figures:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *Number of convictions for offences of environmental damage* | 2011 | 2012 | 2013 | 2014 | 2015\* |
| Convictions for ordinary offences and Class 5 minor offences (National Police Records)  | 6562  | 7264 | 7331 | 6899 | 6636 |
| Convictions for Class 1 to Class 4 minor offences (Minos)  | 9260 | 8609 | 11,009 | 12,037 | 12,776 |
| (including 4,912 for dumping of waste)  | (including 4,245 for dumping of waste)  | (including 6,694 for dumping of waste)  | (including 7,282 for dumping of waste)  | (including 7,609 for dumping of waste)  |
| **Total** | **15,822**  | **15,873** | **18,340** | **18,936** | **19,412** |
|  |  |  |  |  |  |

 |

XXXI. Website addresses relevant to the implementation of article 9

*Give relevant website addresses, if available:*

|  |
| --- |
|  |
| 167. - Council of State: www.conseil-etat.frCourt of Cassation: www.courdecassation.frPublic services: www.vosdroits.service-public.fr Ministry of Justice: www.justice.gouv.fr |

 Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention’s objective

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

|  |
| --- |
|  |
| *Answer:* |

XXXIII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6 bis and annex I bis

|  |
| --- |
|  |
| **Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:**  |
| (a) With respect to **paragraph 1** of article 6 bisAND:(i) **Paragraph 1 of** annex I bis, arrangements in the Party’s regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis*;* |
| (ii) **Paragraph 2**of annex I bis, any exceptions provided for in the Party’s regulatory framework to the public participation procedure laid down in annex I *bis* and the criteria for any such exception; |
| (iii) **Paragraph 3** of annex Ibis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market of such genetically modified organisms, as well as the assessment report where available; |
| (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential; |
| (v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example: |
| a. The nature of possible decisions;  |
| b. The public authority responsible for making the decision;  |
| c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis*;* |
| d. An indication of the public authority from which relevant information can be obtained;  |
| e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;  |
| (vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market; |
| (vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis; |
| (viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based; |
| (b) With respect to **paragraph 2** of article 6 bis, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party’s national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity. |
|  |
|  |
| *Answer:*168. - France ratified the GMO amendment by Act No. 2016-369 of 30 March 2016.  |
|  |

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I bis

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

|  |
| --- |
|  |
| *Answer:* |

XXXV. Further information on the practical application of the provisions of article 6 bisand annex I bis

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

|  |
| --- |
|  |
| *Answer:* |

 XXXVI. Web site addresses relevant to the implementation of article 6 bis

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

|  |
| --- |
|  |
| *Answer:* |

XXXVII. Follow-up on issues of compliance

*If, upon consideration of a report and any recommendations of the Compliance Committee, the Meeting of the Parties at its last session has decided upon measures concerning compliance by your country, please indicate (a) what were the measures; and (b) what specific actions your country has undertaken to implement the measures in order to achieve compliance with the Convention.*

*Please include cross-references to the respective sections, as appropriate.*

|  |
| --- |
|  |
| *Answer:* |