

Economic Commission for Europe

Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Task Force on Access to Justice

Tenth meeting

Geneva, 27-28 February 2017

Item 2 of the provisional agenda

**Thematic focus: Enabling effective access
to justice without persecution and harassment**

Information paper N2

Overview of the implementation of article 3, paragraph 8, of the Aarhus Convention

Prepared by the secretariat on the basis of the national implementation reports¹

This information paper directs participants to selected sections of the 2014 Synthesis report on the status of the implementation of the Aarhus Convention² and 2005-2017 national implementation reports submitted by Parties to the Convention³, relating to item 2 of the provisional agenda of the tenth meeting of the Task Force on Access to Justice under the auspices of the Aarhus Convention. Specifically, it lists the information provided by the Parties with respect to the implementation of article 3, paragraph 8, of the Aarhus Convention.

Participants are invited to consult this document in advance of the meeting in order to gain an overview of the status of implementation.

They will be further invited to share challenges, good practices, lessons learned and information on recent legislative and practical developments as well as identify needs in relation to this subject.

¹ This document was not formally edited.

² Document ECE/MP.PP/2014/6 available in English, French and Russian from http://www.unece.org/env/pp/aarhus/mop5_docs.html#/ under Category II heading.

³ Available from <http://apps.unece.org/ehlm/pp/NIR/>. Information from 2017 national implementation reports provided in accordance with their availability to the secretariat by 20 January 2017.

2014 Synthesis Report

With respect to ensuring that persons exercising their rights in conformity with the provisions of the Convention are not penalized, persecuted or harassed for their involvement, Parties mentioned their constitutional and legislative provisions guaranteeing broad human rights for members of the public as well as non-discrimination provisions. The European Convention on Human Rights and Fundamental Freedoms was cited by Parties that were members of the Council of Europe as an instrument in line with article 3, paragraph 8, of the Aarhus Convention. Ukraine referred to its legal norms on liability for illegal communication containing false information, libel or slander or instigation to racial or religious hatred. Serbia made reference to a project implemented in the reporting period aimed at drafting a model law on whistle-blowing and the protection of whistle-blowers.

With regard to the use of libel, slander or similar provisions of civil or criminal law in the context of environmental decision-making processes, Belarus mentioned the arrest of Belarusian anti-nuclear activists, although the Ministry of Internal Affairs and the Ministry of Environment considered that any direct relationship between their arrest and their anti-nuclear activities was questionable. Latvia noted two court proceedings against active members of the public for damages claimed by business companies. Other Parties did not report on cases brought against members of the public for their activities.

On the issue of damages awarded against individuals in connection with their environmental protection activities, a few Parties reported on court procedures obliging the party in a dispute to compensate the opposing party for its legal costs if they lost. Slovenia observed that NGOs faced a great risk of having to reimburse their court costs if they lost a case. Hungary noted that, on a number of occasions, developers had brought civil cases against NGOs that opposed the project seeking financial compensation for delays or additional costs caused by the NGOs' activities. While repeatedly finding that harm was done to good business reputations, the Supreme Court had never yet awarded damages to the developers.

(See paragraphs 62, 63 and 64 of document ECE/MP.PP/2014/6)

Country, year	Extract from national implementation reports
Albania, 2005/2008	There are no cases of prosecution, harassment or penalization toward persons for exercising their rights in conformity with the Convention. <i>(See document ECE/MP.PP/2005/18/Add.27)</i>
Albania, 2014	According to its paragraph 8 no further progress can be reported at this moment, from what is previously reported. <i>(See NIR)</i>
Armenia, 2005	According to article 16 of the Constitution, all are equal before the law and shall be given equal protection under the law without discrimination. Article 24 ensures everyone's right to freedom of speech, including the freedom to disseminate information (including environmental). <i>(See document ECE/MP.PP/2005/18/Add.1)</i>
Armenia, 2008/2011	Under article 16 of the Constitution (article 14.1, following its amendment), all persons are equal before the law and shall be given equal protection under the law without discrimination. Article 24 enshrines the right of every person to freedom of speech , which shall include the freedom to disseminate information (including environmental information). This article also stipulates that every person has the right to personal liberty and inviolability and that a person may only be deprived of liberty in the cases and following the procedure established by law. The Constitution provides an exhaustive list of the circumstances, which must be specified in law, under which persons may be deprived of their liberty. Under article 17 of the Constitution, "No one shall be subjected to torture or to cruel or

	<p>degrading treatment or punishment. Arrested, detained or incarcerated persons shall be entitled to humane treatment and respect for their dignity.</p> <p><i>(See document ECE/MP.PP/IR/2008/ARM)</i></p>
<p>Austria, 2008/2011/2014/2017</p>	<p>Austrian constitutional law contains the following non-discrimination provisions: according to Article 2 of the Basic Law on the General Rights of Nationals and Article 7 of the Federal Constitution, all nationals (Austrian citizens) are equal before the law. In addition, paragraph 14 of the European Convention on Human Rights, which was ratified by Austria in 1958, provides for a general discrimination ban. A certain level of protection against discrimination irrespective of nationality is granted by the Implementation of the International Convention on the Abolishment of all Forms of Racial Discrimination (Federal Law Gazette 1973/390).</p> <p>Based on EU membership, EU citizens (nationals of European Union Member States) are equally guaranteed the fundamental rights enshrined in the European Convention on Human Rights and in the EU Charter on Fundamental Rights or are provided with protection against discrimination on grounds of nationality, sex, race, or ethnic origin, religion or philosophy, disability, age or sexual orientation.</p> <p><i>(heading of both paragraphs is "Article 3, paragraph 8")</i></p> <p><i>(See document ECE/MP.PP/IR/2008/AUS)</i></p>
<p>Azerbaijan, 2011/2017</p>	<p>Legislation grants everyone the right to judicial protection of their rights. For example, article 1 of the Act on the Judicial Appeal of Decisions and Actions (Omissions) that Infringe the Rights and Freedoms of Citizens specifies that if citizens believe their rights and freedoms to have been breached by a decision or action (omission) of state authorities, enterprises and officials, they may file an action in court.</p> <p><i>(See NIR)</i></p>
<p>Belarus, 2005/2011</p>	<p>Article 3, para. 8, of the Convention, is being implemented on the basis of the provisions of the Constitution. Thus, under article 23, restrictions on the rights and freedoms of the individual are permitted only in those cases provided for by law, in the interests of national security, public order, the protection of morality, public health, and the rights and freedoms of others, while under article 26 no one may be found guilty of an offence if his guilt has not been proven in accordance with the procedure laid down by law and established by a final judgment of the court. Moreover, the Criminal Code establishes liability for obstructing the legitimate activities of voluntary associations and for the persecution of citizens for criticism (arts. 194 and 197).</p> <p><i>(See document ECE/MP.PP/2005/18/Add.3)</i></p>
<p>Belarus, 2017</p>	<p>Article 3, para. 8, of the Convention, is being implemented on the basis of the provisions of the Constitution. Thus, under article 23, restrictions on the rights and freedoms of an individual are permitted only in those cases provided for by law, in the interests of national security, public order, the protection of morality, public health, and the rights and freedoms of others, while under article 26 no one may be found guilty of an offence if his guilt has not been proven in accordance with the procedure laid down by law and established by a final judgment of the court. Moreover, the Criminal Code establishes liability for obstructing the legitimate activities of voluntary associations and for the persecution of citizens for criticism (arts. 194 and 197).</p> <p>However, in the Compliance Committee of the Aarhus Convention by members of the public received information concerning the detention of Belarusian anti-nuclear activists, associated with their activities.</p> <p>Ministry of Natural Resources as the central governmental body responsible for the implementation of the Aarhus Convention, strengthened cooperation with other public authorities regarding the implementation of article 3, para. 8, of the Aarhus Convention. In particular, in 2014-2016 the law enforcement agencies received explanatory information on the compliance with the provisions of the Aarhus Convention, in particular article 3, para. 8. In 2013-2015 Similar information was sent to the State Enterprise "The Belarusian</p>

	nuclear power plant" and the Ministry of Energy. In 2014-2016, representatives of the Ministry of the Environment participated in workshops and seminars, including with the participation of international experts, during which they draw close attention to other public authorities on the requirements to comply with the provisions of the Aarhus Convention, and in particular article 3, para. 8.
Belgium, 2005/2008/2014	<p>The Constitution governs the fundamental freedoms of individuals. Of particular note are articles 11 (non-discrimination), 12 (individual freedom), 19 (freedom of expression) and 23 (right to lead a life in keeping with human dignity). Other rights include the right to the preservation of a healthy environment (art. 23, para. 4) and the right of association (art. 27).</p> <p>(...)</p> <p>Walloon Region: Labour laws and the principles of the Constitution (including freedom of expression) are federal powers. See the Federal Government's report at http://www.belgium.be</p> <p>(...)</p> <p>Flemish Region: See articles 19 and 23 of the Constitution</p> <p>(...)</p> <p>Brussels Capital: The constitutional guarantees are complied with</p> <p>(See document <i>ECE/MP.PP/2005/18/Add.4</i>)</p>
Belgium, 2011	<p>The principle of the right to freedom of speech, together with the right to protection of a healthy living environment is constitutionally embedded in Articles 19 and 23 respectively of the Co-ordinated Constitution.</p> <p>Art. 19 reads as follows with regard to this matter: "The freedom of worship, the free public practice thereof, as well as the freedom to express one's opinion in any field, are guaranteed, subject to the punishment of offences committed during the application of these freedoms".</p> <p>Art. 23 stipulates the following: "Everyone has the right to a decent existence.</p> <p>This is guaranteed by the law, the Flemish Parliament Act or the rule referred to in Article 134, taking into account the corresponding obligations, the economic, social and cultural rights of which they lay down the terms for exercise.</p> <p>These rights include especially: (...) 4° the right to the protection of a healthy living environment (...)</p> <p>See also the federal report (www.health.fgov.be)</p> <p>(See <i>NIR</i>)</p>
Belgium (only Brussels capital region), 2017	The constitutional guarantees are implemented.
Bosnia and Herzegovina, 2011	<p>With respect to paragraph 8, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.</p> <p>Articles 31 LoPE FBiH/30 LoPE RS/30 LoPE BD are relevant.</p> <p>(See <i>NIR</i>)</p>
Bosnia and Herzegovina, 2014	Articles 31 LoPE FBiH/30 LoPE RS/30 LoPE BD are relevant. Through passing of the new LoPE RS, the law maker has left out the provision that would explicitly forbid punishing, persecution or harassment of individuals who exercised their right of participation as public.

	<i>(See NIR)</i>
Bulgaria, 2011	The Bulgarian legislation has no explicit text that meets the requirements of Article 3, para. 8 of the Convention (<i>heading of this paragraph is “Art. 3, para. 8 of the Convention”</i>) <i>(See NIR)</i>
Bulgaria, 2014/2017	The Bulgarian legislation has no explicit text that literally reproduces the requirements of Article 3, para. 8 of the Convention, but in accordance with Art. 45 of Constitution of the Republic of Bulgaria: “Citizens shall have the right to present complaints, suggestions, and petitions to the state authorities” and Art. 56 stipulates: “Every citizen, whose rights or legitimate interests are violated or jeopardized, shall have the right to remedy. Appearing before any institution of State, every citizen may be represented by legal counsel.” <i>(See NIR)</i>
Croatia, 2011/2014/2017	This right (<i>art. 3, paragraph 8</i>) is granted by the constitutional principle of lawfulness under Article 16 of the Constitution of the RC (OG 56/90, 135/97, 8/98 – revised version, 113/00, 124/00 – revised version, 28/01, 41/01 – revised version, 55/01 – correction, 76/10 and 85/10 – revised version) and the principle of the right of appeal under Article 18 of the Constitution of the RC. <i>(See NIR)</i>
Czech Republic, 2005	It is not known that persons exercising their rights would have been penalized or otherwise sanctioned , and therefore no special measures have been taken to prevent such cases. <i>(See document ECE/MP.PP/2005/18/Add.6)</i>
Czech Republic, 2008	Article 3, paragraph 8 , of the Convention is reflected, inter alia, in article 3, paragraph 3, and article 4, paragraph 1, of the Charter of Fundamental Rights and Freedoms, which is a part of the Constitution of the Czech Republic. In the Czech Republic, there are no cases when people claiming their rights would be penalized or sanctioned in any other way. There could be cases when a person is not enabled to claim his or her rights, but penalties or sanctions by the State administration are excluded. <i>(See document ECE/MP.PP/IR/2008/CZE)</i>
Czech Republic, 2011	Art. 3 (8) of the Convention is dealt with in the Charter of Fundamental Rights and Freedoms, which is part of the Constitution of the Czech Republic. “ Freedom of expression and the right to information ” are one of the fundamental constitutional rights (cf. Art. 17 of the Charter). This also entails the right to express opinions, prohibition of censorship, etc. These rights may be limited only by law and only on grounds stipulated by law (cf. Art. 17 (4) of the Charter). The right of association and assembly (cf. Art. 19 and 20 of the Charter) is also relevant in this respect. Art. 3 (3) and Art. 4 (1) of the Charter apply subsidiarily. Persons exercising their rights are not penalised or otherwise punished in the Czech Republic. There may be cases where a certain person is not allowed to exercise his rights; however, any penalisation or other punishment by the State is out of the question. <i>(See NIR)</i>
Czech Republic, 2014/2017	The Czech LZPS stipulates the right to freedom of expression, freedom of association, right to petition , right to favourable environment including the right to information about the environment, and the right to court protection from unlawful decisions of public authorities. All those constitutional rights are implemented by a number of “ordinary” Acts. Persecuting and bullying any persons who claim such rights within the limits of the system of law is prohibited and, as far as it is known, is not practised by public authorities.

	<i>(See NIR)</i>
Denmark, 2005/2008/2011/2 014	<p>The Act of Constitution establishes citizens' rights of freedom of speech, freedom of association and the right to challenge in court decisions by the administrative authorities. The European Convention on Human Rights also offers protection of citizens' fundamental rights and freedoms. National legislation provides positive statements of the situations in which a citizen may be subject to legal proceedings or prosecution. The law does not allow for the institution of legal proceedings etc., as mentioned in article 3, para. 8, of the Convention.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.7)</i></p>
Estonia, 2008	<p>The prohibition established in article 3, paragraph 8, in regards to penalizing, persecuting or harassing persons exercising their rights is first of all contained in paragraph 12 of the Constitution, according to which no one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The Penal Code establishes that as fit for a State based on the rule of law, no one shall be convicted or punished for an act which was not an offence pursuant to the law applicable at the time of the commission and that a person shall be punished for an act if it comprises the necessary elements of an offence, is unlawful and the person is guilty of the commission of the offence. In practice NGOs have indicated that in some specific cases there has been an attempt on both state and local government level to manipulate or keep off the representatives of NGOs.</p> <p><i>(See document ECE/MP.PP/IR/2008/EST)</i></p>
Estonia, 2011/2014/2017	<p>The prohibition established in article 3, paragraph 8, in regard to penalizing, persecuting or harassing persons exercising their rights is first of all contained in paragraph 12 of the Constitution, according to which no one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The Penal Code of Estonia establishes that as fit for a State based on the rule of law, no one shall be convicted or punished for an act which was not an offence pursuant to the law applicable at the time of the commission and that a person shall be punished for an act if it comprises the necessary elements of an offence, is unlawful and the person is guilty of the commission of the offence. Pursuant to the responses received from the NGOs in 2010 (2013) (2016) the prohibition to penalize, persecute or harass persons exercising their rights has not been violated in Estonia.</p> <p><i>(See NIR)</i></p>
European Union, 2008/2011	<p>According to settled case-law of the European Court of Justice, the European Community (<i>European Union</i>) is based on the rule of law. Any decisions made by Community institutions or bodies whose main purpose would be to penalise, persecute or harass a person on the sole ground that (s)he would have exercised rights bestowed to him or her by the Convention – which, upon its ratification, has become an integral part of the Community legal order – would constitute a misuse of powers and therefore be illegal. In addition, any official or other agent of any Community institutions and bodies who would so behave would expose him or herself to disciplinary proceedings. The European Commission understands that similar principles apply within the EU Member States.</p> <p><i>(See document ECE/MP.PP/IR/2008/EC)</i></p>
European Union, 2014	<p>Reference is made to IR 2.</p> <p><i>(See NIR)</i></p>
Finland, 2008	<p>The question of whether a party shall be liable to compensate the other party for his legal costs is decided pursuant to the Administrative Judicial Procedure Act (586/1996, sect. 74). Under this Act a private individual shall not be held liable for the costs of a public authority, unless the private individual has made a manifestly unfounded claim.</p>

	<p>The Act on Criteria for Charges Payable to the State (150/1992) contains provisions on the general criteria for charging for services by State authorities and for the size of the charges made for said services, and for other criteria related to charges. A special law contains provisions applicable to courts and other legal authorities (Act 701/1993, available only in Finnish, no English translation).</p> <p><i>(heading of both paragraphs is "Art.3, paragraph 8")</i></p> <p><i>(See document ECE/MP.PP/IR/2008/FIN)</i></p>
Finland, 2011/2014	<p>Under the provisions of Section 6 of the Finnish Constitution regarding equality, no one shall, without an acceptable reason, be treated differently from other persons on the ground of conviction, opinion or any other reason that concerns his or her person. Furthermore, under Section 6 of the Administrative Procedure Act relating to legal principles of administration, an authority shall treat the customers of the administration on an equal basis and exercise its competence only for purposes that are acceptable under the law. The acts of the authority shall be impartial and proportionate to their objective.</p> <p>In an administrative court process, the possibility to order a private party to compensate another party or an authority for his or her legal costs is determined on the basis of the provisions of Section 74 of the Administrative Judicial Procedure Act (586/1996). Between private parties, the liability to compensate for legal costs is based on the final result of the decision and on consideration of discretion.</p> <p><i>(See NIR)</i></p>
France, 2005	<p>Harassment of persons exercising their rights is prohibited. This principle is laid down in the Constitution of 4 October 1958. The preamble to the Constitution contains explicit references to two other fundamental instruments: the Declaration of the Rights of Man and the Citizen of 26 August 1789 and the preamble to the Constitution of 27 October 1946. The courts do not hesitate to apply them directly, and parliament always strives to respect them, subject to the supervision of the Constitutional Council. These statements of essential principles form part of the corpus of constitutional law. As an example, in decision No. 71-44 of 16 July 1971, the Constitutional Council recognized freedom of association as a fundamental principle acknowledged in the laws of the country, as reaffirmed in the preamble to the Constitution.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.8)</i></p>
France, 2008/2011	<p>The preamble to the Constitution contains explicit references to three other texts of constitutional rank: the Declaration of the Rights of Man and the Citizen of 26 August 1789, the preamble to the Constitution of 27 October 1946 and the Environmental Charter of 2004. Parliament must respect these texts under the supervision of the Constitutional Council. The courts can sometimes apply them directly.</p> <p>As an example, in decision No. 71-44 of 16 July 1971, the Constitutional Council recognized freedom of association as a fundamental principle acknowledged in French law, as reaffirmed in the preamble to the Constitution. Article 7 of the Environmental Charter of 2004 provides that "everyone has the right, in the conditions and to the extent provided in law, to access environmental information held by public bodies and to participate in public decisions that affect the environment".</p> <p><i>(See document ECE/MP.PP/IR/2008/FRA)</i></p>
France, 2014	<p>The Declaration of Human and Civic Rights of 1789 recognizes that all citizens are equal in the eyes of the law (Article 6), prohibits arbitrary arrests and detentions (Article 7) and proclaims: "No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established law and order." (Article 10).</p> <p>The Declaration of Human and Civic Rights has been recognized by the Constitutional Council as forming part of the country's 'block' of constitutional principles, and therefore its status is the same as that of the Constitution (Decision of the Council No. 71-44 DC of</p>

	<p>16 July 1971).</p> <p>The Constitution guarantees the independence of the jurisdiction of the courts and the Constitutional Council has highlighted the independence of the administrative courts as a fundamental principle acknowledged in French law (Constitutional Council, 22 July 1980, No. 80-119 DC).</p> <p>Finally, France is a party to the Convention for the Protection of Human Rights and Fundamental Freedoms, which guarantees the right to security and to freedom of thought, opinion, expression and association, under the supervision of its Court (the ECHR).</p> <p><i>(See NIR)</i></p>
Georgia, 2005/2011/2014/2017	<p>The principles of the Aarhus Convention are protected under the Constitution, the Law on Environmental Protection and the Administrative Code. In accordance with article 42 of the Constitution, each person is entitled to apply to the court for the protection of his/her human rights (inter alia the rights granted by the Convention) and liberty.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.9)</i></p>
Georgia, 2008	<p>The principles of the Convention are protected under the Constitution of Georgia, the Law of Georgia on Protection of Environment and the General Administrative Code of Georgia. In accordance with the Article 42 of the Constitution of Georgia, each person is entitled to appeal to the court for protection of his/her human rights (inter alia, the rights granted by the Convention) and liberty.</p> <p>Article 3, paragraph 8, of the Convention is the self-executive norm, which is in force on the territory of Georgia and bears specific rights and duties. Deriving from the aforementioned, under the Convention the applicable activity will not cause criminal justice, civil or administrative responsibility. Hereby, we would like to mention that such a case has not occurred yet in practice.</p> <p>No cases of NGOs being ordered to pay damages in connection with their public interest, environmental protection activities or litigation have been registered in practice so far.</p> <p><i>(See document ECE/MP.PP/IR/2008/GEO)</i></p>
Germany, 2008/2011/2014/2017	<p>The free exercise of the rights pursuant to Article 3 (8) of the Convention is guaranteed by the constitutional principle of law and justice 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 public authority.</p> <p><i>(See document ECE/MP.PP/IR/2008/DEU)</i></p>
Greece, 2008/2011	<p>There is a complete legal framework in Greece, as already mentioned, ensuring the exercise of the rights of the persons under the Convention. The right of access to information, is provided and guaranteed by the Constitution as well as by the Administrative Procedure Code.</p> <p>According to Article 4 of the Constitution all Greek citizens are equal before the law. Citizens have also the constitutional right of previous hearing. Articles 4 to 25 of the Constitution provide for the protection of human rights, including the free development of one's personality and recognition of the value of human dignity;</p> <p>Every act of the State must be in conformity with the law and must also be provided for by a law. According to the opinion of one NGO, the environmental NGOs can be critical of governmental actions, decisions, etc. without repercussions (if there is a real basis for criticism);</p> <p>The citizens, in the framework of their protection, have several possibilities for administrative and judicial review as well as actions for compensation according to the</p>

	<p>civil liability provisions (see art. 9).</p> <p><i>(See document ECE/MP.PP/IR/2008/GRC)</i></p>
Greece, 2014	<p>There is an integrated legal framework in Greece, as already mentioned, ensuring the exercise of the rights of the persons under the Convention. The right of access to information is provided and guaranteed by the Constitution as well as by the Administrative Procedure Code.</p> <p>According to Article 4 of the Constitution all Greek citizens are equal before the law. Citizens have also the constitutional right of previous hearing. Articles 4 to 25 of the Constitution provide for the protection of human rights, including the free development of one's personality, the participation in the social, economic and political life of the country and the recognition of the value of human dignity;</p> <p>Every act of the State must be in conformity with the law and must also be provided for by a law.</p> <p>The citizens, in the framework of their protection, have several possibilities for administrative and judicial review as well as actions for compensation according to the civil liability provisions (see art. 9).</p> <p>The Ministry of Administrative Reform and e-Governance has issued the "Guide of Good Administrative Behavior" and the "Rights of citizens and enterprises in their transactions with public services", seeking to inform the public about its rights, available at the website of the Ministry.</p> <p><i>(See NIR)</i></p>
Greece, 2017	<p>There is an integrated legal framework in Greece, as already mentioned, ensuring the exercise of the rights of the persons under the Convention. The right of access to information is provided and guaranteed by the Constitution as well as by the Administrative Procedure Code.</p> <p>According to Article 4 of the Constitution all Greek citizens are equal before the law. Citizens have also the constitutional right of previous hearing. Articles 4 to 25 of the Constitution provide for the protection of human rights, including the free development of one's personality, the participation in the social, economic and political life of the country and the recognition of the value of human dignity.</p> <p>Article 24 of the Greek Constitution enshrines the mixed rights (individual, social and political ones) of everyone in the natural and cultural environment and, at the same time, establishes the State's obligation of the State to protect and take preventive or enforcement action under the principle of sustainability. Through this constitutional provision, one of the most important principles of International Environmental Law is transposed into the national legislation namely, the Preventive Principle, which relates to the obligation for taking measures to avoid scientifically verified risks of damages.</p> <p>Every act of the State must be in conformity with the law and must also be provided for by a law.</p> <p>The citizens, in the framework of their protection, have several possibilities for administrative and judicial review as well as actions for compensation according to the civil liability provisions (see art. 9).</p> <p>The Ministry of Administrative Reform and e-Governance has issued the "Guide of Good Administrative Behavior" and the "Rights of citizens and enterprises in their transactions with public services", seeking to inform the public about its rights, available at the website of the Ministry.</p> <p>Additionally, the Ministry of Justice in cooperation with the competent Ministries adopted the Human Rights National Action Plan 2014-2016. In this Action Plan there is particular reference to the right to environment including actions for its protection.</p> <p><i>(See NIR)</i></p>

Hungary, 2005	<p>Individuals exercising their rights in accordance with the provisions of the Convention may not be persecuted or harassed. Pursuant to paragraph 143 (2) of Act XXIX of 2004 on amending certain laws, and repealing and adopting certain provisions in relation to Hungary's access to the EU, "[e]xcept for the provisions of paragraph (4), no individual presenting a complaint or reporting on a case shall be penalised in any way for reporting on an issue of public interest".</p> <p><i>(See document ECE/MP.PP/2005/18/Add.25)</i></p>
Hungary, 2008	<p>Adequate protection of citizens participating in administrative procedures is guaranteed by the Administrative Procedures Code (see above). The Code declares the equality of all persons appearing before authorities, the prohibition of discrimination between or the exclusion of any persons, the right to a fair and timely procedure as well as the right to access to justice.</p> <p>Furthermore, Act XXIX of 2004 (on the amendment of certain acts in relation to the accession of Hungary to the European Union) (re-)introduced a formal complaint and notification procedure vis-à-vis competent administrative authorities (in addition to those already available under the Code). The complaint procedure provides a platform to communicate any grievances of individual right or interest. The so-called notification procedure allows citizens to express an opinion in relation to issues in the interest of the wider public. The Act provides that no citizen submitting a complaint or notifying an issue in the public interest may be subject to penalization of any sort.</p> <p>It arises more and more frequently that in connection with the exercise of the rights laid down in the Convention or Hungarian law, a developer considers him or herself to have been subject to libel or to have suffered pecuniary or moral damage. Typical law suits are concerned with the harm of business reputation or are aimed at the indemnification of damage for unjustified delay of the licensing procedure.</p> <p>Such cases have appeared in relation to the construction of waste incinerators as well as other such installations where, with reference to the dilatory effects of the opponents' activities or the emergence of additional costs, developers filed civil actions against NGOs.</p> <p>No uniform court practice can be identified as yet, and even though the Hungarian Supreme Court has repeatedly confirmed that harm was done to a good business reputations, no financial damages have been awarded to the plaintiffs.</p> <p><i>(See document ECE/MP.PP/IR/2008/HUN)</i></p>
Hungary, 2011	<p>Adequate protection of citizens participating in administrative procedures is guaranteed by the Administrative Procedures Code. The Code declares the equality of all persons appearing before authorities, the prohibition of discrimination between or the exclusion of any persons, the right to a fair and timely procedure as well as the right to access to justice.</p> <p>In addition to the general client rights granted under the Administrative Procedures Code in administrative procedures, the Act also grants rights to anyone to file a complaint or an application in the public interest outside of the administrative procedure at the authority with competence in the given matter. The complaint enables the enforcement of interests relating to the infringement of individual rights or interests, while the report in the public interest enables such enforcement of interests in connection with circumstances affecting a community or society as a whole. Pursuant to Section 143 (2) of the Act, no complainant or applicant submitting a complaint or an application may be subject to any penalization whatsoever.</p> <p><i>Have any libel, slander or similar provisions of civil or criminal law been used in the context of environmental decision-making processes? Have there been any cases of NGOs being ordered to pay damages in connection with their public interest environmental protection activities or litigation?</i></p> <p>It arises more and more frequently that in connection with the exercise of the rights laid down in the Convention or Hungarian law, a developer considers him or herself to have</p>

	<p>been subject to libel or to have suffered pecuniary or moral damage.</p> <p>Such cases have appeared in relation to the construction of waste incinerators as well as other such installations where, with reference to the dilatory effects of the opponents' activities or the emergence of additional costs, developers filed civil actions against NGOs.</p> <p>No uniform court practice can be identified as yet, and even though the Hungarian Supreme Court has repeatedly confirmed that harm was done to good business reputations, no financial damages have been awarded to the plaintiffs.</p> <p><i>(See NIR)</i></p>
Hungary, 2014	<p>Adequate protection of citizens participating in administrative procedures is guaranteed by the Administrative Procedures Code. The Code declares the equality of all persons appearing before authorities, the prohibition of discrimination between or the exclusion of any persons, the right to a fair and timely procedure as well as the right to access to justice. The Administrative Procedures Code is particularly aware of the protection of the rights of those with full or partial disability. Besides this, paragraph (2) of section 1. of the Administrative Procedures Code states as a main principle that the authority may not abuse, when exercising its jurisdiction and must exercise its jurisdiction with adherence to the tenets of professionalism, simplicity and cooperation with the client. Paragraph (2) of section 4. alludes to the fact that detriment caused by illegal procedures of the authority may raise the issue of adjustment for recompense in the Hungarian legal system.</p> <p>In addition to the general client rights granted under the Administrative Procedures Code in administrative procedures, the Act also grants rights to anyone to file a complaint or an application in the public interest outside of the administrative procedure at the authority with competence in the given matter. The complaint enables the enforcement of interests relating to the infringement of individual rights or interests, while the report in the public interest enables such enforcement of interests in connection with circumstances affecting a community or society as a whole. Pursuant to Section 143 (2) of the Act No. XXIX of 2004 on the modification-, abolishment- and establishment of laws relating to joining the European Union, no complainant or applicant submitting a complaint or an application may be subject to any penalization whatsoever.</p> <p><i>Have any libel, slander or similar provisions of civil or criminal law been used in the context of environmental decision-making processes? Have there been any cases of civilian organizations being ordered to pay damages in connection with their public interest environmental protection activities or litigation?</i></p> <p>It arises more and more frequently that in connection with the exercise of the rights laid down in the Convention or Hungarian law, a developer considers him or herself to have been subject to libel or to have suffered pecuniary or moral damage. Such cases have appeared in relation to the construction of waste incinerators as well as other such installations where, with reference to the dilatory effects of the opponents' activities or the emergence of additional costs, developers filed civil actions against NGOs. No uniform court practice can be identified as yet, and even though the Hungarian Supreme Court has repeatedly confirmed that harm was done to good business reputations, no financial damages have been awarded to the plaintiffs.</p> <p><i>(See NIR)</i></p>
Iceland, 2014	<p>The Constitution of the republic of Iceland has a special chapter, Chapter VII., on human rights. Art 73 of that chapter provides every citizen with the right to freedom of opinion and belief as well as the right to freedom of expression. Art 74 of the Constitution provides every citizen the right to form associations. Furthermore the European Convention of Human Rights (ECHR) has been incorporated into Icelandic legislation by Act No 62/1994 on the European Convention of Human rights and it is an established rule of legal interpretation of Icelandic law that the human rights chapter of the Constitution shall be interpreted in line with the ECHR.</p> <p>As regards financial grants to NGOs it has been pointed out by NGOs that they think the grants are too low. NGOs pointed out that they will never be able to finance themselves on</p>

	<p>member fees only due to few inhabitants and therefore is official support of some kind very important. The NGOs referred to a report made for the Ministry in 2009 where this was pointed out. In the report NGOs also point out possible solutions and ways to finance them. Disconnecting the financial grants from the political power would in the view of the NGOs be a good thing but if any changes will be made they must be such that they ensure longtime financing.</p> <p>As previous stated the Ministry allocates financial grants to NGOs in accordance with the state budget every year.</p> <p>As regards Article 3, paragraph 8, two comments received claimed that the paragraph is not sufficiently implemented in Iceland. The comments refer to a recent case where protesters were arrested and charged after refusing to leave a construction site where a road was about to be built. The court case against the protesters is pending.</p> <p>In the view of the relevant authorities the road building in question had all the necessary permits required and the protesters had not followed the police's instructions to leave.</p> <p><i>(See NIR)</i></p>
Ireland, 2014	<p>Ireland ensures that anyone exercising any of their rights, including their rights under the Aarhus Convention, are not penalised in the following ways:</p> <ul style="list-style-type: none"> • The Non-Fatal Offences Against the Person Act 1997 sections 2, 5, 9 and 10 respectively prohibit assaults on another person, threats to kill or cause serious harm to another person and the coercion or harassment of another person. • Article 38 of the Constitution of Ireland provides that '[n]o person shall be tried on any criminal charge save in due course of law'; • Article 40.3.1 of the Constitution places a positive obligation on the State to guarantee in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen. • The Protected Disclosures Bill 2013 was published on 3 July 2013. This will establish a detailed and comprehensive legislative framework protecting whistle-blowers in all sectors of the economy. <p><i>(See NIR)</i></p>
Ireland, 2017	<p>Article 40.3.1 of the Constitution places a positive obligation on the State to guarantee in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.</p> <p>Article 38 of the Constitution of Ireland provides that '[n]o person shall be tried on any criminal charge save in due course of law';</p> <p>The Protected Disclosures Act 2014 established a detailed and comprehensive legislative framework protecting whistle-blowers in all sectors of the economy.</p> <p>Section 42 of the Irish Human Rights and Equality Commission Act 2014 puts a new positive duty on public bodies to have regard to human rights and equality in the carrying out of their functions and gives an important role to the Irish Human Rights and Equality Commission to guide and support public bodies in implementing this.</p> <p>The Non-Fatal Offences Against the Person Act 1997 sections 2, 5, 9 and 10 respectively prohibit assaults on another person, threats to kill or cause serious harm to another person and the coercion or harassment of another person.</p>
Italy, 2005/2008/2011/2014	<p>The exercise of rights and legitimate interests foreseen by law is guaranteed through access to courts. Inspections, sanctions, and similar measures are only admitted to the extent that they are foreseen by law, and in the framework of constitutional rights of freedom and equity.</p> <p>Other specific requirements are contained in sectoral law and at the local level.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.10)</i></p>

Kazakhstan, 2005	<p>With respect to article 3, paragraphs 7 and 8, no special legislative or regulatory measures have been taken since Kazakhstan's ratification of the Aarhus Convention. With regard to paragraph 8, it should be noted that article 96 of the Code of Administrative Offences of Kazakhstan of 30 January 2001 provides for an administrative fine for officials for taking punitive measures against a person who has lodged a justified complaint.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.12)</i></p>
Kazakhstan, 2008	<p>It should be pointed out that article 15 of Act No. 221-III of 12 January 2007 on the procedure for considering communications from individuals and corporate bodies deals with the termination of the prosecution of individuals, including individuals acting in the interests of a corporate body, in connection with the submission of a communication to entities and officials, and the prevention of a communication submitted by an individual or corporate body from being used against the person who submitted it, or in whose interests it was submitted. At the same time, article 96 of the Code of Administrative Offences of Kazakhstan of 30 January 2001, and article 1, paragraph 40, of the Act No. 123-III of 20 January 2006 on amendments and additions to the Code of Administrative Offences provide for an administrative fine for officials who take punitive measures against an individual who lodged a justified complaint.</p> <p><i>(See document ECE/MP.PP/IR/2008/KAZ)</i></p>
Kazakhstan, 2011	<p>Within the reporting period, no amendments were made to legislation to prohibit harassment of natural persons. All relationships are regulated by Act No. 221-III on the procedure for consideration of communications from natural and legal persons of 12 January 2007. To date, not one case has been reported of persecution of public representatives exercising their rights under the Convention.</p> <p><i>(See NIR)</i></p>
Kazakhstan, 2014/2017	<p>In accordance with Art.15 (2) of the Act on the procedure for consideration of communications from natural and legal persons the entities and officials should:</p> <ul style="list-style-type: none"> • stop the persecution of individuals, including those acting in the interests of legal persons, their family members in connection with an appeal entities and officials with criticism of their activities or to protect the rights, freedoms and legitimate interests; • not to send the complaint to the officials whose actions (or omissions) are appealed; • to exclude cases of imposing checks on persons against whom there is reason to believe that they are not interested in objective resolving the issue; • prevent the treatment of individuals and entities to the detriment of the person who submitted it, or in whose interest it was filed; • not to disclose information about the private lives of individuals, including those acting in the interests of a legal person, without their consent or information constituting state secrets or other secrets protected by law, to prevent the establishment of the identity of the individual non-treated. To date, not one case has been reported of persecution of public representatives exercising their rights under the Convention. <p><i>(See NIR)</i></p>
Kyrgyzstan, 2005	<p>Legislation is in force governing questions of liability for the persecution of people exercising their rights under the law.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.13)</i></p>
Kyrgyzstan, 2008/2011/2017	<p>Kyrgyzstan has legislation governing liability for the persecution of people exercising their rights under the law.</p> <p>There have been no known cases in which provisions on defamation and slander or any</p>

	<p>similar provisions of civil or criminal law have been invoked in the context of environmental decision-making, nor have there been any cases in which an NGO was ordered to pay damages in connection with its environmental protection activities in defence of State interests or in relation with litigation.</p> <p><i>(See document ECE/MP.PP/IR/2008/KGZ)</i></p>
Latvia, 2005	<p>The principle granting freedom from punishment for legal actions is enacted in article 1 of the Constitution. Rights provided by the Aarhus Convention are enacted in State legislative documents, including the Constitution (arts. 92 and 115).</p> <p><i>(See document ECE/MP.PP/2005/18/Add.14)</i></p>
Latvia, 2008/2011	<p>The principle that no legal activity can be punished is enforced in Article 1 of the Constitution. The rights covered by the Convention are enforced in State legislative acts, including Articles 92 and 115 of the Constitution.</p> <p>Along with the EPL entering into force and the APL being amended, it is directly stated that no civil claims for damages can be raised against a person who has exercised his or her rights by applying in administrative court (EPL, Article 9, para. 5, and APL, Article 4, para. 4).</p> <p><i>(See document ECE/MP.PP/IR/2008/LVA)</i></p>
Latvia, 2014	<p>The principle that no legal activity can be punished is enforced in Article 1 of the Constitution. The rights covered by the Convention are enforced in State legislative acts, including Articles 92 and 115 of the Constitution.</p> <p>It is directly stated that no unfavourable consequences may occur, including no civil claims for damages can be raised against a person, who has exercised his or her rights by applying in administrative court (EPL, Article 9, para. 5, and APL, Article 4, para. 4). Opinions and proposals received by the competent authority as a result of environmental impact assessment public discussion are forwarded to the developer of the proposed activity without indicating information on the authors of the opinions and proposals (personal data, place of residence, etc.).</p> <p><i>(See NIR)</i></p>
Lithuania, 2005	<p>The Constitution states that an individual is entitled to his or her own beliefs and benefits from freedom of expression.</p> <p>The Convention was ratified in 2001 by Law No. IX-449 on the Ratification of the Convention on Access to Information, Public Participation in Decisionmaking and Access to Justice in Environmental Matters (Zin., 2001, No. 73-2565).</p> <p><i>(See document ECE/MP.PP/2005/18/Add.15)</i></p>
Lithuania, 2011	<p>Pursuant to Article 25 of the Constitution of the Republic of Lithuania, a human being must not be hindered from seeking, receiving and imparting information and ideas.</p> <p>Freedom to express convictions, to receive and impart information may not be limited otherwise than by law, if this is necessary to protect the health, honour and dignity, private life and morals of a human being or to defend the constitutional order. Pursuant to Article 30 of the Constitution, a person whose constitutional rights or freedoms are violated shall have the right to apply to court.</p> <p>Any hindrance (punishment, persecution, etc.) for a person to use a right provided for in the Constitution, save for the exceptions provided for in the Constitution, is illegal.</p> <p>Pursuant to Article 5(1) of the Code of Civil Procedure of the Republic of Lithuania, each person concerned has the right to apply to court in accordance with the procedure established by law to defend a violated or disputed right or lawful interest of the person.</p> <p>It should be pointed out that the Code of Civil Procedure provides for negative procedural consequences in the event of an unreasonable claim or abuse. In such a case, after</p>

	<p>consideration on the merits, the court shall reject the unreasonable claim (in such a case, the claimant shall cover the other party's litigation costs). Pursuant to Article 95 of the Code of Civil Procedure, a party that has brought an unreasonable claim in bad faith or has knowingly acted against fair and speedy hearing and settlement of a case may be obliged by the court to compensate the other party for losses incurred by it. In addition, in the event of establishing any cases of abuse, the court may impose a fine of up to LTL 20,000 on a person. In an effort to ensure effective judicial defence, by Resolution No 1464 of 11 November 2009, the Government of the Republic of Lithuania submitted to the Parliament of the Republic of Lithuania a bill amending and supplementing the Code of Civil Procedure whereby it was proposed to establish that no stamp duty shall be levied on parties' applications and claims for compensation for losses caused by abuse of procedural rights.</p> <p>Therefore, during each process, the court must assess the validity of the claim, proportionality of claims, etc., and in the event of establishing that the claim is aimed at restricting the rights of one of the parties, may apply the aforementioned procedural measures.</p> <p><i>(See NIR)</i></p>
Lithuania, 2014	<p>Pursuant to Article 25 of the RoL Constitution, a human being must not be hindered from seeking, receiving and imparting information and ideas.</p> <p>The activities of REPDs are based on national and EU legislation. Consequently, REPDs refuse to provide information requested by applicants only under the procedure and in cases laid down in national and international legislation.</p> <p>It should be stressed that information on REPD activities in performing functions assigned by legislation is published on their websites. REPDs are authorised to provide information for ensuring the implementation of EU laws. Thus comprehensive, accurate and timely information on the environment is provided to the public for the purpose of achieving the common environmental objectives. It is noteworthy that legislation does not envisage any liability or punishability for the obtainment of information to be provided from public authorities. On the contrary, Article 25 of the RoL Constitution stipulates that a human being must not be hindered from seeking, receiving and imparting information and ideas.</p> <p>Freedom to express convictions, to receive and impart information may not be limited otherwise than by law, if this is necessary to protect the health, honour and dignity, private life and morals of a human being or to defend the constitutional order. Pursuant to Article 30 of the Constitution, a person whose constitutional rights or freedoms are violated shall have the right to apply to court.</p> <p>Any hindrance (punishment, persecution, etc.) for a person to use a right provided for in the Constitution, save for the exceptions provided for in the Constitution, is illegal.</p> <p>Pursuant to Article 5(1) of the RoL Code of Civil Procedure, each person concerned has the right to apply to court in accordance with the procedure established by law to defend a violated or disputed right or lawful interest of the person.</p> <p>In an effort to ensure effective judicial defence, by Resolution No 1464 of 11 November 2009, the RoL Government submitted to the RoL Parliament a bill amending and supplementing the Code of Civil Procedure whereby it was proposed to establish that no stamp duty shall be levied on parties' applications and claims for compensation for losses caused by abuse of procedural rights. Pursuant to Article 95 of the Code of Civil Procedure, applications for the compensation of damages incurred from abuse of procedural rights in the same proceedings in which a party has brought an unreasonable claim in bad faith or has knowingly acted against fair and speedy hearing and settlement of the case are exempt from the stamp duty. However, claims for the compensation of damages incurred from abuse of procedural rights made in new proceedings are subject to the stamp duty in accordance with Article 80 of the RoL Civil Code. Therefore, during each process, the court must assess the validity of the claim, proportionality of claims, etc., and in the event of establishing that the claim is aimed at restricting the rights of one of the parties, may apply the aforementioned procedural measures.</p>

	<p>The Ministry of Culture uses budget funds to support in part the participation of the organisations referred to in Section (c) 4 in international organisations and events held by the latter.</p> <p>The measures referred to in Section 8 are provided for in the RoL Constitution, the Rules for considering applications of individuals and for providing services to them at public administration institutions, bodies and other public administration entities approved by RoL Government Resolution No 875 of 22 August 2007, the Anticorruption Programme for Culture 2010–2012 approved by Order No IV-598 of the RoL Minister of Culture of 12 November 2010 and other laws.</p> <p><i>(See NIR)</i></p>
Lithuania, 2017	<p>Pursuant to Article 25 of the Constitution of the Republic of Lithuania, a human being must not be hindered from seeking, receiving and imparting information and ideas. The freedom to express convictions, as well as to receive and impart information, may not be limited otherwise than by law when this is necessary to protect human health, honour or dignity, private life, or morals, or to defend the constitutional order. Article 30 of the Constitution stipulates that a person whose constitutional rights or freedoms are violated shall have the right to apply to a court. Under Article 33, citizens shall be guaranteed the right to criticise the work of state institutions or their officials and to appeal against their decisions. This article prohibits persecution for criticism.</p> <p>Any hindrance (punishment, persecution, etc.) for a person to use a right provided for in the Constitution, save for the exceptions provided for in the Constitution, is illegal.</p> <p>Pursuant to the Code of Civil Procedure (CCP), each person concerned has the right to apply to a court in accordance with the procedure established by law to defend an infringed or disputed right or legitimate interest.</p> <p>In an effort to prevent restriction of the individuals' rights in the civil procedure, the CCP lays down procedural penalties for persons who abuse the procedure (file unjustified claims, or deliberately act against the fair and fast review and resolution of a case). A court can introduce an obligation to compensate damages suffered by a person participating in a case due to the abuse of the procedure.</p> <p><i>(See NIR)</i></p>
Malta, 2005	<p>The rights of persons exercising their rights under the provisions of the Convention are adequately protected.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.31)</i></p>
Malta, 2008/2014	<p>There have been no cases of NGOs being ordered to pay damages (of a private entity or a public authority) in connection with their public interest in environmental protection activities or litigation (e.g. due to a delay in a procedure) and no libel, slander or similar provisions of civil or criminal law have been used in the context of environmental decision-making processes.</p> <p><i>(See document ECE/MP.PP/IR/2008/MLT)</i></p>
Montenegro, 2011/2014/2017	<p>Please consult Articles 23 and 51 of the Constitution of Montenegro.</p> <p><i>(See NIR)</i></p>
Netherlands, 2005/2008/2014	<p>The exercise of the rights under the Convention is adequately guaranteed by the Environmental Management Act (Wet milieubeheer), the Freedom of Information Act and the General Act on Administrative Law. Moreover, article 1 of the Dutch Constitution contains an injunction on discrimination.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.26)</i></p>
Norway, 2005/2008/2011/2	<p>Citizens enjoy freedom of association. Freedom of speech is laid down in the Constitution. Comprehensive legislation ensures security under the law for the individual,</p>

014	<p>which among other things ensures that people who exercise their rights under the Convention are not persecuted in any way.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.16)</i></p>
Poland, 2005/2008/2011/2014	<p>Pursuant to article 225, para. 1, of the Code of Administrative Procedure, “No person should suffer any damage whatsoever or be accused due to submitting a complaint or a motion or providing a text for publication bearing characteristics of a complaint or a motion, should they have acted within the legal framework”. Pursuant to paragraph 2, “Governmental authorities, local governmental authorities and other local authorities as well as social organizations’ bodies shall prevent criticism, restrictions and other activities limiting the right to submit complaints and motions or providing information to be published as a complaint or a motion.”</p> <p><i>(See document ECE/MP.PP/2005/18/Add.17)</i></p>
Portugal, 2014	<p>In this context, it is noted that Article 268, paragraph 4, of the CRP provides that “Citizens are guaranteed effective jurisdictional oversight of their rights and interests that are protected by law, particularly including the recognition of said rights and interests, the challenging of any administrative act that harms their rights and interests, regardless of its form, the performance of the administrative acts legally required, and the adoption of adequate provisional remedies.”</p> <p><i>(See NIR)</i></p>
Republic of Moldova, 2005	<p>The requirements of paragraph 8 are formulated in article 7, para. 5, of the Access to Information Act, according to which no one can be penalized for bringing restricted information to the notice of the public provided that its disclosure does not affect and cannot affect the legitimate interests of national security or provided that the public interest in having access to the information outweighs the damage which might be caused by disclosing it.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.19)</i></p>
Republic of Moldova, 2014	<p>Moldovan legislation provides penalties for persons exercising his right under the Convention. So far there have been cases of sanctioning citizens to request information.</p> <p><i>(See NIR)</i></p>
Republic of Moldova, 2008/2011	<p>No use has been made of the provisions on defamation or any other similar provisions of civil or criminal law in the context of environmental decision-making.</p> <p>There have been no recorded cases of NGOs having been ordered to pay damages (to a private entity or public authority) in connection with their environmental protection activities in defence of State interests or their litigation.</p> <p><i>(See document ECE/MP.PP/IR/2008/MDA)</i></p>
Romania, 2005	<p>Article 30 of Romanian Constitution guarantees that the freedom of expression of opinions by means of communication and censor is banned. As a consequence, a person exercising the rights provided by the Aarhus Convention cannot be penalized, persecuted or harassed.</p> <p>Romania’s Constitution guarantees in article 31 that “a person’s right of access to any information of public interest shall not be restricted” (par. 1), and “the public authorities, according to their competence shall be bound to provide correct information to the citizens in public affairs and matters of personal interest” (para. 2)</p> <p><i>(See document ECE/MP.PP/2005/18/Add.28)</i></p>
Romania, 2011	<p>Article 30 (para. 1-6) of Romanian Constitution, as amended, guarantees the freedom of expression, of opinions by means of communication. Any censorship shall be prohibited. A person exercising the rights provided by the Aarhus Convention cannot be penalized,</p>

	<p>persecuted or harassed.</p> <p>Romania’s Constitution, as amended, guarantees in article 31 that “a person’s right of access to any information of public interest shall not be restricted” (par. 1), and “the public authorities, according to their competence shall be bound to provide correct information to the citizens in public affairs and matters of personal interest” (para. 2)</p> <p>In applying the provisions of article 12 letter (f) of GD 878/2005 (where a public authority may refuse a request for environmental information if the disclosure of the information would affect the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law in force), public authorities take into consideration the provisions of Law 677/2001 on the protection of persons regarding processing data with personal character and the free circulation of those data.</p> <p>Romania is also a party to the European Human Rights Convention and therefore recognizes the jurisdiction of the European Court for Human Rights.</p> <p><i>(See NIR)</i></p>
Romania, 2014	<p>Article 30 (para. 1-6) of Romanian Constitution, as amended, guarantees the freedom of expression, of opinions by means of communication. Any ensorship shall be prohibited. A person exercising the rights provided by the Aarhus Convention cannot be penalized, persecuted or harassed.</p> <p>Romania’s Constitution, as amended, guarantees in article 31 that “a person’s right of access to any information of public interest shall not be restricted” (par. 1), and “the public authorities, according to their competence shall be bound to provide correct information to the citizens in public affairs and matters of personal interest” (para. 2)</p> <p>In applying the provisions of article 12 letter (f) of GD 878/2005 (where a public authority may refuse a request for environmental information if the disclosure of the information would affect the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law in force), public authorities take into consideration the provisions of Law 677/2001 on the protection of persons regarding processing data with personal character and the free circulation of those data.</p> <p>Romania is also a party to the European Human Rights Convention and therefore recognizes the jurisdiction of the European Court for Human Rights.</p> <p><i>(See NIR)</i></p>
Serbia, 2011	<p>Article 18, Paragraph 2 of the Constitution of the Republic of Serbia guarantees, and as such, directly implements human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. Article 34 stipulates that no person may be held guilty for any act which did not constitute a criminal offence under law or any other regulation based on the law at the time when it was committed, nor shall a penalty be imposed which was not prescribed for this act.</p> <p>- The Commissioner put forward an initiative for protection of insiders, but unfortunately it was not approved in the form that would provide these people with true protection.</p> <p><i>(See NIR)</i></p>
Serbia, 2014	<p>Article 18, Paragraph 2 of the Constitution of the Republic of Serbia guarantees, and as such, directly implements human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. Article 34 stipulates that no person may be held guilty for any act which did not constitute a criminal offence under law or any other regulation based on the law at the time when it was committed, nor shall a penalty be imposed which was not prescribed for this act.</p> <p>- The Commissioner has implemented the project ‘Protection of Whistleblowers’ with the</p>

	<p>financial support of the British Embassy in Belgrade and the Government of the Kingdom of the Netherlands since July 2012. This project has two goals: 1. to provide preparation of the model law on protection of whistleblowers which will be submitted to the responsible authorities for consideration and adoption, since Serbia is still lacking a comprehensive regulatory framework relating to the protection of whistleblowers, and 2. to contribute to the improvement of knowledge and understanding of different interested parties on necessity and benefit of the whistleblower protection. The Model Law on Whistleblowing and Protection of Whistleblowers was prepared during this project and submitted in May 2013 to the responsible Ministry (Ministry of Justice and Public Administration) for further action.</p> <p><i>(See NIR)</i></p>
Slovakia, 2008	<p>There have been no cases of punishment, penalization or persecution of persons applying their rights according to the Convention. However, sometimes members of civic associations and NGOs are considered by developers to persons who cause obstructions and hamper building activities and development just because they wish to exercise their rights.</p> <p>The Ministry of Justice runs statistics on the number of legal actions in the areas of personality protection, protection of good reputation of a legal entity and liability for damage in criminal cases, i.e. the crimes of libel, slander and statistical data of general nature that does not specify environmental decision-making processes.</p> <p>No cases of NGOs being ordered to pay damages (to a private entity or a public authority) in connection with their public-interest environmental protection activities or litigation (e.g. due to a delay in a procedure) are known.</p> <p><i>(See document ECE/MP.PP/IR/2008/SVK)</i></p>
Slovakia, 2011	<p>Article 45 of the Slovak Republic Constitution (“Everybody has a right to early and complete information on the environment state, and on reasons and consequences of such a state”) and § 3 paragraph 1 of the Act No. 211/2002 Coll. on free access to information (“Everybody has a right to access to information available at the obliged persons”) are the fundamental constitutional rights related also to the right to free uncensored expression of opinions.</p> <p>In the Slovak Republic there have never been cases where persons exercising their rights would be punished, penalized, or otherwise molested. However, sometimes members of civil associations are labelled by investors publicly and in media as persons making obstructions and unreasonably blocking the building activities and development merely because they exercise their constitutional rights.</p> <p><i>(See NIR)</i></p>
Slovakia, 2014	<p>Article 45 of the Slovak Republic Constitution (“Everybody has a right to early and complete information on the state of the environment, and on reasons and consequences of such a state”) and § 3 paragraph 1 of the Act No. 211/2002 Coll. on free access to information (“Everybody has a right to access to information available at the obliged persons”) are the fundamental constitutional rights related also to the right to free uncensored expression of opinions.</p> <p><i>(See NIR)</i></p>
Slovakia, 2017	<p>Article 45 of the Constitution of the Slovak Republic (“Everyone has the right to timely and complete information about the state of the environment and about the causes and consequences of its condition.”) in connection with Article 51 (1) of the Constitution of the Slovak Republic and Article 3 (1) of Act No. 211/2002 Coll. on free access to information (“Everyone has the right to access to information available to obliged persons”) represent the basic constitutional rights, to which also the right to free uncensored expression of opinions is related.</p>
Slovenia,	<p>It can be derived from the Constitution that nobody can be penalized or persecuted for</p>

2005/2008/2011/2014	exercising rights protected under the Convention. <i>(See ECE/MP.PP/2005/18/Add.24)</i>
Spain, 2011/2014/2017	The Spanish Constitution of 1978 and the system of constitutional, legal and administrative protection implemented through it are directly applicable to the guarantee of the effective exercise of the rights recognised in the Constitution and by Spanish legislation. <i>(See NIR)</i>
Sweden, 2008/2011/2014	Under Sweden's Constitution, every citizen is guaranteed freedom of speech, freedom of information and freedom of association . The European Convention also protects these fundamental rights . <i>(See document ECE/MP.PP/IR/2008/SWE)</i>
Tajikistan, 2005	Under the Constitution, public authorities, voluntary associations, political parties and officials must give everyone the opportunity to obtain and familiarize himself with documents that concern his rights and interests, except in the circumstances specified by law (art. 25). Everyone is guaranteed freedom of speech, freedom of the press, and the right to use the means of information. State censorship and persecution for criticism are prohibited. The list of information constituting a State secret is established by law (art. 30). Citizens have the right to petition public authorities personally or jointly with others (art. 31). <i>(...)</i> The Constitution guarantees all its citizens, as well as stateless persons residing within the territory of the Republic, irrespective of their origin, social or property status, racial or national affiliation, language, sex, political views, religious beliefs, birth or occupation, domicile or other circumstances, the full range of rights and freedoms provided under the Constitution and the public rules of international law. There have been no cases of infringements of the human rights established by the Convention. Voluntary organizations and journalists have never been persecuted or harassed because of their publications. <i>(...)</i> NGOs have the right to make use of adopted laws and to operate on the basis of their own statutes. Under article 30 of the Constitution, everyone is guaranteed freedom of speech, freedom of the press and the right to use the media . State censorship and persecution for criticism are prohibited. The list of information that may constitute a State secret is established by law (art. 30). <i>(See document ECE/MP.PP/2005/18/Add.20)</i>
Turkmenistan, 2005	With respect to paragraph 8 . The right to information is enshrined in the national Constitution, as well as reflected in the main laws on environmental protection. <i>(See document ECE/MP.PP/2005/18/Add.30)</i>
Turkmenistan, 2008	Provisions prohibiting the harassment of individuals working in and belonging to civil-society associations may be found in a number of statutory instruments of Turkmenistan. Such a rule, for example, is enshrined in the Labour Code of Turkmenistan, article 16 of which states that there may be no direct or indirect restriction of rights in employment on the grounds of sex, race, membership of civil-society associations, or other conditions. Encroachments on the rights or freedoms of citizens or their persecution or harassment on the grounds of their membership of civil-society organizations are deemed to be criminal offences in Turkmenistan. Under the provisions of article 115 of the Criminal Code, the direct or indirect violation or restriction of human and civil rights and freedoms on the grounds of membership of civil-society associations shall incur punishments up to and including deprivation of liberty.

	<i>(See document ECE/MP.PP/IR/2008/TKM)</i>
Turkmenistan, 2011	<p>An important aspect of the implementation of the Convention is the obligation of parties to ensure that people exercising their rights under the Convention are not penalized, persecuted or harassed.</p> <p>Turkmenistan has a fairly strong regulatory framework that ensures compliance with this provision. It is important to note that such issues are covered at the highest level, in the Constitution. The Constitution guarantees equality of human and civil rights and freedoms within the country as well as the equality of people and citizens before the law regardless of their nationality, race, sex, origin, property or official status, place of residence, language, attitude to religion, political convictions, party membership or lack of party membership. Moreover, citizens are guaranteed judicial protection of their honour and dignity and of the personal and political human and civil rights and freedoms enshrined in the Constitution and by statute. Complaints can be made in court about ultra vires actions of state bodies and civil-society associations and their officials that breach the law and infringe the rights and freedoms of citizens. Citizens also have the right to receive compensation in legal proceedings for material and non-material (“moral”) damage caused to them by the unlawful actions of state bodies, other organizations, their employees and private individuals.</p> <p>In order to ensure that people exercising their rights under the Convention are not penalized, persecuted or harassed, current legislation sets forth certain norms and guarantees. In particular, Turkmenistan passed the Act on court appeals against the actions of state bodies, civil-society associations, local self-government bodies and officials that have infringed the constitutional rights and freedoms of citizens of 6 February 1998, under which every citizen whose constitutional rights and freedoms have been breached or infringed by the actions or decisions of state bodies, civil-society associations, local self-government bodies or officials has the right to appeal in court. Foreign citizens and stateless persons have the right to appeal to court under the procedure set forth by the Act, unless otherwise specified by the legislation or international agreements of Turkmenistan (article 1).</p> <p>Moreover, under the Act on Citizens’ Communications and their Consideration, Turkmen citizens, in accordance with the Constitution and statute, have the right to submit in writing or orally to state, civil-society and other bodies, enterprises, organizations and institutions of all forms of ownership suggestions for improving their performance or to make applications or complaints (article 2).</p> <p>Anyone found guilty of non-compliance with the procedure for consideration of citizens’ communications, superficial or non-objective consideration of the questions raised in them, excessive bureaucracy, unethical behaviour in their relations with applicants, an unfounded refusal to resolve the communication and persecution of a citizen in connection with the submission of communications be subject to disciplinary, administrative, confiscatory or criminal penalties, as provided under legislation (article 13).</p> <p>The liability of officials for infringing citizens’ rights is also covered in the Civil-society Associations Act of 21 October 2003 and the Criminal Code (new version) of 10 May 2010.</p> <p>Under article 29 of the Civil-society Associations Act, state bodies and their officials that cause harm to civil-society associations as a result of the breach by these bodies or their officials of the Act and other laws on specific types of civil-society associations shall bear liability as provided under legislation.</p> <p>In its turn, the Criminal Code provides that (1) Direct or indirect infringement or restriction of human and civil rights based on sex, race, nationality, language, origin, property or official status, place of residence, attitude to religion, convictions or membership of a civil-society association shall be punished by a fine of between five to ten average monthly salaries or correctional labour for up to one year. (2) If the same acts entail serious consequences, they shall be punished by correctional labour for up to two years or imprisonment for up to two years (article 145 Criminal Code).</p>

	<i>(See NIR)</i>
Ukraine, 2005	<p>Articles 9 and 36 of the Ukrainian Constitution guarantee the equal right of all citizens to join any citizens' association without restrictions on membership or non membership of political parties or voluntary organizations. Citizens and members of their families may not be prosecuted for submitting communications to central government bodies, local self government bodies, enterprises, institutions or organizations irrespective of form of ownership, citizens' associations or officials, when the relevant communication criticizes the actions or decisions of such bodies or persons.</p> <p><i>(See document ECE/MP.PP/2005/18/Add.22)</i></p>
Ukraine, 2008	<p>Citizens can be held accountable for submitting unlawful communications, i.e. communications that contain libellous, insulting or defamatory remarks about government bodies and their officials, civil servants, or heads of organizations, or incitements to national, racial or religious enmity or other unlawful acts.</p> <p><i>(See document ECE/MP.PP/IR/2008/UKR)</i></p>
United Kingdom, 2008/2014	<p>The UK has strengthened the access rights to information with the powers of enforcement given to the office of the Information Commissioner (ICO) and the Information Tribunal. The ICO examines complaints from requesters where the requester feels that his or her request has not been dealt with properly by the public authority. The Information Tribunal gives a further and higher level of appeal. Both the ICO and the Information Tribunal have powers to order public authorities to release information and both appeal procedures are free of charge. The Scottish Information Commissioner has broadly similar powers, although the appeal procedure operates without a tribunal.</p> <p>We will treat any member of the public equally, regardless of nationality, citizenship and domicile. Any legal person has equal access to the courts.</p> <p>Several legal and administrative measures are available in the UK to protect people from penalization, persecution or harassment in pursuing matters covered by the Convention. Some of these measures relate to the avoidance of discrimination against particular members of the public, such as at work or in the provisions of services (e.g., the Race Relations Act 1976, or the Disability Discrimination Act 1995). Others have more general application, or are based on fundamental human rights. Examples include the Protection from Harassment Act 1997, which makes it a criminal offence to behave in a way amounting to the harassment of another person, or the Human Rights Act 1998, which makes rights from the European Convention of Human Rights enforceable in UK courts. (www.humanrights.gov.uk)</p> <p><i>(See document ECE/MP.PP/IR/2008/GBR)</i></p>
United Kingdom, 2011	<p>The UK has strengthened the access rights to information through powers of enforcement given to the office of the Information Commissioner (ICO) and the Tribunals Service. The ICO examines complaints from members of the public who feel that their request for information has not been dealt with properly by the public authority. The First Tier Tribunal (Information Rights), Upper Tribunal and, ultimately, the Supreme Court give further and higher levels of appeal. The ICO, Tribunals and the Supreme Court have powers to order public authorities to release information and both appeal procedures are free of charge. The Scottish Information Commissioner has broadly similar powers, although the appeal procedure operates without a tribunal.</p> <p>We treat all members of the public equally, regardless of nationality, citizenship and domicile. Any legal person has equal access to the courts.</p> <p>Several legal and administrative measures are available in the UK to protect people from penalization, persecution or harassment in pursuing matters covered by the Convention. Some of these measures relate to the avoidance of discrimination against particular members of the public, such as at work or in the provisions of services (e.g., the Race Relations Act 1976, or the Disability Discrimination Act 1995). Others have more general application, or are based on fundamental human rights. Examples include the Protection</p>

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