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ACCESS TO INFORMATION, PUBLIC PARTICIPATION  
IN DECISION-MAKING AND ACCESS TO JUSTICE  
IN ENVIRONMENTAL MATTERS

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Procedures and mechanisms facilitating  
the implementation of the Convention:  
Reports on implementation

**SYNTHESIS REPORT ON THE STATUS OF IMPLEMENTATION  
OF THE CONVENTION<sup>1</sup>**

Report by the secretariat<sup>2</sup>

This report is prepared pursuant to decision I/8 of the Meeting of the Parties, which requested the secretariat to prepare a synthesis of the national implementation reports submitted by the Parties to each meeting of the Parties, summarizing the progress made and identifying significant trends, challenges and solutions. The current report summarizes information from 32 national implementation reports. It aims to assist the Parties in assessing implementation of the Convention and in facilitating preparation and adoption by the Meeting of the Parties of a number of decisions.

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<sup>1</sup> This document was submitted on the above date to accommodate information provided in many national implementation reports submitted by the Parties with delay.

<sup>2</sup> This synthesis report was prepared by the secretariat with the assistance of a consultant.

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## INTRODUCTION

1. Through the adoption of decision I/8, the Meeting of the Parties to the Convention established a reporting mechanism requiring each Party to submit to the secretariat, in advance of each ordinary meeting of the Parties, a report in accordance with the format set out in the annex to the decision on: (a) the necessary legislative, regulatory or other measures that it has taken to implement the provisions of the Convention; and (b) their practical implementation. The decision also invites Signatories and other States not Party to the Convention and international, regional and non-governmental organizations (NGOs) to submit reports.

2. This synthesis report has been prepared on the basis of 32 national implementation reports submitted by Parties to the Convention.<sup>3</sup> Three reports were submitted too late to be considered in the synthesis.<sup>4</sup>

3. As with the synthesis report for the second meeting of the Parties (ECE/MP.PP/2005/18 and ECE/MP.PP/2005/20), this report relied only to a very limited extent on publicly available sources to fill in some gaps or clarify information in the national implementation reports. The use of sources other than national reports submitted by Parties was limited by the mandate set out in decision I/7 and the time and resources available to the secretariat. The report should therefore be read with these limitations in mind and should not be regarded as a comprehensive, exhaustive or independent review of the status of implementation of the Convention.

4. Most Parties submitting their second implementation reports indicated legislative changes and practical implementation developments; a small number of Parties reported for the first time. The synthesis report gives particular attention to information related to some of the changes and trends emerging in the current reporting cycle, while at the same time attempting to provide, to the extent possible, a comprehensive overall picture of implementation.

5. The report is structured in four parts. Chapter I briefly describes the procedural aspects of the second reporting cycle. Chapter II attempts to identify some regional trends in implementation. Chapter III provides a thematic review of implementation. Chapter IV offers conclusions on implementation trends as well as on the reporting process itself.

## I. PROCEDURAL ASPECTS OF THE SECOND REPORTING CYCLE

6. In accordance with paragraph 8 of decision II/10, the deadline for submitting the national implementation reports to the secretariat was 14 December 2007, i.e. 180 days before the third meeting of the Parties.

7. At the time of this report's preparation, 35 out of 41 Parties had submitted their national implementation reports. Of these, eight were submitted by the deadline and a further 11 before the end of 2007. The remaining 16 were submitted with differing degrees of delay, with the last two only arriving in May 2008. No reports were submitted by Signatories or other States not Party to the Convention. No reports were received from organizations under paragraph 7 of decision I/8.<sup>5</sup>

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<sup>3</sup> Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Malta, Moldova, Netherlands, Norway, Poland, Slovakia, Slovenia, Sweden, Tajikistan, The former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine.

<sup>4</sup> Greece, the United Kingdom and the European Community.

<sup>5</sup> Some reports were submitted by NGOs describing the status of implementation of the Convention by specific Parties, but these did not fit the description in decision I/8, paragraph 7, of "reports on [the organizations'] programmes or activities and the lessons learned". These reports have been registered as Category III documents and may be viewed at <http://www.unece.org/env/pp/mop3/mop3.docIII.htm>.

8. As of 16 May 2008, no reports had been received from the following Parties: Croatia, Lithuania, Luxembourg, Portugal, Romania and Spain.

9. In addition to the online reporting format developed by the secretariat to facilitate the submission of national implementation reports, a guidance document was prepared by the Compliance Committee to assist Parties in fulfilling their reporting obligations. The guidance, subsequently endorsed by the Working Group of the Parties, addresses issues such as the timeline for the preparation of the reports on the national level, inter-agency and stakeholder consultations and the methodology for highlighting new information, while preparing a reader-friendly consolidated report in the second reporting cycle. It also includes an annex listing common or prominent areas of difficulties with implementation, from among which the Parties were encouraged to address those most relevant for them. Most Parties followed these recommendations, and many, especially from the Eastern Europe, Caucasus and Central Asia (EECCA) subregion, addressed the suggested questions.

10. Many reports were clearly written and followed the required format, although some failed to answer certain questions, particularly those relating to the practical application of the Convention's provisions or to where obstacles lie. Some reports failed to follow the format set out in decision I/7, which made comparability of information more difficult and significantly complicated the processing of the reports by the secretariat, resulting in use of additional resources and time.

11. Of the 32 Parties that submitted reports in time to be taken into account in this synthesis report, four presented their first reports and 27 updated the information contained in their reports submitted in 2005. The latter Parties addressed significant legislative changes, new laws, regulations and official instructions or guidance adopted since the first report was prepared.

12. Most Parties relied on the methodology suggested in the guidance on reporting and reflected new information through use of track-changes mode to reflect changes made to their reports submitted in the previous reporting cycle. Many also submitted consolidated versions to the secretariat.

13. Several Parties developed more detailed and comprehensive versions in the national language while submitting an abridged version in one (or more) of the official languages of the Convention. Several official language reports, however, significantly exceeded the recommended word limit, while others were so concise as to be relatively uninformative.

14. The majority of Parties that submitted national implementation reports claim to have used transparent and participatory processes to prepare and discuss the reports. Almost all Parties followed the guidance, involving the public at an early stage through consultations on the issues to be reflected in the report. A few chose to send the report from the previous reporting cycle for comment (Finland, Latvia) or called a first consultation based on it (Austria). Several Parties sent questionnaires to the public (Belgium, Hungary, Poland) or asked for proposals on issues to be covered in the first draft (Bulgaria, Poland, Slovenia).

15. Most Parties opted for electronic consultation, placing the first draft on the website for comments and/or sending it to identified NGOs and relying on NGO mailing lists for further

distribution. In several cases, however, it was mentioned that the time frame for commenting was considered to be too short and only a few comments were provided electronically.

16. In several countries, NGO representatives commented on the draft reports through the country's Aarhus Convention<sup>6</sup> working groups (Azerbaijan, Hungary, Kazakhstan, Ukraine) or in public hearings or discussions. Many Parties held consultation meetings on the first and second drafts and/or collected comments electronically on the second draft (Armenia, Estonia, Finland, France, Georgia, Hungary, Latvia, Poland, Ukraine). Several meetings were held in Denmark, while in Ukraine the national report was discussed with NGOs and public authorities on national and local levels. Several Parties held only one round of consultation based on the first draft (Albania, Azerbaijan, Bulgaria, Cyprus, Germany, Italy, Netherlands, Norway, Sweden).

17. Belgium submitted a synthesized national report as well as reports from the regions. Here, a broad consultation process was organized with national consultation coordinated at the federal level, and public consultations were organized by environmental authorities in the regions. In Austria and Germany, in addition to the federal level, federal States or regional provinces were involved in the report preparation. Several other Parties tried to engage regional and local governments as well .

18. In some countries (Czech Republic, Kyrgyzstan, Slovenia), draft reports were prepared with the involvement of key NGOs. In Austria and Finland, the business, agriculture and labour (trade union) sectors were also involved.

19. The time for commenting on the different drafts during public consultation varied between 10 days and one-and-a-half months. Most Parties provided at least 30 days for comments on specific drafts. However, a few commenced preparations of their reports late, and only a few days were left for commenting.

20. Most Parties indicated that the results of public consultations were taken into account and many summarized the comments received. A number of Parties included after each provision the comments made by NGOs on obstacles and practical implementation. Some countries indicated that NGO comments were taken into account only to the extent possible. Some others briefly mentioned the number and type of comments received, how many of them were taken into account, and why some were not considered. A few Parties indicated that they did not agree with some comments. At least one Party recognized that, in cases of differences of opinion, the official government position was used as the basis for the report.

21. Intersectoral consultations on the reports took place with the involvement of such ministries as the ministries of health, justice, education, economy, labour, transport, urban construction, agriculture, forestry, rural development, energy, mineral resources, social and internal affairs, municipalities and regional development, defence and tourism. Environmental agencies were also consulted. Among non-environmental ministries, ministries of justice were

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<sup>6</sup> The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

the most frequently consulted and some Parties, mainly in the EECCA subregion, also involved the Supreme Courts, Chief Prosecutors' Offices, Parliaments' Environment Committees, Ombudsmen and Constitutional Courts.

## **II. SOME REGIONAL TRENDS ON IMPLEMENTATION**

22. For the regional review, three groupings of Parties were considered: (a) EECCA; (b) European Union (EU) countries and Norway; and (c) South-Eastern Europe (SEE). All of the 10 Parties from the first region, 23 out of the 28 Parties from the second and two of the three Parties from the third submitted national implementation reports.

### **A. Eastern Europe, Caucasus and Central Asia**

23. As noted in the 2005 synthesis report, there are distinct similarities in the implementation of the Convention among EECCA countries related to their origins as post-Soviet States.

24. The Convention plays a very significant role in the democratic transition of the region and is often relied on by civil society. Several countries referred to the approximation with EU environmental legislation as having a positive impact on the implementation of the Convention.

25. Several countries reported progress in creating a general legislative framework for the implementation of the Convention, with most advances made in implementing the access to information pillar (Armenia, Azerbaijan, Belarus, Kazakhstan, Tajikistan). Reports indicate that most EECCA countries improved collection and dissemination of environmental information by establishing and operating different training and information centres and increasing use of electronic tools as well as environmental awareness and educational activities. At the same time, the implementation of the public participation pillar in most countries is still at an early stage. Despite improvements in the legal framework, practical application is hindered due to gaps and discrepancies in legislation and the lack of clear rules and implementing procedures. The implementation of the access to justice pillar remains the weakest in EECCA.

26. Most Parties from the EECCA subregion noted that, according to their national constitutions, the Convention's provisions were part of their national legislation and applied directly (Armenia, Azerbaijan, Georgia, Kazakhstan, Ukraine). Several, however, emphasized the difficulties resulting from the lack of more specific legal provisions and the need to develop implementing laws, rules and procedures for implementation to be effective (Armenia, Kyrgyzstan, Kazakhstan, Ukraine).

27. Several Parties in this region addressed the issues of transparency and coherency of the legislative framework (art. 3, para. 1) by developing national implementation plans or strategies and setting up special working groups or environmental councils supporting implementation of the Convention (e.g. Armenia, Belarus, Kazakhstan, Moldova, Tajikistan). Some of these working groups, however, have not been active in recent years. Aarhus Centres established by joint initiatives with the Organization for Security and Co-operation in Europe (OSCE) in several countries also play a positive role in promoting the Convention. However, involvement of public

authorities at the regional and local levels, especially in remote regions, appears to be very limited.

## **B. The European Union Countries and Norway**

28. The trend among the EU countries and Norway has been to develop their implementing legislation before ratifying the Convention. The implementation reports from this region indicate that the level of implementation here appears to be quite advanced with regard to access to information and to public participation in decision-making under article 6, but to a lesser degree on public participation under articles 7 and 8.<sup>7</sup> Although some EU countries did not indicate any problems with implementation, in those that did, most difficulties related to implementation of the access to justice pillar.

29. A major driving force for implementation in the EU countries that have become Parties during the reporting cycle has been the transposition of Community legislation adopted since 2003 in the context of the ratification by the European Community. These legal instruments included:

(a) Directive 2003/4/EC of 28 January 2003 on public access to environmental information introduced to align Community legislation with the Convention's first pillar;

(b) Directive 2003/35/EC of 26 May 2003 providing for public participation in drawing up certain plans and programmes relating to the environment introduced to align Community legislation with the second pillar, and Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, which has been additionally modified by Directive 2003/35/EC to integrate the Convention's provisions on public participation.

30. Parties from the EU region reported on the efforts to transpose the relevant directives and to amend their legislation to bring it into conformity with the Convention.

31. The European Commission also adopted Regulation (EC) No [1367/2006](#) of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention to Community institutions and bodies.

## **C. South-Eastern Europe**

32. Two of the three Parties to the Convention from SEE (Albania, The former Yugoslav Republic of Macedonia) submitted national implementation reports.

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<sup>7</sup> Due to the broad variety of legislative requirements in some countries and existing legal and practical arrangements, the level of and opportunities for public participation may vary to a great extent among countries.

33. Both Parties have undertaken measures to improve their legislation so as to be in compliance with the Convention and at the same time to harmonize it with the relevant EU directives. These efforts led to a progress in the legislative framework development and in the implementation of the access to information pillar. However, the practical application of the second pillar reportedly is more problematic due to the lack of clear rules, detailed procedures and implementing practices. The implementation of the access to justice pillar is the least developed. Judicial procedures do not appear to be fully in line with the Convention, and some of the required secondary legislation appears to be lacking or insufficient. Judges, prosecutors and authorities are not familiar with environmental laws and environmental issues and require capacity-building on access to justice matters to be able to fulfil their obligations and enable citizens to practice their rights and opportunities under the Convention.

### **III. THEMATIC REVIEW OF IMPLEMENTATION**

#### **A. General provisions (article 3)**

34. The level of responses on legislative and practical measures implementing article 3 varied according to region. A majority of EECCA countries provided extensive answers, while countries from other regions did not offer many details or did not respond to certain questions.

35. With regard to article 3, paragraph 1, general trends in development of legislative frameworks in three different subregions are addressed in the preceding chapter.

36. With regard to article 3, paragraph 2, several EECCA countries reported on the publication of relevant handbooks, user guides, training manuals and training events for officials and NGOs. Armenia and The former Yugoslav Republic of Macedonia reported organizing courses or workshops on environmental rights and the Convention or access-to-justice training events implemented in cooperation with magistrate schools. With regard to difficulties in implementing this provision, several of the EECCA countries reported a lack of experts with specialized knowledge on the Convention. Financial difficulties hindering implementation were also mentioned (e.g. lack of technical equipment).

37. Several Parties from the EU region reported on providing guidelines for agencies on recently adopted environmental laws or developing standards to be used in public participation procedures as good practice recommendations (Austria, Norway, Poland, Sweden). Others had developed brochures on rights of access to information and public participation or generally about the Convention (Cyprus, Finland) and organized training events for civil servants on communication with the public. The reports also include information on the establishment of information centres and special information desks or services, and on the use of electronic tools (Belgium, Hungary, The former Yugoslav Republic of Macedonia, Poland).

38. A wide range of measures to implement article 3, paragraph 3, were reported by Parties, with environmental education (EE) and education on sustainable development (ESD) being included among the key criteria for curricular development. National strategies and programmes have been developed to strengthen EE/ESD, especially after the adoption of the UNECE Strategy on Education for Sustainable Development in 2005 and as part of the United Nations Decade of Education for Sustainable Development (2005–2014). EE/ESD activities coordinated



by environment ministries are usually implemented in cooperation with ministries of education and teachers' networks. NGOs are reported to maintain a strong presence on both the formal and informal environmental educational scene. Many countries provide grants schemes for educational programmes. Several EECCA and SEE countries reported awareness-raising events in their information centres or Aarhus Centres (Armenia, Azerbaijan, Belarus, Georgia, The former Yugoslav Republic of Macedonia, Tajikistan and Ukraine), and training events or competitions for journalists (Georgia, Moldova).

39. Regarding the implementation of paragraph 4, some EECCA and EU countries reported having in place simple procedures for registration of NGOs. Some EECCA countries provided information on governmental programmes for the development of civil society and about different bodies promoting cooperation with NGOs, such as consultative councils (Moldova, Kazakhstan, Kyrgyzstan, Tajikistan, Ukraine). Many EU countries and Norway reported the established practice of including NGOs in environmental decision-making bodies, working groups or advisory bodies, although the possibilities of NGOs to affect decisions varied. Several Parties provide financial support to NGOs under different grants schemes (Albania, Cyprus, Czech Republic, Denmark, Hungary, the Netherlands, Poland, Slovakia, Sweden)

40. Several Parties reported on the implementation of article 3, paragraph 7. Italy provided information about the support provided for the drafting, adoption and application of the Almaty Guidelines on public participation in international forums (PPIF), while France reported on the support it provided to the work of the PPIF Task Force under the Convention.

41. Several of the Parties reporting on the implementation of article 3, paragraph 7, have translated the Almaty Guidelines adopted at the second meeting of the Parties into their national languages and distributed them to various relevant authorities, e.g. ministries of foreign affairs. Some organized internal consultations to raise awareness of the Guidelines among officials (Denmark, Finland, France, Germany, Italy, Latvia, Norway).

42. Some Parties provided information on their activities aimed at promoting the Convention's principles in global and regional international forums. Such activities included promotion of public participation in the implementation of other multilateral environmental agreements as well as strengthening of civil society participation in various international bodies, e.g. the UNECE Committee on Environmental Policy, the Commission on Sustainable Development and the United Nations Environment Programme (Austria, Belarus, Denmark, Italy).

43. A number of Parties reported including NGO representatives in their official delegations to international forums and processes (e.g. Belarus, Czech Republic, Denmark, Finland, Georgia, Hungary, Kyrgyzstan, Malta, Moldova, Poland, Sweden). Some Parties indicated that consultations with civil society organizations and other major stakeholders were being organized at the national level, with a view to discussing national positions in international forums (e.g. Armenia, Belarus, Denmark, Hungary, Italy, Norway).

**B. Access to information upon request (article 4)**

44. The legislative basis for the implementation of article 4 seems to be mostly in place in all Parties that have submitted reports. The general legislative framework has been strengthened in several EECCA countries through (a) efforts including reforming the constitution (Armenia); (b) new laws regulating, either generally or more specifically, access to information such as laws on public administration; or (c) general environmental codes (Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan). Some countries also reported relying on the administrative code for providing access to environmental information upon request (Azerbaijan, Georgia). While the new laws are generally reported to be in line with the Convention's provisions, some of these include broad and general provisions and lack specific procedures or mechanisms.

45. Some EU countries reported having recently amended their general access to information laws (Bulgaria, Denmark, Slovakia, Slovenia) or confidentiality laws (Sweden) in the context of the ratification process. Others chose to adopt environmental information laws or regulations (e.g. Austria, Germany, Italy, Malta, Sweden), or complemented their formerly approved general laws with specific laws or decrees to comply with the Convention and Directive 2003/4/EC (e.g. Belgium, Hungary, Slovakia). In Norway, the new Freedom of Information Act will enter into force in July 2008.

46. The majority of Parties reported introducing practical measures for implementing article 4. These included establishing a permanent coordinating body to guarantee uniformity of application of the new legislative decree (Italy), setting up information desks and centres, and designating persons in charge of information requests (Bulgaria, Georgia). Some countries reported keeping records of such requests and responses provided, including refusals, in registers or electronic databases. EECCA countries have also taken practical measures; however, the impact of these measures on the practical application appears to still be somewhat limited.

47. Among the remaining problems regarding the implementation of article 4, some Parties from the EECCA subregion mentioned in particular the lack of clear legislation and procedures for public access to environmental information. Gaps and discrepancies exist between the provisions of general laws regulating access to information and the Convention's provisions, including the lack of clarity as to what can be considered "environmental information" and what can be kept confidential (e.g. Armenia, Georgia, Ukraine). Other problems reported included the lack of explanation from public authorities when refusing requests for information, the failure to meet deadlines, or sometimes the failure to respond (e.g. Armenia, Kazakhstan, Kyrgyzstan).

48. Some EU countries reported that their definition of "public authority" differed from that in the Convention (Bulgaria) or indicated uncertainties regarding the definition of "environmental information" in national legislation, which created problems in the application of article 4 (Czech Republic).

49. With regard to the practical application of article 4, a number of countries reported on the volume of information requests processed. For example, the Info-Environment Department of the Brussels-Capital region received more than 14,487 calls and 11,543 e-mails in 2006 as requests for information.

50. Regarding article 4, paragraph 1 (a), several EU countries reported legislative provisions explicitly stipulating that the person requesting the information need not state an interest. With regard to article 4, paragraph 1 (b), the majority of countries indicated that under national laws, information was provided in the form requested, if it already existed or if it was reasonable to provide it in that form. Some Parties reported that if the request does not specify in which form the information should be provided, either the authority may contact the applicant for further information (Sweden) or, failing clarification of the issue during the time frame for response, the public authority provides the information in the most appropriate form (Armenia).

51. With regard to article 4, paragraph 2, most countries reported that information was provided at the latest within one month of the receipt of the request, although several indicated setting shorter time limits for a simple request than stipulated in the Convention. Some countries noted that if a request was not answered within one month it was considered to have been refused (Italy); others reported allowing an extension of up to two months when the information requested was complex (Azerbaijan, Denmark, France, Poland, Slovenia, Ukraine).

52. Various legislative approaches to implement article 4, paragraphs 3 and 4, were reported. The legal bases on which requests for information may be refused greatly differ, particularly in the EECCA subregion, where grounds for refusal may be found in laws on information or environmental information (e.g. Armenia, Azerbaijan, Ukraine), in laws on environmental protection (Belarus) or in laws or decrees on State and/or commercial secrets (e.g. Armenia, Belarus, Kyrgyzstan, Tajikistan). In some countries, not all of the exemptions set out in article 4, paragraph 4, are contained in the national legislation (Armenia). Conditions under which requests can be refused may also vary widely according to national legislation. As several EECCA and EU countries noted, the legislation may specifically list what information cannot be considered as confidential.

53. While EU countries that recently ratified the Convention reported the introduction of the public interest test in their laws to implement article 4, paragraph 4 (Austria, Germany, Latvia, Slovenia), some EECCA countries reported that such a legal requirement is not spelled out in their legislation (Armenia, Belarus).

54. With respect to article 4, paragraph 5, a majority of EU countries and Norway, as well as most EECCA countries, reported that if a public authority does not possess the requested information, it must inform the applicant of where the request should be addressed or forward the request to that body.

55. In connection with article 4, paragraph 8, the majority of the reports indicate that only the actual copying or mailing expenses may be charged. Some countries noted that charges may be levied when the information is requested for educational purposes (Poland).

### **C. Collection and dissemination of environmental information (article 5)**

56. In most EECCA and SEE countries, legislative provisions on the collection and dissemination of environmental information are relatively well developed and can be found in environmental protection laws, sectoral laws or laws regarding emergency situations. However, the absence of clear procedures regarding the type and scope of information that should be

collected, processed and published is reported as a significant obstacle in the implementation of article 5. In addition, the lack of financial and human resources as well as the lack of equipment needed for the collection and dissemination of information were reported as major obstacles. Several of these countries, however, reported positive practical developments in implementing the article, including setting up information centres in the ministries of environment or operating Aarhus Centres to assist the public to receive environmental information free of charge.

57. Most EU countries and Norway reported no major obstacles to the implementation of article 5. Many of them reported on opening or strengthening information offices and establishing points of contact.

58. Almost all Parties reported efforts to implement article 5, paragraph 1 (a) and (b). Several EU countries (Austria, Bulgaria, France, Germany, Hungary, Latvia, Malta, Sweden) and Norway reported that public authorities update environmental information relevant to their functions systematically and routinely, and establish various environmental databases and registers. Some EECCA and SEE countries reported similar efforts, e.g. through the establishment of databases (Armenia, Kazakhstan, The former Yugoslav Republic of Macedonia).

59. Most EU countries and Norway reported on having or establishing mandatory national environmental systems as required in article 5, paragraph 1 (b), to ensure adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment. Similar environmental information systems are being established or planned in several EECCA and SEE countries (Kazakhstan, The former Yugoslav Republic of Macedonia, Ukraine). However, parallel data processing systems still exist in these countries, and further measures are needed to make the information flow more effective, harmonized and integrated. Problems of implementation reported by some EECCA and SEE countries include slow progress in developing information systems and the lack of integrated monitoring systems and reliable data. Concerning article 5, paragraph 1 (c), several reports refer to emergency information systems, based on special regulatory requirements including obligations for owners of facilities to disclose information on possible hazards (Austria, Belarus, Belgium, Denmark, Germany, Hungary, Italy, Latvia, Malta, Sweden, Ukraine).

60. Measures reported by many countries to ensure the implementation of article 5, paragraph 2, included provision of information about the type and scope of environmental information or practical arrangements such as keeping public registers, designating officials as contact points, and setting up information offices and centres. Several EU countries reported having developed catalogues of information sources (Bulgaria, Italy, Malta, Slovenia), meta-databases or cross-sectoral databases (Sweden) and joint governmental portals or networks of government-maintained information offices (Belgium, Denmark, Estonia, Germany, Hungary, Poland).

61. According to the information provided in the reports, a majority of countries use electronic communication tools as required under article 5, paragraph 3. Ministries of environment and increasingly other ministries have their own websites and use these to disseminate a growing range of information, including information on policies, programmes and legislation. Some EU countries mentioned the challenges of ensuring that users can find information easily and quickly (Cyprus, Netherlands). Although access to computers and the Internet is still problematic in

remote parts of some EECCA countries (Georgia, Kyrgyzstan), most EECCA countries also reported new efforts and successes in using and making available environmental information through electronic tools (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan).

62. Most countries publish and disseminate national reports on the state of the environment pursuant to article 5, paragraph 4.. In EU countries, many other national, regional and local agencies also produce environmental reports. At least one EECCA country mentioned that the quality of their state-of-the-environment report depends on the quality of information submitted by the different agencies, which is often poor and does not provide enough opportunity for analysis (Georgia).

63. Parties also continue to regularly disseminate information on policies and legislation pursuant to article 5, paragraphs 5 and 7. Several EU and some EECCA countries (Austria, Belarus, Bulgaria, Italy, Latvia, Malta, Norway, Sweden, Ukraine) reported that such information also includes proposals for regulations, programmes and strategies, while in some others, tender documents and information on the authorities' activities and on administrative and judicial services are also made accessible on websites (Hungary, Slovenia).

64. With respect to article 5, paragraph 6, several EU countries, Norway and some EECCA countries reported on legislative practical measures undertaken in connection with voluntary systems of eco-labelling and environmental reporting by companies. Many countries also described different voluntary eco-labelling systems and also reported on the implementation of voluntary environmental management systems (e.g. Belarus, Belgium, Denmark, Finland, Georgia, Germany, Hungary, Kazakhstan, Latvia, Malta, Norway, Sweden, Ukraine).

65. EU countries and Norway reported the implementation of mandatory systems regarding product labelling under EU and national laws, and environmental product declarations by companies (art. 5, para. 8). In the EU, producers are responsible for providing and disseminating information on the environmental properties of products and are legally required to report on the environmental impact of goods and services. Some EECCA countries reported developing or having legislative requirements on food safety and initiatives to introduce labelling of genetically modified organisms (Armenia, Kazakhstan, Ukraine).

66. Measures reported by EU countries and Norway undertaken to implement article 5, paragraph 9, include progress in establishment of pollutant release and transfer registers (PRTRs), as well as preparations for the ratification of the Protocol on PRTRs. Some countries reported having already ratified the Protocol, while several others are preparing to do so in 2008. Some Parties indicated that practical problems in this area included difficulties in managing, assessing and validating data; controlling its quality; and presenting it in easily accessible and understandable form. In Kazakhstan, a State fund of environmental information was planned which would include registers of natural resources, PRTR, and environmental monitoring data.

#### **D. Public participation in decisions on specific activities (article 6)**

67. Steady development has been reported on the implementation of article 6 by the EU countries and Norway, including in the EU countries reporting for the first time. Most EECCA and SEE countries reported significant progress in the development of legislative and regulatory

frameworks implementing article 6 (Belarus, Georgia, Kazakhstan, The former Yugoslav Republic of Macedonia), while at the same time indicating that major gaps still remain and the practical application of the article's provisions is sometimes a challenge. In some EECCA countries, the term "public concerned" is not defined in legislation, some of the article's provisions are not sufficiently known by authorities and developers, detailed procedures do not exist, and some of the article's provisions have not been transposed. Other problems mentioned include the lack of public participation in the screening and scoping stage, the fact that the public hearing procedure is either not regulated properly or is not in line with the Convention; and the lack of clarity as to what information about the decision should be provided and how (Armenia, Georgia).

68. Some EU countries also reported a diverging practice regarding the interpretation of the term "public concerned". In Czech Republic, the definition of "public concerned" is missing, resulting in concerns that due to the narrower definition included in different legal acts of the "affected" and "interested" parties, part of the "public concerned" may be left out of the public participation procedures. In Slovakia, amendments of the nature and landscape protection law and the EIA law changed the status of civil associations, resulting in their not being entitled to appeal a decision of an environmental authority, to request the renewal of a procedure or to request a judicial review of an administrative decision. The Hungarian report indicated that NGOs consider that competent authorities have a tendency to interpret the definition of the public concerned narrowly, focusing on the formal application of the law rather than substantive implementation (e.g. they allege that article 6 is not applied in the case of motorway construction). Some reports indicate that NGOs find the possibilities for the public to participate only in decision-making on environmental impact assessment (EIA) and integrated pollution prevention and control (IPPC) permits as too limiting and consider that public participation should be provided consecutively, also at the stage of decision-making on the construction permit (Hungary, Poland, Slovenia). In some countries where criteria have recently been set up to define "public interest NGOs", it was reported that these criteria seem to be too limiting and no NGO has so far been able to obtain this status and be party to specific decision-making processes (Slovenia).

69. Several EU countries and one SEE country reported adopting or amending acts or legislative decrees on EIA and IPPC transposing EU directive 2003/35/EC and article 6 of the Convention (Austria, Belgium (Walloon Region), Cyprus, Estonia, Germany, Hungary, Italy, Slovakia, Sweden, The former Yugoslav Republic of Macedonia). In some EECCA countries, improvements were also reported to be linked with the adoption of new general environmental laws, specific laws and orders or rules on procedures on EIA, environmental expertise and public hearings (Belarus, Georgia, Kazakhstan).

70. Practical measures reported by some EU countries included the use of electronic tools to facilitate public participation procedures, such as, for example, facilitating public consultations through ministries' websites where the public can find documents and submit comments on EIA and IPPC procedures (Austria, Italy). Such webpages may, for example, also feature a list of environmental organizations recognized as parties in a procedure according to EIA legislation and provide information on the application (Austria). Some EECCA countries reported on successful examples of public involvement (Armenia, Kyrgyzstan) or experience regarding public hearings in connection with large investment projects when, in addition to a public

hearing, other forms of public participation were used (e.g. collection of written comments, bilateral consultations with NGOs and other experts, expert environmental evaluation by the public, etc. (Kazakhstan)).

71. Several of the EU countries reported having transposed the requirements of article 6, paragraph 1 (a), regarding activities listed in annex I to the Convention, into their national legislation through environmental or sectoral laws regulating permitting or licensing procedures and public consultation (Austria, Germany, Sweden). Some also reported applying the same requirements to activities not included in annex I of the Convention (France, Germany, Italy, Sweden).

72. Some EECCA countries having recently adopted laws implementing the provisions of article 6 were expecting that experience with practical implementation would further clarify the scope of activities to which article 6 should apply (Georgia, Kazakhstan). Reports from the EECCA subregion covered legislation with requirements for public participation in decision-making on defined lists of activities with potentially significant impacts on the environment. Some of them, however, suggested that in practice environmental assessment often takes place at the very end of the decision-making process or even after the activity has already started. There are also examples of failures to organize public participation in decision-making on activities with potentially significant effects.

73. A majority of the reporting Parties from the EU region described having in place legislative provisions implementing article 6, paragraphs 2 to 7. Legislation regulating implementation of article 6, paragraph 2, was also in place according to the reports from the EECCA subregion. While in many EU countries responsibility for making the necessary arrangements for public participation with regard to a specific activity, such as notifying the public concerned and making the required information available to it, usually lies with the competent authority, in most EECCA countries it is mainly the applicant that has this responsibility. Several reports indicated that representatives of civil society emphasized problems with notification of the public and poor access to documentation (Armenia, Estonia, Kyrgyzstan, Poland, Ukraine).

74. With regard to implementation of article 6, paragraph 3, EU countries which reported noted that they provide for reasonable time frames through early announcement of project applications and sufficient time for public consultation. In most countries, a thirty-day period for providing written comments was reported, while this time frame had been recently changed to 45 days in some countries (Italy). In France, the time frame can be extended depending on the specific circumstances. In some countries, the fixed 21-day period for submitting comments was reported to be too short in the opinion of NGOs, and therefore not "reasonable" (Poland). Some countries also mentioned that while established deadlines for public participation were usually adequate, they were not necessarily sufficient where more complex decisions or projects were concerned. In at least one country, NGO concerns that in some cases the public involvement commenced rather late had led to the consideration of legislative amendments (Italy).

75. Many EECCA countries reported that in the absence of a specific legal obligation transposing article 6, paragraph 5, into the national legislation, they had difficulties in implementing the provision. Some EU countries noted limited cooperation between authorities and developers in the course of public consultations.

76. Most reports suggested that access to information is provided according to the requirements of article 6, paragraph 6. However, some EU countries mentioned that the information presented to the public does not always contain all the necessary details on the process and that EIA reports are not always made publicly available because of the authorities' concerns over violation of copyright laws (Estonia).

77. Positive developments were reported by some of the EECCA countries in connection with the implementation of article 6, paragraphs 7 and 8. They noted an increase in the number of public hearings and good examples when these were held properly (Armenia, Kyrgyzstan). Most EECCA countries reported practical implementation problems, including in connection with taking "due account" of comments, for which, in most cases, the developer is made responsible. The reports suggest that in the absence of proper control by the authorities over this procedure, it is difficult to achieve a proper level and quality of public participation. Some countries noted that there was no legal requirement for information to be given about the decision and about how the comments were taken into account (Armenia, Kyrgyzstan).

78. EU countries reporting for the first time informed about implementing the requirements of article 6, paragraph 10, while some EECCA countries noted that no such provisions existed in their legislation (Armenia, Georgia).

79. Regarding the implementation of article 6, paragraph 11, several EU Member States reported transposing Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms. Some indicated compliance with the 2005 amendment to the Convention and reported completing ratification in 2008 (Belgium, Czech Republic, Germany, Finland). Some EECCA countries reported that the legal framework for decision-making on genetically modified organisms is being developed (Georgia, Armenia).

#### **E. Public participation concerning plans, programmes and policies relating to the environment (article 7)**

80. Parties from the EU region reporting for the first time described legislation transposing the provisions of article 7 and the respective EU directives. Some reported amending different acts on federal or national level, or laws in different sectoral fields. Others adopted laws on public participation in decision-making on plans and programmes not necessarily subject to strategic environmental assessment or included requirements for public participation platforms in regional planning laws (Germany). In some EU countries, the law on environmental protection lists the most important environmental plans and programmes which require public participation (Poland). In Norway, the scope of plans and programmes covered by article 7 is derived from the definition of "environmental information".

81. With regard to policies relating to the environment, several EU and other countries reported applying the same public participation procedures as for programmes and plans (Belgium, Hungary, Italy, Norway). In others, there is no public participation procedure for policies that are political programmes or strategies, though there is the opportunity for public participation during legislative preparation when policies are enacted in law (Germany).



82. In some EECCA countries, plans and programmes related to the environment are covered by environmental assessment laws (Kazakhstan, Kyrgyzstan) and are therefore also subject to detailed public participation procedures. Overall, most EECCA Parties reported that public participation is provided for during decision-making on the development of plans and programmes, public hearings are held and comments are mostly taken into account (Armenia, Georgia, Kazakhstan, Kyrgyzstan, Ukraine). On the other hand, the legislation often fails to clearly specify the types of strategic decisions “relating to the environment” in which public participation is required under the Convention, for example with infrastructural plans and programmes being excluded from the list of activities subject to environmental assessment (Georgia).

83. Many reports included examples of the implementation of article 7. In EU countries, public involvement in strategic decision-making has increased substantially and public consultations were reported for all important types of strategic documents. Information on consultation procedures is made available on websites of ministries of environment and sent by e-mail or mail to interested partners. The methods of involving the public or public concerned vary and include institutionalized advisory bodies with stakeholder participation established through legislation or on an ad hoc basis. Open consultations are held in many countries, increasingly by electronic means. Several positive examples of public participation in urban planning and national environmental policymaking were also mentioned in the reports from the EECCA subregion (Armenia, Belarus, Georgia, Kyrgyzstan, Ukraine).

84. Several reports reflected obstacles to the implementation of article 7. In some EU countries, the quality of practical implementation of article 7 in decision-making at the local level varied significantly from one region to another, and certain deficiencies were noted. At the national level, comments from NGOs suggested that often no substantive consideration is given to the results of consultation in the planning process. Some reports noted NGO concerns that there is a lack of transparency in decision-making on environmental policies, for which public participation is often limited to electronic consultation (Hungary, Slovenia). In EECCA countries, the main obstacle reported is the lack of public participation at an early stage of decision-making, meaning that comments cannot effectively influence the outcome of decision-making.

#### **F. Public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments (article 8)**

85. Most EU countries reported briefly on general legislative rules concerning public participation in the preparation of legislation. In some countries, ministries are required to publish on their websites all draft legislative texts, concepts, any related proposals and the full explanatory documentation. Public comments are collected, evaluated and a summary thereof published, along with reasoning where they have not been reflected in the final text (Hungary, Poland). Similar regulations are enacted in other EU countries, where environmental NGOs have a right to comment on any draft environmental legislation (Austria, Germany). In EU and EECCA countries, special forums or bodies have been established for consultation that takes place at an early stage of the process.

86. Some EECCA Parties reported having a requirement for public participation in the conceptual stage of the legislative procedure in their administrative code. Draft normative acts are published on the website. The public authority responsible for drafting the instrument is required to publicize the draft and to allow approximately 20 days for commenting (Georgia, Kyrgyzstan).

87. Implementation problems reported in the EECCA subregion include the lack of proper regulation of the public participation process, including with regard to early notification, and the lack of procedures for taking comments into account. The public is often not informed as to why comments have not been taken into account. Here, and in other parts of the UNECE region, the reported obstacles also relate to time frames for the drafting of normative acts being often too short to involve the public, with draft texts being published too late for effective commenting. Some reports indicated that, as with implementation of article 7, where public participation is mainly limited to electronic discussions, civil society often sees the process as not sufficiently transparent and lacking possibilities to debate the matter or receive feedback from the decision-makers (Slovenia).

### **G. Access to justice (article 9)**

88. Information on the implementation of article 9 contained in the national reports reflected the important differences between the legal systems, democratic traditions and legal cultures of the Parties. Many responding Parties noted that the public had the constitutional right to seek the protection of its rights and freedoms in a court of law (e.g. Austria, Finland, Germany, Sweden). Some EECCA countries reported reform of the Constitution, changes in the system of courts, ongoing judicial reform and establishment of administrative courts (Armenia, Kyrgyzstan).

89. A few countries reported on the establishment of new administrative and/or judicial proceedings and bodies for review of appeals related to access to information (art. 9, para. 1), including administrative courts (Armenia, Bulgaria), an independent Federal Appeal Committee for Access to Information (Belgium), and a commission for access to State administrative documents (Italy). The reports provided examples of systems where the administrative code or environmental information law regulates appeals to federal administrative courts (Germany) or to an independent administrative tribunal (Austria). Several countries reported that under the access to information or environmental information acts, the applicants may have direct access to a court of law in addition to an administrative authority review procedure (Albania, Belarus, Cyprus, Hungary, Italy, Latvia, Moldova, Slovakia, Slovenia, The former Yugoslav Republic of Macedonia).

90. In some countries, a refusal of a request for access to documents can be appealed to administrative courts under laws on the freedom of the press or laws on secrecy (Sweden), under the administration of justice act or under environmental information acts (Denmark). Decisions of the Appeals Board of Environmental Information in Norway, which makes decisions on the right to access information from enterprises, may also be appealed to a court. In France, the Commission on Access to Administrative Documents is an independent body that reviews appeals related to access to information. In several countries, the Ombudsman (Armenia, Hungary, Norway), Parliamentary Ombudsman (Sweden) or, for acts issued by regions,

provinces or municipalities, local ombudsmen (Italy) review matters of access to information. Some countries reported that the courts handle the access to information cases in a fast-track procedure (Hungary).

91. Legislative measures concerning the implementation of article 9, paragraph 2, were reported by several EU and EECCA countries. A right to appeal decisions, acts or omissions related to public participation procedures have been established under environmental codes and other environmental legislation or general administrative legislation (Austria, Bulgaria, Cyprus, Germany, Hungary, Italy, Latvia, Sweden). In Austria, a decision can be reviewed by the Independent Environmental Senate or the Administrative Court/Constitutional Court also on procedural grounds and on the merits. Special environmental courts in Sweden review permits both with regard to the decision-making procedure and on the merits. A decision of such a court can be appealed to the Environmental Court of Appeal and then to the Supreme Court.

92. In several countries, civil associations are given standing rights under administrative codes and some environmental laws. Some Parties set out formal standing criteria for NGOs. In France, while the domestic legislation does not define the public concerned, it grants environmental NGOs standing in administrative and, with some reservations, civil cases. For example, in Germany civil associations can only have recourse in court without needing to claim that their own rights have been violated if they have been “recognized”. Such recognition is given by environmental ministries or agencies to NGOs that meet legal criteria for recognition. In Slovenia, public interest environmental NGOs which meet certain criteria set out in the environmental protection act and which have provided comments in a decision-making process on an environmental permit can be recognized as parties and can challenge the decision. According to the report, NGOs are concerned that these criteria might prevent them from gaining the same participation rights as those of the residents affected by the environmental impact of a project. In some other countries, the criteria are more flexible and easier to fulfil (e.g. Austria, Cyprus, Hungary). In Hungary, the Supreme Court expanded the legal standing of NGOs. Some other Parties from the EU region currently debate the introduction of such criteria (Estonia).

93. At least one Party reports that the participation of the concerned public – including NGOs – in decision-making, and consequently its right to access to justice, is excluded where the competent authority decides not to carry out a full EIA procedure (Poland).

94. According to the reports, in some of the EU and EECCA countries, environmental codes, environmental laws or general administrative law provide for a possibility to challenge acts and omissions by public authorities which contravene provisions of national environmental law (art. 9, para. 3) (Denmark, Finland, Georgia, Latvia, Malta, Slovakia, Slovenia, Sweden). Parties also reported on mechanisms under civil and criminal law enabling individuals and associations to enforce compliance with environmental law and to petition against any violations of its provisions by public agencies or private persons (Estonia, Germany, Kazakhstan, The former Yugoslav Republic of Macedonia). In some countries, individuals and/or environmental NGOs may seek the intervention of the competent authorities under the environmental act as well as directly sue the operators of activities that pose a threat to the environment (Hungary, Latvia, Sweden). In Sweden, an injured party can also initiate a private prosecution in the event of a breach of an environmental provision carrying a penalty. NGOs may request a court to issue a permanent injunction, to introduce preventive measures (e.g. Hungary) or to issue a interim

injunction (Malta). In some cases, an administrative authority or an environmental NGO may notify the competent authority about (potential) damage to the environment, may appeal to the authority of second instance in case of a refusal to initiate proceedings, and may bring the matter before a court under the environmental liability act (Poland). In some countries, environmental organizations and parties with a legal interest may request the ministry of environment to bring a matter before a court in connection with compensation for environmental damage (Italy).

95. Only a few reports addressed the implementation of article 9, paragraphs 4 and 5. Some Parties reported that private persons are provided with a simplified and efficient compensation claims procedure if an authority's administrative act or activity has resulted in damages (Latvia). Others reported that the administration of justice act provides a possibility to obtain legal aid (Denmark), or that there are no court fees or requirements concerning legal representation to gain access to justice in appeals of permit decisions or decisions on release of environmental information (Sweden). In many cases, the losing party bears the costs of litigation. However, in some countries it is a general practice that each party should bear its own cost (Italy) or that the person who appeals against a decision is not responsible for the opponent's litigation costs (Sweden). In other countries, the costs associated with administrative appeal in environmental cases are specified by law, and practice shows that these fees are not prohibitively expensive (Hungary). Some Parties reported on simple and inexpensive procedures, such as the use of a conciliation board where parties seek to reach a settlement of disputes where the public administration is not one of the parties (Norway). The public, including environmental NGOs, may also report infringements of various environmental regulations to supervisory authorities or to the Ombudsman (Denmark, Slovenia, Sweden).

96. Some Parties reported courts directly applying or refusing to apply the Convention (Czech Republic, Estonia, Latvia, Slovakia). Surveys carried out in Poland show that appeals under article 9, paragraphs 1 and 2, are rather rare. Such appeals, however, are reported to occur often in some EECCA countries (Armenia, Kyrgyzstan). On the other hand, an increasing number of civil lawsuits are filed by developers against NGOs for harming their business reputation or for moral damage suffered and aimed at the indemnification of damage for unjustified delay of the permitting procedure (Hungary, Ukraine).

97. Some EU and EECCA countries reported on accessibility of court decisions and annual reports of administrative courts on the Internet (Finland, Netherlands, Sweden, Ukraine) or legal information systems containing legislation, case law and some judgments (Austria, Latvia, Slovakia).

98. Among the obstacles to the implementation of article 9, some EECCA countries mentioned the lack of independence of the judiciary as well as the public lack's of confidence in the judiciary (Armenia). The length of court procedures constitutes a general obstacle to effective access to justice (except in the case of access to information). Obstacles mentioned both by EECCA and EU countries included the problem of the timely hearing of cases due to overloaded courts, and the relative lack of knowledge about rights under the Convention (Armenia, Hungary, Kazakhstan, Latvia, The former Yugoslav Republic of Macedonia). Other problems mentioned included the difficulty in establishing a causation link between a specific damage and a decision, activity or omission, and the unwillingness of courts to grant injunctive relief (Czech Republic, Latvia). Despite some positive initiatives, litigation costs and attorney fees are still

major obstacles (Albania, Estonia, Hungary, Italy, Slovakia), in particular where legal representation is required in certain instances of the judicial system (France), as are the lack of financial resources for public interest lawyers (Hungary, Slovakia, Ukraine).

#### IV. CONCLUSIONS

99. Most of the Parties – 35 out of 41 - submitted implementation reports in the second reporting cycle. In quantitative terms, while all Parties are required to submit reports and any failure by a Party to submit its implementation report is regrettable, this may be considered a reasonably successful outcome. The fact that all of the Parties from the EECCA subregion submitted reports is particularly commendable.

100. Only about half of the Parties that submitted reports did so before or within a couple of weeks following the deadline set in decision II/5b of the Meeting of the Parties. Several reports were submitted so late that they could not be taken into account in the preparation of the synthesis report. Some of the reports considered in preparation of this document did not address all the elements of the reporting format in detail. This document therefore draws on a somewhat limited pool of information. However, some tentative conclusions may be drawn.

101. In general, Parties from all parts of the region appear to be committed to actively pursuing the implementation of the Convention. Several national reports acknowledged the Convention's unique significance as an instrument aiming at the protection of citizens' rights to a healthy environment, promoting democracy and good governance and furthering the openness and transparency of decision-making processes across Europe and Central Asia. Many countries directly link these objectives with similar goals to be achieved on the national level through the implementation. Despite this, the level of implementation continues to vary significantly across the UNECE region, depending, inter alia, upon countries' legal traditions, experiences in democratic governance and socio-economic conditions.

102. As was reflected in the synthesis report of 2005, the necessary implementing legislation in EU Member States and Norway has generally been put in place prior to ratification. The Parties recently transposing the Convention have followed the same path of implementing the respective EU directives and the provisions of the Convention. In general, implementation is quite advanced in this region. While some of the new EU Member States have rather progressive systems in place, others may still face difficulties in implementing certain provisions. Significant measures are being taken to further improve implementation of the first two pillars. Although not all Parties from this region reported problems or obstacles, from those indicated, the greatest ones appear to continue to arise in relation to access to justice.

103. Significant progress appears to have been made also in most EECCA countries in connection with developing and putting in place relevant institutional and legislative frameworks. However, practical implementation remains a major problem in EECCA and also in SEE. Comprehensive implementing regulations and procedures are still missing in some countries. As a consequence, the implementation of all pillars of the Convention's provisions is progressing rather slowly. In the last few years, Parties from these subregions seem to have allocated greater importance to the development of implementing regulations. However,

practical application is still to be achieved in a number of fields, especially in relation to access to justice. Some of the problems or challenges identified in the previous reporting cycle still remain and include difficulties in the implementation by public authorities at the local level and especially in remote regions, poor implementation by public authorities other than ministries of environment, and the lack of financial and human resources and technical background.

104. As of three years ago, Parties appeared to have the fewest problems in implementing the access to information pillar, although in EECCA, and to some extent in SEE, significant obstacles remain. These include the absence of a clear legislative base, the existing gaps and discrepancies in legislation as compared to the Convention, and a lack of clarity regarding the procedure and conditions under which authorities may apply exemptions. The lack of understanding by officials of the meaning of “environmental information” and the lack of awareness of the public’s rights are also serious impediments. Despite progress on and positive practical examples of the active dissemination of information, difficulties include the absence of clear regulations on the type and scope of information to be collected, processed and disseminated.

105. Positive trends are apparent in the increasing use of various electronic tools, especially in EU countries and Norway, as well as in the existence of operational PRTR systems and the ratification of the Protocol on PRTRs. However, there is still a need across EECCA and SEE countries to establish and operate more efficient and easily accessible information systems.

106. The implementation of the public participation pillar seems to be more problematic, especially in EECCA and SEE countries. Here certain advances have been made in the development of general legislative frameworks, but uniform regulations on EIA are often missing. Moreover, the lack of adequate control by public authorities over the quality and level of public participation, especially where developers are responsible for ensuring public involvement, create obstacles. More substantial progress has been made in the EU region. However, in some countries there appears to be a trend to narrow the interpretation of the public concerned and to narrow standing criteria for NGOs.

107. Positive developments have taken place during this reporting cycle in development of legislative frameworks for implementing article 7, especially in the EU, in particular in the light of transposition of some of the planning-related directives. Practical application of strategic environmental assessment procedures, including public participation, is also becoming more common. However, the broad variety of plans and programmes and corresponding legislation means that opportunities for and effectiveness of public involvement varies greatly from one Party to another. Parties increasingly rely on public participation through electronic means, which when used exclusively may not be sufficiently transparent or provide enough opportunity for debate and feedback.

108. Positive developments have also been made in development of legislative requirements and practical arrangements implementing article 8. In the EECCA subregion and to some extent some EU countries, obstacles relate primarily to the lack of regulated public participation procedures.

109. The implementation of the access to justice pillar still appears to present the main challenge for Parties in almost all parts of the UNECE region. Although some EU countries and Norway did not identify particular problems with access to justice, several other Parties from the EU region and some from EECCA and SEE reported difficulties. Some of the EU countries identified restrictive standing for NGOs as one of the main obstacles in this field, especially where these are linked to the granting of a special “public interest” status on the basis of a narrow set of criteria.

110. In the EECCA subregion, the recent trend of judicial reforms establishing administrative courts can potentially facilitate access to justice for review of administrative decisions. Capacity-building programmes for the judiciary have also gained more prominence in the last few years. The main recurring difficulty in the implementation of article 9 in this subregion appears, however, to relate to the lack of awareness both among the judiciary and among the members of the public.

111. The length of judicial review, financial barriers, the need for pro bono legal services and difficulties with obtaining injunctive relief are among the main obstacles in common for all the subregions. As a result, access to justice is guaranteed in principle, but may be hampered in practice.

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