

**Implementation report by Germany for the Aarhus Convention submitted on 29.11.2013
by Germany, as of 14 October 2016**

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:

This report was prepared by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMUB). The draft report was coordinated among the various departments of the Federal Government and with the Länder. For the purposes of consultation with the public, the German-language version of the draft report was made available to associations and the general public on the BMUBMUB website for just under a six four-weeks-period, with opinions being invited. During this public consultation process, two German environmental associations took the view that German law continues to present complained about shortcomings in the implementation of access to environmental information, called for tangible improvements in public participation and continued to criticise shortcomings in the opportunities to obtain legal redress (the joint statements submitted by four environmental associations can be viewed at <http://www.bmub.bund.de/N46439>). These views are not shared by the Federal Government. However, the outcomes of the public consultation were taken into account as much as possible in the revision of the report. Where opinions on the requirements that arise from the Convention differed, the Federal Government's view was taken as the basis.

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:

The Federal Republic of Germany is a federal state. This means that the functions and powers of the state are divided between the Federation and the 16 Länder. This also pertains to the implementation of the Convention.

Pursuant to Article 59 (2) sentence 1 of Germany's constitution, the Basic Law (Grundgesetz – GG), the In general, international treaties such as the Convention required a national legislative act in the form of a treaty act (Vertragsgesetz). to transpose them and do not apply directly in German law. In principle, The Federal Republic of Germany only ratifies international conventions at the point in time when if its national law conforms with the relevant international legal obligations or has been brought into line with them and the treaty act has entered into force. The ratification of the Convention on 15 January 2007 therefore only took place after appropriate amendments had been made to German law. These were undertaken together with the transposition of Directives 2001/42/EC, 2003/4/EC and 2003/35/EC, which had already integrated key elements of the Convention

into the law of the European Union.

Under the division of competences in the Federal Republic of Germany, environmental legislation is essentially enforced by the Länder. For this reason, Land authorities deal with the practical implementation of the Aarhus Convention to a far greater extent than federal authorities.

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:

The general provisions in Article 3 of the Convention are implemented in Germany, in accordance with the division of competences, at both federal and Land level.

(a) In general, pursuant to Section 25 of the federal Administrative Procedure Act (*Verwaltungsverfahrensgesetz – VwVfG*), the authorities are obliged to give

information and advice: ~~this also concerns~~ ~~regarding~~ the rights and duties of participants in administrative proceedings. Corresponding statutory provisions are contained in the administrative procedure acts of all the Länder; (either through a statutory reference to the applicable rules of federal law (VwVfG) or through regulations with similar content at Land level).

Specifically with regard to the scope of Article 3 (2) of the Convention, Section 7 of the federal Environmental Information Act (*Umweltinformationsgesetz* – UIG) states that the bodies obliged to furnish information must adopt practical measures to facilitate access to the environmental information that they hold. In the Länder, this statutory provision is implemented either through a ~~legal~~ statutory reference contained in the environmental information acts adopted by the Länder,¹ or corresponding Land regulations exist.²

As regards the authorities' support for access to justice in environmental matters, there are various statutory provisions which safeguard the mandatory provision of information to citizens about the legal remedies available, e.g. Section 5 (4) UIG; Section 8 (3), Section 9 (2) and number 4 of the second sentence of Section 9a (1) of the Federal Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung* – UVPG); and Section 21 of the Ninth Ordinance Implementing the Federal Immission Control Act (~~Neunte~~ ~~Verordnung zur Durchführung des Bundes Immissionsschutzgesetzes über das Genehmigungsverfahren~~ – 9. BImSchV). As a component of the official decision this is also to be made public in certain administrative procedures during which the public is consulted (Section 21a of ~~9th~~ BImSchV).

- (b) Environmental education and environmental awareness among the public are promoted by ~~many different~~ diverse means in Germany in accordance with Article 3 (3) of the Convention.

(aa) Since 1989~~6~~, the Federal Government has commissioned various empirical studies into the Germans' environmental awareness and environmental conduct (~~environmental awareness studies since 2000: <http://www.umweltbundesamt.de/publikationen/umweltbewusstsein-in-deutschland-2012>~~).³ In addition, an empirical study focussed specifically on the nature awareness of the German public ~~was is~~ carried out in every two years since 2009. ~~A second survey that looked at a broader range of substantive issues was carried out in 2011. The findings of these studies contribute substantially to the design and re-alignment of environmental and nature conservation policies. Preparations are being made for the 2013 survey of the German population's nature awareness.~~ These representative surveys are designed in a way which makes time-series comparisons possible and allows development trends over the course of the years to be discerned. Apart from the continuous surveying of particular thematic fields such as perceptions of environmental quality, noise or knowledge of ecolabels, issues with topical political relevance are also taken into consideration, such as expectations upon environmental and climate policy or attitudes to social-ecological concepts. ~~The results of these studies are published as brochures and on the Internet (<http://www.bfn.de/naturbewusstsein.html> and <http://www.bfn.de/nature-awareness-study.html> (English)).~~⁴

(bb) Furthermore, ~~t~~he Federal Government provides a comprehensive range of materials to promote environmental awareness, both on its websites and in numerous

¹ See, for example, Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, ~~the second sentence of~~ Section 35 NUIG, the third sentence of Section 2 (~~3~~) UIG NRW, Section 1 (3) UIG LSA.

² See, for example, Article 5 BayUIG, Section 5 HUIG, Sections 78 and 9 LUIG-LTranspG RPF, Section 7 SaarUIGSUIG, Section 11 SächsUIG, Section 8 (~~1~~) IZG IZG-SH, Section 7 ThürUIG.

³ Environmental awareness studies since 2000: <http://www.umweltbundesamt.de/publikationen/umweltbewusstsein-in-deutschland-2014>

⁴ Brochures and Internet: <http://www.bfn.de/25161.html>

print publications. ~~Some examples are as follows: For instance, the BMUBMUB Education Service (Bildungsservice, <http://www.bmu.de/bildungsservice>)⁵; for example, coordinates and provides information on communicates all the BMUBMUB's educational activities with regard to environmental education and education for sustainable development in and outside schools, and in vocational contexts.~~

~~All of the didactic materials developed by the BMUB are guided by the concept of 'Geared towards education for sustainable development'. They thus impart knowledge about global linkages and challenges, together with the competencies required to apply such knowledge and recognise problems of non-sustainable development. (UN Decade of Education for Sustainable Development, 2005-2014), the topics addressed and The materials on environmental protection and nature conservation further provided offer excellent starting points for the development of technical and scientific problem-solving skills (scientific literacy). In a manner tailored to each age group, they provide examples of inspiration for and ideas about how sustainable development, environmental protection and nature conservation can be used for general educational purposes.~~

The BMUB's educational service is provided in a purely online format. For secondary schools, educational materials are provided exclusively via the online platform for teachers at www.umwelt-im-unterricht.de. Every two weeks, new content is available there, with background information, suggestions for classroom activities, and media and materials about a current event from among the issues covered by the Environment Ministry. For primary schools, printable brochures focused on specific topics are available for download.

~~recognised as an official UN Decade for Sustainable Development project. The BMU educational materials, which are available free of charge, are high quality, scientifically up to date, service oriented materials on environmental protection and nature conservation, while at the same time providing examples of, inspiration for and ideas about how sustainable development, environmental protection and nature conservation can be used for general educational purposes. In late 2008 the Federal Environment Ministry already already launched the most extensive support programme for educational activities in the field of climate protection ever initiated up to that date. Using the resources of the National Climate Initiative, it provides grant funding in support of ideas and projects at schools and educational establishments that contribute to raising awareness of and imparting knowledge about climate change mitigation and CO₂ emissions reduction. An atlas of 'climate protection schools' provides a comprehensive overview of schools in Germany that undertake climate activities, and showcases opportunities to engage in climate networking.~~

The topic of nature and environmental education is also being addressed in the vocational education sector and is anchored as an element of the occupational profiles for different careers laid out in the relevant training regulations. For example, initial vocational training courses already deal with the kinds of impacts upon nature and environment ~~at harm~~ that can be caused by the occupations in question, as well as options for the economic and environmentally compatible-sound use of energy and materials. In addition to this, various professions ~~are starting to~~ include, in particular, energy savings, and-renewable energies and biological diversity as topics in their training and professional development provision.

By promoting projects within the scope of the European Social Fund (ESF), the BMUB programme titled BBNE (Berufsbildung für nachhaltige Entwicklung befördern. Über grüne Schlüsselkompetenzen zu klima- und ressourcenschonendem Handeln im Beruf) addresses the new challenges and tasks for education, training and lifelong learning in the context of low-carbon and resource-conserving patterns of production and consumption. BBNE is the first federal programme within the ESF that explicitly

⁵ www.bfn.de/0309_naturbewusstsein+M52087573ab0.html (English version of 2013)

prioritises climate change mitigation and resource conservation.

In the field of nature conservation, ~~the role of nature and environmental education in the field of nature conservation~~ is anchored explicitly in Section 2 (4) of the Federal Nature Conservation Act (*Bundesnaturschutzgesetz* – BNatSchG). The Federal Agency for Nature Conservation (*Bundesamt für Naturschutz* – BfN) provides an Internet platform (<http://www.naturdetektive.de>) with attractive games and educational provision for children. Weekly competitions and films about nature conservation are supplemented by didactic material for teachers.

~~special educational materials for preschool, primary and lower secondary pupils. The children are given detection and research tasks which help them experience nature. Specialised e-learning modules, and didactic materials for teachers and educators enable the children to learn about biodiversity, nature and species conservation, and the sustainable use of natural resources. Weekly competitions and films are an added attraction of this Internet service.~~

As part of the Federal Programme for Organic and Sustainable Farming (*Bundesprogramm Ökologischer Landbau und andere Formen nachhaltiger Wirtschaft*), the Federal Ministry of Food, and Agriculture and Consumer Protection (BMEL⁶) has produced comprehensive, target-group-specific information materials on organic farming and produce, as well as sustainable farming. The offer ranges from a central organic farming Internet portal⁶ (~~<http://www.oekolandbau.de>~~), with specific information for businesses, scientists and teachers, to guided and non-guided exhibitions and events for consumers. For children and young people, in particular, a wide range of teaching materials is available for use in lessons at general and specialised schools (~~<http://www.oekolandbau.de/lehrer>~~).⁷ In addition to this, information events are also offered on sustainable farming. These services are supplemented by an annual competition for schoolchildren (~~<http://www.echtkuh-l.de>~~).⁸

Comprehensive information for teachers and students in the sphere of nature and environmental education can also be found on the German Education Server (Eduserver), a joint Internet project run by the Federal Government and the Länder. As education in Germany falls within the jurisdiction of the Länder, appropriate training for teachers is provided by the Land education authorities. At higher education institutions, too, specialist research institutes deal with issues that relate to education for sustainable development, for instance at the Leuphana University in Lüneburg or the Free University Berlin.

The Federal Ministry for Economic Cooperation and Development (BMZ) also uses several programmes to fund activities that are intended to strengthen environmental competences as part of education for sustainable development. The 2015/2016 German Federal President's Development Policy Competition for schools, All for One World – One World for All (*Alle für Eine Welt – Eine Welt für Alle*; <http://www.eineweltfueralle.de>)⁹ and the Cross-Curricular Framework for Global Development Education in the Context of Education for Sustainable Development (*Orientierungsrahmen für den Lernbereich Globale Entwicklung im Rahmen einer Bildung für Nachhaltige Entwicklung*), a curriculum development project undertaken by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder and the BMZ, are being conducted in close cooperation with the Länder. Like two other BMZ programmes, International Learning Communities for Education for Sustainable Development (*Internationale Lerngemeinschaften zur Bildung für Nachhaltige Entwicklung*) and Education Meets Development (*Bildung trifft Entwicklung*), these two programmes have been classified as official Decade of Education for Sustainable Development projects. Like the above programmes, the

⁶ <http://www.oekolandbau.de>

⁷ <http://www.oekolandbau.de/lehrer>

⁸ <http://www.echtkuh-l.de>

⁹ <http://www.eineweltfueralle.de>

~~funding programmes for civil society in Germany (<http://www.engagement-global.de/feb-foerderprogramm.html> and <http://www.engagement-global.de/agp-aktionsgruppenprogramm.html>), which are also targeted at environmentally relevant competences, are delivered by Servicestelle Engagement Global gGmbH on behalf of the BMZ.~~

Other federal ministries also run regular ~~school~~ competitions for schoolchildren and students, many of which touch on the environmental sector (e.g. the Young Researchers competition (*Jugend forscht*), the Federal Environment Competition (*BundesUmweltWettbewerb*) and the Federal President's Development Policy Competition (*Schulwettbewerb des Bundespräsidenten zur Entwicklungspolitik*); see <http://www.bundeswettbewerbe.de/wettbewerbe/>).¹⁰

Furthermore, environmental education plays a major role in voluntary services. ~~The purpose of since 1 July 2011 women and men of any age who have completed their compulsory full time schooling have been able to work with~~ the Federal Voluntary Service (*Bundesfreiwilligendienst – BFD*) ~~is to allow as a way of contributing to the general welfare of society. Under Section 1 of the Federal Voluntary Service Act (*Bundesfreiwilligendienstgesetz – BFDG*), the Federal Voluntary Service has the task of promoting lifelong learning. Working in fields of all kinds, the volunteers, working in the most diverse deployments, are supposed to acquire ecological, cultural and intercultural competences. From the practically oriented training and guidance they receive at their place of assignment, as well as appropriate seminar days. The BFD training and guidance programme requires volunteers to attend a total of 25 seminar days. Under a dual track strategy,~~ The establishment of the BFD has been accompanied by the expansion of Germany's youth volunteering services, the Voluntary Social Year (*Freiwilliges Soziales Jahr – FSJ*) and the Voluntary Ecological Year (*Freiwilliges Ökologisches Jahr – FÖJ*). Overall, the establishment and expansion of these voluntary services have led to enormously high participation, with more than 50,000 young people taking part in the FSJ and FÖJ, and more than 35,000 in the BFD. The Federal Environment Ministry supports environmental associations in establishing the structures needed for volunteering in the environmental protection and nature conservation sectors under the auspices of the Federal Voluntary Service and in gearing the obligatory educational elements of the whole BFD towards the criteria of education for sustainable development.

Public awareness-raising work in relation to environmental issues is done not only by ~~the federal government and the Länder, bodies~~ but also by non-governmental ~~players~~ organisations. ~~Key examples~~ These are mainly the conservation and environmental associations at national, regional and local level. ~~Environmental associations~~ They combine their activities on the Aarhus Convention ~~in through~~ events such as ~~the~~ association workshops and held at Berlin in 2010 and 2013. ~~Information is provided on by establishing an online platform on participation in environmental matters a special website (*Beteiligung in Umweltfragen*); information is presented via a dedicated website~~ <http://www.aarhus-konvention.de>.¹¹ Other players, e.g. business groups such as chambers of commerce and industry, chambers of crafts and trades (HWKs), the German Chamber of Commerce and Industry (DIHK) and the German Confederation of Skilled Crafts (ZDH) also regularly offer information on environmental issues or conduct projects in this field.

- (c) In accordance with Article 3 (4) of the Convention, the Federal Government provides for appropriate recognition of and support for associations, organisations or groups that promote environmental protection. Within the Federal Government's support measures, the BMUBMUB, for example, in collaboration with the Federal Environment Agency (UBA) and the BfN, supports environmental and nature conservation associations by providing grants for environmental and nature conservation projects which aim to raise

¹⁰ <http://www.bundeswettbewerbe.de/wettbewerbe/>

¹¹ <http://www.aarhus-konvention.de>

awareness and commitment in this area. In particular, they include projects on key topical issues, children's and youth projects with a wide appeal, projects which promote behaviour compatible with the interests of the environment and nature, and environmental advice and training projects. In 2016, particular support goes to projects that:

- address ecological integrity in urban settings (urban farming);
- boost active volunteering;
- contribute to creating habitat networks across Länder boundaries; and
- strive within civil society to conserve forest ecosystems.

~~The following priority topics are planned for the 2014 funding year: resolving sustainability conflicts, civic participation in procedures to select a site for a repository for highly radioactive waste, improving protection from noise pollution, quality of life in inner cities and the transition to a green economy.~~ To qualify for funding, projects must fulfil specific criteria; in particular, they must have a model character and there must be a specific federal interest associated with the project. Further information about the funding available for environmental associations and ~~the application process forms~~ can be accessed on the [BMUBMUB](#), UBA and BfN websites.

The umbrella organisation of German environmental and nature associations, the German League for Nature, Animal Protection and Environment (*Deutscher Naturschutzring* – DNR), also receives institutional support from the [BMUBMUB](#)/BfN. ~~The BMELV has supported activities undertaken by the German League for Nature, Animal Protection and Environment and its member associations in recent years with funding under the Federal Programme for Organic and Sustainable Farming, especially the provision of information to the DNR's own members about organic farming.~~ Financial support has also been provided for numerous events organised by the organic farming associations in order to disseminate current scientific findings.

- (d) As regards the implementation of Article 3 (7) of the Convention, all relevant bodies of the Federal Government have been informed, in the context of the internal consultation process, about the Convention's principles and the Almaty Guidelines. The departments have received a German version of the Guidelines. Additionally, an internal dialogue has been initiated to collect and exchange experiences of the application of the Guidelines in international forums. Some felt the Guidelines were difficult to apply in practice, given the specific, autonomous decision-making structures in the different forums. Still, the general view was a positive one, namely that the Convention's principles on access to environmental information and public participation in environmental matters were being implemented in the international context by all the parties involved, even if there was not always a direct reference to the Guidelines. In the case of water-related conventions, for example (in particular, river basin ~~commissions~~ and regional marine protection ~~commissions~~ agreements), the Guidelines' content is implemented *de facto* through the requirements of the European Water Framework Directive (WFD), the European Flood Risk Management Directive (Floods Directive) and the European Marine Strategy Framework Directive (see Article 14 WFD, Sections 83 (4) and 85 WHG, Articles 9 and 10 of the Floods Directive, Section 79 WHG, Article 19 MSD, Section 45i WHG). In some cases, clear reference has been made in international decision-making procedures to the "information of the public", as had been suggested by Germany, for example in a UNECE document on pipeline safety. With assistance from the Aarhus Convention Task Force on Public Participation, Cooperation with the Protocol on Water and Health of the UNECE Water Convention is being considered in the framework has produced a guidance paper on public participation in Protocol implementation of the newly created Aarhus Convention Task Force on Public Participation.¹²

¹² www.unece.org/index.php?id=34075

(e) The free exercise of the rights pursuant to Article 3 (8) of the Convention (including the prohibition of discrimination laid down in Article 3 (9) of the Convention) is guaranteed constitutionally by the principle of the rule of law enshrined in Article 20 (3) of Germany's constitution, the Basic Law (*Grundgesetz* – GG), and by the fundamental rights enshrined in the Basic Law, especially the prohibition of discrimination in Article 3. Article 19 (4) of the Basic Law provides for effective recourse to the courts should any person's rights be violated by a public 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 listed above.

Answer:

No information was provided under this heading.

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:

No information was provided under this heading.

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

Information provided by federal authorities:

General:

www.gesetze-im-internet.de

Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety

(BMUBMUB): <http://www.bmu.de/><http://www.bmub.de/>

BMUBMUB: Aarhus Convention:

www.bmub.bund.de/themen/umweltinformation-bildung/umweltinformation/aarhus-konvention/<http://www.bmu.de/themen/umweltinformation-bildung/umweltinformation/die-aarhus-konvention/>

BMUBMUB: Environmental information:

[-www.bmub.bund.de/themen/umweltinformation-bildung/umweltinformation/](http://www.bmub.bund.de/themen/umweltinformation-bildung/umweltinformation/)<http://www.bmu.de/umweltinformation/aktuell/aktuell/1786.php>

BMUB: Environmental assessment (environmental impact assessment (EIA) + strategic

environmental assessment (SEA)):

www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungen-uvpsup/

BMUB: EIA/SEA procedures in relation to nuclear energy:

www.bmub.bund.de/themen/atomenergie-strahlenschutz/nukleare-sicherheit/internationales/uvpsup/

BMUB: Environmental education:

www.bmub.bund.de/themen/umweltinformation-bildung/bildungsservice/

BMUB: Products and environment:

www.bmu.de/produkte_und_umwelt/aktuell/39072.php

BMU: Environmental assessment (environmental impact assessment (EIA) + strategic environmental assessment (SEA)):

<http://www.bmu.de/umweltvertraeglichkeitspruefung/aktuell/aktuell/6364.php>

BMU Education Service:

www.bmu.de/bildungsservice

Federal Environment Agency (UBA):

<http://www.umweltbundesamt.de/>

Federal Environment Agency (UBA):

<http://www.umweltbundesamt.de/>

UBA: Environmental awareness and sustainable consumption:

www.umweltbundesamt.de/presse/presseinformationen/umweltbewusstsein-2014-immer-mehr-menschen-sehen

<http://www.umweltbundesamt.de/themen/wirtschaft-konsum#strap1>

<http://www.umweltbundesamt.de/themen/wirtschaft-konsum/umweltfreundliche-beschaffung>

www.blauer-engel.de

<http://label-online.de/>

UBA: Information on environmental protection designed for children:

www.umweltbundesamt.de/mein-uba/kinder-jugendliche

Federal Agency for Nature Conservation (BfN):

<http://www.bfn.de>

BfN: Society, communication, education, awareness-raising:

www.bfn.de/0309_gesellschaft.html

BfN: Nature awareness:

http://www.bfn.de/0309_naturbewusstsein+M52087573ab0.html

BfN: Conservation and biodiversity for children:

www.naturdetektive.de

BfN: Conservation and health:

www.natgesis.de

Federal Office for Radiation Protection (BfS):

<http://www.bfs.de>

Federal Office for Building and Regional Planning (BBR):

http://www.bbr.bund.de/BBR/EN/Home/home_node.html

Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR):

http://www.bbsr.bund.de/BBSR/EN/FederalInstitute/institute_node.html

Federal Office for the Safety of Nuclear Waste Management (BfE):

<http://www.bfe.bund.de/en/>

BMU: Information on products and the environment:

http://www.bmu.de/produkte_und_umwelt/aktuell/39072.php

UBA: Environmental awareness and sustainable consumption:

<http://www.umweltbundesamt.de/umweltbewusstsein/index.htm>

<http://www.beschaffung-info.de/web/php/index.php4>

<http://www.blauer-engel.de/willkommen/willkommen.htm>

<http://www.label-online.de>

UBA: Information on environmental protection designed for children:

<http://www.umweltbundesamt.de/kinder>

BfN: Society, communication, education and awareness-raising:

http://www.bfn.de/0309_gesellschaft.html

Nature awareness:

<http://www.bfn.de/naturbewusstsein.html>

http://www.bfn.de/nature_awareness_study.html

Data on nature:

http://www.bfn.de/0502_veroe1.html

Nature conservation and biological diversity for children:

<http://www.naturdetektive.de>

Impacts of sport and leisure activities on nature:

<http://www.natursportinfo.de>

Export and import of protected animal and plant species, and products derived from them:

http://www.bfn.de/0305_cites.html

Nature conservation in built-up areas:

http://www.bfn.de/0321_siedlung.html

Economics of nature conservation:

http://www.bfn.de/0318_oekonomie.html

Nature conservation and health:

<http://www.natgesis.de>

Biological diversity:

<http://www.biologischevielfalt.de>

German Advisory Council on the Environment:

http://www.umweltrat.de/EN/TheGermanAdvisoryCouncilOnTheEnvironment/thegermanadvisorycouncilontheenvironment_node.html<http://www.umweltrat.de/>

Environmental education materials on the German Education Server (Eduserver), a joint service provided by the Federal Government and the Länder:

www.bildungsserver.de/Umweltbildung-Umwelterziehung-706.html<http://www.bildungsserver.de/zeigen.html?seite=706>

BMEL: Information and educational materials on organic farming and biological diversity:

<http://www.oekolandbau.de><http://www.oekolandbau.de>

<http://www.oekolandbau.de/lehrer/><http://www.oekolandbau.de/lehrer/>

<http://www.echtkuh-l.de><http://www.echtkuh-l.de>

www.bmel.de/DE/Landwirtschaft/Nachhaltige-Landnutzung/Biologische-Vielfalt/biologische-vielfalt_node.htmlhttp://www.bmelv.de/DE/Landwirtschaft/Nachhaltige-Landnutzung/Biologische-Vielfalt/biologische-vielfalt_node.html

http://www.bmelv.de/DE/Landwirtschaft/Nachhaltige-Landnutzung/Biologische-Vielfalt/biologische-vielfalt_node.html

http://www.bmelv.de/DE/Landwirtschaft/Nachhaltige-Landnutzung/Biologische-Vielfalt/biologische-vielfalt_node.html

BMEL: Information on sustainable forest management:

www.bmel.de/DE/Wald-Fischerei/Forst-Holzwirtschaft/Forstwirtschaft-node.html

BLE GENRES Information System Genetic Resources:

<http://www.genres.de>

Federal Ministry of Economics and Technology (BMWi):

<http://www.bmwi.de/DE/Themen/Energie/Energiewende.html> <http://www.bmwi.de>

Federal Network Agency (BNetzA):

http://www.bundesnetzagentur.de/cln_1912/DE/Home/home_node.html

BNetzA: Power grid expansion:

http://www.netzausbau.de/cln_1931/DE/Home/home_node.html

Funding for environmental associations:

www.bmub.bund.de/themen/forschung-foerderung/foerderprogramme/verbaendefoerderung/

<http://www.bmu.de/themen/forschung-foerderung/foerderprogramme/verbaendefoerderung/>

<http://www.umweltbundesamt.de/das-uba/was-wir-tun/foerdern-beraten/verbaendefoerderung>

http://www.bfn.de/02_foerderung.html<http://www.umweltbundesamt.de/projektfoerderung/en/index.htm>

http://www.bfn.de/02_foerderung.html

BMZ: Education for sustainable development in schools:

<http://www.bmz.de/de/mitmachen/Schule/>

BMZ: Funding for development policy activities:

<http://www.engagement-global.de>

Information provided by the Länder:

Baden-Württemberg

General:

www.landesrecht-bw.de

Baden-Württemberg Ministry of the Environment, Climate Protection and the Energy Sector:

<https://um.baden-wuerttemberg.de> ~~<http://www.um.baden-wuerttemberg.de/>~~

Land Institute for Environment, Monitoring and Nature Conservation (LUBW):

<https://www.lubw.baden-wuerttemberg.de/lubw> ~~<http://www.lubw.baden-wuerttemberg.de>~~

Baden-Württemberg Environmental Portal:

www.umwelt-bw.de/ ~~<http://www.umwelt.baden-wuerttemberg.de>~~

General information, including on environmental affairs:

www.service-bw.de

Bavaria

Bavarian State Ministry of the Environment and ~~Public Health~~ Consumer Protection (StMUVG): www.stmuv.bayern.de/ ~~<http://www.stmug.bayern.de/>~~

Bavarian Environmental Protection Agency:

www.lfu.bayern.de/index.htm ~~<http://www.bayern.de/lfu/lfu1/index.php>~~

Berlin

Senate Department for Urban Development and the Environment:

<http://www.stadtentwicklung.berlin.de/umwelt/>

Brandenburg

Ministry of Rural Development, Environment, Health and Consumer Protection ~~Agriculture~~:

www.mlul.brandenburg.de/sixcms/detail.php/bb1.c.279082.de ~~<http://www.mugv.brandenburg.de>~~

www.lfu.brandenburg.de/cms/detail.php/bb1.c.285413.de

<http://www.mugv.brandenburg.de/cms/detail.php/bb1.c.281452.de>

Bremen

Bremen Senator for Environment, Construction and Transport:

<http://www.bauumwelt.bremen.de/> ~~<http://www.umwelt.bremen.de/>~~

Hamburg

Department of Urban Development and Environment ~~and Energy~~

www.hamburg.de/bue/ ~~<http://www.hamburg.de/bsu>~~

Hesse

Hessian Ministry of the Environment, Climate Protection, Energy, Agriculture and Consumer Protection:

www.umweltministerium.hessen.de/ ~~<http://www.hmuelv.hessen.de/>~~

Hessian Agency for ~~the~~ Nature Conservation, Environment and Geology:

<http://www.hlnug.de/start.html> ~~<http://www.hlug.de>~~

Lower Saxony

Lower Saxon Ministry for the Environment, Energy and Climate Action:

www.mu.niedersachsen.de/portal/live.php?navigation_id=2138&psmand=10
~~http://www.mu.niedersachsen.de/~~

Mecklenburg-Western Pomerania

Mecklenburg-Western Pomerania Ministry for Agriculture, Environment and Consumer Protection:

www.regierung-mv.de/Landesregierung/lm/ ~~http://www.regierung-mv.de/ems2/Regierungsportal_prod/Regierungsportal/de/lm/~~

North Rhine-Westphalia

Ministry for Climate Protection, Environment, Agriculture, Nature and Consumer Protection of the Land North Rhine-Westphalia:

<http://www.umwelt.nrw.de/>

Land Office for Nature, Environment and Consumer Protection of North Rhine-Westphalia:

<http://www.lanuv.nrw.de/>

Rhineland-Palatinate

Rhineland-Palatinate Ministry of Environment, ~~Energy, Agriculture, Food, Viticulture~~ and Forestry:

www.mueef.rlp.de/ministerium/ ~~http://www.mulewf.rlp.de/ministerium/~~

~~Landscape information system:~~

~~http://www.naturschutz.rlp.de~~

~~Land Central Office for Environmental Education:~~

~~http://www.umdenken.de~~

Rhineland-Palatinate Land Office for the Environment, ~~Water Management and Trading Standards (LUWG)~~:

~~www.lfu.rlp.de~~ <http://www.luwg.rlp.de>

~~Forestry Administration of Rhineland-Palatinate:~~

~~http://www.wald-rlp.de~~

Saarland

Saarland Ministry for the Environment and Consumer Protection:

http://www.saarland.de/ministerium_umwelt_verbraucherschutz.htm

Saarland Land Office for the Environment and Workplace Safety:

http://www.saarland.de/landesamt_umwelt_arbeitsschutz.htm

Saxony

Saxon State Ministry of the Environment and Agriculture (SMUL):

www.smul.sachsen.de/smul/index.html ~~http://www.smul.sachsen.de/de/wu/index.html~~

Saxon State Office for Environment, Agriculture and Geology:

<http://www.smul.sachsen.de/lfulg/index.html>

Saxony-Anhalt

Saxony-Anhalt Ministry of the Environment and Agriculture (SMUL):

www.mlu.sachsen-anhalt.de/startseite-mlu/ ~~http://www.sachsen-anhalt.de/LPSA/index.php?id=1743~~

Saxony-Anhalt Land Office for Environmental Protection:

www.lau.sachsen-anhalt.de/startseite/ ~~http://www.sachsen-anhalt.de/LPSA/index.php?id=1au~~

Schleswig-Holstein

Schleswig-Holstein Ministry of Energy, Agriculture, the Environment and Rural Areas:

www.schleswig-holstein.de/DE/Landesregierung/V/v_node.html ~~http://www.schleswig-holstein.de/MELUR/DE/MELUR_node.html~~

Schleswig-Holstein Land Agency for Agriculture, Environment and Rural Areas:
www.schleswig-holstein.de/DE/Landesregierung/LLUR/llur_node.html
~~http://www.schleswig-holstein.de/LLUR/DE/LLUR_node.html~~

Thuringia

Thuringian Ministry for ~~Agriculture, Forestry,~~ Environment, ~~Energy~~ and Nature Conservation: www.thueringen.de/th8/tmlfun/ ~~<http://www.thueringen.de/th8/tmlfun>~~
Thuringian State Authority for Environment and Geology (TLUG):
www.thueringen.de/th8/tlug/ ~~<http://www.tlug-jena.de/>~~

Other information:

2012²⁴ survey of public environmental awareness in Germany, conducted by the [Forsa Gesellschaft für Sozialforschung und statistische Analysen mbH](http://www.forsa.de) and [MARPLAN Media- und Sozialforschungsgesellschaft mbH](http://www.marplan.de) ~~Institute for Social Innovation e. V.~~ on behalf of the UBA: <http://www.umweltbundesamt.de/publikationen/umweltbewusstsein-in-deutschland-2014>
~~<http://www.umweltbundesamt.de/umweltbewusstsein/umweltbewusstsein.htm>~~

Nature Awareness Study:

http://www.bfn.de/0309_naturbewusstsein.html
<http://www.bfn.de/naturbewusstsein.html>
<http://www.bfn.de/nature-awareness-study.html>
BfN (2012): *Daten zur Natur*, Bonn, 446 pp., ISBN 978 3 7843 3861 3

German association for environmental education (Deutsche Gesellschaft für Umwelterziehung):
<http://www.umwelterziehung.de>

General information on the Aarhus Convention provided by the Independent Institute for Environmental Issues (UfU):
<http://www.aarhus-konvention.de/>

Online platform on participation in environmental affairs:
www.ufu.de/de/projekte-umweltrecht/verbaendebeteiligung2.0/onlineplattform.html

Information by the association of German forest owners (AGDW) on climate change: www.waldeigentuemmer.de/klimawandel

Information provided by the Association of German Chambers of Commerce and Industry:
~~<http://www.dihk.de/themenfelder/innovation-und-umwelt/umwelt>~~
www.dihk.de/themenfelder/innovation-und-umwelt/umwelt

Information provided by the German Confederation of Skilled Crafts (ZDH):
~~<http://www.zdh.de/themen/wirtschaft-energie-umwelt/umweltpolitik-nachhaltigkeit.html>~~
www.zdh.de/themen/wirtschaft-energie-umwelt/umweltpolitik-nachhaltigkeit.html

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

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

In Germany, the provisions of the Convention on access to environmental information and those of Directive 2003/4/EC on public access to environmental information ~~have, for constitutional reasons,~~ been transposed ~~solely~~ for the federal level by means of the Environmental Information Act (*Umweltinformationsgesetz – UIG*) of 22 December 2004.

At the Land level, ~~for constitutional reasons~~ the Länder have adopted ~~corresponding their own~~ legislation within their jurisdictions:

[Baden-Württemberg Environmental Administration Act of 25 November 2014, entered into force on 1 January 2015 \(GBl. 2014, 592\), last amended: Annex 5 by Article 2 of the Ordinance of 13 August 2015 \(GBl. S. 785, 793\)](#)

~~[Baden-Württemberg Environmental Information Act of 7 March 2006 \(LUIG B-W\)](#)~~

[Bavarian Environmental Information Act of 8 December 2006 \(BayUIG\), last amendment considered: Art. 11 amended \(§ 1 Nr. 171 V v. 22.7.2014, 286\), in conjunction with the General Administrative Regulations on Environmental Information Law of 21 April 2016 \(UIGVV\) \(AllMBl. Nr. 7/2016, 1539\)](#)

Berlin Freedom of Information Act of 15 October 1999 (GVBl. S. 561), last amended by Act of 11 July 2006 (GVBl. S. 434) (*Gesetz zur Förderung der Informationsfreiheit im Land Berlin – IFG*)

~~Brandenburg~~, as amended on 11 July 2006, particularly Section 18a concerning environmental information (IFG Bln)

Environmental Information Act of the Land Brandenburg of 26 March 2007 (GVBl.I/07, [Nr. 06], S.74), last amended by Act of 1 July 2015 (GVBl. I/15, [Nr. 19]) ~~19 December 2008~~ (BbgUIG)

Bremen Environmental Information Act (*BremUIG*) of 15 November 2005 (~~BremUIG~~)(BremGBL. S. 573), last amended by Art. 1 of the Act of 19 December 2014 (Brem. GBl. S. 780)

Hamburg Environmental Information Act of 4 November 2005 (HmbUIG), last amended on 1 February 2016 (HmbGVBl. S. 48)

~~Hessian~~ Environmental Information Act of 14 December 2006 (HUIG)

Lower Saxony Environmental Information Act of 7 December 2006 (NUIG) (Nds. GVBl. Nr.31/2006 S. 580), last amended by the Act of 8 June 2016 (Nds. GVBl. Nr. 6/2016 S. 94)

Mecklenburg-Western Pomerania Environmental Information Act of 14 July 2006 (LUIG M-V) (GVOBl. M-V S. 568), last amended by Art. 4 of the Act of 27 May 2016 (GVOBl. M-V S. 431)

North Rhine-Westphalia Environmental Information Act of 29 March 2007 (UIG NRW), last amended by the Act of 8 July 2016 (GV. NRW. S. 618)

~~Rhineland-Palatinate Land Transparency Act (LTranspG) of 27 November 2015 (GVBl. Nr. 14/2015, S. 383) Rhineland Palatinate Land Environmental Information Act of 19 October 2005 (LUIG-RPF)~~

Saarland Environmental Information Act of 12 September 2007 (SaarlUIG), amended by Art. 3 in conjunction with Art. 17 of the Act *Gesetz Nr. 1721 zur Verlängerung der Geltungsdauer von Vorschriften des Landesrechts vom 26.10.10* (Amtsbl. 10.1406)

Saxony Environmental Information Act of 1 June 2006 (SächsUIG) (GVBl. Nr. 7 vom 30.06.2006 S. 146)

~~Environmental Information Act of the Land~~ Saxony-Anhalt *Environmental Information Act* of 14 February 2006 (UIG LSA)

Schleswig-Holstein Access to Information Act of 19 January 2012 (IZG SH)

~~Thuringia~~ Environmental Information Act of 10 October 2006 (ThürUIG), amended on 13 March 2014 (GVBl. S. 92, 94).

The following comments are based on the federal legislation in each case and make reference, to the extent possible, to the – largely identical – provisions of Land law. Furthermore, outside the scope of the legislation listed, entitlements to information in the sphere of consumer information are guaranteed by the new Consumer Information Act, and to general official information, on a subsidiary basis, by the freedom of information legislation adopted at the federal and Land levels.

The definitions of the relevant terms used in Article 2 of the Convention (“public authority”, “environmental information”) are found in Section 2 of the Environmental Information Act (UIG).¹³ During the reporting period, the exception for bodies or

¹³ At Land level, Section 2 LUIG B-W and Section 3 (1) LUIG B-W in conjunction with Section 2 (3) and (4) UIG; Article 2 BayUIG in conjunction with UIGVY; Section 18a IFG Bln in conjunction with Section 2 UIG; Section 2 BbgUIG and Section 1 BbgUIG in conjunction with Section 2 UIG; Section 2 BremUIG and Section 1 (2) BremUIG in conjunction with Section 2 UIG; Section 1 (2) HmbUIG in conjunction with Section 2 UIG; Section 2 HUIG; Section 2 LUIG M-V and

institutions “acting in a [...] legislative capacity” laid down in Article 2 (2) of the Convention has been elaborated in greater detail by the case law of the European Court of Justice (ECJ) and the German Federal Administrative Court (BVerwG) in 2012 and 2013:¹⁴ The ECJ judgement of 14 February 2012 (Case C-204/09) and the subsequent BVerwG judgement of 2 August 2012 (7 C 7.12) made it clear that ministries that participate in legislative procedures may be covered by the exception, i.e. as long as the legislative procedure is ongoing. The ECJ judgement of 18 July 2013 (Case C-515/11) made it clear that, in contrast to this, ministries that participate in the enactment of normative regulations (such as ordinances (*Rechtsverordnungen*) in Germany – which are always of a lower rank than a law →) are not covered by the exception where these normative regulations are of a lower rank than a law. Federal law was adjusted to that case law by the Act of 27 October 2014; this adjustment entered into force on 6 November 2014. The new provision in Section 2 (1) number 1 letter a UIG clarifies that supreme federal authorities are only exempt “to the extent that and as long as they are acting in a legislative capacity”.

A need to transpose the ECJ judgements into law persists in most Länder, wherever Länder provisions do not refer dynamically to federal provisions (Berlin, Saxony-Anhalt) or contain additional wording (Bavaria). Most Länder have already adjusted their laws.¹⁵ Legislative procedures have been initiated in the remaining Länder (North Rhine-Westphalia, Saxony, Schleswig-Holstein) or are being directly prepared by the Land government (Thuringia).

This last judgement has the immediate result that the conflicting wording of litera a of the second sentence of Section 2 (1) UIG can no longer be applied; there are plans to amend the German legislation early on in the new electoral term. Länder whose law does not make reference to the federal legislation are preparing parallel amendments.

(a) As regards Article 4 (1) of the Convention, pursuant to Section 3 (1) UIG,¹⁶ every person is entitled to free access to environmental information without a legal interest having to be stated. Pursuant to Section 3 (2) UIG,¹⁷ this access may be provided through the furnishing of information, inspection of files, or by other means (e.g. transmission of copies). If a specific form of access to information is requested, such access may only be provided in a form other than that specified if there are compelling reasons to do so. If the information requested is already available in the public domain, the authority may draw attention to this fact.

Section 3 LUIG M-V in conjunction with Section 2 (3) and (4) UIG; Section 2 NUIG in conjunction with Section 2 UIG; Section 1 (2) UIG NRW and Section 2 UIG NRW in conjunction with Section 2 UIG; Section 3 (2) and Section 5 (3) LUIG LTranspG RPF; Section 2 Saar#UIG; Section 3 SächsUIG; Section 1 (3) UIG LSA in conjunction with Section 2 UIG; Section 2 IZG SH; Section 2 ThürUIG.

¹⁴ The ECJ judgement of 14 February 2012 (Case C-204/09) and the subsequent BVerwG judgement of 2 August 2012 (7 C 7.12) made it clear that ministries that participate in legislative procedures may be covered by the exception, i.e. as long as the legislative procedure is ongoing. The ECJ judgement of 18 July 2013 (Case C-515/11) made it clear that, in contrast to this, ministries that participate in the enactment of normative regulations (such as ordinances in Germany) are not covered by the exception where these normative regulations are of a lower rank than a law. This last judgement has the immediate result that the conflicting wording of litera a of the second sentence of Section 2 (1) UIG can no longer be applied; there are plans to amend the German legislation early on in the new electoral term. Länder whose law does not make reference to the federal legislation are preparing parallel amendments.

¹⁵ Baden-Württemberg, Brandenburg, Bremen, Hamburg, Hesse, Mecklenburg-Western Pomerania, Lower Saxony, Rhineland-Palatinate, Saarland.

¹⁶ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, Section 1 (3) UIG LSA; also Article 3 (1) BayUIG, Section 3 (1) HUIG, the first sentence of Section 2 UIG NRW, Section 123 (1) LUIG LTranspG RPF, Section 3 (1) Saar#UIG, Section 4 (1) SächsUIG, Section 3 IZG SH, Section 3 (1) ThürUIG.

¹⁷ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 3 (2) BayUIG, Section 3 (2) HUIG, Section 123 (2) LUIG-LTranspG RPF, Section 3 (2) Saar#UIG, Section 4 (2) SächsUIG, Section 5 (1) IZG SH, Section 3 (2) ThürUIG.

- (b) The time periods stated in Article 4 (2) of the Convention are safeguarded by Section 3 (3) UIG,¹⁸ which states that environmental information is to be made available at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request.
- (c) Grounds for the refusal of requests for environmental information are conclusively regulated in the exclusions and restrictions provided for, in accordance with Article 4 (3) and (4) of the Convention, in Sections 8 and 9 UIG,¹⁹ which are always to be interpreted in a restrictive way. Pursuant to Section 8 UIG, these are intended to protect the public interest, notably international relations, national defence or the confidentiality of the deliberations of bodies required to furnish information^{20/21} and ongoing court proceedings. There are also grounds for refusal if the requests are manifestly unreasonable or formulated in too general a manner, concern material in the course of completion or internal memoranda within the administration, or if the public authority to which the request is addressed does not hold the environmental information requested. During the report period, the German Federal Administrative Court (BVerwG) concretised the refusal ground of “international relations”: With its judgement of 29 June 2016, the Court ruled that “international relations” pursuant to Section 8 (1) sentence 1 No. 1 UIG include not only intergovernmental relations but also relations to other subjects of international law such as international or supranational organisations, including the European Union.²² In a further case, the Court addressed the conditions under which a request is “manifestly unreasonable” and can therefore be refused.²³

The exclusions and restrictions provided for in Section 9 UIG are intended to protect private interests, notably the confidentiality of personal data, intellectual property rights, and commercial and industrial secrets (excluding information about emissions). Finally, environmental information that has been passed on without legal obligations to an authority by third parties may not be made accessible without the permission of the third party concerned.

It is thus guaranteed in each case that, in accordance with Article 4 (4) of the Convention, requests for access to environmental information may nonetheless succeed despite the existence of a ground for refusal if the public interest in disclosure is overriding or – in the circumstances provided for in Section 9 UIG – the parties concerned have given their permission. To that extent, the respective interests are always weighed up on a case-by-case basis.

¹⁸ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 3 (3) BayUIG, Section 3 (3) HUIG, Section 3-12 (23) LUIGLTranspG RPF, Section 3 (3) SaarHUGSUIG, Section 7 (1) SächsUIG, Section 5 (2) IZG SH, Section 3 (3) ThürUIG.

¹⁹ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Articles 7 and 8 BayUIG, Sections 7 and 8 HUIG, Sections 14, 15 8 and 9-16 LUIG RPF LTranspG RPF, Sections 8 and 9 SaarHUGSUIG, Sections 5 and 6 SächsUIG, Sections 9 and 10 IZG SH, Sections 8 and 9 ThürUIG.

²⁰ Furthermore, the above-mentioned judgement of the BVerwG of 2 August 2012 (7 C 7.12) made it clear that in individual cases the confidentiality of deliberations may also continue to be protected with regard to particular pieces of information following the conclusion of a legislative procedure.

²¹ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 4 (3) BayUIG, Section 4 (4) HUIG, Sections -14 (3-1) and 15 (1) LUIG RPF LTranspG RPF, Section 8 (1) SUIG, Section 7 (3) SächsUIG, Section 9 (1) IZG SH, Section 4 (3) ThürUIG.

²² BVerwG, Urteil vom 29. Juni 2016, 7 C 32.15, Rn. 9 ff.

²³ BVerwG, Urteil vom 28. Juli 2016, 7 C 7.14, [not yet published].

- (d) Article 4 (5) of the Convention is taken up in Section 4 (3) UIG.²⁴ This states that where a public authority does not hold the environmental information requested, this public authority shall, as promptly as possible, inform the applicant of the public authority to which it believes it is possible to apply for the information requested or transfer the request to that authority and inform the applicant accordingly.
- (e) Section 5 (3) UIG²⁵ guarantees that if there are grounds for the refusal of a request pursuant to Sections 8 and 9 UIG, in compliance with Article 4 (6) of the Convention, if information exempted from disclosure can be separated out (e.g. through blacking out), public authorities must make available the remainder of the environmental information that has been requested.
- (f) The provisions on the formalities and time periods for the refusal of requests, set forth in Article 4 (7) of the Convention, are transposed into German law by means of Section 5 (1) UIG,²⁶ which states that the one- or two-month period established in the second sentence of Section 3 (3) is to apply to the refusal of a request for information. Written requests must be dealt with in writing, and at the request of the applicant, the refusal may also be transmitted in electronic form.
- (g) Article 4 (8) of the Convention is transposed for the federal level by Section 12 UIG and the Environmental Information Charges Ordinance (*Umweltinformationsgebührenverordnung – UIGGebV*). The Annex to this ordinance sets out a comprehensive list of the charges and expenses that may be incurred when environmental information is communicated, in which respect these charges and expenses must not be prohibitive. The charge levied may not exceed a maximum of €500. Hence the inspection of files on site, oral and simple written information (including the provision of a small number of duplicates), and active information for the public (e.g. via the Internet) are available free of charge. The Länder have adopted corresponding legislation.

VIII. Obstacles encountered in the implementation of article 4

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

Answer:

The authorities' assessment of whether corporate data constitute commercial and industrial secrets which must be protected, and the balancing in each case of the private interest in confidentiality and the conflicting public interest in disclosure can lead to difficult decisions in individual cases. Very extensive UIG applications and the necessary consultation of third parties can lead to the problem that the short processing times

²⁴ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 4 (3) BayUIG, Section 4 (4) HUIG, Section [124 \(32\) LUIG-RPFLTranspG RPE](#), Section 4 (3) [SaarLUIGSUIG](#), Section 7 (3) SächsUIG, Section 4 (3) IZG SH, Section 4 (3) ThürUIG.

²⁵ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 6 (3) BayUIG, Section 6 (3) HUIG, Section 5 (3) [LUIG-RPFLTranspG RPE](#), Section 5 (3) [SaarLUIGSUIG](#), Section 8 (3) SächsUIG, Section 6 (3) IZG SH, Section 5 (3) ThürUIG.

²⁶ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 6 (1) and (2) BayUIG, Section 6 (1) and (2) HUIG, Section [125 \(+3\) LUIG-RPFLTranspG RPE](#), Section 5 (1) [SaarLUIGSUIG](#), Section 8 (1) SächsUIG, Section 6 (1) and (2) IZG SH, Section 5 (1) ThürUIG.

prescribed cannot be complied with in individual cases. This particularly relates to applications requesting access to ~~confidential, personal~~ environmental information data that contains confidential, personal affect data of a large number of individuals, or that involves assessing the commercial and industrial secrets of third parties on a large scale (e.g. documents submitted in the course of permitting procedures). Dealing with such UIG applications may also affect the ability of a body obliged to furnish information to carry out its work.²⁷ The ~~Federal Ministry for the Environment, Nature Conservation and Nuclear Safety-BMUB~~ has had a legal opinion drawn up on the often difficult assessment of issues relating to copyright law.²⁸

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:

No statistics are collected on the number of requests made. Based on practical experience to date, the provisions on access to information have not necessitated any increase in allocations of personnel or resources to the authorities. The number of refusals is relatively small. Taking into consideration the ~~current~~ legal developments in the UIG – with a particular focus on the law governing radiation protection and installation safety – the ~~Federal Ministry for the Environment, Nature Conservation and Nuclear Safety-BMUB~~ commissioned a working aid which bodies required to provide information can use to develop their own UIG guidelines.²⁹ The Independent Institute for Environmental Issues (UfU) has also investigated the practical application of environmental information law under the new provisions in the Federation and the Länder since 2005 in a number of studies.³⁰

In the summer of 2016, the UBA, in cooperation with the BMUB, initiated a research project to evaluate the UIG. The project's title is: *Evaluation des Umweltinformationsgesetzes (UIG) – Analyse der Anwendung der Regelungen des UIG und Erschließung von Optimierungspotentialen für einen ungehinderten und einfachen Zugang zu Umweltinformationen. It is to be concluded by early 2019.*

²⁷ E.g., in the case of one UIG application, the BMUB had to take decisions on, among other things, the publication of approx. 450 statements that third parties had submitted on proposed legislation. All the third parties in question were written to as part of the consultation process. In response, many objected to the publication of their statements and indicated their intention to claim summary process if their statements were published as intended.

²⁸ Bernhard Wegener, *Zum Verhältnis des Rechts auf freien Zugang zu Umweltinformationen zum Urheberrecht*, 2010, available

at <http://www.bmu.de/umweltinformation/downloads/doc/46432.php> www.bmub.bund.de/bmub/parlamentarische-vorgaenge/detailansicht/artikel/zum-verhaeltnis-des-rechts-auf-freien-zugang-zu-umweltinformationen-zum-urheberrecht/

²⁹ Thomas Schomerus, *Informationsansprüche in Atom- und Strahlenschutzrecht*, 2010, online: http://doris.bfs.de/jspui/bitstream/urn:nbn:de:0221-201011233819/3/BfS_2010_3608S70001.pdf <http://www.bmu.de/service/publikationen/downloads/details/artikel/gutachten-informationsansprueche-im-atom-und-strahlenschutzrecht/>

³⁰ Independent Institute for Environmental Issues (UfU), 2008, *Praxis des Umweltinformationsrechts in Deutschland – Eine Evaluation aus Bürgersicht anhand der Methode der retrospektiven Gesetzesfolgenabschätzung*, Berlin, 2008; and 2012, *Praxis des Umweltinformationsrechts in Deutschland – Empirische Evaluation als retrospektive Gesetzesfolgenabschätzung*, Berlin, 2013.

As a result of the opportunity provided in several Länder to appeal to the Land officer for data protection³¹ it has proven possible in the past to retroactively correct erroneous (partial) refusals, to the benefit of access to information.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

Information provided by the ~~BMUBMUB~~ on access to environmental information:
~~www.bmub.bund.de/themen/umweltinformation-bildung/umweltinformation/zugang-zu-umweltinformationen/~~ ~~<http://www.bmu.de/themen/umweltinformation-bildung/umweltinformation/zugang-zu-umweltinformationen/>~~

Information provided by the UBA:
~~www.umweltbundesamt.de/daten/umweltdaten/jsp/index.jsp~~
~~www.umweltbundesamt.de/en/access-to-environmental-information~~ ~~<http://www.umweltbundesamt.de/daten-zur-umwelt.de/umweltdaten/open.do>~~
~~<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/information>~~

Information provided by the BfN on ~~nature conservation and landscape management (incl. maps, data -and mapping services)~~ free publications:
~~http://www.bfn.de/0501_db.html~~
~~http://www.bfn.de/0503_karten.html~~

~~PortalU – Environmental Portal for Germany (joint project of the federal and Land environmental authorities):~~
~~<http://www.portalu.de/>~~

Information provided by the Independent Institute for Environmental Issues (UfU):
~~<http://www.umweltinformationsrecht.de/>~~

Geoportal Deutschland:
~~<http://www.geoportal.de>~~

GovData – Data portal for Germany, incl. data on environment and climate:
~~www.govdata.de/~~

See also the links listed in Section XIV below.

³¹ Cf. e.g. Section 13 IZG-SH.

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:

In Germany, the provisions of the Convention on the collection and dissemination of environmental information are also primarily transposed by means of the environmental information acts passed by the Federation and the Länder. Alongside this, the legislation on access to geodata and the geodata infrastructure administered by the Federation and the Länder supports the dissemination of spatially-based environmental information.

(a) In compliance with Article 5 (1) of the Convention, Section 7 (3) UIG ensures that all the information collected by or for a public authority must be up-to-date, precise and comparable.³² Pursuant to Section 10 (5) UIG,³³ in the event of any imminent threat to human health or the environment, all information which could enable the public to take measures to prevent or mitigate harm that may arise from the threat and is held by public authorities obliged to furnish information must be disseminated immediately and without delay.

(b, e, g) Implementing Article 5 (2), (5) and (7) of the Convention, Section 10 (1) UIG³⁴ states that the public authorities required to furnish information must, actively and systematically, provide sufficient information about the environment to the public. As part of this active duty to furnish information, they are required to disseminate environmental information that is of relevance to their work and that they hold. Pursuant to Section 10 (2) UIG, this includes, at the least, the texts of international treaties, Community and national legislation, political strategies, plans and programmes of relevance to the environment, and reports about their implementation status, data from the monitoring of activities which could impact on the environment, licensing decisions which have a considerable impact on the environment, and summary reports and environmental impact assessments undertaken pursuant to the UVPG.

(c) Pursuant to Section 10 (3) UIG,³⁵ environmental information must be disseminated in a comprehensible manner and in formats which are easily accessible to the general

³² Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, ~~the second sentence of Section 35~~ NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 5 (3) BayUIG, Section 5 (3) HUIG, Section ~~74~~ (3) ~~LUIG-RPFLTranspG RPF~~, Section 7 (3) ~~SaarLUIGSUIG~~, Section 11 (3) SächsUIG, Section 8 (~~+2~~) IZG SH, Section 7 (3) ThürUIG.

³³ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, ~~the second sentence of Section 35~~ NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 10 (5) BayUIG, Section 10 (5) HUIG, Section ~~74~~ (~~§2~~) ~~LUIG-RPFLTranspG RPF~~, Section 10 (5) ~~SaarLUIGSUIG~~, Section 12 (4) SächsUIG, Section 11 (4) IZG SH, Section 10 (5) ThürUIG.

³⁴ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, ~~the second sentence of Section 35~~ NUIG, the third sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 10 (1) and (2) BayUIG, Section 10 HUIG, Sections ~~480 and 5 (4)~~ ~~LUIG-RPFLTranspG RPF~~, Section 10 (1) and (2) ~~SaarLUIGSUIG~~, Section 12 SächsUIG, Section 11 (1) IZG SH, Section 10 ThürUIG.

³⁵ Applicable *mutatis mutandis* in conjunction with Section 3 (1) LUIG B-W, Section 18a IFG Bln, Section 1 BbgUIG, Section 1 (2) BremUIG, Section 1 (2) HmbUIG, Section 3 LUIG M-V, the second sentence of Section 3 NUIG, the third

public. Electronic communications should be used for this purpose where available. The ~~Federal Government and the Länder have therefore established a joint environmental portal, known as "PortalU" (Internet address listed below). This service provides user-friendly, advert free, barrier free access to quality assured environmental information held by the federal and Land authorities is made available via the websites of the authorities in question. PortalU currently offers access to several million websites and over 500,000 database entries administered by more than 450 public institutions and organisations in Germany. The development of Web-based services for the provision of environmental status and exposure information via a single access portal is becoming an increasing focus of interest in electronic accessibility. The aim is to present professionally evaluated data obtained through the various environmental monitoring programmes in a way which is clear and comprehensible for the public, e.g. so that they can access information that shows the outcomes of monitoring of environmental policy measures.~~

When the environmental information required is geodata – i.e. spatial environmental data – it is directly available to the public via the national geodata infrastructure jointly operated by the Federation, Länder and municipalities, GDI-DE (Geodateninfrastruktur Deutschland). The GDI-DE is a component of the geodata infrastructure within the European Community (INSPIRE, Directive 2007/2/EC). As an access point to the GDI-DE, Geoportal Deutschland³⁶ (geoportal.de) makes it possible to search for and view geodata on various topics that are stored decentrally by a range of public institutions. Users are able to view geodata on interactive maps on the Internet and combine them as desired.

- (d) Pursuant to Section 11 UIG, the Federal Government is required to publish a report on the state of the environment in the federal territory at regular intervals of no more than four years. The report must contain information about environmental quality and environmental pressures. The Federal Cabinet adopted the ~~current~~ Environment Report 2010~~5~~ on ~~2130~~ November 2010~~5~~. In parallel, both the federal authorities and the Länder provide environmental data on the Internet on an ongoing basis (for website addresses, see below); these information services are developing dynamically at all levels. Some individual Länder also produce their own environmental reports.³⁷
- (f, h) The provision of information to consumers about the environmental impact of products, pursuant to Article 5 (6) and (8) of the Convention, is safeguarded ~~not only~~ through mandatory product labelling provided for in relevant areas of European and German law, ~~but and~~ also through voluntary measures, e.g. various environmental certificates or labels. For example, the ~~BMUBMUB~~'s Blue Angel eco-label is awarded by RAL gGmbH in collaboration with the organisations and Länder represented on the Environmental Label Jury and the UBA. The ~~state-sponsored~~ organic production logo eco-label pursuant to Regulation (ECU) 834/2007 can be used on a voluntary basis for all unprocessed agricultural products and agricultural products intended for human consumption. It ~~has been and~~ is currently used by ~~4,737,269~~ companies for ~~74,737,66,944~~ products (~~as of 310 August-September 20136~~). The Federal Agency for Agriculture and Food is the authority responsible for dealing with ~~the~~ registrations for the scheme ~~that are required by statute. The scheme, which is is~~ monitored through Germany's system of public and private controls. The Eco-Audit Regulation (EC) 1221/2009, last amended in 2009, not only encourages voluntary participation by organisations in a European eco-management and audit scheme (EMAS), but also promotes the publication of environmental data, including data on the production process. In ~~September-May 20126~~, there were ~~9,2718,208~~ sites registered under EMAS

sentence of Section 2 UIG NRW, Section 1 (3) UIG LSA; also Article 10 (3) BayUIG, Section 10 HUIG, Section 10 ~~LUIG~~ ~~RPFLTranspG RPF~~, Section 10 (3) ~~SaarLUIGSUIG~~, Section 12 SächsUIG, Section 11 (3) IZG SH, Section 10 ThürUIG.

³⁶ www.geoportal.de.

³⁷ E.g., Section 5 BremUIG stipulates that such reports must be issued at intervals of no more than four years. The most recent report from Bremen was published in 2014~~5~~.

throughout the EU of which 2,047 in Germany.

- (i) In October 2009, the Protocol on Pollutant Release and Transfer Registers (PRTR Protocol) entered into force. Parties to this Protocol, which include Germany, commit to establishing national pollutant registers which enable citizens to obtain quick and easy access via the Internet to environmental data relating to an industrial facility, e.g. in their neighbourhoods. Germany implemented the PRTR Protocol by means of the ratification act of 13 April 2007 and the implementing act of 6 June 2007, which contains the necessary provisions for both the establishment and maintenance of a national PRTR and the implementation of Regulation (EC) No. 166/2006 concerning the establishment of a European Pollutant Release and Transfer Register. In accordance with Article 5 (9) of the Convention, data on emissions, and their release and transfer in Germany have appeared on the Internet in the PRTR Register-Germany since June 2009. The portal was fundamentally redesigned in November 2011 and renamed "www.thru.de". It makes available transparent, freely accessible environmental information from industrial establishments and on emissions from diffuse sources (such as transport, households and agriculture). A particular emphasis is placed on citizens' information needs as far as the organisation of the portal is concerned.

In Germany, ~~the whole PRTR reporting process~~ is managed exclusively electronically throughout the process (up to the point of publication, as is the from submission of information by the industrial establishments in question up to the point of publication). Establishments supply data on their releases and offsite transfers ~~online over the Internet~~ via a data collection system (BUBE-Online) jointly developed by the Federation and the Länder. This system also includes quality assurance by the competent authorities of the emissions reported by the operators. Subsequently, the data are communicated to the ~~Federal Environment Agency~~ UBA, which publishes them on the Thru.de portal and forwards them to the European Commission to be published in the European PRTR. Thru.de also offers the option to download the complete data stock of the German PRTR as a stand-alone database so that users can carry out their own analyses. At present, data from nearly 5,000 industrial facilities are published on Thru.de.

Both BUBE and Thru.de rely on the use of open source software or are published as open source software. This also makes it possible for the components to be used by other states without licensing costs being incurred. Following work to adapt it for this purpose, the BUBE-Online data-acquisition software is now being used for data collection in Macedonia as well.

Furthermore, in accordance with the EU Emissions Trading Directive, carbon dioxide (CO₂) emissions data are collected annually from approx. 2,000 installations in the energy sector and emissions-intensive industries (2012), which produce around 50% of Germany's CO₂ emissions. The data are published both for the individual installations and in the form of summary reports, and are disseminated through active press and publicity work, and direct mailings to interested professionals.

XII. Obstacles encountered in the implementation of article 5

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

Answer:

~~The Land Bremen wishes to draw attention to the fact that the publication of relevant environmental information, e.g. on groundwater pollution due to contaminated sites, can give rise to conflicts with data protection concerns. As a rule, the presentation of relevant geodata, e.g. the publication of maps of polluted areas, also affects personal data since plots of land are identifiable.--~~

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:

~~As regards the current figures on visitors to the PortalU website, there are approx. 1.1 million page impressions of the PortalU site a year (July 2012-June 2013), with about 475,000 advanced searches/interactions taking place.~~ There were more than 55 million page impressions of the Federal Environment Ministry's webpages in 2012, and approx. 21 million impressions of pages published by the BMUBMUB from January to May 2013. A total of 353,1362,048,191 Federal Environment Ministry publications (print media) were ~~ordered-distributed~~ in 2012⁴, while the figure ~~from January to June in 2013~~⁵ was 163,865,339,419 copies.

~~The agreement between the federal and Länder administrations on the operation of PortalU, the Environmental Portal for Germany, expired on 31 December 2014. Service provision via the portal was terminated. Since then, the environmental information held by federal authorities is mainly provided via the websites of the respective authorities. When the environmental information required is geodata – i.e. spatial environmental data – it is actively made available to the public via the national geodata infrastructure jointly operated by the Federation, Länder and municipalities, GDI-DE (Geodateninfrastruktur Deutschland). As an access point to the GDI-DE, Geoportal Deutschland makes it possible to search for and view geodata on various topics that are stored decentrally by a range of public institutions. Users are able to view geodata on interactive maps on the Internet and combine them as desired (see also Section XI. c) above).~~

~~Nine Länder and the Federation continue to use the InGrid software on which PortalU was based; they do so within the scope of a project titled “*Verwaltungskooperation Umweltinformationssysteme*”³⁸.~~

- Brandenburg
- Bremen
- Hamburg
- Lower Saxony
- Mecklenburg-Western Pomerania
- Rhineland-Palatinate
- Saarland
- Saxony
- Saxony-Anhalt
- Federal Institute for IT Services (*Bundesanstalt für IT-Dienstleistungen*)

~~The environmental information systems of these providers are here:~~

- LUIS-BB – The agricultural and environmental information system of Brandenburg

³⁸ www.ingrid-oss.eu

- [NUMIS – The environmental information portal of Lower Saxony](#)
- [SachsenPortalU – The environment portal of Saxony](#)
- [Umweltportal Saarland – The environment portal of Saarland](#)
- [MetaVer – The metadata consortium of Hamburg, Bremen, Mecklenburg- Western Pomerania, Saxony-Anhalt and Brandenburg](#)
- [UIS-MV – The environmental information system of Mecklenburg-Western Pomerania](#)

[The portal “GovData – Das Datenportal für Deutschland” provides ready access to the data and documents of the Federation, Länder and municipalities. The portal is operated since early 2015 by Geschäfts- und Koordinierungsstelle GovData, which is hosted by the Hamburg finance authority. Now in regular operation, the portal underwent a fundamental relaunch in January 2016. Its core is a data catalogue. By means of the catalogue’s standardised metadata, i.e. a uniform characterisation, data and documents can be retrieved and accessed readily. The metadata provide links to the online provision of the respective data or document provider.](#)

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

Information provided by federal authorities:

~~PortalU—Environmental Portal for Germany (joint project of the federal and Land environmental authorities):~~

~~<http://www.portalu.de/>~~

~~Geoportal Deutschland (geoportal.de): <http://geoportal.de> www.geoportal.de~~

~~GovData – The data portal for Germany: www.govdata.de/~~

Federal Government Environmental Report 2015:

http://www.bmu.de/strategien_und_bilanzen/doc/46768.php

Federal Environment Ministry publications:

<https://secure.bmu.de/service/publikationen/broschueren-bestellen/>

National dialogue process on sustainable consumption and production patterns:

<http://www.dialogprozess-konsum.de>

BMUB: Information on environment and health:

www.bmub.bund.de/themen/gesundheit-chemikalien/gesundheit-und-umwelt/

Action Programme Environment and Health (participating ministries: BMUB, BMG and BMELV): <http://www.apug.de>

BfN: Databases of information on nature conservation:

http://www.bfn.de/0501_db.html

BfN: Interactive mapping services showing on protected areas, riverine alluvial areas and landscapes:

http://www.bfn.de/0503_karten.html

[BfN: Implementation of the National Strategy on Biological Diversity:](http://www.biologischediversitaet.de)

<http://www.biologischediversitaet.de>

[BfN: Information on invasive species:](http://www.neobiota.bfn.de)

<http://www.neobiota.bfn.de>

[BfN: National Habitats Directive report:](http://www.bfn.de/0316_bericht2013.html)

www.bfn.de/0316_bericht2013.html

[BfN: National Birds Directive report:](http://www.bfn.de/0316_vsbericht2013.html)

www.bfn.de/0316_vsbericht2013.html

[BfN: Indicator report on the National Strategy on Biological Diversity:](http://www.biologischediversitaet.de/indikatoren_nbs.html)

www.biologischediversitaet.de/indikatoren_nbs.html

[BfN: Information on marine conservation:](http://www.bfn.de/0314_meeres-kuesten_naturschutz.html)

www.bfn.de/0314_meeres-kuesten_naturschutz.html

[BfN: Information provided by the BfN on nature ~~protection~~-conservation and health:](http://natgesis.bfn.de)

<http://natgesis.bfn.de>

~~[Implementation of the National Strategy on Biological Diversity:](http://www.biologischediversitaet.de)~~

~~<http://www.biologischediversitaet.de>~~

~~[Information on invasive species:](http://www.neobiota.bfn.de)~~

~~<http://www.neobiota.bfn.de>~~

Thru.de portal: Data and information on releases and transfers from industrial establishments and diffuse emissions, including data from the German PRTR:

<http://www.thru.de/>

Joint Substance Data Pool Federation/Länder (GSBL):

<http://www.gsbl.de>

Web service for the Dioxins Database of the Federation and the Länder:

www.dioxindb.de/

<http://www.pop-dioxindb.de/index.html>

Federal Environmental Specimen Bank:

<http://umweltprobenbank.de>

Data on the state of the environment in Germany provided by the UBA:

[http://www.umweltbundesamt-daten-zur-](http://www.umweltbundesamt-daten-zur-umwelt.de/umweltdaten/open.do.jsessionid=63595D185BF7DC360827188156B222B1)

[umwelt.de/umweltdaten/open.do.jsessionid=63595D185BF7DC360827188156B222B1](http://www.umweltbundesamt-daten-zur-umwelt.de/umweltdaten/open.do.jsessionid=63595D185BF7DC360827188156B222B1)

www.umweltbundesamt.de/daten#strap1/

Specialist database of the Federation and the Länder on the implementation of the Stockholm Convention on Persistent Organic Pollutants:

<http://www.pop-dioxindb.de/index.html>

www.dioxindb.de/

Geographic Information System for the Environment (GISU):

<http://gis.uba.de/GISUcatalog>

Information provided by the German Emissions Trading Authority at the UBA (DEHST) on emissions trading, including annual CO₂ emissions of participating companies:

http://www.dehst.de/DE/Emissionshandel/emissionshandel_node.html

~~[BfN: Information on marine conservation:](http://www.bfn.de/habitatmare/)~~

~~<http://www.bfn.de/habitatmare/>~~

Information on the EMAS Regulation:
www.bmub.bund.de/P399/; www.emas.de

Information on the Environmental Verification Committee at BMUB: www.emas.de;
www.uga.de

Database of environmental verifiers: www.dau-bonn.de

Database of organisations registered under EMAS: www.emas-register.de

~~<http://www.bmu.de/N2087/>~~

~~<http://www.emas.de> (BMU Environmental Verification Committee)~~

~~Federal Government *Environmental Report 2010*:~~

~~http://www.bmu.de/strategien_und_bilanzen/doc/46768.php~~

~~Federal Environment Ministry publications:~~

~~<https://secure.bmu.de/service/publikationen/broschueren-bestellen/>~~

~~National dialogue process on sustainable consumption and production patterns:~~

~~<http://www.dialogprozess-konsum.de>~~

Federal Institute for Risk Assessment (BfR):

<http://www.bfr.bund.de>

www.bfr.bund.de/de/start.html

Federal Maritime and Hydrographic Agency (BSH):

www.bsh.de/de/index.jsp

http://www.bsh.de/Vorlagen/ressourcen/nav_de/navigation2.jsp

Action Programme Environment and Health (participating ministries: BMU, BMG and BMELV):

<http://www.apug.de>

BMU: Information on environment and health:

<http://www.bmu.de/themen/gesundheits-chemikalien/gesundheits-und-umwelt/>

Federal Ministry of Health (BMG): Information on environment and health:

<http://www.bmg.bund.de/glossar-begriffe/t-u/umwelt-und-gesundheit.html>

BMZ: Education for sustainable development in schools:

<http://www.bmz.de/de/mitmachen/Schule/>

BMZ: Funding for development policy activities:

<http://www.engagement-global.de>

Geoportal of the Federal Radiation Protection Agency (BfS) for radioactivity measurement data:

www.imis.bfs.de/geozg

Information provided by the Länder:

Baden-Württemberg

Ministry of the Environment, Climate Protection and the Energy Sector: actively distributed environmental
Baden-Württemberg Environmental Portal:

<http://www.umwelt-baden-wuerttemberg.de>

Baden-Württemberg Land Institute for Environment, Monitoring and Nature Conservation

~~(LUBW) data and mapping service:~~

~~- <http://brsweb.lubw.baden-wuerttemberg.de>~~

~~information: <https://um.baden-wuerttemberg.de/de/service/service/teilhabe-am-umweltschutz/linkliste/>~~

~~-~~

~~Baden-Württemberg Environmental Portal: www.umwelt-bw.de/themen~~

~~Baden-Württemberg Land Institute for Environment, Monitoring and Nature Conservation~~

~~(LUBW) data and mapping service: <http://udo.lubw.baden-wuerttemberg.de>~~

~~Baden-Württemberg Energy Atlas: www.energieatlas-bw.de/~~

~~Baden-Württemberg Geoportal: <http://www.geoportal-bw.de/>~~

Bavaria

Environmental Object Catalogue for Bavaria:

<http://www.uok.bayern.de/>

Berlin

Berlin Digital Environmental Atlas:

<http://www.stadtentwicklung.berlin.de/umwelt/umweltatlas/>

Environmental information provided by the Senate Department for Urban Development and the Environment:

<http://www.stadtentwicklung.berlin.de/umwelt/>

Brandenburg

Brandenburg Land Environmental and Consumer Information System:

<http://www.luis-brandenburg.de/>

[Brandenburg Environmental Data Catalogue:](http://www.metaver.de)

www.metaver.de

Bremen

Bremen Environmental Information System:

<http://www.umwelt.bremen.de/>

Hamburg

Hamburg Environmental Information System:

<http://www.hamburg.de/umwelt>

Hamburg Metadata Catalogue:

[www.metaver.de/](http://www.metaver.de) <http://www.hmdk.de/>

Hesse

Hessian Environmental Atlas:

<http://atlas.umwelt.hessen.de/atlas/index-ic.html> <http://atlas.umwelt.hessen.de/atlas/>

Hessian Environmental Portal:

<https://umweltministerium.hessen.de> <https://hmuely.hessen.de/>

List of environmental information actively disseminated pursuant to Section 10 HUIG:

<https://umweltministerium.hessen.de/umwelt-natur/umweltrecht-und-mitteilungen>

https://verwaltung.hessen.de/irj/HMULV_Internt?cid=853b1be2da1200d98578de69a3435776

Lower Saxony

Environmental Data Catalogue for Lower Saxony:

<http://numis.niedersachsen.de/> <http://www.udk.niedersachsen.de>

Mecklenburg-Western Pomerania

Land Office for the Environment, Nature Conservation and Geology:

<http://www.lung.mv-regierung.de/>

North Rhine-Westphalia

NRW Local Environmental Data:

www.uvo.nrw.de~~<http://www.uvo.nrw.de>~~

~~Environmental Data Catalogue for North Rhine-Westphalia (via PortalU):~~

~~<http://www.portalu.de/ingrid-portal/portal/search-catalog/search-catalog-hierarchy.psm1>~~

~~[NRW Environmental Portal:](#)~~

~~www.umweltportal.nrw.de~~

Rhineland-Palatinate

Rhineland-Palatinate Environmental Information Portal:

<http://www.portalu.rlp.de>

Saarland

~~Environmental Data Catalogue for Saarland (via PortalU):~~

~~<http://www.portalu.de/ingrid-portal/portal/search-catalog/search-catalog-hierarchy.psm1>~~

~~[Environmental Portal for Saarland:](#)~~

~~<http://portalu.saarland.de/>~~

~~[Geoortal for Saarland:](#)~~

~~<http://geoportal.saarland.de>~~

Saxony

Environmental Information Portal for Saxony:

<http://www.PortalU.sachsen.de>

Saxony-Anhalt

Environmental Information Network for Saxony-Anhalt:

<http://www.umwelt.sachsen-anhalt.de>

~~Environmental Data Catalogue for Saxony-Anhalt (via PortalU):~~

~~<http://metaver.de/http://www.portalu.de/ingrid-portal/portal/search-catalog/search-catalog-hierarchy.psm1>~~

Schleswig-Holstein

Schleswig-Holstein Agricultural and Environmental Atlas:

<http://www.umweltdaten.landsh.de/atlas/script/index.php>

Thuringia

~~Environmental Data Catalogue for Thuringia (via PortalU):~~

~~<http://www.portalu.de/datenkataloge>~~

~~[Environmental Data Catalogue for Thuringia:](#)~~

~~www.thueringen.de/th8/tlug/uw_bericht/2012/umwelt_raum/umweltdatenkatalog/index.aspx~~

~~[Environmental Portal for Thuringia:](#)~~

~~www.umweltportal.thueringen.de/servlet/is/811/http://www.thueringen.de/th8/tlug/uw_bericht/2012/umwelt_raum/umweltdatenkatalog/index.aspx~~

Other information:

Blue Angel eco-label:

<http://www.blauer-engel.de>

Information on more than 400 labels and management standards:

<http://www.label-online.de>

Organic production logo:

www.oekolandbau.de/bio-siegel~~<http://www.bio-siegel.de/>~~

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:

Public participation in decisions on specific activities mentioned in Article 6 of the Convention has traditionally been regulated on a broad basis in German law, so that in terms of the implementation of the provisions of the Convention and Directive 2003/35/EC, only minor adjustments were required through the Act on Public Participation in Environmental Matters pursuant to Directive 2003/35/EC (Public Participation Act, *Öffentlichkeitsbeteiligungsgesetz*) of 9 December 2006. It should also be noted in this context that Germany has been a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) since 2002.

(a) (i) Under German law, many of the activities listed in Annex I to the Aarhus Convention are subject to the licensing procedure under Section 10 of the Federal Immission Control Act (*Bundes-Immissionsschutzgesetz* – BImSchG), which is elaborated in the Ninth Ordinance Implementing the Federal Immission Control Act (*Neunte Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes* – 9. BImSchV). This procedure safeguards the participation of the affected public in accordance with the provisions of Article 6 of the Convention. For ~~activities subject to the licensing of~~ nuclear ~~energy legislation~~ power plants, the same applies accordingly pursuant to Sections ~~2a and~~ 7 of the Atomic Energy Act (*Atomgesetz*) in conjunction with the Nuclear Licensing Procedure Ordinance (*Atomrechtliche Verfahrensverordnung*) and the provisions of the Act concerning the Search for and Selection of a Site for a Repository for Heat-Generating Radioactive Waste (Site Selection Act, *Gesetz zur Suche und Auswahl eines Standortes für ein Endlager für Wärme entwickelnde radioaktive Abfälle* – StandAG).

Major planning and infrastructure projects, such as the construction of airports, railway lines, motorways, express roads, waterways, ports, landfill sites, ~~high-voltage transmission lines~~ and pipeline systems, are subject to the so-called planning approval procedure, in which intensive public consultation is also prescribed as mandatory (cf. Section 73 of the federal Administrative Procedure Act (*Verwaltungsverfahrensgesetz* – VwVfG)). The Building Code (*Baugesetzbuch* – BauGB) also provides for public consultation during the establishment of all area development plans (Sections 3 and 4a BauGB).

~~Besides these specialised laws~~ In addition, the Federal Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung* – UVPG) provides for a public consultation process in the licensing of activities with substantial environmental impacts, which include the activities listed in Annex I of the Convention. Here, the UVPG sets a minimum standard which must always be met if the provisions of specialised law lag behind the requirements of the UVPG. Within their jurisdictions, the Länder have adopted regulations that correspond to those contained in the UVPG at federal level.³⁹

(ii) Both Annex 1 to the Fourth Ordinance Implementing the Federal Immission Control Act (~~*Verordnung über genehmigungsbedürftige Anlagen*~~ *Vierte Verordnung zur*

³⁹ For example, Section 1 of the Berlin Environmental Impact Assessment Act (UVPG Bln); Section 4 of the Bremen Environmental Impact Assessment Act (BremUVPG); Section 1 (1) of the Hamburg Environmental Impact Assessment Act (HmbUVPG); Section 5 (1) of the Mecklenburg-Western Pomerania Land Environmental Impact Assessment Act (LUVPG M-V); Section 5 of the Lower Saxony Environmental Impact Assessment Act (NUVPG); Section 1 (1) of the North Rhine-Westphalia Environmental Impact Assessment Act (UVPG NW); Section 3 of the Saarland Environmental Impact Assessment Act (SaarlUVPG); Section 4 (3) of the Saxony Environmental ~~Impact Assessment Act (SächsUVPG)~~ Impact Assessment Act (SächsUVPG); Sections 9 and 12 of the Saxony-Anhalt Environmental Impact Assessment Act (LUVPG SH); Section 4 of the Thuringian ~~Environmental Impact Assessment Act (ThürUVPG)~~.

~~Durchführung des Bundes-Immissionsschutzgesetzes~~— 4. BImSchV) and Annex I of the UVPG include a list of activities for which approval and/or environmental impact assessments are mandatory and which are not included in Annex I of the Convention. They are also subject to the procedure set forth in Section 10 BImSchG in conjunction with the Ninth Ordinance Implementing the Federal Immission Control Act or Sections 5 ff. UVPG, as appropriate.

- (b) The consultation process is fleshed out in more detail in, for example, Section 10 (3) and (4) BImSchG in conjunction with Sections 8 to 12 of the Ninth Ordinance Implementing the Federal Immission Control Act, and in Section 9 UVPG⁴⁰, which makes reference to Section 73 VwVfG. The process is illustrated as follows with reference to these norms. The competent authority must first give public notice of the project in the area where the installation is to be constructed (see, for example, the first sentence of Section 10 (3) BImSchG in conjunction with the first sentence of Section 8 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 9 (1a) UVPG). In this notice, the public must be provided, in particular, with the following information: details of the application including the type, scale and site of ~~and~~ the project, the type of possible decision, the competent authority, the procedure envisaged, details of the time period for public discussion and deadlines for the lodging of objections, and details of any consultation of the authorities and the public in other countries (see Section 9 (1) of the Ninth Ordinance Implementing the Federal Immission Control Act, and Section 9 (1a) and (1b) UVPG). Based on Section 27a VwVfG, which entered into force in 2013, in addition to giving public notice in the locally usual way all public notices and disclosed documents are also to be published on the website of the competent authority. The federal government is currently elaborating an amendment to the UVPG which will serve in particular to transpose Directive 2014/52/EU amending EIA Directive 2011/92/EU. An important innovation in this context is the strengthening of public participation through greater utilisation of electronic means of communication and through establishing central EIA portals at federal level and in the Länder.

~~The VwVfG was also revised in 2013, a step connected with the national discussion about improved public consultation in decision-making processes (which was triggered by controversies among the population concerning a number of large-scale projects). During the planning of projects with not merely insignificant impacts on the concerns of a large number of third parties, the new Section 25 (3) VwVfG provides for the authorities to seek to ensure that the project carrier informs the public concerned at an early stage about the aims of the project, the means by which they are to be realised and the foreseeable impacts, and that the public concerned has the opportunity to express its opinions and discuss the project (early public consultation). Furthermore, in this context, the new Section 27a VwVfG states that public notices and documents that are to be made accessible for examination should also be published on the website of the competent authority.~~

- (c) Under German legislation, the application and the supporting documents must be made available for public examination at the licensing authority and, if necessary, at other suitable locations such as in the municipalities affected, for a period of at least one month following the publication of such notices; any objections raised against the project may be lodged in writing with the competent authority up to two weeks after the expiry of the examination period.
- (d) ~~Subject to the above-mentioned Section 25 (3) VwVfG,~~ Under German legislation, the public consultation process must be initiated, at the latest, once the competent authority takes the view that the project application documents are complete. For projects which require an environmental impact assessment (EIA), this must also include a non-

⁴⁰ This citation corresponds to the UVPG as promulgated on 24 February 2010 and last amended by Act of 21 December 2015. In order to transpose Directive 2014/52/EU amending the EIA Directive, the federal government is currently preparing an amendment to the UVPG that will result in a re-numbering of its sections.

technical summary description of the documents. This ensures that the public has an adequate basis for effective consultation. At this point in time, no decision will have been taken by the competent authority on the project's eligibility for approval. For projects which require an EIA, there is also the option for the competent authority to call in expert witnesses, affected local authorities, neighbouring states, recognised environmental associations and other third parties – which may also include members of the public – to attend the scoping meeting at which the scope of the EIA will be determined.

In accordance with the new Section 25 (3) VwVfG introduced in 2013, during the planning of projects with not merely insignificant impacts on the concerns of a large number of third parties the authorities should furthermore seek to ensure that the project carrier informs the public concerned at an early stage about the aims of the project, the means by which they are to be realised and the foreseeable impacts, in order that the public concerned has the opportunity to express its opinions and discuss the project (early public consultation).

The special procedure established for the search for and selection of a site for a repository for heat-generating radioactive waste involves even more extensive public consultation under the provisions of Sections 9 and 10 StandAG. According to the legislation, it is mandatory to conduct public dialogues and public meetings, and to provide information, e.g. on the Internet, concerning the aims of the project, the means for and progress of its realisation, and its foreseeable impacts, combined with opportunities ~~for the public~~ to comment on this information.

- (e) A major contribution to the implementation of Article 6 (5) of the Convention has been made by the ~~multi-part~~ German IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue, which highlights the information, application and evaluation options for voluntary, multiparty dialogue on conflict resolution for sites with neighbourhood complaints.

~~It should also be noted that there is no need to identify the “public concerned” when German law provides for procedures which allow universal participation.~~

- (f) The requirements concerning the documents which must be made accessible for examination pursuant to Article 6 (6) of the Convention have been incorporated, for example, into Section 4a of the Ninth Ordinance Implementing the Federal Immission Control Act and Section 6 UVPG.

- (g) Under German law, at least the public concerned always has the opportunity to lodge written objections to the project with the competent authority. In addition, German law provides for procedures which allow universal participation, such as under Section 10 (3) BImSchG; in such cases there is no need to determine who belongs to the “public concerned”.

- (h) After the establishment of the requisite facts and participation of all actors, the authority must, on the basis of the overall findings of the administrative procedure, including the result of the public consultation, take a final decision. Appropriate consideration of the outcome of the public consultation process in the authority's decision is safeguarded, e.g. in relation to projects subject to the licensing procedure under immission control law, by Section 20 of the Ninth Ordinance Implementing the Federal Immission Control Act, and otherwise by the first sentence of Section 11 and Section 12 UVPG. The competent authority prepares, *inter alia*, a summary description and evaluation of the environmental impacts of the project, taking account of the opinions presented by the public, and these in turn must be considered in the project approval decision in the interests of effective precautionary action in the field of environmental protection.

- (i) The public must be informed, by means of public notice, of the approval or rejection of a project application. The decision is made available for public examination, with reasons for the decision being stated (see, for example, Section 21a of the Ninth

Ordinance Implementing the Federal Immission Control Act, and Section 9 (2) UVPG).

- (j) The competent authorities, according to the environmental laws applicable to them, must supervise compliance with the relevant legislation and review any licences granted at regular intervals (see, for example, Section 52 (1) to (1b) and Section 52a BImSchG). If necessary, the installation's operator may be issued with a subsequent order requiring them to upgrade their system. Section 17 (1a) BImSchG, in its wording applicable since 2013 (Gesetz zur Umsetzung der Richtlinie über Industrieemissionen), – regulates requires public participation in the event of subsequent orders prescribing new emission limits that replace a licence for installations covered by the Industrial Emissions Directive.
- (k) The public is also consulted on decisions on the deliberate release of genetically modified organisms into the environment: Section 18 (2) of the Genetic Engineering Act (*Gentechnikgesetz – GenTG*) prescribes a consultation procedure that must essentially satisfy the requirements of Section 10 (3 to 8) of the Federal Immission Control Act, unless a simplified procedure is conducted once the experience gained of releases of genetically modified organisms is sufficient to guarantee protection. The ~~content of the documents to be made available for examination is details of the consultation procedure are~~ defined in the Genetic Engineering Consultation Ordinance (*Gentechnik-Anhörungsverordnung*). The competent authorities must supervise the implementation of the Genetic Engineering Act (Section 25 GenTG) and may, in individual instances, give the orders necessary to eliminate established offences against this act or to prevent future offences of this kind (Section 26 (1) GenTG). Pursuant to Section 28a GenTG, the public must be informed of ~~these any enforceable~~ orders. The current German legislation on genetic engineering already complies with the provisions of the first amendment to the Convention (the “Almaty Amendment”). The Federal Republic of Germany adopted the Almaty Amendment with effect under international law on 20 October 2009.

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:

No information was provided under this heading.

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:

Under the UVPG, which entered into force in 1990, the obligation to carry out an EIA applies in principle to defence activities as well. In accordance with litera c of Article 6 (1) of the Convention, however, it may be decided, on a case-by-case basis, not to apply the provisions relating to EIA or public participation to proposed activities that serve defence purposes, if compelling grounds of defence or the fulfilment of international commitments so require. The Ordinance Implementing Section 3 (2) of the Act on Environmental Impact

Assessment in Relation to Defence Projects (*Gesetz über die Umweltverträglichkeitsprüfung bei Vorhaben der Verteidigung* – UVP-V Verteidigung) specifies in concrete terms the cases in which it is possible to dispense with an environmental impact assessment. According to Section 6 UVP-V Verteidigung, it is only possible to rule out an environmental impact assessment if a project has to be implemented without delay in order to avert an impending threat to the Federal Republic of Germany or visiting armed forces, or a project has to be implemented without delay for the purpose of conflict prevention and crisis management measures taken to fulfil NATO, EU or other international obligations. According to Section 5, public participation may be restricted in so far as this is required for reasons of confidentiality. The option to restrict public participation for the purposes of national defence has only been utilised in two EIA cases since 1990. In 2012, the non-application of the UVPG was initially envisaged in another case: however, it was decided to waive this following the conduct of legal remedy proceedings, and instead an EIA was initiated with public participation.

The further strengthening of public participation in decision-making procedures was an important political topic during the reporting period. ~~One outcome was the establishment of~~ Since 2012, a new directorate at the Federal Environment Ministry, ~~is~~ the first ~~organisational unit within the Ministry~~ to be concerned with “civic participation” across the board with the aim of anchoring-mainstreaming the topic more firmly in all areas of policy and, in this way, fostering a new culture of participation. The work of the division responsible for civic participation in environmentally relevant large-scale projects involves, *inter alia*, drawing up principles for high quality consultation processes, which is done in part on the basis of research projects. In this respect, the focus is on how the formal participation processes founded on Article 6 of the Convention can be meaningfully complemented with informal consultation processes.

In 2015 the BMUB and UBA published practical guidance for authorities setting out how to handle an additional participation of citizens, to an extent going beyond statutory requirements, during the planning and licensing of projects in the context of realising the German energy transition.⁴¹

In the Land of Schleswig-Holstein, the competent ministry and the transmission network operator have offered, and continue to offer, a range of dialogue events at an early time in the process of planning the transmission networks the installation or expansion of which is essential to the success of the energy transition. The purpose of these events is to improve acceptance of these spatially significant projects.

~~The desire to s~~Strengthened public participation has also been embodied, ~~in particular,~~ in the Act concerning the Search for and Selection of a Site for a Repository for Heat-Generating Radioactive Waste (StandAG), as set out above (XV d.). In July 2016 the German commission on the storage of high-level radioactive waste (Kommission „Lagerung hoch radioaktiver Abfälle“ – the Repository Commission) submitted its final report.⁴² In particular, the commission agreed on site selection criteria, criteria for weighing conflicting interests, and a comprehensive public participation procedure. Through these elements, the best possible site for radioactive wastes can be found in a selection procedure. The federal government will assess these proposals carefully. Directly following publication of the repository report, a public consultation on the Repository Commission’s report was organised in the summer of 2016. The online comments submitted in that process were discussed by the Environment Committee of the German Bundestag together with the members of the Repository Commission at a publicly-held expert panel meeting on

⁴¹ [www.bmub.bund.de/themen/forschung-foerderung/forschung/forschungs-und-entwicklungsberichte/?tx_cpsbmuforschung_pi1\[sField\]\[Fkz\]=&tx_cpsbmuforschung_pi1\[sField\]\[Title\]=Konfliktdialog&tx_cpsbmuforschung_pi1\[selectBox\]\[Categories\]=&tx_cpsbmuforschung_pi1\[selectBox\]\[BeginYear\]=&tx_cpsbmuforschung_pi1\[selectBox\]\[EndYear\]=](http://www.bmub.bund.de/themen/forschung-foerderung/forschung/forschungs-und-entwicklungsberichte/?tx_cpsbmuforschung_pi1[sField][Fkz]=&tx_cpsbmuforschung_pi1[sField][Title]=Konfliktdialog&tx_cpsbmuforschung_pi1[selectBox][Categories]=&tx_cpsbmuforschung_pi1[selectBox][BeginYear]=&tx_cpsbmuforschung_pi1[selectBox][EndYear]=)

⁴² www.bundestag.de/blob/434430/35fc29d72bc9a98ee71162337b94c909/drs_268-data.pdf

28 September 2016.

The BMUB is currently having a German translation made of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters that were taken note of by the 5th Meeting of the Parties to the Aarhus Convention in June 2014. Upon completion, the German translation will be made available to the Länder.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

Information provided by the ~~BMUB~~BMUB:

<http://www.bmub.bund.de/buergerbeteiligung/>

<http://www.bmu.de/themen/umweltinformation-bildung/umweltinformation/zugang-zu-umweltinformationen>

<http://www.bmu.de/umweltvertraeglichkeitspruefung/aktuell/aktuell/6364.php>

Information on the IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue:

[www.bmub.bund.de/bmub/parlamentarische-](http://www.bmub.bund.de/bmub/parlamentarische-vorgaenge/detailansicht/artikel/nachbarschaftsdialo-g-freiwilliges-instrument-zur-konfliktloesung/)

[vorgaenge/detailansicht/artikel/nachbarschaftsdialo-g-freiwilliges-instrument-zur-konfliktloesung/](http://www.bmub.bund.de/bmub/parlamentarische-vorgaenge/detailansicht/artikel/nachbarschaftsdialo-g-freiwilliges-instrument-zur-konfliktloesung/) and

<http://impel.eu/?s=neighbourhood+dialogue>

EIA/SEA procedures in the nuclear energy sector:

www.bmub.bund.de/themen/atomenergie-strahlenschutz/nukleare-sicherheit/internationales/uvpsup/

Information provided by the Federal Environment Agency (UBA):

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/beteiligung>

www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen

Information on the IMPEL project Informal Resolution of Environmental Conflicts by Neighbourhood Dialogue:

<http://www.bmu.de/umweltinformation/downloads/doc/36822.php>

<http://impel.eu/?s=neighbourhood+dialogue>

BfN: Interactive maps showing Natura 2000 sites for parties applying to release GMOs:

http://www.bfn.de/0503_einstieg_gvo.html

Information provided by the BMWi:

www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/buergerdialog.html

<http://www.bmwi.de/DE/Themen/Energie/Energietraeger/kernenergie-in-deutschland,did=156032.html>

<http://www.bmwi.de/DE/Themen/Energie/Energietraeger/kernenergie-in-deutschland,did=199078.html>

Federal Institute for Geosciences and Natural Resources (BGR):

http://www.bgr.bund.de/DE/Home/homepage_node.html

Background information provided by the Federal Nature Conservation Agency (BfN) on agricultural genetic engineering and nature conservation:

http://www.bfn.de/0301_gentechnik.html

Information provided by the Nature and Biodiversity Conservation Union (NABU):
<https://www.nabu.de/>

Information provided by the Independent Institute for Environmental Issues (UfU):
www.aarhus-konvention.de/ ~~http://www.aarhus-konvention.de/~~

Information on genetic engineering provided by the Federal Office of Consumer Protection and Food Safety:

www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html
~~http://www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html~~

[Information provided by the Federal Ministry of Education and Research \(BMBF\) on biosafety research in the field of genetically modified plants:
https://www.bmbf.de/pub/Biologische_Sicherheitsforschung.pdf](https://www.bmbf.de/pub/Biologische_Sicherheitsforschung.pdf)

[Information service on new developments in plant research:
www.pflanzenforschung.de/de/startseite/](http://www.pflanzenforschung.de/de/startseite/)
~~General and specific information on genetically modified organisms:
http://www.transgen.de~~

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

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

Answer:

The participation of the public during the preparation of plans and programmes relating to the environment was legally safeguarded through the transposition into national law of European Directives 2001/42/EC and 2003/35/EC, which, *inter alia*, bring European law into line with the provisions of the Convention on public participation in decision-making processes in environmental matters. At federal level, the ~~provisions Directives~~ have been transposed by means of the enactment of the following legislation:

- Act Introducing a Strategic Environmental Assessment and Implementing Directive 2001/42/EC (*Gesetz zur Einführung einer Strategischen Umweltprüfung und zur Umsetzung der Richtlinie 2001/42/EG – SUPG*) of 25 June 2005. Through this legislation, the provisions on SEA, including those dealing with public consultation, and a list of plans and programmes for which SEA is mandatory, were integrated into the existing UVPG.
- Act Adapting the Federal Building Code to EU Directives (*Gesetz zur Anpassung des Baugesetzbuchs an EU-Richtlinien – EAG Bau*) of 24 June 2004, which, by adapting the existing rules on public consultation, implemented the SEA Directive in the sphere of area development planning.
- Act on Public Participation (*Öffentlichkeitsbeteiligungsgesetz*) of 9 December 2006. This introduced public participation for certain plans and programmes under EU law insofar as these do not already require an SEA under the SEA Directive, e.g. air quality

plans or waste management plans.

Land law contains corresponding provisions for plans and programmes undertaken at Land level.

Under the SEA provisions in the UVPG, public consultation is undertaken in a manner similar to that applicable to EIAs (Section 14i UVPG makes reference to Section 9 UVPG); the same applies to transboundary public consultation (Section 14j UVPG makes reference to Section 9a UVPG).

By means of a public notice, the public must first of all be provided with relevant information on the consultation process in conformity with the provisions of Article 6 (2) of the Convention. Furthermore, the draft plan or programme, environmental report and other relevant documents must be made available for public examination at an early stage for an appropriate period of no less than one month (Section 14i (2) UVPG). The places where the information is made available for examination must be determined in a way which ensures effective participation by the public concerned. The public concerned has the opportunity, within an appropriate period of no less than one month, to state its views. This ensures that the public affected or likely to be affected by the decision-making process, or which has an interest in the decision-making process, can look in detail at the plans and express a view at an early stage in the process. The outcome of this public consultation process must be given due consideration in the further procedure to establish or amend the plan or programme (Section 14k UVPG).

A similar procedure is envisaged for plans and programmes which fall within the scope of the Act on Public Participation, and for area development plans alongside the formal public consultation process (making available of documents for public examination). Under the Building Code (BauGB), too, the public must generally be consulted at an early stage; among other things, the public must be informed of the general objectives, purposes and likely impacts of the plans, and given an opportunity for the expression of views and discussion (Section 3 BauGB).

In this context, it should be noted that since February 2007 Germany has also been a Party to the Protocol on Strategic Environmental Assessment (SEA Protocol) to the Espoo Convention, which entered into force on 11 July 2010. Article 14 of the EU Water Framework Directive should also be mentioned; this also provides for extensive public consultation, including the promotion of active participation, and is transposed by Section 83 (4) and Section 85 of the Federal Water Act (*Gesetz zur Ordnung des Wasserhaushalts – WHG*) of 31 July 2009. Similar provisions are included in Articles 9 and 10 of the European Flood Risk Management Directive and Article 19 of the Marine Strategy Framework Directive, which are transposed by Section 79 and Section 45i WHG.

In connection with the national discussion in Germany about strengthening public participation, mention is to be made of ~~inter alia~~ two specific pieces of legislation that have been used to introduce early and repeated public participation in phased planning procedures during particular, important planning and approval processes. This relates firstly to the planning of extra-high-voltage power lines between Länder and across national borders under the Grid Expansion Acceleration Act adopted in 2011 (*Netzausbaubeschleunigungsgesetz Übertragungsnetz – NABEG*, supplemented by provisions in the Energy Industry Act (*Energiewirtschaftsgesetz – EnWG*)), and secondly to the search for and selection of a site for a repository for heat-generating radioactive waste under the Site Selection Act (StandAG), which entered into force in the summer of 2013 and has been discussed above.

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:

In Germany, the preparation of policies relating to the environment, in the sense of political programmes or strategies, is not undertaken in accordance with a specific procedure in which the public could participate; stakeholders are involved in policy formulation as is appropriate.

In sustainability policy, in particular, public participation has become standard practice for drawing up progress reports. However, in the preparation of legislative procedures by the federal or Land governments which are intended to enshrine policies in law, there is scope for representatives of the public with appropriate expertise, notably the associations, to voice their opinions and discuss the draft legislation with the competent authority. Norms governing this consultation requirement are enshrined in the Joint Rules of Procedure of the Federal Ministries (*Gemeinsame Geschäftsordnung der Bundesministerien*), for example. In addition, the draft legislation is often made available on the Internet for the purposes of public information even at this early stage. The same procedure also applies to the enactment of secondary legislation. In some cases, the law prescribes consultation with the groups concerned as mandatory (see also the comments on Article 8).

In environmental and urban development policy, many decisions need to be taken that affect various interests and often have substantial impacts of the living conditions of citizens. It was therefore agreed in the current coalition agreement that the participation of the public in issues of environmental policy relevance is to be strengthened, and that such participation is to be expanded in the field of urban development. Various projects have shown how important it is to involve the public.

The BMUB also carries out participation procedures itself. Before drafting its 2050 climate action programme, the BMUB conducted a nine-month participation process. The Länder, municipalities, associations and the wider public were invited to propose strategic actions by which to cut greenhouse gas emissions by 80 to 95% by 2050 from the 1990 baseline. This resulted in a catalogue containing 97 proposed actions on which all four target groups voiced their views. The catalogue was handed over to Federal Environment Minister Barbara Hendricks in mid-March 2016. The proposals were subsequently taken into account when drafting the action programme.

The BMUB also participated in “World Wide Views”, a global citizen consultation round. On 6 June 2015 some 10,000 people in 96 countries debated climate protection simultaneously during one day. In Berlin, too, a climate dialogue was convened with BMUB support during which 71 people discussed their views. The individuals invited were selected at random in order to attract as diverse a range of opinions as possible and mirror a representative section of society. The results were presented directly to the UNFCCC subsidiary body meeting in Bonn and to the German-French session of the Bundestag Environment Committee on 11 June 2015.⁴³

A further nationwide citizen consultation was held in the early summer of 2015 while updating ProgRess II, the German resource efficiency programme. This citizen dialogue took place in both online and offline formats. Its purpose was to capture the everyday perspective on the issue of “living with minimum resource consumption”. The approaches formulated in the course of the dialogue were taken up in ProgRess II. Key questions were: What do citizens consider particularly important for a resource-conserving future? Where

⁴³ www.bmub.bund.de/P3930/.

do they feel a need for action? Which challenges do they see? An online dialogue was carried out in parallel with citizen workshops. Subsequently, the various outcomes were combined in a package of “citizen advice”. This package was included as an annex to the ProgRess II progress report.

Finally, when elaborating its third environmental programme the BMUB carried out a citizen consultation with six citizen councils and six citizen forums in a range of German cities. An online council and online environmental forum were convened in parallel. The discussions and outcomes of this process were taken up as a dedicated chapter in the new BMUB environmental programme. The final report was submitted to the Federal Minister on 10 September 2016.

XXI. Obstacles encountered in the implementation of article 7

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

Answer:

No information was provided under this heading.

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:

To support the implementation of the above-mentioned provisions of the UVPG, a research project was carried out with the aim of developing guidelines on strategic environmental assessment.⁴⁴ These guidelines ~~will~~ help ensure that the assessment process, including public consultation, is demanding in substantive terms and is conducted effectively.

For certain types of plans and programmes, e.g. area development planning, a number of research projects have already been carried out and guidelines produced. A selection is available on the following websites.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

[National Sustainability Strategy of the German Federal Government:
www.bundesregierung.de/Webs/Breg/DE/Themen/Nachhaltigkeitsstrategie/_node.html](http://www.bundesregierung.de/Webs/Breg/DE/Themen/Nachhaltigkeitsstrategie/_node.html)

[Information provided by the BMUB:
www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungen-uvpsup/kurzinfo/](http://www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungen-uvpsup/kurzinfo/)

[Guidelines on strategic environmental assessment:
www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungen-uvpsup/kurzinfo/](http://www.bmub.bund.de/themen/strategien-bilanzen-gesetze/umweltpruefungen-uvpsup/kurzinfo/)

⁴⁴ www.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Umweltpruefungen/sup_leitfaden_lang_bf.pdf

uvpsup/strategien-umweltpruefungen-uvp-sup-download/artikel/leitfaeden-zu-uvp-und-sup/?tx_ttnews%5BbackPid%5D=881

BMUB: Environmental dialogue on the National Sustainability Strategy:
<http://www.bmu.de/themen/strategien-bilanzen-gesetze/nachhaltige-entwicklung/erfolgskontrolle-und-weiterentwicklung/>

BMUB: Citizen participation: www.bmub.bund.de/buergerbeteiligung

Information provided by the UBA:

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/beteiligung>

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen>

Internet site of the Association for the Assessment of Environmental Impacts (German EIA Association), which has also established a Working Group on Strategic Environmental Assessment: <http://www.uvp.de/de/>

Information by the Federal Nature Conservation Agency (BfN) on assessment procedures in relation to the EU Habitats Directive: <http://ffh-vp-info.de>

Information provided by the BMWi:

www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html

www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html

Information provided by the BNetzA:

www.netzausbau.de/cln_1931/DE/Home/home_node.html

Information provided by the Federal Institute for Geosciences and Natural Resources (BGR): www.bgr.bund.de/DE/Home/homepage_node.html

Information provided by the Federal Maritime and Hydrographic Agency (BSH):

www.bsh.de/de/Meeresnutzung/Wirtschaft/Windparks/Windparks/Literatur.jsp

Guidelines of the Land Mecklenburg-Western Pomerania for Municipalities, Planners and the Authorities, as well as for the Public, on Implementing Environmental Impact Assessments in Area Development Planning:

www.wm.mv-regierung.de/arbmdoku/PR_inhalt_Umweltpruefung.pdf

Information provided by the BMU:

<http://www.bmu.de/umweltvertraeglichkeitspruefung/kurzinfo/doc/6361.php>

Guidelines on strategic environmental assessments

<http://www.bmu.de/umweltvertraeglichkeitspruefung/downloads/doc/43950.php>

Information provided by the UBA:

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltrecht/beteiligung>

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/umweltpruefungen>

Internet site of the Association for the Assessment of Environmental Impacts (German EIA Association), which has also established a Working Group on Strategic Environmental Assessment:

<http://www.uvp.de/>

Guidelines of the Land Mecklenburg-Western Pomerania for Municipalities, Planners and the Authorities, as well as for the Public, on Implementing Environmental Impact Assessments in Area Development Planning:

http://www.wm.mv-regierung.de/arbmdoku/PR_inhalt_Umweltpruefung.pdf

~~BMU: Environmental dialogue on the National Sustainability Strategy:
<http://www.bmu.de/themen/strategien-bilanzen-gesetze/nachhaltige-entwicklung/erfolgskontrolle-und-weiterentwicklung/>~~

~~Federal Government National Sustainability Strategy:
<http://www.nationale-nachhaltigkeitsstrategie.de>~~

~~Information provided by the BMWi:
<http://www.bmwi.de/DE/Themen/Energie/stromnetze.html>
<http://www.bmwi.de/DE/Themen/Energie/Stromnetze/stromnetze-der-zukunft.html>
<http://www.bmwi.de/DE/Themen/Energie/Energietraeger/kernenergie-in-deutschland,did=156032.html>
<http://www.bmwi.de/DE/Themen/Energie/Energietraeger/kernenergie-in-deutschland,did=199078.html>~~

~~Information provided by the BNetzA
http://www.netzausbau.de/c/m_1931/DE/Home/home_node.html~~

~~Federal Institute for Geosciences and Natural Resources
http://www.bgr.bund.de/DE/Home/homepage_node.html~~

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:

German environmental law provides for broad stakeholder participation prior to the adoption of secondary legislation. The stakeholder groups ~~concerned~~involved (in particular, representatives – to be selected by the authorities – of the academic community, environmental groups and other affected persons and participating businesses) are regularly consulted before the adoption of executive regulations; see, for example, the third sentence of Section 4 (1) and Section 51 BImSchG, Section 21 (4) UVPG, Sections 5 and 20 of the Federal Soil Conservation Act (*Bundes-Bodenschutzgesetz* – BBodSchG), Sections 8 and 68 of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschaftsgesetz* – KrWG), and Section 17 of the Chemicals Act (*Chemikaliengesetz* – ChemG).

As regards the preparation of draft legislation, in general, the Joint Rules of Procedure of the Federal Ministries provide for consultation with associations during the preparation of drafts, as an element of regulatory impact assessment. In parallel, draft legislation is increasingly being published on the Internet and the opportunity to comment offered. The same applies accordingly for the Land level. When it comes to the expansion of Germany's power grids, a federal act governs the multiple forms of "general" public consultation on plans and reports (Scenario Framework Plan, Grid Development Plan, Environmental Report) that paved the way for the draft Federal Requirements Plan Act (*Bundesbedarfsplangesetz* – cf. Sections 12a ff. EnWG).

In some cases, German law also allows the "general" public to participate in processes that

lead to the enactment of secondary legislation. Such opportunities exist, for example, under Land nature conservation law in the designation of conservation areas,⁴⁵ under Land water law in the designation of water conservation areas, and in some cases with regard to other protected areas,⁴⁶ as well as under Land soil conservation law in the designation of soil contamination areas.⁴⁷

XXV. Obstacles encountered in the implementation of article 8

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

Answer:

No information was provided under this heading.

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:

No information was provided under this heading.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

⁴⁵ See, for example, Section 74 (2) of the Baden-Württemberg Nature Conservation Act (NatSchG B-W), Section 9 (2) of the Brandenburg Nature Conservation Act (BbgNatSchG), Section 15 (2) of the Mecklenburg-Western Pomerania Nature Conservation Act (NatSchG M-V), [Section 19 \(2\) of the Schleswig-Holstein Nature Conservation Act \(LNatSchG SH\)](#).

⁴⁶ See, for example, Sections 41 and 58 of the Bremen Water Act (BremWG), Section 91 (1) of the Lower Saxon Water Act (NWG), Section 122 (2) of the Mecklenburg-Western Pomerania ~~Land Water Act~~ [Land Water Act](#) (LWaG M-V), Section 130 (2) of the Saxon Water Act (SächsWG), [Section 124 \(2\) of the Schleswig-Holstein Land Water Act \(LWG SH\)](#).

⁴⁷ Cf., for example, Sections 7 ff. of the Bremen Soil Conservation Act (BremBodSchG).

BMUB:
www.bmub.bund.de/themen/strategien-bilanzen-gesetze/gesetze-verordnungen/

BfN:
www.bfn.de/0320_gesetzgebung.html und www.bfn.de/0320_landesgesetze.html

BSH (on behalf of the Federation and Länder) on public participation in reporting on the implementation of the EU Marine Strategy Framework Directive:
www.meeresschutz.info/

BMWi: Information on grid expansion:
www.bmwi.de/DE/Themen/Energie/netze-und-netzausbau.html

BMWi: Information on public participation in grid expansion:
www.bmwi.de/DE/Themen/Energie/Netze-und-Netzausbau/stromnetze-der-zukunft.html

Information provided by the BNetzA:
www.netzausbau.de/cln_1931/DE/Home/home_node.html

Information provided by the German transmission grid operators:
www.netzentwicklungsplan.de/

BMI:

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:

In Germany, pursuant to Article 19 (4) of the Basic Law (GG), should any person's rights be violated by a public authority, that person may have recourse to the independent courts. The relevant procedure is determined primarily by the Code of Administrative Court Procedure (*Verwaltungsgerichtsordnung – VwGO*).

- (a) (i) At federal level, Section 6 UIG⁴⁸ transposed Directive 2003/4/EC on public access to environmental information, which in turn integrated Article 9 (1) of the

⁴⁸ Section 4 LUIG B-W; Article 9 BayUIG; Section 3 BbgUIG; Section 1 HmbUIG in conjunction with the UIG; Section 9 HUIG; Section 4 UIG M-V; Section 4 NUIG; Section 3 UIG NRW; Section 6 ~~LUIG-RPFL~~TranspG RPF; Section 6

Convention into European law. Section 6 (1) of the Environmental Information Act (UIG) adopted at federal level provides for access to the administrative courts in the event of disputes under the UIG. Similar legal provisions have been adopted by the Länder.

- (ii) With regard to the additional opportunity, provided for in Article 9 (1) (2) of the Convention, of access to an expeditious review procedure established by law that is free of charge or inexpensive, Section 6 UIG differentiates as to whether the body required to furnish the information is a public authority or a person in private law. In the event of the refusal of a request for information by a public authority, it is possible to initiate internal administrative objection proceedings (*verwaltungsinternes Widerspruchsverfahren*) under Section 68 ff. VwGO. This ensures that the matter is reviewed by a separate body, namely the “objection authority” which is responsible for dealing with the objection, or in cases in which the refusal comes from a supreme ~~or higher federal or Land~~ authority, by this authority itself. In the event of a refusal by a person under private law who is required to furnish information, the applicant may, pursuant to Section 6 (3) and (4) UIG, request a review of the refusal by the authority required to furnish the information.
- (iii) Point 1 of Section 121 VwGO expressly enshrines in statute the binding effect of final judgements on the parties, which therefore also includes the authority which is the subject of the complaint. In any case, in accordance with the rule-of-law principle enshrined in Article 20 (3) of the Basic Law (GG), the executive is bound by both statutory legislation and other law.

Under the second sentence of Section 117 (1) VwGO, judgments by the administrative courts must be made in writing. If a request for environmental information is refused by the authority required to furnish such information, the refusal must then be made in writing if the request was made in writing or if the applicant so requests (Section 5 (2) UIG).

- (b) In accordance with the Basic Law (GG), anyone who ~~can~~ asserts that their rights may have been violated by the decision of a public agency may have recourse to the courts (Section 42 (2) VwGO).

Article 9 (2) of the Aarhus Convention and the provisions of Directive 2003/35/EC were enacted in German law by means of the Environmental Appeals Act (*Umwelt-Rechtsbehelfsgesetz – UmwRG*) of 7 December 2006. Pursuant to Section 2 (1) UmwRG, domestic and foreign associations that are recognised pursuant to Section 3 UmwRG may, without needing to claim that their own rights have been violated, seek remedy under the Code of Administrative Court Procedure if the following conditions apply: under the currently still applicable UmwRG the association must demonstrate that:

- (1) the contested decision by the public agency violates statutory provisions that protect the environment and could be of importance for the decision;⁴⁹
- (2) its remit of promoting the aims of environmental protection, as defined in its statutes, is affected by the decision;
- (3) it was entitled to participate in a procedure under sentence 1 of Section 1 (1) of the

~~SaarUIGSUIG~~; Section 9 SächsUIG; Section 2 UIG LSA; Section 7 IZG SH; Section 6 ThürUIG.

⁴⁹ The previous additional criterion of Section 2 (1) (1) UmwRG for the options for legal remedy open to environmental associations that the decision being appealed against “violates statutory provisions that [...] establish individual rights” was not in conformity with EU law; the UmwRG was adapted accordingly at the beginning of 2013.

~~Furthermore, proceedings on the implementation of Article 9 of the Convention in the Federal Republic of Germany are pending before the Aarhus Convention Compliance Committee. Further proceedings on other detailed questions that pertain to access to courts are pending before the ECJ (Case C-72/12 – Altrip) and the European Commission (CHAP 2007/4267).~~

Environmental Appeals Act and stated its opinion in that matter in accordance with the applicable statutory provisions or, contrary to the applicable statutory provisions, was not given an opportunity to state its opinion.

The 5th Meeting of the Parties to the Aarhus Convention endorsed with its Decision V/9h of 2 July 2014 the finding of the Convention's Compliance Committee of 20 December 2013 (ACCC/C/2008/31), according to which Germany's transposition into national law of Article 9 para 2 of the Convention (and of Article 9 para 3 of the Convention; on this see (c) below) is in contravention of international law in one point. It follows that the current requirement in German law within the scope of application of Article 9 para 2 of the Convention that to be able to file appeal an appellant needs to assert that the challenged decision contravenes provisions "serving the environment" must be removed. To this end the Federal Government adopted a Cabinet draft act on 22 June 2016 that transposes this demand. The draft is now before parliament; the statutory amendments are supposed to enter into force within 2016.

Furthermore, the European Court of Justice ruled on 15 October 2015 (C-137/14) that the German provisions precluding factual challenges in court proceedings represent a restriction for which there is no base in Article 11 of Directive 2011/92 and Article 25 of Directive 2010/75. The corresponding provisions of German law are therefore also repealed by the current draft act amending the UmwRG. In the future – as explicitly permitted by the European Court of Justice – challenges can only be rejected if they were unreasonable submitted abusively or in bad faith when first raised in court.

Furthermore, proceedings on the implementation of Article 9 of the Convention in the Federal Republic of Germany are pending before the Aarhus Convention Compliance Committee. Further proceedings on other detailed questions that pertain to access to courts are pending before the ECJ (Case C 72/12 – Altrip) and the European Commission (CHAP 2007/4267). Pursuant to Section 1 (1), the Environmental Appeals Act applies to all legal remedies against the types of decision enumerated in the Act⁵⁰ and thus covers, and in some ways extends beyond, all activities listed in Annex I of the Aarhus Convention; Section 1 (1) UmwRG will be expanded by the current draft act in line with the Decision by the 5th Meeting of the Parties to the Aarhus Convention (see above; see also (c) below). Furthermore, Section 1 (1) UmwRG also allows appeals in the event that, contrary to applicable legal provisions, no decision has been taken on a project which has been implemented or is ongoing.

An association may on principle only have recourse to the courts if it has previously been recognised. According to Section 2 (2) UmwRG, an association that has not been recognised may also submit applications for legal remedy within the meaning of Section 2 (1) UmwRG if, in accordance with point 1 of the first sentence of Section 2 (2) UmwRG, it fulfils the preconditions for recognition when it submits the application for legal remedy, it has submitted an application for recognition (point 2) and no decision on its recognition has yet been made for reasons that are not the responsibility

⁵⁰ The scope of application of the Environmental Appeals Act (UmwRG), defined in Section 1, encompasses: Decisions as defined in Section 2 (3) of the Federal Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung – UVPG*) concerning the admissibility of projects for which there may be an obligation to conduct an environmental impact assessment pursuant to the federal EIA Act, the Ordinance on the Assessment of Environmental Impacts of Mining Projects (*Verordnung über die Umweltverträglichkeitsprüfung bergbaulicher Vorhaben*) or statutory provisions of the Länder; and permits for installations that are designated with the letter G in Column c of Annex 1 to the Fourth Ordinance Implementing the Federal Immission Control Act (Ordinance on Installations Requiring a Permit, *Verordnung über genehmigungsbedürftige Anlagen – 4. BImSchV*) and therefore require a permit issued after public consultation, decisions pursuant to Section 17 (1a) of the Federal Immission Control Act (*Bundes-Immissionsschutzgesetz – BImSchG*), licenses pursuant to Section 8 (1) of the Federal Water Act for uses of waters that are associated with a project that falls under Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast) (OJ 334, 17 December 2010, p. 17), and planning approval notices (*Planfeststellungsbeschlüsse*) for landfill sites pursuant to Section 35 (2) of the Closed Substance Cycle and Waste Management Act (KrWG). These provisions cover and in some cases extend beyond the activities listed in Annex 1 of the Convention. Furthermore, decisions taken pursuant to the Environmental Damage Act (*Umweltschadensgesetz*) fall within the scope of the UmwRG.

of the association (point 3). There is a special arrangement, in particular for foreign environmental associations, under which the satisfaction of the precondition specified in point 3 is presumed by statute (second sentence of Section 2 (2) UmwRG). Recognition is pronounced by the UBA or competent bodies in the Länder, provided that the legal criteria for recognition are fulfilled (see Section 3 UmwRG).

Apart from this, the nature conservation law of the federation and the Länder has opened up further-reaching options for nature conservation associations to take legal action for a long time now. In accordance with Section 64 (1) Federal Nature Conservation Act (*Bundesnaturschutzgesetz* – BNatSchG), such associations may submit applications for legal remedy under the VwGO against exemptions from prohibitions and requirements intended for the protection of nature protection areas, national parks and other conservation areas within the framework laid down by Section 32 BNatSchG, against planning approval notices concerning projects that are associated with encroachments on nature and landscapes and do not already fall under the UmwRG, and against planning licenses (*Plangenehmigungen*), in so far as provision is made for public consultation, without having to prove that their own rights are being infringed. In addition to this, the Länder may permit applications for legal remedy in further procedures for the implementation of provisions in Land law (Section 64 (3) BNatSchG). Some Länder have made use of this option, so expanding the opportunities nature conservation associations have to take legal action.⁵¹ This is predicated on a formal recognition of the association, which is pronounced by the UBA in agreement with the BfN or by the Länder in accordance with Section 3 Environmental Appeals Act.

With its ruling of 7 November 2013 the European Court of Justice had already found in case C-72/12 (Altrip) that with regard to a transitional provision the UmwRG was not compatible with the transposition deadline for Article 10a of Directive 85/337/EEC, the current Article 11 of Directive 2011/92/EU (the EIA Directive of the EU). The ruling further contained for remedies pursuant to Article 11 EIA Directive, i.e. remedies with the scope of Article 9 para 2 of the Aarhus Convention, indications and principles concerning judicial reviewability of procedural errors and the preconditions under which such errors establish a right to claim in court that a decision be revoked. In response, the Bundestag amended the transitional provision accordingly by Act of 20 November 2015; in the newly worded Section 4 (1 to 1b) UmwRG the various consequences of errors are clarified. The Act entered into force on 26 November 2015.

The German commission on the storage of high-level radioactive waste (*Kommission „Lagerung hoch radioaktiver Abfälle“*) mentioned above under (XVII.) also made several proposals, in its final report, on remedies against acts by public authorities in connection with repository site selection and construction. The Federal Government will assess these proposals carefully.

- (c) According to Decision V/9h of 2 July 2014 of the 5th Meeting of the Parties to the Aarhus Convention Germany has also failed to sufficiently meet its commitments under international law with regard to Article 9 para 3 of the Convention: in many of its sectoral laws Germany has not ensured the standing of environmental associations to challenge acts or omissions of public authorities or private persons which contravene provisions of national law relating to the environment.

The current draft Act described in (b) above also transposes this part of the Decision into German law. In future, environmental associations will have standing to initiate a judicial review of the following acts or omissions with regard to whether they

⁵¹ Cf. Section 46 of the Berlin Nature Conservation Act (NatSchG Bln), Section 37 of the Brandenburg Nature Conservation Act (BbgNatSchAG), Section 30 (5) of the Mecklenburg-Western Pomerania Nature Conservation Act (NatSchAG M-V) and Section 58 of the Saxon Nature Conservation Act (SächsNatSchG).

contravene provisions of law relating to the environment:

- Decisions on the approval of plans and programmes subject to SEA, unless such plans and programmes were adopted by act of parliament⁵².
- approval decisions serviced as administrative act and as contract under public law for projects that do not already now fall within the scope of the UmwRG, and
- administrative acts concerning monitoring or supervisory measures that serve compliance with environmentally related provisions of federal or Land law.

Germany, in accordance with Article 9 (3) of the Convention, has ~~a whole package of~~ further effective mechanisms made available by civil, criminal and administrative law, enabling individuals and associations of individuals to enforce compliance with the environmental provisions of German law and to petition against any violations of such provisions by public agencies or private persons.

Civil law establishes the right to sue third parties in the civil courts in order to obtain suspensory or prohibitory action or compensation for damages when such legal rights of third parties as enjoy absolute protection are impaired, including any impairment of such rights by a violation of environmental provisions intended to protect those concerned.

Criminal law contains a number of provisions to protect the environment which penalise impairments of the environmental media (water, soil, air, flora and fauna).

Generally, anyone person (and in some cases this may include associations) who can assert that their rights have been violated by the decision of a public agency or the failure of a public agency to act ~~(and in some cases this may include associations)~~ may seek remedy in the administrative courts. This also applies if a public agency omits to take measures against third parties who violate environmental rules.

In Germany, the protection of subjective rights provides a framework for censuring the infringement of any provisions designed either exclusively or – alongside a public interest that is pursued – at least to protect individual interests. Under immission protection legislation, for example, anyone whose health is affected by the harmful environmental impact of an installation may claim that there has been a violation of the provisions designed to protect them. Already before Decision V/9h of the 5th Meeting of the Parties to the Aarhus Convention, the German Federal Administrative Court (BVerwG) had ruled in late 2013 that the provisions under EU law on air quality encompass subjective rights that can be asserted not only by natural persons but also by recognised environmental associations. The Court interpreted in an expanded manner Section 42 (2) VwGO in accordance with EU law and in accordance with Article 9 para 3 of the Aarhus Convention.⁵³ This decision was guided in part by the ruling of the European Court of Justice (ECJ) in the “Slovak Brown Bear” case, in which the ECJ had found that “it is for the national court, in order to ensure effective judicial protection in the fields covered by EU environmental law, to interpret its national law in a way which, to the fullest extent possible, is consistent with the objectives laid down in Article 9(3) of the Aarhus Convention”.⁵⁴

For associations there are, in addition to this, further-reaching remedies before the courts which do not require a claim that their own rights have been violated, as for example under the scope of Article 9 (3) of the Convention in the fields of nature protection and the remedying of environmental damage within the meaning of Directive

⁵² The legal option to provide for this exception results from Article 9 para 3 of the Aarhus Convention in conjunction with Article 2 No. 2 of the Convention: According to Article 2 No. 2 of the Convention the term “public authority” does not include bodies or institutions acting in a legislative capacity.

⁵³ BVerwG, ruling of 5 September 2013 (Luftreinhalteplan Darmstadt - 7 C 21.12); cf. also BVerwG, ruling of 12 November 2014 – 4 C 34.13.

⁵⁴ ECJ, ruling of 8 March 2011 – C-240/09, note 50.

2004/35/EC.⁵⁵

Moreover, everyone has the option of reporting violations of environmental law by private persons to the environmental authorities; German law on administrative procedure provides that the environmental authority must then decide what action to take *proprio motu*.

Finally, the right of petition enshrined in Article 17 of the Basic Law ensures that anyone may at any time address written requests or complaints to the competent authorities and to the legislature.

Furthermore, in Germany – as in all other EU Member States – every individual and every environmental/nature conservation association can make a complaint to the European Commission, in its role as guardian of compliance with European law, if they take the view that the authorities of a Member State have violated environmental legislation, which is substantially influenced by EU law.

- (d) (i) The provisions of the VwGO and the Code of Civil Procedure (*Zivilprozessordnung* – ZPO) guarantee effective access to justice. In administrative proceedings, if the legal action is found to be justified, the authority's contested decision is revoked, or the authority concerned is required to review the matter taking account of the court's legal opinion, or to undertake the measure petitioned for by the complainant. There are means available for the compulsory enforcement of legal rulings.
- (ii) The costs of administrative court proceedings in environmental matters are as a rule not determined according to the full economic interest in the authorities' contested decision. As a financial support mechanism, German law provides for the instrument of legal aid (*Prozesskostenhilfe*, Sections 114 ff. ZPO), which also enables individuals on low incomes to conduct court proceedings.

As a matter of principle, the submission of an application for legal remedy or appeal against an official decision has a suspensory effect, provided that the Act does not include any conflicting provisions in the individual case. If a submission has no suspensory effect, temporary relief is always guaranteed under the conditions stated in Section 80 (5) and Sections 80a and 123 VwGO.

- (e) Under German law, administrative rulings which can be challenged with applications for legal remedy are ~~in principle always~~ issued together with an ~~explanation of the legal remedy~~ explanation of the legal remedy that may be sought, which contains information about the kinds of remedy that are available, and the deadlines and formal requirements that apply. If the explanation of legal remedy is absent or erroneous, this leads as a matter of principle (Section 58 (2) VwGO) to a one-year period for filing an action, that period beginning with the service, opening or pronouncement of the ruling. For federal authorities, explanations of legal remedy are explicitly prescribed under Section 37 (6) VwVfG (see also answer (a) to Article 3 above).

XXIX. Obstacles encountered in the implementation of article 9

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

Answer:

The amendment to German law as a result of Decision V/9h of the 5th Meeting of the Parties to the Aarhus Convention, set out above, leads to substantial changes in the German system of judicial remedy. The amendment has thus generated some debate in Germany,

⁵⁵ On applications for legal remedy against decisions pursuant to the Environmental Damage Act, see point 3 of the first sentence of Section 1 (1) UmwRG.

~~both in expert circles and among many stakeholders. During the hearing on the amendment to the UmwRG, many industry federations voiced their fear that the significant expansion of the scope of the Act and the abolishment of provisions precluding challenges in court could cause procedural delays and would thus impair planning certainty and legal certainty for infrastructure projects. Furthermore, the industry federations fear that the abolishment of provisions precluding challenges in court may lead to a reduction in the participation of environmental associations in administrative procedures and that this may cause inquiries into facts being shifted increasingly to court proceedings. The environmental associations do not share these fears; on the contrary, they have demanded even more far-reaching options to take legal action. On account of the ECJ judgement of 8 March 2011 (Case C-240/09—Slovak Brown Bear), German administrative courts have permitted, in most cases, legal actions by recognised environmental associations even outside the scope of the explicit provisions of national legislation in fields such as air quality planning. This case law has been confirmed by the highest court with jurisdiction over such matters with the decision of the Federal Administrative Court of 5 September 2013 (BVerwG 7 C 21.12). On the basis of the grounds for this decision, the German Federal Government will review whether and to what extent it gives rise to a need for legislative action.~~

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:

~~A UBA-sponsored research project has explored the legal-policy ramifications of the options for environmental associations to take legal action since 2014. The project's goal is to scientifically analyse arguments and positions in relation to such options. The project contains a comparative component which contributes to furthering the discourse on legal remedies available to associations in the environmental sector. The research project is to be concluded at the end of 2016.~~

A further UBA research project previously investigated, *inter alia*, the practice of recognised environmental associations in applying for legal remedies under the UmwRG during the period from 15 December 2006 to 15 April 2012. During this period, a total of 58 proceedings were identified. Of these proceedings, 37 were concluded with a judicial decision. The project produced the following statistics:

Table: Results of legal remedy proceedings concluded during the period under investigation

Total number of applications for legal remedy	Success in the matter (full and partial success, out-of-court settlement)	Failure
37	18	19
100%	48.6%	51.4%

Source: UBA, Research Project: Evaluation of the Use and Effects of the Options for Associations to Take Legal Action under the Environmental Appeals Act (UmwRG), project code number 3711 18 107 ~~(unpublished, peer review forthcoming).~~⁵⁶

⁵⁶ www.umweltbundesamt.de/publikationen/evaluation-von-gebrauch-wirkung-der.

Furthermore, this research project involved an analysis of the effects of the UmwRG before any legal remedy proceedings were initiated. It was investigated whether the mere existence of the options for relief offered by the UmwRG brings about better consideration of environmental concerns during the conceptual phase of projects or as a result of the participation of recognised environmental associations in administrative proceedings (e.g. improved documentation of possible environmental impacts by the project carriers or modification of the project by the project carrier following consultations with recognised environmental associations). Taking into consideration the effects of the legislation prior to any legal proceedings, this analysis produced the following statistics.

Table: Results of legal remedy proceedings concluded during the period under investigation taking into account the effects of the UmwRG prior to the initiation of proceedings

Total number of applications for legal remedy	Success in the matter (full and partial success, out-of-court settlement, effects prior to proceedings)	Failure
37	19	18
100%	51.4%	48.6%

Source: UBA, Research Project: Evaluation of the Use and Effects of the Options for Associations to Take Legal Action under the Environmental Appeals Act (UmwRG), project code number 3711 18 107 (~~unpublished, peer review forthcoming~~).⁵⁷

Another BfN research project, which continued an earlier investigation that had covered the years 2002 to 2006, produced the following statistics on legal actions under nature conservation law taken by associations pursuant to the BNatSchG for the years 2007 to 2010~~2~~:

Table: Results of legal actions taken by associations and concluded from 2007 to 2010

Total number of legal actions	Won	Partially successful	Lost	Settled
14987	3317	3420	7850	4
100%	22 19.15%	22 3.8%	57 2.35%	2 .7%

Source: BfN, ~~Publications-Daten zur Natur (2012);~~

~~http://www.bfn.de/fileadmin/MDB/documents/themen/recht/BfN_Verbandsklagen-Studie-2011.pdf~~⁵⁸

~~Furthermore, the German Advisory Council on the Environment (SRU) published in autumn 2016 an opinion paper on the amendment of the Environmental Appeals Act (Umwelt-Rechtsbehelfsgesetz – UmwRG) that contains a review of the available empirical studies on the options for associations to take legal action. The Council concludes for the study period from 1996 to 2012 that legal actions are only rarely taken by associations, but when they do then around one in three cases is won or partially successful.~~⁵⁹

⁵⁷ www.umweltbundesamt.de/publikationen/evaluation-von-gebrauch-wirkung-der

⁵⁸ www.ufu.de/media/content/files/Fachgebiete/Umweltrecht/Publikationen/Original_Studie_Verbandsklage_Feb_2014-1.pdf

⁵⁹ http://www.umweltrat.de/SharedDocs/Downloads/DE/04_Stellungnahmen/2016_2020/2016_10_Verbandsklage.pdf?__blob=publicationFile.._S.9

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

Information provided by the ~~BMUB~~MUB:

<http://www.bmu.de/gesetze-verordnungen/bmu-downloads/doc/37435.php>

http://www.bmu.de/naturschutz_biologicalische_vielfalt/downloads/doc/44597.php

www.bmub.bund.de/themen/strategien-bilanzen-gesetze/gesetze-verordnungen/downloads/

www.bmub.bund.de/themen/natur-arten/naturschutz-biologicalische-vielfalt/downloads/

Information provided by the UBA on the recognition of environmental associations and on legal remedies in environmental matters:

<http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/erkennung-von-umwelt-naturschutzvereinigungen>

www.umweltbundesamt.de/en/recognition-of-environmental-nature-protection

www.umweltbundesamt.de/en/access-to-justice

Information provided by the BfN (collection of texts on conservation law):

http://www.bfn.de/0506_textsammlung.html

www.bfn.de/0506_textsammlung.html

Online databases provided by the JURIS Legal Information System for the Federal Republic of Germany:

<http://www.juris.de/jportal/index.jsp> www.juris.de/jportal/index.jsp

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:

The Federal Government takes the view that transparency and participation by civil society are key instruments of a modern environmental policy. The provision of information to, and participation of, the public are of crucial importance as prerequisites for opinion-forming and the shaping of the political process in a democracy. Only an informed public can demand compliance with environmental standards and play an active role in the conservation of the environment. A right of free access to environmental information is the key to effective monitoring and control of the activities of the administration and greater acceptance of administrative decisions. At the same time, by tapping into the knowledge held by the public, the factual basis available to the authorities can be broadened, thus enhancing the quality of decision-making.

National regulations on access to information, public participation in decision-making processes, and access to the courts in environmental matters supplement and enhance the existing statutory provisions. They thus make a procedural contribution to the fulfilment of the constitutional goal of environmental protection enshrined in Article 20a of the Basic

Law, under which, mindful also of their responsibility towards future generations, all the state's institutions are obliged to protect the natural resource base.

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 bis** and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorisation 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:

The aim of the amendment to the Aarhus Convention adopted through decision II/1 at the second meeting of the Parties in Almaty (Kazakhstan) on 27 May 2005 (Almaty Amendment) is to supplement the Convention with minimum requirements for public participation in decisions on the release and placing on the market of genetically modified organisms (GMOs). The Federal Republic of Germany approved the Almaty Amendment by means of a ratification act and adopted it, with effect under international law, on 20 October 2009.

European and German law on genetic engineering had already long provided for public participation in decisions on the release and placing on the market of GMOs. Decisions on the placing on the market of GMOs are taken at EU level, decisions on experimental releases are taken by the Member States. The more detailed specification of the participation procedure ~~for~~ in relation to GMOs achieved by the amendment to the Aarhus Convention is in line with the relevant legislative provisions of the European Union on GMOs.

The relevant provisions at EU level, especially Directive 2001/18/EC of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and Regulation (EC) 1829/2003 of 22 September 2003 on genetically modified food and feed, ~~thus~~ already contain provisions on public participation in decision-making on GMOs which are in line with the amendment to the Aarhus Convention. With regard to placing on the market, Articles 6, 18 and 29 of Regulation (EC) 1829/2003 contain provisions on public participation in decision-making on GMOs. Article 30 of Regulation (EC) 1829/2003 lays down which information is not treated as confidential. Articles 9 and 24 of Directive 2001/18/EC on deliberate release contain provisions on public participation. Articles 7, 8, 16, 19, 20, 23 and 31 of Directive 2001/18/EC contain provisions on public access to information. Furthermore, Article 25 of the Directive lays down which information is not treated as confidential.

These provisions are transposed in Germany primarily by Part Three of the Genetic Engineering Act (*Gentechnikgesetz* – GenTG). Section 18 (2) GenTG stipulates that a consultation procedure must be conducted before a decision on authorising release is made. The details of the consultation procedure, e.g. when the duty to consult ceases to apply if additional information is submitted under the simplified procedure, are regulated in the Ordinance on Consultation Procedures in Accordance with the Genetic Engineering Act (*Gentechnik-Anhörungsverordnung* – GenTAnhV). These provisions ensure effective public participation in accordance with the criteria laid down in Annex I^{bis} of the Aarhus Convention. It should be noted that the provisions are also compatible with the Cartagena Protocol on Biosafety with regard to the handling of living modified organisms (LMOs).

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:

No information was provided under this heading.

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

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

Answer:

Decisions concerning the placing on the market of GMOs are taken in an EU-wide approval procedure and apply for all the EU Member States. In this respect, public participation is governed by Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed and Directive 2001/18/EC of 12 March 2001 on the deliberate release into the environment of genetically modified organisms. The competent authorities of all the EU Member States are involved in the approval procedures. The Federal Office of Consumer Protection and Food Safety (BVL) is the competent German authority. Opinions on applications to place GMOs on the market and decisions concerning experimental releases are issued by the BVL, *inter alia* in consultation with the Federal Agency for Nature Conservation (BfN), the Federal Institute for Risk Assessment (BfR) and the Robert Koch Institute (RKI). The Julius Kühn Institute – Federal Research Centre for Cultivated Plants (JKI) – and other participating authorities submit their opinions to the BVL.

All releases of GMOs applied for in Germany are recorded in a database and made available in an overview by the BVL. A site register administered by the BVL records the precise locations of sites on which GMOs are released or cultivated. The aim of the site register is to improve the observation of possible undesirable impacts on the environment, as well as human and animal health. At the same time, the public is to be informed in order to guarantee transparency and coexistence.

XXXVI. Website 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:

Information provided by the Federal Office of Consumer Protection and Food Safety (BVL): www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html
~~http://www.bvl.bund.de/DE/06_Gentechnik/gentechnik_node.html~~

BVL: Database of GMO release projects:

<http://apps2.bvl.bund.de/freisetzung/>

BVL: Register of GMO release and cultivation sites:

apps2.bvl.bund.de/stareg_web/showflaechen.do

~~http://apps2.bvl.bund.de/stareg_web/showflaechen.do~~

Information provided by the European Commission:

http://ec.europa.eu/food/safety/index_en.htm ~~http://ec.europa.eu/food/food/biotechnology/authorisation/index_de.htm~~

and <http://gmoinfo.jrc.ec.europa.eu/>

Biosafety Clearing-House (BCH) of the Cartagena Protocol on Biosafety:

<http://bch.cbd.int/>

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:

~~No information was provided under this heading.~~ (a) The 5th Meeting of the Parties to the Aarhus Convention endorsed with its Decision V/9h of 2 July 2014 the finding of the Convention's Compliance Committee of 20 December 2013 (ACCC/C/2008/31), according to which Germany's transposition into national law of Article 9 paras 2 and 3 of the Convention is in contravention of international law in two points. The Meeting recommended that Germany take measures to ensure that:

1. NGOs promoting environmental protection can challenge both the substantive and procedural legality of any decision, act or omission subject to Article 6 of the Convention, without having to assert that the challenged decision contravenes a legal provision "serving the environment";

2. Criteria for the standing of NGOs promoting environmental protection to challenge acts or omissions by private persons or public authorities which contravene national law relating to the environment under Article 9 para 3 of the Convention are revised and specifically laid down in sectoral environmental laws, in addition to any existing criteria for NGO standing in the Environmental Appeals Act, the Federal Nature Conservation Act and the Environmental Damage Act.

(b) To implement Decision V/9h of the 5th Meeting of the Parties to the Aarhus Convention, the German Federal Government adopted in the Cabinet on 22 June 2016 the draft of an Act adjusting the Environmental Appeals Act and other provisions to the requirements of European and international law (*Entwurf eines Gesetzes zur Anpassung des Umwelt-Rechtsbehelfsgesetzes und anderer Vorschriften an europa- und völkerrechtliche Vorgaben*). The draft is now before parliament; the statutory amendments are supposed to enter into force within 2016. The individual changes are presented and explained in detail in XXVIII. (b) and (c) above.