

Task Force on Access to Information**First meeting**

Geneva, 7–8 February 2013

Item 2 of the provisional agenda:

Public access to environmental information:**Key messages from the region****PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION: OVERVIEW OF THE
CONVENTION IMPLEMENTATION**

Background paper

Prepared by the Chair with the support of the secretariat

This document contains a “cut and paste” compilation of the relevant extracts from the synthesis report submitted to the Meeting of the Parties at its fourth session (Chisinau, 29 June – 1 July 2011)¹, all reporting on obstacles encountered in the implementation of articles 4 and 5 of the Aarhus Convention provided in the national implementation reports² submitted by Parties to the Convention in the 2005, 2008 and 2011 reporting cycles and the documents³ of the Aarhus Convention Compliance Committee with regard to access to information. The document also includes a summary table indicating the challenges identified by Parties with regard to implementation of articles 4 and 5 in each reporting cycle. All paragraph numbers contained in the document relate to the paragraph numbers in the original synthesis report, national implementation reports and documents of the Compliance Committee.

Delegates are invited to consult this document in advance of the meeting in order to gain an overview of the status the implementation of articles 4 and 5 of the Aarhus Convention and challenges encountered by Parties in order to discuss priorities for the work to be undertaken under auspices of the Task Force on Access to Information.

¹ Available from: http://www.unece.org/fileadmin/DAM/env/pp/mop4/Documents/ece_mp_pp_2011_7_eng.pdf

² Available from: <http://apps.unece.org/ehlm/pp/NIR/index.asp>

³ Available from: <http://www.unece.org/env/pp/cc.html>

Contents

	<i>Page</i>
I. Summary table of reporting on obstacles encountered in the implementation of articles 4 and 5 of the Convention.....	3
II. Extracts from the Synthesis Report presented to the Meeting of the Parties at its fourth session (ECE/MP.PP/2011/7).....	4
A. Access to information upon request (article 4 of the Convention).....	4
B. Collection and dissemination of environmental information (article 5 of the Convention).....	6
III. Extracts from the national implementation reports on obstacles encountered in the implementation of articles 4 and 5 of the Convention.....	9
A. Access to information upon request (article 4 of the Convention).....	9
B. Collection and dissemination of environmental information (article 5 of the Convention).....	30
IV. Extracts from the Compliance Committee documents with regard to access to environmental information.....	49
A. General issues of compliance	49
B. Findings and recommendations endorsed by the Meeting of the Parties or to be submitted to the Meeting of the Parties at its fifth session with regard to access to information (June 2014)	51
C. Other considerations relevant to the application provisions on access to information	59

I. Summary table of reporting on obstacles encountered in the implementation of articles 4 and 5 of the Convention

Symbols used in table:

X = The Party included information on obstacles encountered in the implementation of articles 4 and 5 in that reporting cycle (questions 8 and 16 of the reporting format respectively)

— = The Party did not report on obstacles encountered in the implementation of articles 4 and 5 in that reporting cycle (questions 8 and 16 of the reporting format respectively)

Not Party = The Party was not party to the Convention at the time of the reporting cycle

Party	Article 4			Article 5		
	2005	2008	2011	2005	2008	2011
Albania	—	—	—	X	X	—
Armenia	X	X	X	X	X	X
Austria	Not Party	—	X	Not Party	—	—
Azerbaijan	—	—	—	—	—	—
Belarus	X	—	X	—	—	—
Belgium	X	X	X	—	X	—
Bosnia and Herzegovina	Not Party	Not Party	X	Not Party	Not Party	X
Bulgaria	—	—	—	—	—	—
Croatia	Not Party	—	X	Not Party	—	X
Cyprus	—	—	X	—	X	—
Czech Republic	X	X	X	X	X	X
Denmark	—	—	—	—	—	—
Estonia	—	—	X	—	—	X
European Union	Not Party	—	—	Not Party	—	—
Finland	—	—	—	—	—	—
France	X	X	X	X	X	X
Georgia	X	X	X	X	X	X
Germany	Not Party	X	X	Not Party	—	—
Greece	Not Party	X	X	Not Party	X	X
Hungary	X	X	X	X	X	X
Iceland	Not Party	Not Party	Not Party	Not Party	Not Party	Not Party
Ireland	Not Party	Not Party	Not Party	Not Party	Not Party	Not Party
Italy	X	X	X	X	X	X
Kazakhstan	X	—	X	X	—	X
Kyrgyzstan	X	X	X	X	X	X
Latvia	X	X	X	X	X	X
Lithuania	—	—	—	X	—	—
Luxembourg	Not Party	X	X	Not Party	X	X
Malta	—	X	—	—	—	—
Montenegro	Not Party	Not Party	X	Not Party	Not Party	—
Netherlands	X	X	X	X	X	X
Norway	—	—	—	—	—	—
Poland	X	X	X	X	X	X
Portugal	—	—	—	X	—	—
Republic of Moldova	X	X	X	X	X	X
Romania	X	—	X	X	—	X
Serbia	Not Party	Not Party	X	Not Party	Not Party	X
Slovakia	Not Party	X	X	Not Party	X	X
Slovenia	—	—	—	X	X	X
Spain	Not Party	—	X	Not Party	—	X

Sweden	Not Party	—	—	Not Party	—	—
Tajikistan	X	—	—	X	—	—
The former Yugoslav Republic of Macedonia	—	X	—	—	X	—
Turkmenistan	—	—	—	X	—	—
Ukraine	X	—	—	X	—	—
United Kingdom	Not Party	X	—	Not Party	—	—

II. Extracts from the Synthesis Report presented to the Meeting of the Parties at its fourth session⁴

A. ACCESS TO INFORMATION UPON REQUEST (ARTICLE 4 OF THE CONVENTION)

55. The basic legal framework providing the right of access to environmental information and regulating the relevant procedure is in place in all 36 reporting Parties: EU countries adopted specific amendments to their general laws or have adopted specific information acts and regulations to be in compliance with the Convention and EU Directive 2003/4/EC on public access to environmental information (e.g., Austria, Cyprus, Denmark, Bulgaria, Italy, Latvia, Lithuania, Spain, United Kingdom). Norway reported on new legislation to promote transparency and public access to environmental information. Countries in Eastern Europe, the Caucasus and Central Asia introduced either specific amendments to environmental and information laws and regulations (Armenia, Republic of Moldova), or adopted new information or administrative laws (Ukraine, Turkmenistan). Some countries in the subregion included a number of legal provisions on access to environmental information into their new environmental codes (Kazakhstan, Kyrgyzstan).

56. In countries with a federal system or a system of autonomous communities, local or regional legislation incorporated the basic principles of the Convention on access to information (Austria, Belgium, Germany, Spain, United Kingdom).

57. All reporting Parties indicated that under national legislation access to environmental information is provided without discrimination linked to nationality, domicile or registered office or other factors.

58. The Parties reporting for the first time (Serbia, Bosnia and Herzegovina) gave very detailed descriptions of relevant legislation on access to environmental information.

59. Almost all countries reported the active development of various electronic tools to make information more easily available, e.g., through governmental websites (Denmark, Bulgaria, Estonia, Italy, Kazakhstan, Latvia, Lithuania, Norway, Sweden, United Kingdom) (see also section on article 5 below).

60. EU countries have incorporated into their national legislation definitions of “environmental information”, “public authorities” and “the public”, corresponding to those found in the Convention and in EU Directive 2003/4/EC (Cyprus, Denmark, Finland, Greece, Lithuania, Latvia, Romania). Some have indicated, however, that their definition of “public authority” differed from that in the Convention (for example, Bulgaria, Czech Republic), or that there are uncertainties regarding the definition of “environmental legislation”, which may cause problems in the implementation of this provision (for example, Czech Republic, Estonia). From the national reports of several countries of Eastern Europe, the Caucasus and Central Asia it is obvious that there is still some inconsistency in the definitions of “environmental information” and “public authorities” found in their national legislation as compared with those in the Convention (Armenia, Turkmenistan).

61. Regarding article 4, paragraph 1 (a), all EU countries and Norway reported legislative provisions explicitly stipulating that the person requesting the information need not state an interest. With regard to article 4, paragraph 1 (b), all reporting Parties 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. Several Parties reported that if the request does not specify in which form the information should be provided, the authority may contact the applicant for further information (e.g. Finland, Greece, Sweden) or assist the applicant in clarifying the issue (e.g. Cyprus, Serbia).

⁴ Document (ECE/MP.PP/2011/7) is available from:

http://www.unece.org/fileadmin/DAM/env/pp/mop4/Documents/ece_mp_pp_2011_7_eng.pdf

62. With regard to article 4, paragraph 2, all Parties reported that information was provided at the latest within one month of the receipt of the request, although several indicated that, for a simple request, shorter time limits than those set in the Convention may be in place, such as 15 days (Armenia, Bosnia and Herzegovina, Serbia). Norway reported that the new legislation on access to information provides that a request is to be considered a denial if not responded to within five working days, giving the applicant an automatic right to appeal. Some countries also indicated that if a request was not answered within one month it was considered to have been refused (for example, Italy); others reported allowing an extension of up to two months when the information requested was complex (Austria, Denmark, Germany, Greece, Serbia, Slovenia, Ukraine).

63. Exemptions from requests are more or less the same in the legislation of all reporting Parties — protection of State secrets or business and company secrets; confidentiality of personal data; international relations; the maintenance of public safety; and the protection of environmental areas, such as the habitat of rare animal species, all constitute a reason for denying information. It is worth mentioning that, in all countries in Eastern Europe, the Caucasus and Central Asia reporting, information about emissions and other impacts on the environment and environmental protection measures could never be classified as a commercial secret.

64. The Republic of Moldova included in its report information on the decision of the Convention's Compliance Committee from 25 September 2009 on the failure of that country to meet the provisions of the Convention, in the case involving the NGO ECO-Tiras and the Government agency "Moldsilva".⁸

65. The balance between the interests of the public to obtain specific environmental information, on the one hand, and the need to keep certain information confidential, on the other, is expressed in the legislation of a majority of reporting Parties, either in special laws on access to information or in general administrative laws (Austria, Cyprus, Denmark, Norway, Serbia, Slovenia). Some countries mentioned that there were no changes since the previous reporting cycle and that the same legislation is in force (Greece, Italy, United Kingdom). In several national implementation reports details are mentioned of procedures for a so-called "public interest test" (Bulgaria, Ukraine, Bosnia and Herzegovina, United Kingdom). The Czech Republic and Belarus specifically indicated that their legislation does not provide for any "test of public interests". The Czech Republic, however, noted that information may not be refused on the grounds of business secrets if there is an imminent danger to human health or the environment.

66. With respect to article 4, paragraph 5, most reporting countries refer to measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action to assist access to such information. In some countries the time limit for such a procedure is five days (e.g., Belarus, Ukraine).

67. Regarding implementation of article 4, paragraph 6, several countries cite measures taken to ensure that in cases of information exempted from disclosure (art. 4, paras. 3 (c) and 4), the protected information can be separated out and some of it made available to the requester (Belarus, Belgium, Bulgaria, Finland, Greece, Serbia).

68. All reporting Parties indicated that with respect to article 4, paragraph 7, relevant measures are taken to ensure that refusals meet the time limits set by the Convention and shall be substantiated and provided in written form. Reporting Parties stated that a decision by an authority can be appealed at an administrative or general court or other established independent body, determined in legislation (Armenia, Austria, Belgium, Bulgaria, Finland, Italy, Norway, Serbia).

69. With regard to article 4, paragraph 8, all reporting Parties stated that relevant measures were taken to ensure that their legislation and practice meet the Convention's requirements on charges for supplying information. Thus, only actual copying or mailing expenses may be charged, charges should not be exorbitant for the public and payment practices should be congruent. Some countries specified that no additional costs are charged for corrections or additional information to already provided public information, in cases where the information is incorrect or incomplete and it is requested by the applicant (for example, Armenia, Bulgaria). In the majority of reporting countries the tariffs of these payments are publicly available. Finland reported that Finnish environmental organizations consider it to be a good practice that the environmental authorities have increasingly made documents available on the Internet free of charge.

70. Most Parties reported on the further development of practical measures for the implementation of article 4. These included establishing an ombudsman institution or permanent coordinating body to guarantee uniformity in the application of the relevant legislation (Greece, Italy), establishing environmental information centres (Armenia, Austria, Denmark), and designating persons in charge of information requests (Bulgaria, Georgia, Croatia, Latvia, Lithuania). Some countries reported keeping records of such requests and responses provided, including refusals, in registers or

electronic databases (Greece, United Kingdom, Denmark). In the United Kingdom, for example, the Ministry of Justice publishes statistics and reports on its website on the performance of the central Government in the provision of access to information.

71. Countries in Eastern Europe, the Caucasus and Central Asia reported they had taken similar practical measures, published guidelines and handbooks, and organized round tables, workshops, seminars and trainings for officials.

72. In most State and local government institutions of the reporting Parties, special training programmes have been elaborated and carried out to train officials in communicating with and informing the public on environmental matters (Armenia, Belgium, Denmark, Estonia, Latvia, Lithuania, Kazakhstan, Kyrgyzstan, Turkmenistan). In practice, however, the actual impact of these measures differs from country to country.

73. Concerning obstacles and problems identified by public authorities, some reporting countries indicated a need for more information about environmental legislation, both for authorities and civil society (for example, Denmark) and that there is uncertainty as to the definitions of the terms “public authority” or “environmental information” (see also para. 60 above); some countries mentioned financial constraints and a lack of trained staff and relevant equipment as significant obstacles to the collection and dissemination of environmental information (Georgia, Greece, Kyrgyzstan); or a lack of collaboration with other authorities due to the complexity and volume of the requested information (Greece). Some countries observed that no record is kept of clusters of related activities, which should be monitored systematically (Greece, Georgia). Belarus especially mentioned that national legislative provisions on trade secrets contradict article 4, paragraph 4 (d), of the Convention.

74. The Czech Republic reported that, according to NGOs whose comments had been taken into account during the preparation of the national report, difficulties in the implementation of article 4 had been caused by insufficient legal protection and a lack of possibilities for obtaining rapid and effective remedy in the event of a refusal of information.

75. 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 (for example, Armenia, Czech Republic, Greece, Kazakhstan, Kyrgyzstan).

B. COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION (ARTICLE 5 OF THE CONVENTION)

76. In most reporting countries, the basic legal framework regarding the collection and dissemination of environmental information has mostly been developed during the previous reporting cycle, and has been incorporated in environmental protection laws, sectoral laws (on water, air protection, environmental impact assessment (EIA) and city construction laws and regulations, as well as forest and mining legislation, etc.) or laws regarding emergency situations.

77. All countries in Eastern Europe, the Caucasus and Central Asia reporting also provided information about new efforts and successes in using and making available environmental information through the activities of the Aarhus Centres and through the development of electronic tools (Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Turkmenistan, Ukraine).

78. EU countries and Norway reported that the mandatory national environmental systems as required in article 5, paragraph 1 (b), of the Convention continued to apply, ensuring not only the active dissemination of general environmental information to the public, but also providing information to the public and public authorities about proposed and existing activities which may significantly affect the environment.

79. Similar environmental information systems are being established in the Eastern Europe, Caucasus and Central Asia subregion (for example, in Kazakhstan, Kyrgyzstan and Ukraine) and SEE countries (Albania, Bosnia and Herzegovina, Croatia, Serbia).

80. With regard to implementation of article 5, paragraph 1 (c), all reports indicated the existence and development of environmental information systems in which information is regularly updated and further disseminated to public authorities and the public. There are also obligatory emergency information systems in all countries, based on special regulatory requirements, including obligations for owners of facilities to disclose information on possible hazards. Appropriate information is disseminated immediately and without delay.

81. With respect to article 5, paragraph 2, in all reporting countries measures are taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible.

82. Concerning implementation of article 5, paragraph 3, significant progress contributes to ensuring that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunication networks. Numerous effective electronic tools are being further developed in this area, e.g., electronic databases, publicly accessible governmental electronic services, websites and information portals, all routinely updated and improved. In the United Kingdom, for example, a new Public Sector Transparency Board, established in June 2010, is expected to drive forward the Government's transparency agenda for releasing key public data sets and setting open data standards across the public sector, and a web-based interactive map service was developed to bring together environmental information from across the government. In Italy, the environment ministry website was reorganized in 2009 with regard to different users and contents; it displays relevant legislation (including international treaties and EU legislation), general information for the public divided into key thematic areas, and a specific section on the Aarhus Convention. In Norway legislation requires all governmental agencies to establish special web pages; a new regulation concerning freedom of information stipulates that governmental postal logs, as well as documents in the logs, will be made publicly available on the Internet. Although this section of the new regulations is not yet in force, many governmental agencies have already made their post journals available online.

83. All reporting Parties confirmed the regular publication and dissemination of national reports on the state of the environment pursuant to article 5, paragraph 4. In EU countries and Norway, many other national, regional and local agencies also produce environmental reports (Cyprus, Denmark, Germany, Italy, Greece, United Kingdom). The same applies to countries in Eastern Europe, the Caucasus and Central Asia (Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Ukraine). In Kyrgyzstan, for example, the Ministry of Health regularly issues a report on the sanitary-epidemiological status of the population, including data regarding environmental impacts on people's health.

84. In the legislation of all reporting countries there are provisions on the governmental obligation to disseminate the information referred to in article 5, paragraph 5. Parties continue to regularly disseminate information on policies and legislation. Several EU and some Eastern European, Caucasian and Central Asian countries (Armenia, Austria, Bulgaria, Greece, Italy, Latvia, 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 (Slovenia). A number of international treaties, including the Aarhus Convention, have been translated into national languages in the majority of the reporting Parties. In Bulgaria, there is a special section entitled "Dialogue" on the website of the Ministry of Environment, where all important new draft laws, strategies, plans and programmes are published for public comment.

85. With regard to article 5, paragraph 6, concerning measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products, voluntary systems of eco-labelling and environmental reporting by companies have been developed. Many countries described different voluntary eco-labelling systems and also reported on the implementation of voluntary environmental management systems (Belgium, Denmark, Finland, Georgia, Germany, Italy, Kazakhstan, Latvia, Lithuania, Norway, Sweden, United Kingdom, Ukraine). In Serbia, for example, the website of the Ministry of Environment and Spatial Planning offers information on inspection reports and permits for EIAs. In some countries in Eastern Europe, the Caucasus and Central Asia, legislation in this area has only recently been adopted (Belarus, Turkmenistan) or is in a planning stage (Armenia).

86. In some EU countries and Norway voluntary agreements exist between ministries of environment and private companies or public services providers, in order to improve the environmental performance of the latter, as well as to increase the periodic compilation of environmental reports by enterprises. These reports contain measures and strategies adopted by the companies to improve environmental performance.

87. EU countries and Norway reported on the further development of the Eco-Management and Audit Scheme, as well as integrated product policies. Similarly, environmental reporting is encouraged on the basis of the corporate social responsibility of enterprises. An example of good practice is presented in the Italian report: the autonomous Province of Trento has adopted Eco-Management and Audit Scheme certification in 2009 in 51 municipalities, 2 public services agencies and 2 parks. Moreover, in the context of projects promoting corporate and social responsibility, companies are encouraged to voluntarily adopt high social and environmental standards and to make them public.

88. Norway also described amendments introduced to the Product Control Act that entitled the general public to receive information directly from producers, importers, processors, distributors and users of products. All information held by a public body on products must also be disclosed unless specific grounds for exemption apply. There are several

voluntary eco-labelling schemes, such as the Nordic Swan. Proposals for criteria for licensing different product groups are drawn up by qualified experts and public consultations are held on the proposals, which are also published on the Internet for comment. In addition, a website has been established providing consumers with information on chemicals in consumer products, advice on which products to choose, as well as information on how to dispose of chemical products.

89. With regard to the principle of public access to official documents, all reporting Parties stated that everyone has a right to examine the activities of a public authority and the official documents received by or drawn up by the authority according to article 5, paragraph 7. Legislative proposals and similar documents, the subsequent Government bills and their drafts, information on decisions, inquiry reports and working plans are posted on the Internet.

90. With respect to article 5, paragraph 8, concerning measures taken to develop mechanisms to ensure that sufficient product information is made available to the public, several countries in Eastern Europe, the Caucasus and Central Asia reported that requirements on food safety are in place or are being developed (Armenia, Kazakhstan, Ukraine). Initiatives to introduce labelling of GMOs are still under consideration in Armenia. The Republic of Moldova reported that the eco-labelling practice does not exist, because no provisions on eco-labelling are in place. Turkmenistan reported no information on GMO labelling provisions or practices.

91. EU countries and Norway reported on the implementation of mandatory systems regarding product labelling under EU (EU Ecolabel Scheme) and national laws, and environmental product declarations by companies. In the EU, producers are responsible for providing and disseminating information on the environmental properties of products and are required by law to report on the environmental impact of goods and services.

92. With respect to article 5, paragraph 9, measures taken to establish nationwide pollution inventories or registers vary between countries and regions.

93. In EU countries, Regulation 166/2006 concerning the establishment of a European Pollutant Release and Transfer Register (E-PRTR) requires the creation of a new and broader national register of emissions (PRTR Register) to replace the existing system of Government registers on pollutants. Those EU countries that have the necessary legal framework in place are now in the process of preparing the necessary national implementation acts (in particular establishing sanctions, competent authorities, data communication and public awareness). In the meantime, data collection is managed on a yearly basis. EU Regulation 166/2006 foresees annual national reports.

94. In countries of Eastern Europe, the Caucasus and Central Asia, the ratification of the PRTR Protocol is under consideration. Various events were held to disseminate information about the advantages of PRTRs; for example, in 2009, an international conference on PRTRs for countries in Central Asia was organized in Dushanbe, Tajikistan, with support of the Technical Aid to the Commonwealth of Independent States (TACIS)/European Commission Project on Strengthening Public Participation and Civil Society to Support Implementation of the Aarhus Convention. At present there are systems of obligatory environmental reporting for enterprises and separate registers on emissions, which could serve as the basis for PRTRs in the future.

95. As for further information on the practical application of the provisions of article 5, some countries reported having published guides to help public authorities meet their responsibilities relating to the dissemination of environmental information.

96. Most EU countries and Norway reported that they have encountered no major obstacles to the implementation of article 5. However, Greece reported a delay in the flow of information to the central administration and in providing reports and data to the public, as well as a lack of staff and of systematic recordkeeping. Italy has indicated that the implementation of EU Regulation 166/2006 has added new tasks for the environmental authority, such as the management of a larger amount of data due to the increased number of industrial activities to report on, and the obligation to evaluate the data quality. These changes have increased the need to identify new competent authorities and to establish data quality evaluation procedures. Moreover, a new or improved website will be needed to collect and host this new data.

97. Problems with implementation reported by some countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia include slow progress in the development of information systems and a lack of integrated monitoring systems and reliable data (Georgia, Serbia).

III. Extracts from the national implementation reports⁵ on obstacles encountered in the implementation of articles 4 and 5 of the Convention

A. ACCESS TO INFORMATION UPON REQUEST (ARTICLE 4)

Armenia

Year: 2005

State bodies do **not always indicate a reason for refusing** to provide the information requested. Sometimes **they do not respect the deadlines** or they **do not respond to a request at all**. The monopolization of the production of this type of information is often an obstacle to information access. It is necessary to create conditions and to achieve a balanced development of State, commercial and non-governmental sector producers of this type of information. An anti-monopolization and competitive environment will improve access to information and, which is no less important, improve the quality and trustworthiness of the information.

Statistical data on the number of requests responded to or refused are not available.

Year: 2008

76. Public authorities **do not always indicate the reason for refusing** to provide the requested information. In some cases, they **do not provide the information by the due date or simply do not respond** at all. Efforts must be made to create the appropriate conditions and to ensure the balanced development of governmental, commercial and non-governmental systems for the provision of such information. Access to information will be enhanced by an environment in which monopolies are prevented and competition promoted and, just as important, the quality and reliability of such information will be improved.

77. Statistics are kept of the number of requests that are either approved or declined. In some cases, officials do not have a clear idea what the environmental information actually contains. This explains why requests for environmental information are sometimes refused.

Year: 2011

1. Public authorities **do not always indicate the reason for refusing** to provide the requested information. In some cases, they **do not provide the information by the due date or simply do not respond** at all. Efforts must be made to create the appropriate conditions and to ensure the balanced development of governmental, commercial and non-governmental systems for the provision of such information. Access to information will be enhanced by an environment in which monopolies are prevented and competition promoted and, just as important, the quality and reliability of such information will be improved.

2. Sometimes **the volume of requested information is so great** that it requires work by several specialists over several days.

3. Statistics are kept of the number of requests that are either approved or declined. In some cases, officials **do not have a clear idea what environmental information actually consists of**. This explains why requests for environmental information are sometimes refused.

4. The **fees for receiving information** from the State Committee for the Property Register are high, and there is no system of discounts, even for information that is important to the public. For example, the mayor of Yerevan sent a request to the Register for information about developments in commonly-owned green belts. Under Order No. 99 of the Chair of the State Committee for the Property Register of 23.04.2009 approving the scale of charges for state registration of property rights and provision of registered rights and restrictions, 5000 dram (15 USD) is charged for information on one hectare of Yerevan. As a result, information for the total area of commonly-owned green belts (2383 hectares) cost 11,910.00 dram (33,000 USD).

⁵ Available from: <http://apps.unece.org/ehlm/pp/NIR/query.asp?LngIDg=EN>

Austria

Year: 2008

42. No information was provided under this heading.

Year: 2011

The competent authorities did not provide any information on this issue. An NGO claimed that in case no information is provided by the competent authority **the following procedure may occasionally be too long**.

Azerbaijan

Year: 2005

There are no serious obstacles to the implementation of the provisions of article 4 of the Convention. In order to simplify the procedure for obtaining environmental information, the MENR has issued a list of ministries and departments from which environmental information can be directly obtained. Moreover, the general public has access to the necessary information through the ministerial and departmental websites.

Year: 2008

27. There are no obstacles in Azerbaijan to implementation of article 4 of the Convention. A list of institutions to be applied to for the environment-related information has been compiled at Ministry of Ecology and Natural Resources and published on the ministry's website and, according to the existing legislation, everyone has the right to search for, access, transmit, prepare and disseminate in a legal manner any information of interest. In addition, the adoption of new laws in this area has significantly facilitated full and timely access to information needed.

Year: 2011

19. No obstacles have been encountered in the implementation of the provisions of article 4 relating to access to environmental information.

Belarus

Year: 2005

A number of principles of the Convention are not regulated by the legislation, which is preventing their practical implementation, in particular the principle of providing information to anyone without the need to state an interest, the obligation to provide environmental information in the form requested, the application of the "public interest test" and the principle of separating out information. **The Regulations on commercial confidentiality** are inconsistent with article 4, para. 4 (d), of the Convention.

Year: 2011

75. **Legislative provisions on trade secrets** contravene paragraph 4(d).

Belgium

Year: 2005

Federal Authority The current federal law does not fully meet the Convention requirements regarding access to environmental information, especially some provisions on exceptions to disclosure and the time limits for a decision. However, this will be remedied by an amendment to the law currently under way which also aims to transpose Directive 2003/4/EC. The federal level has chosen not to draw up a sectoral law on the environment but to apply the 1994 Law currently in force in order to extend the principles of the Convention to all types of federal information, and not just to environmental information.

Year: 2008

Federal authority

82. Within the framework of the practical application of the provisions relating to access to information (also see the following question), it appears that it is not always easy to **determine whether a question must be considered or not as a request for environmental information in the sense of the Convention** (and if the procedure described must or not be applied).

Year: 2011

In the annual reports of 2006-2007, 2007-2008 and 2008-2009, the appeal body on open government (and reuse of public information) identified the following obstacles:

- **not all applications for public access to documents are registered**, so statistical data are incomplete; an attempt to remedy this is being undertaken by making *a model register available online*;

- a lot of appeals are submitted for the stand still of the authority because the **maximum term in which an application must be answered, is often not respected**. The term is a formal time-limit that is only sanctioned by giving the applicant the possibility to lodge an administrative appeal;

in many cases, **the decisions do not mention the possibilities of appeal, although it is obligatory**. Not complying to this obligation will be penalized, because the deadline for an administrative appeal is suspended.

Bosnia and Herzegovina

Year: 2011

The competent public authorities did not prescribe a charge list for provision of information, envisaged in articles 35 LoPEFBiH/34 LoPE RS/34 LoPE BD.

Bulgaria

Year: 2008

42. No information was provided under this header.

Year: 2011

39. None.

Croatia

Year: 2011

However, the Ministry of Health and Social Welfare (MHSW) reported that some of the requests submitted by clients had remained unanswered because of the delayed response received from the administrative and technical department and the poor quality of the background documents. For the same reason some of the matters were resolved behind schedule determined by law. Appeals were lodged because of the silence of administration, but no charges were brought in the Administrative Court of the RC.

Cyprus

Year: **2005**

None.

Year: **2008**

37. No information was provided under this heading.

Year: **2011**

Regarding the definition of "environmental information", which covers measures affecting or likely to affect the environment; problems were encountered in the case of development consents. **It was unclear whether development consents fall under the remit of this law.** According to paragraph 1(c) "environmental information" includes measures such as policies, legislation, plans and programmes, environmental agreements and activities affecting or likely to affect the environment. Given that all development essentially impacts on the environment, in theory all development consents must fall under the remit of the law. This has the potential to place a significant burden on the Department of Town Planning and Housing given the considerable amount of relevant information that would be covered by this. Nevertheless, it is the customary practice of the Department of Town Planning and Housing to supply information as requested, at a charge which represents the costs of replicating the requested information, albeit the time limits imposed by Law 119(I)/2004 may be exceeded due to the volume of, and the complexities in gathering, the information.

Czech Republic

Year: **2005**

1. The fact that there is **no clear interpretation of cases where the requested information may be disclosed** under the Act on the Right to Information (right of every person) **or where it may be refused** on the basis of the Construction Code (only a party to the proceedings has the right to information) is often abused in practice. Thus, in certain cases, officials take advantage of the fact that neither the Code of Administrative Procedure nor the Construction Code – namely, the provisions of these laws providing for the consultation of files – were directly amended by Act No. 123/1998 Coll. (or Act No. 106/1999 Coll.). In order to prevent access to information, they neglect the provisions of the Act on the Right to Information on the Environment (1998), which give the applicant the right to consult the file (within the limits and scope of the right to environmental information), stating that the Code of Administrative Procedure of 1967 (or the Construction Code of 1971) excludes such rights, which are stipulated in laws adopted after the Code. Similarly, officials neglect Act No. 106/1999 Coll. This issue could be resolved through a clear definition of the relation between the Code of Administrative Procedure (and the Construction Code) and Act No. 123/1998 Coll.

The interpretation of what is and what is not information on the environment is another practical issue.

2. Insufficient legal protection under article 4, where even a court decision on the unlawful refusal of a request for information does not guarantee that the applicant will obtain access to the information that has been denied.

3. **Court reviews are slow and ineffective.**

Access to information should serve (amongst other things) as an instrument of public control of State power, an instrument for ensuring a healthy environment, and also as an incentive for citizens to pursue their own activities while protecting and creating a healthy environment.

In order to ensure the proper application of this instrument and for information disclosure to be meaningful, it is necessary for the applicant to obtain the information as soon as possible. Therefore, **judicial protection must also be**

expeditious. Where the judge satisfies the claim after the expiry of six months (if the procedure is very swift: the average length is, for instance in Prague, between 28 and 36 months, with the ratio of decisions issued by the appellate court varying around 20 per cent; often, decisions are not final and cases are sent back to the lower instance for a final decision), this is often too late since the relevant information is no longer up to date (provided that the applicant actually receives the information after a successful court dispute). As some other proceedings have been closed in the meantime, irreversible harm may have been caused to the environment, or the health of hundreds of people already harmed as they continue to breathe toxic exhalations.

Success before the courts is meaningless! The applicant does not obtain any information as a result of his or her success in the case – the court merely cancels the decision by which the appellate body confirmed the rejection of the request for information (even in the case of a fictional decision, i.e. the inaction of an authority under Act No. 106/1999 Coll.) – and returns the case to the authority that refused to provide the information. For example, after losing a court dispute, the Capital City of Prague stated that it could no longer hold the proceedings on (non-) disclosure of information, as the deadline for providing the information (as of the submission of the request) had already expired; it argued that therefore it would be in violation of the law to provide the information after the expiry of the deadline (this case was governed by Act No. 106/1999 Coll.; however, officials may employ the same “argument” in relation to Act No. 123/1998 Coll.)

4. **Absence of penalties:** neither the officials nor the authority are penalized in any manner whatsoever for repeatedly and unlawfully denying the right to information on the environment (or information in general)!

The solution is to ensure an effective court review; when assessing the legality of a decision on the refusal of a request for information, the court must assess whether the stated reasons are in accordance with the law (i.e. the information shall not be provided) or in violation of the law (i.e. the information should have been provided) and, ultimately, issue a judgment in which it orders that the requested information be provided.

The idea that, according to the established case-law, the applicant will ultimately receive the information through the court could often dissuade officials from denying the right to such information. It would also be necessary to accelerate court proceedings; however, the situation has improved in this respect.

5. The applicant receives the information only if the official has no reason to refuse it (officials often refuse the information even without any specific reason, so that it does not become a custom to provide information). Other problems include lack of organization, unlawful decision-making on environmental matters, corruption and pressure from superiors. The practical unenforceability of the right to information means that, in cases where access to information could prevent sloppy official work or corruption, officials do not provide information and they need not worry that the applicant could enforce his or her right to it!

Year: **2008**

34. Two modes of providing information can be distinguished – namely, general provision of information on the basis of the right for information (according to the Act No. 123/1998 Coll.) and inspection of documents as implementation of the procedural right (according to the Act on Administrative Procedure and the Building Act). In resolving concrete practical cases, the relationship between these two modes raises questions. Nevertheless, judicial decision-making practice is being formed. In practice, **there is not always a clear interpretation concerning whether the information required could be made accessible on the basis of the Act on the right for information on the environment (which everybody has) or if the information could be refused on the basis of the Building Act**, under which only a participant in the respective procedure has the right for information (this concerns the case of denying the right to inspect the documents).

35. Another practical problem is related with **a questionable interpretation of what is information on the environment and what is not**. This concerns the cases when, within one request, someone asks for different pieces of information, some of which concern the environment and others not. The obligated organization should then apply two kinds of procedures separately (according to the Act on the right for information on the environment the Act on free access to information). This also results in two different deadlines for providing the information as well as different remedial measures, different requirements for covering the costs of providing the information, and differing judicial protection.

36. NGOs' experience shows that difficulties with implementation of article 4 are caused by **insufficient legal protection and the possibility of gaining quick and efficient remedy in the case of information refusal**. Judicial review is often slow and inefficient. The average trial time of a case is 450 days (15 months), the proportion of decisions rendered by courts of appeal is about 30 per cent and very often there is no final decision but only a return of

the case back to the court of lower instance to issue the final decision. If a court finally agrees with the plaintiff, it is often too late – the information is out-of-date.

Year: 2011

The Czech legislation, which is only concerned with narrower aspects of the provision of information is, **in principle, satisfactory**. However, in addition to further issues mentioned below, it is necessary to resolve, either by legal or methodical means, those situations where **an application for information is lodged with the competent authority, which, however, lacks the required information**, although it can be inferred that it is obliged to have this information included in its public administration information system and subsequently provide it. This is an issue that is related particularly with Art. 5 of the Convention, i.e. the “duty of the authorities to possess the relevant information, to establish information systems providing for adequate flow of information to public authorities”.

Disputable interpretation of **what is and what is not information on the environment** is another practical issue. The obliged entities point out that, in practice, it is often very difficult to distinguish whether the required information falls within the regime of the general Act on Free Access to Information or whether it constitutes information on the environment pursuant to the Act on Free Access to Information on the Environment. These two Acts stipulate different deadlines for the provision of information, as well as different remedies, requirements on payment of the costs of provision of information and also different provisions on court protection. Problems could arise in those cases where the applicant requests, within a single application, information that is partly information on the environment and partly other information. The obliged entity should then apply a dual procedure (separately pursuant to the Act on Free Access to Information on the Environment and separately pursuant to the Act on Free Access to Information). Problems can also be encountered in cases where an applicant requests information which he considers to be information on the environment and the obliged entity provides it, but in the regime of the general Act on Free Access to Information, on the grounds that the information in question is not information on the environment, in which case the obliged entity has the right to claim compensation for the costs of seeking out and providing the information, unlike under the procedure pursuant to the Act on Free Access to Information on the Environment, where information is provided free-of-charge. The applicant has the right to raise a complaint against the amount of payments for the provision of information pursuant to Section 16 (a) of the Act on Free Access to Information.

There exist two other distinct regimes: general provision of information on the basis of the right to information (pursuant to the Act on Free Access to Information on the Environment) and inspection of a file as a means of exercising a procedural right (pursuant to the Code of Administrative Procedure and the Construction Code). The relationship between these two regimes raises practical issues in specific cases; however, case-law is already available in this respect. In practice, there need not always be a clear guidance as to **whether the requested information may be disclosed on the basis of the Act on Free Access to Information on the Environment (right of every person) or whether it may be refused on the basis of the Construction Code, where the right to information is vested only in a party to the proceedings** (this is a case of refusal of the right to inspect the file or documents). In their case-law, the courts have also dealt with the term “public entity obliged to provide information”. In its judgment of 6 October 2009, File No. 2 Ans 4/2009-93, the Supreme Administrative Court reached the conclusion that the relevant elements of this term include: manner of establishment, identity of the founder, manner of creating bodies, State supervision and public purpose. The existence of a majority of these elements is sufficient to classify an entity as a public institution. Consequently, public entities include, not only bodies of public administration, but also a wide range of entities founded by public entities to fulfil a public purpose.

Experience of the NGOs indicates that difficulties in implementation of Art. 4 are caused by **insufficient legal protection and possibility to achieve rapid and effective remedy** in the event of refusal of information. In a number of cases, court review is slow and ineffective. The average duration of hearing a certain case in administrative justice is several months, the ratio of decisions rendered by appellate courts varies around 30 % and, very often, these decisions are not final, but the case is rather returned to the court of lower instance for a final decision. When the court satisfies the claim, it is often too late – the information is no longer up-to-date.

Denmark

Year: 2008

56. No information was provided under this heading.

Estonia

Year: 2008

24. No information was provided under this heading.

Year: 2011

Environmental information in Estonia is held mainly by the MoE, the Environmental Board and Centre of Environmental Information (hereinafter CEI). To a certain extent, requests for information are sent also to other State and local authorities.

Generally, there have been no problems with the term for complying with requests for information. In some cases still **problems have occurred with responding within the prescribed term** and in some **cases requests for information have been left unanswered**. One of the reasons for rejecting a request or delay in answering is often the further need to process initial information (**the information does not exist in requested form**), but also requests that are too general or unclear. Very many requests are sent in by students and schoolchildren.

State and local authorities that have sent their inputs to the report of 2010 have declared that they usually follow the regulation on answering requests for information, although in the case of very many requests **some of them are rejected (if the request is not correctly formulated), some are answered with a delay and a few left unanswered**. In some cases a prolongation of the deadline has been asked for and/or the response has not contained the essential information requested. In general, the answering to requests for information has become an everyday task and is well rooted.

The fact that the average response time to a request has become shorter was noted as a positive development: the cases when an answer to the request for information is received within a couple of days are quite frequent. The cases when the deadline for responding to the request, i.e. 5 business days, has not been met are few. The submission of requests and answering thereto has been also made less complicated by the development of electronic document management in agencies. One NGO reported that they have had no need to submit requests for information as the necessary information is available without that.

Pursuant to the responses to the questionnaire distributed for the preparation of the report 2010 there are only two known cases when a fee was charged for the performance of a request for information as in these cases extremely large data volumes were concerned. A fee is also charged for such requests for information asking for extracts of registers or other information where the obligation payment arises from law (e.g. in case of an issue of a plan of a cadastral unit approved by the cadastral registrar or a cadastral report).

European Union

Year: 2008

37. No information was provided under this heading.

Year: 2011

40. No information was provided under this heading.

Finland

Year: 2008

54. No information was provided under this heading.

Year: 2011

70. No specific information under this heading.

France

Year: 2005

The difficulties encountered may be attributed to a lack of resources in some parts of the administration, such as communes, which have few staff. Other causes are requests which are poorly drafted, or do not specify the competent department.

Year: 2008

38. According to some associations, there is a “cultural” resistance to transparency in the French Administration. In its 2006 report, the Commission on Access to Administrative Documents stated that refusals were in many cases the result of the Administration’s inertia. This statement by the Commission constituted something of a reprimand and the Administration is making efforts to rectify the situation.

39. The other difficulties encountered may be attributed to a lack of resources in some poorly-staffed parts of the Administration and to requests that are badly drafted or that do not specify the competent department.

40. According to some associations, there is still room for improvement in making more environmental information available on the Internet, in particular with regard to environmental issues requiring public participation.

Year: 2011

42. According to France, Nature, Environment and Friends of the Earth, there is a “culture” of resistance to transparency in the French administration. **Difficulties in obtaining the information requested and the cost of communication** can sometimes discourage citizens who want to make use of this right.

43. However, we would point out that the Commission on Access to Administrative Documents comments in its 2009 activity report that “we have seen a slight but real drop in the number of requests for the Commission’s opinion, a rarity in our 30-year history. The most probable explanation is that administrations are better responding to access requests from users”.

44. The other difficulties encountered may be attributed to **a lack of resources in some poorly staffed administrations** and to requests that are badly drafted or that do not specify the competent department. The administration still needs to put in place systems enabling requests to be passed on to the competent department.

45. According to associations, there is still room for improvement in making more environmental information available on the Internet, in particular with regard to environmental issues requiring public participation. Article L.123-10 of the Environment Code, revised by article 236 of the Act on National Commitment to the Environment, allows experimentation in this respect for a limited number of projects, plans and programmes that are subject to a public inquiry. Moreover, as sending administrative documents by email is quicker and free, this means of communication should be encouraged in the administration.

46. The Aarhus Convention specifies that “The aforementioned grounds for refusal [of access to information] shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.” Several members of Local Information Commissions report a failure to apply this principle, particularly owing to **an overly wide interpretation of confidentiality within the nuclear industry**. The National Association of Local Information Commissions is experimenting with a system for giving confidential access to classified documents with EDF and the Flamanville Local Information Commission.

Georgia

Year: 2005

There are some **cases when 10 days is not enough to find the information** and make it available because of the amount of information requested. **The procedure for making a charge for copies of the documents is not yet in place**, which complicates making the information available.

Year: **2008**

97. There are some cases when **10 days are not enough time** for finding the information and making it available because of the amount of information involved.

98. A Georgian law on the amount of fees for making a copy on the public information exists and defines the “system of fees” and the procedures of “fees and amount of payment”. According to the above-mentioned law, any other fees apart from copying charges are restricted by the law. This law does not cover those cases in which there is a certain fee for information defined by a special legislative act.

Year: **2011**

- There are some cases when 10 days is not enough time for seeking the information and make it available because of its **big volume or complexity**.

Germany

Year: **2008**

28. **The authorities’ assessment of whether corporate data constitute commercial and industrial secrets** which must be protected, and **the balancing in each case of the private interest in confidentiality and the conflicting public interest in disclosure** can lead to difficult decisions in individual cases.

Year: **2011**

The authorities’ assessment of whether corporate data constitute commercial and industrial secrets which must be protected, and **the balancing in each case of the private interest in confidentiality and the conflicting public interest** in disclosure can lead to difficult decisions in individual cases. Very extensive UIG applications and the necessary hearing of third parties can lead to the problem that the short processing times prescribed cannot be complied with in practice. This particularly relates to applications requesting access to confidential, personal environmental data which affect a large number of individuals. The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety has had a legal opinion drawn up for the often difficult assessment of issues relating to copyright law (Bernhard Wegener, "Zum Verhältnis des Rechts auf freien Zugang zu Umweltinformationen zum Urheberrecht", 2010, available at <http://www.bmu.de/umweltinformation/downloads/doc/46432.php>)

Greece

Year: **2008**

53. The obstacles and problems identified by the involved public authorities are:

- a. Lack of resources (staff, funds for copies etc.);
- b. In many cases, requests are general or unreasonable, and the administration must ask the applicant to submit documentation with more details;
- c. In many cases, due to the complexity and a volume of the requested information, a collaboration with other authorities is required. The administration must inform the applicant within the time limits mentioned above;
- d. A possible excess of the provided time limits by the public authorities is stated as a possible obstacle in the implementation of this article.

Year: **2011**

46. The obstacles and problems identified by the involved public authorities are:

- (a) Lack of resources (staff, funds for copies etc.);
- (b) Administrative burden due to lack of staff and because in some cases request is general or unreasonable and officials ask and assist the applicant to specify the request or submit documentation with more details;
- (c) In many cases, due to the complexity and a volume of the requested information, collaboration with other authorities is required which is time consuming;
- (d) Administration usually informs the applicant within the time limits mentioned above; However due to lack of human resources and work overload a possible excess of the provided time limits by the public authorities is stated as a possible obstacle in the implementation of this article;
- (e) Limited difficulties, concerning the interpretation and management of the definition "environmental information" identified in some cases such as the required annual balance sheet of a legal person performing public administrative functions under national law and some difficulties raised concerning the exceptions and in particular the identification of confidentiality of industrial information.
- (f) Some authorities noticed that no record is kept in groups of related activities to be monitored systematically.
- (g) By some prefecture authorities is reported lack of material and technical infrastructure (lack of storage for studies, lack of computers and related programs for creating databases), lack of electronic filing, increased volume of work and documents for distribution (at prefecture level there is a requirement for conducting environmental audits); lack of communication between the Ministry and Regional Services; lack of staff training;
- (h) According to Ombudsman the main problems of effective implementation of the principles of the Aarhus Convention due in principle to non-suitable infrastructure of these services to facilitate public access to environmental information;
- (i) By some prefecture authorities is reported as the main obstacle the time required for providing environmental information to citizens and the complexity of the responsibilities of the Authority mainly focused on the environmental licensing of projects and activities. In most cases information is given orally or by telephone contact and therefore requests are not recorded;
- (j) By an NGO is reported that the response of the authorities services is better, the more "senior" are, and as close to the subject of the environment. Problems enlarge when someone seeks environmental information in services with another principal object, and away from the centre [eg, a Municipality]. However, it is reported that environmental services are relatively well-acquainted with the Aarhus Convention, although delays [the workload, etc.] is a problem. A major problem also creates the distance in some areas - for example, to find an EIS, to travel by the seat of the county, and photocopying a copy in case there is lack of electronic databases of environmental information.

Hungary

Year: 2005

Criticisms from those requesting environmental information and the Data Protection Ombudsman to the effect that **the authorities' data supply procedures are not uniform throughout the country** are justified. The MoE plans to solve such problems by reinforcing the National Environmental Information System and establishing environmental information management within the legislative framework. As regards the former, the Ministry plans to unify its own separate systems (environment, nature conservation and water management) and integrate environmental information held by other ministries into the National Environmental Information System, as a point of reference, and satellite systems. The government decree regulating the organization of environmental information management also supports this end. The decree aims to ensure access for natural or legal persons to environmental information held by the authorities, specify the framework for supplying environmental information to the public through usual means and electronically, and give detailed rules for data communication between authorities.

The objectives include further improving activities in supplying environmental information in various fields. Priorities include increasing the rate of access to the Internet, and improving interactivity (e.g. queries and map displays) and the supply of environmental information to the mass media. The latter is also served by an annually updated publication comprising major environmental indicators in print, on CD-ROM and online.

In general, the quality of the information supplied is good, but it's updating by accelerating data processing and making data replacements is required. Lack of human resources continues to cause difficulties in filling the existing systems with data, eliminating deficiencies and keeping information updated.

Last, but not least, elements missing from the system of environmental reporting (thematic reports, prognoses) should be provided for, which would serve both the dissemination of information and decision-making, and focus on the evaluation of policies.

Each year, the Data Protection Ombudsman receives several complaints about institutions charging high fees for supplying environmental information, citing lack of funds to produce it (see the example of the Hungarian Meteorological Service in [Appendix IV](#)).

Year: **2008**

49. The principal obstacle in the implementation of article 4 is the occasionally diverging practice of the competent authorities. It has occurred on several occasions that **information has been provided at the charge of excessive fees**. Also, requests have been turned down based on **a narrow interpretation of the definition of “environmental information”**. With a view to fostering the development of a uniform practice on access to information, the Ministry of Environment and Water aims to hold a comprehensive training cycle for environmental authorities in 2008.

50. As mentioned above, **a recurring problem is the unjustified application of the rules of commercial secrecy to environmental information**. The data protection ombudsman held that where environmental information is contained in a document subject to copyright, it is for the copyright holder to decide on the disclosure of the information. But refusal to disclose is always open to judicial review. Some environmental inspectorates have turned down requests for access to their decisions imposing sanctions, with reference to the protection of business reputation.

Year: **2011**

46. Difficulties reported by the NGO sector:

Some data relating to the use of nuclear energy is classified as environmental information. The withholding of environmental data relating nuclear energy is most commonly justified on grounds of business secrets. Judicial rulings suggest that business secrets are frequently not specified, but entire documentations are classified as a business secret. The term of “information related to emission”, constituting an exemption from business secrecy, is not clearly defined by Hungarian regulations, either. The roundtable set up in 2010 with the participation of the nuclear plant, the authorities, NGOs and the Parliamentary Commissioner for Future Generations began consultations to resolve the above problems.

Italy

Year: **2005**

The public is not fully aware of the scope of Legislative Decree 39/97. Access often depends on the local community’s level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved. The new national legislation on access to information, which is under preparation in order to implement Directive 2003/4, will strengthen efforts to increase awareness.

One major obstacle has been solved by Legislative Decree 39/97 since previous legislation (article 25 of Law 241/90, applicable to administrative documents not containing environmental information) required the request for access to be state an interest. **The differentiation between administrative documents** (subject to Law 241/90, which requires an interest be stated for the request for access) **and environmental information** (Legislative Decree 39/97, which does not require statement of an interest) **is not always completely clear**.

Year: **2008**

47. **The public is not yet fully aware of the scope of legislation related to access to information**. Access often depends on the local community’s level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved. An aspect still particularly problematic is how guarantee uniformity in application of the cases of denial of information at all levels of the public authority.

48. **The differentiation between administrative documents** (subject to Law 241/90, which requires an interest to be stated for the request for access) **and environmental information** (Legislative Decree 195/2005, which does not require statement of an interest) has been clarified but still there may be cases of lack of clarity.

Year: 2011

The public is not yet fully aware of the scope of legislation related to access to information. Access often depends on the local community's level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved.

The differentiation between administrative documents (subject to Law 241/90, which requires an interest to be stated for the request for access) **and environmental information** (Legislative Decree 195/2005 which does not require statement of an interest) has been clarify but still there may be cases of unclarity.

Kazakhstan

Year: 2005

With respect to article 3, paragraph 9, one of the court decisions examined during the preparation of this report stated that **the right of voluntary associations to access to environmental information is restricted by their territorial status**. The reason for this is that, in Kazakhstan, voluntary associations are subdivided, depending on the territorial sphere of their activities, into:

- (a) Local: registered in the territory of one oblast or in the city of Almaty or the city of Astana;
- (b) Regional: registered in the territory of two or more oblasts or in the city of Almaty or the city of Astana;
- (c) National: Registered in more than half of Kazakhstan's oblasts and in the cities of Almaty and Astana.

However, this discriminatory approach has not been widely applied. As a rule, NGOs send requests for environmental information and receive replies to them regardless of their territorial status.

With respect to article 4, paragraph 2, Kazakh legislation establishes even stricter maximum time limits for providing information under the Aarhus Convention, namely within 15 days of requests that do require further study or verification. In practice, however, any requests by citizens for information are often handled within a month's time, which [rest of sentence is missing]

Year: 2008

50. No information was provided under this heading by this party to the Convention.

Year: 2011

70. The last paragraph of Article 4(4) of the Aarhus Convention covers the need to **disclose classified information (or restricted information)** if there is a public interest in disclosure, taking into account whether the information relates to emissions into the environment and pollution (**the "public interest test"**).

71. Current national legislation contains fundamental provisions that would allow **development of a procedure to disclose classified or restricted information in the circumstances outlined above**. Article 31 of the Constitution stipulates that the State must seek to protect an environment that is conducive to human life and health. At the same time, Article 31(2) states that officials who conceal facts or circumstances that present a threat to human life and health shall be held accountable in accordance with the law. Thus the basic law of the Republic of Kazakhstan – the Constitution – makes public safety, including environmental security, paramount.

72. This approach permeates all relevant national legislation in the field of national and environmental security. Act No. 233-I on National Security (26 June 1998) includes the concept of "environmental security" in its list of basic concepts: "the state of protection of vital interests of the individual, society, natural environment from threats resulting from anthropogenic and natural impacts on the environment".

73. Shortcomings in or absence of legislation on the protection of national interests are also deemed a threat to national security (Article 5(13)). The first national interest stated in the Act is "the protection of human and civil rights and freedoms" (Article 4(1)). Access to environmental information, public participation in environment-related decision-making, and access to justice "in environmental matters" are hence enshrined in national legislation as a priority national interest that is protected.

74. Article 126(1) of the Civil Code outlines the concept of official and trade secrets:

“Civil legislation shall protect information which constitutes an official or a trade secret where the information has actual or potential commercial value by virtue of being unknown to third parties, if there is no access thereto on a legitimate basis and the possessor of the information makes efforts to protect its confidentiality.”

Lack of lawful unrestricted access to information is hence one of the criteria for it to be considered a trade or official secret.

75. Under Article 17(1(2)) of the 1999 State Secrets Act, environmental information cannot be classified as a state secret. The same principle is reflected in the Act on the Electronic Provision of Information (“Informatization”). An analogous provision is also found in the Environmental Code: under Article 163, environmental information is publicly accessible. In turn the Environmental Code includes information about emissions into the environment when defining publicly accessible environmental information (Article 159(2)).

76. This approach is also reflected in Article 164(3) of the Environmental Code: natural and legal persons conducting activities in Kazakhstan must provide environmental information relating to impact on human life and health on request. This requirement primarily relates to environmental impact assessments and state environmental reviews of planned non-state economic or other activities with the potential for significant environmental effects.

Kyrgyzstan

Year: 2005

Most of the laws on access to environmental information are capable of fairly broad interpretation and **the procedures and mechanisms that enable their provisions to be implemented are not sufficiently well developed.**

The problem is not so much access to information on request as keeping the public informed in order to facilitate considered decision-making (active information). **Lack of funds, the absence of clear-cut procedures and ignorance of rights make it difficult to ensure that the public is kept properly informed.**

Information on the state of the environment is neither a State nor a trade secret. The justification for a refusal to provide documentation in connection with a public environmental appraisal is the presence in the subject of appraisal of information constituting “a secret protected by law” since the subject of environmental appraisal is not merely information but actual documents containing a quantity of “non-environmental information”. **In order to estimate the extent of the effect of a project it is necessary to use information on the capacity of the plant, the raw material supply, the storage area, the number of shifts, etc., i.e. matters which can be regarded as trade secrets.**

The right of access to information on draft laws in preparation is governed by a whole series of enactments. However, **citizens are not always informed of legislation in preparation and therefore cannot participate in the discussions and thus exercise that right.**

For lack of funds the complete texts of draft laws are not published and the site of the Ministry of Justice is periodically inaccessible. The complete texts of draft laws are freely obtainable in the corresponding committee of the Parliament (ZhogorkuKenesh) provided that the draft is not confidential. Thus, citizens mostly exercise their rights on their own initiative.

It follows that, theoretically, draft legislation can be accessed in the decision-making stage but genuine procedures are not always provided. There is a legal basis for timely access to information in order to participate in decision-making in connection with the planning of economic activity, but as practice shows the initiative displayed by the citizens themselves with respect to the procedures in question is fairly weak.

The information received by the user is sometimes of poor quality, incomplete or inaccurate.

There may be a **lack of interdepartmental coordination**, expressed in the preparation of replies by different departments. There is **no clear-cut system for the exchange of environmental information**, although some efforts are being made. The MECD is now providing opportunities for information to be placed on its own web page, but this is insufficient to build an effective information network.

The shortage or complete absence of information on the state of the environment with respect to many parameters is attributable to failures of the primary data collection system due to the lack of infrastructure and resources for continuous environmental monitoring.

Users of natural resources lack a departmental monitoring structure and, consequently, do not possess reliable information on their own enterprise and may distort information on discharges and emissions, the state of treatment plants and emergencies that threaten the environment and human health.

One of the worst problems is the failure to provide timely information on decision-making.

There are no procedures for providing the public with information in the initial stage of a proposed activity.

Another problem is the inability of the person requesting access to information to make out a proper request.

The principal regular sources of environmental information include the MECD, the State Forestry Service, NGOs, international and national projects and programmes, international organizations and scientific institutions. Information is occasionally provided by local authorities and educational institutions. Enterprises and commercial organizations do not provide environmental information, with the exception of the Kuntor Operating Company, which is a focus of public interest.

The implementation of the legislation on access to information is being monitored at the initiative of the active NGOs (those concerned with the protection of rights, the environment, the interests of journalists, women, etc.).

Year: 2008

64. Most of the laws on access to environmental information are subject to fairly broad interpretation, and **the procedures and mechanisms for facilitating these provisions have not been sufficiently developed**. The problem is not so much access to information on request (passive information) as keeping the public informed in order to facilitate considered decision-making (active information). **Lack of funds, the absence of clear-cut procedures and ignorance of rights make it difficult to ensure that the public is kept properly informed.**

65. Information on the state of the environment is neither a State nor a trade secret. The justification for refusing to provide documentation in connection with a public environmental appraisal is the presence in the subject of appraisal of information constituting “a secret protected by law”. The right of access to information on draft laws and subordinate acts is regulated by Government Decision No. 603 of 20 December 2007 on the means of analysing the effect of laws and regulations on entrepreneurial activities and by other regulatory legislation. However, **citizens are not always informed about draft legislation**; that is why they cannot participate in the discussions and exercise the aforementioned right.

66. Draft laws and regulations are posted on the websites of the Jogorku Kenesh (Parliament), the Government, the Ministry of Justice and other ministries and departments in a timely manner.

67. **There is no clear-cut system for the exchange of environmental information**, although some efforts are being made. The State Agency on Environmental Protection and Forestry is currently providing opportunities for posting information on its own web page; however, this is insufficient for building an effective information network.

68. Users of natural resources lack a departmental monitoring structure and, consequently, do not have reliable information about their own enterprises and may distort information on discharges and emissions, the state of treatment plants, and emergencies that threaten the environment and public health. Failure to provide timely information on decision-making poses the most difficult problem. There are no procedures for providing the public with information during the initial stage of a proposed activity. Another problem is the inability of the person making the request for information to formulate a proper request.

69. The principal regular sources of environmental information include the State Agency on Environmental Protection and Forestry, NGOs, international and national projects and programmes, international organizations and scientific institutions. Enterprises and commercial organizations do not provide environmental information, with the exception of large facilities which are under public scrutiny or which participate in the extractive industries’ transparency initiative.

70. The implementation of legislation on access to information is being monitored at the initiative of the NGOs active in the field of human rights, the environment, journalism, women, and so forth.

Year: 2011

82. Most of the laws on access to environmental information are subject to fairly broad interpretation, and **the procedures and mechanisms for facilitating these provisions have not been sufficiently developed**. The problem is not so much access to information on request (passive information) as keeping the public informed in order to facilitate considered decision making (active information). **Lack of funds, the absence of clear-cut procedures and ignorance of rights make it difficult to ensure that the public is kept properly informed.**

83. Information on the state of the environment is neither a state nor a trade secret. The justification for refusing to provide documentation in connection with a public environmental audit is the presence in the subject of audit of information constituting “a secret protected by law”. The right of access to information on draft laws and subordinate legislation is regulated by the Government Decision on the means of analysing the effect of laws and regulations on entrepreneurial activities and by other regulatory legislation. However, citizens are not always informed about draft legislation; that is why they cannot participate in the discussions and exercise the aforementioned right.

84. Draft legislation is posted on the websites of the Jogorku Kengesh (Parliament), the Government, the Ministry of Justice and other ministries and government departments in advance.

85. **There is no clear-cut system for the exchange of environmental information**, although some efforts are being made. The State Agency for Environmental Protection and Forestry is currently providing opportunities for posting information on its own web page; however, this is insufficient for building an effective information network.

86. **Users of natural resources lack a departmental monitoring structure** and, consequently, **do not have reliable information about their own enterprises and may distort information on discharges and emissions**, the state of treatment plants, and emergencies that threaten the environment and public health. Failure to provide timely information on decision making poses the most difficult problem. Another problem can **be the inability of the person making the request for information to formulate a proper request**.

87. The principal regular sources of environmental information include the State Agency for Environmental Protection and Forestry, NGOs, international and national projects and programmes, international organisations and scientific institutions.

88. Implementation of legislation on access to information is monitored by NGOs working on issues including human rights, the environment, journalism and women. Despite the fact that in recent years the law has set out procedures and mechanisms for providing information with sufficient clarity, in practice state authorities do not always duly fulfil these requirements.

89. **Receiving information from businesses is problematic**.

90. Libraries have been created in ministries and government departments with the aim of implementing the Law on Access to Information. However, **procedures and mechanisms have not been developed to provide access to these libraries for the public**.

91. Despite the fact that the Presidential Decree on Implementation of the Law on Access to Information envisages “awareness-raising among the population with the support of the mass media about the procedure for realising opportunities granted by the Law to receive information and the annual publication in the mass media of reports on the implementation of the Law”, such activities have only been carried out to a very limited extent.

92. **The majority of requests for information submitted to local self-government and to provincial and district state administrations have not been answered** (including a request to the provincial administration of Chuy Province from 26 August 2009 and a request to the Bishkek Mayor’s Office from 3 April 2010).

93. Answers to written requests to state authorities are not always provided within the required period, or are not full.

Latvia

Year: 2005

Members of the public indicate that State institutions, including State environmental institutions, often exceed the time frame of 15 days allowed by the law for providing a response. The 30-day term set out in the Convention is mostly complied with.

Members of the public also point to **the difficulties of obtaining information on emissions to the environment from the point sources**, as it is often **classified as restricted information**. It is also indicated that environmental institutions collecting the data request a fee for some kinds of information.

Year: 2008

53. **Provision of information free of charge is interpreted in various ways**, i.e. which information has to be free and on which charge can be applied. This regards especially the authorities working with environmental information and, inter alia, providing paid services. Although legislative acts regulate application of fees for services, actual implementation is not always clear.

Year: 2011

81. In view of the ECC, **information on the implementation of environmental investment projects and on the planned effectiveness of activities is not always available**. However, the relevant restrictions often can be explained by protection of commercial secrets and after the adoption of a decision its grounds is available.

Lithuania

Year: 2005

The provisions of approved legislation are being implemented.

Luxembourg

Year: 2008

25. It turned out that in certain cases **the requests for environmental information intended to significantly exceed the scope of the environmental information under the Aarhus Convention**. Thus, for instance, people consulted certain applications with the only objective to see which persons have raised observations during a consultation procedure. To the fullest extent possible, the competent authorities prevent access to information susceptible to infringe on individuals privacy. In other cases, the competent public authorities had material difficulties to provide environmental information within the time limit.

Year: 2011

It turned out that in certain cases **the requests for environmental information intended to significantly exceed the scope of the environmental information under the Aarhus Convention**. Thus, for instance, people consulted certain applications with the only objective to see which persons have raised observations during a consultation procedure. To the fullest extent possible, the competent authorities prevent access to information susceptible to infringe on individuals privacy. In other cases, the competent public authorities had material difficulties to provide environmental information within the time limit.

Malta

Year: 2008

41. There is **a lack of common understanding of scope of article 4**, of the Convention between the various policy actors.

Montenegro

Year: 2011

Based on the requests which have been submitted to relevant environmental protection institution for access to information in the field of environment, we hereby stress that there is **high interest for this matter, which requires more staff to act upon the submitted requests**. The reason for this is that, in addition to the above, one of the problems encountered in the implementation of this Article is searching of a number of documents which disturbs regular functioning of government agencies.

Netherlands

Year: 2005

The main obstacle was the implementation of the Aarhus requirements concerning environmental information in the existing Freedom of Information Act on access to information in general. More specifically, the grounds for refusing access to environmental information had to be integrated in a general law, resulting in a specific

regime. Procedural safeguards have been implemented in a general way and are thus applicable to all requests for information.

Guidelines on the first pillar of the Convention (access to environmental information) have been drawn up by the Ministry of Housing, Spatial Planning and the Environment and representatives of the provinces, municipalities and water boards. Those guidelines can be found on the website of the Ministry of Housing, Spatial Planning and the Environment (www.vrom.nl).

Moreover, the regime of the General Information Act was evaluated in January 2004 and was presented to Parliament on 10 May 2004. The evaluation is of a qualitative nature and contains a general description of the developments in the application and jurisprudence. Further information on the application of the Freedom of Information Act can be found on the website www.minbzk.nl.

Year: 2008

23. The main obstacle was the implementation of the Aarhus requirements concerning environmental information in the existing Freedom of Information Act on access to information in general. More specifically, the grounds for refusing access to environmental information had to be integrated in a general law, resulting in a specific regime. Procedural safeguards have been implemented in a general way and are thus applicable to all requests for information. The information about specific technical details in environmental permits is regulated in chapter 19 of the Environmental Act.

Year: 2011

The main obstacle was the implementation of the Aarhus requirements concerning environmental information in the existing Freedom of Information Act on access to information in general. More specifically, the grounds for refusing access to environmental information had to be integrated in a general law, resulting in a specific regime. Procedural safeguards have been implemented in a general way and are thus applicable to all requests for information. The information about specific technical details in environmental permits is regulated in chapter 19 of the Environmental Management Act.

The above mentioned evaluation in 2009 shows that **the implementation of Aarhus brought an increase in the complexity of the Dutch legislation concerning freedom of information.** This is partly caused by (subtle) **differences in terminology and definitions.** These differences occur in Dutch legislation because there already was a general freedom of information act and a general administrative law act concerning administrative procedures. But they also are caused by differences in terminology and definitions in European legislation. Together this complicates the efforts to try optimizing and standardizing terminology and definitions in legislation.

Norway

Year: 2005

No specific obstacles have been encountered.

Year: 2008

48. No specific obstacles have been encountered.

Year: 2011

No specific obstacles have been encountered.

Poland

Year: 2005

The main obstacle is the existence of **two separate legal frameworks concerning on the one hand access to environmental information and on the other access to public information**. The relationship between these frameworks is unclear.

Another practical problem is the fact that there is no clear definition of environmental information. This results in the misunderstanding that only documents enumerated in article 19, para. 2, of the Law on Environmental Protection are accessible and therefore requests are often refused if they do not concern such documents but other environmental information pursuant to paragraph 3 of the provision.

Year: **2008**

41. **Lack of clear definition of environmental information** results sometimes in the misunderstanding that only documents enumerated in article 19, paragraph 2, of the Law on Environmental Protection are accessible and therefore requests are often refused if they do not concern such documents but other environmental information pursuant to paragraph 3 of the provision.

42. Authorities indicate problems with **requests involving production of summaries or tables which far extends beyond retrieving existing information and in fact involves labour-intensive production of the new information**. In such cases, the time limit envisaged in the law is not sufficient and sometimes is not met.

43. NGOs report cases of authorities requesting the applicant to demonstrate a legal interest or refusing requests on the basis of misinterpretation of copyright laws. Also, the fees, although generally limited, may be an obstacle in the case of certain large-scale monitoring research involving hundreds of local authorities.

Year: **2011**

47. Following an inspection in 2010 the Supreme Chamber of Control found that in 6 (11.8%) out of 51 government-controlled entities, in spite of duty, did not designate persons responsible for providing information on the environment and its protection. Compared to previous inspections the scale of irregularities were reduced.

48. The showed that only sporadically inspected entities did not inform about the proceedings. No information disclosure was recorded in 1.8% of 902 analysed proceedings.

Portugal

Year: **2005**

Despite the above-mentioned stringent legal provisions, the Convention goes further with regard to the active obligation to provide information.

Following the current transposition of Directive 2003/4/EC of 28 January 2003 on public access to environmental information, active obligations on access to information will be applicable within the internal legal order in accordance with the provisions of the Convention.

Republic of Moldova

Year: **2005**

Insufficient public interest in access to environmental information.

Article 32, para. 2, of the Principles of Town and Country Planning Act partially restricts access to town and country planning documentation of public interest, stipulating that copies of such documentation may be provided on payment of a fee and with the agreement of the local authorities.

Year: **2008**

74. No information was provided under this heading.

Romania

Year: 2005

The difficulties encountered in the implementation of article 4 arise from the lack of trained staff in certain administrative units and from **poor public awareness** and involvement in environmental matters.

Year: 2011

Whenever it comes to **the issue of the confidentiality of commercial and financial data, it is difficult to decide and to balance, in each case**, between the public interest and the private interest.

Serbia

Year: 2011

a) On the basis of data regarding complaints submitted to the Commissioner, it could be concluded that authorities enable access to information regarding the protection of the environment, but that **the interest for these issues is not strong**.

b) The authorities **do not meet the deadlines for answering requests** for information.

c) Until 2009, the Ministry of Culture was responsible for monitoring the implementation of the Law on Free Access to Information of Public Importance and it did not have the infrastructure necessary for initiating offense proceedings against authorized persons who do not act in accordance with the law. As a result, the punitive provisions detailed in Article 46 had no legal effect whatsoever. But, with the adoption of amendments to the Law on Free Access to Information of Public Importance, in December 2009, the Ministry of Public Administration and Local Self-Government became responsible for monitoring its implementation. Acting within its newly conferred authority, through administrative inspection, this Ministry performed inspection among more than 200 public authority bodies. A request was made to initiate offense proceedings against 140 responsible officials in bodies of public authority because of violations of the right to free access to information of public importance and failure to fulfil the obligations stipulated by law, related to the measures aimed at enhancing the rights of the public in this domain.

d) **The Law on Environmental Protection is not harmonized with the Law on Free Access to Information of Public Importance.**

d) **Understaffing in the competent bodies.**

e) A technical problem that arises in the process of acquiring information following a request, because in some situations **information is requested about the documents after the period during which they had to be kept has expired**. Such documents are then taken away and destroyed.

f) During the public debate, the fact **that regulations do not contain the definition of “environmental information” in Article 2, Paragraph 3 of the Aarhus Convention was particularly highlighted**, as well as the **need to regulate the issue of confidentiality of commercial and industrial information** related to the development and implementation of the environmental impact assessment study.

Slovakia

Year: 2008

Article 4 of the Aarhus Convention is in Slovakia implemented. **Judicial proceeding concerning legality of a decision can however last even one year**. Judgement can be subject of an appeal and that means that the proceeding can last even longer. After one year the information on the environment often loses a value for the applicant. A new administrative procedure starts to run after decision of a court. Within this new procedure an authority may again refuse provision of information (e.g. due to another reason).

Year: 2011

Article 4 of the Aarhus Convention is implemented in the Slovak Republic. **However, the legal proceedings examining the legality of the decision may take up to one year.** The opposite party can appeal against the verdict and the legal proceeding may thus last even longer. Once one year has elapsed, the environmental information often loses its significance for the applicant. **Once the court takes a verdict a new administrative procedure begins where the authority/body may again reject to provide information (e.g. by specifying another reason).**

Slovenia

Year: **2005**

The provisions of the Convention are fully transposed into national legislation.

Year: **2008**

31. The provisions of the Convention are fully transposed into national legislation with the amendment of the Act on Public Access to Information (*Official Gazette RS*, Nos. 61/05 and 28/06).

Year: **2011**

The provisions of the Convention are fully transposed into national legislation with the novel of the Act on Public Access to Information (Official Gazette RS, No. 61/05 and 28/06).

Spain

Year: **2011**

22. Spain is still making big efforts to make environmental information available to the public. This forms part of a continuous and exhaustive task requiring technical means and human resources with sufficient environmental training. As a result, in some isolated cases, **the information cannot be supplied as quickly as desired due to the complexity of the environmental information. In large projects with large volumes of documentation, problems concerning the ease with which environmental documentation can be consulted and copies of the required documentation can be provided have been detected.** An attempt is being made to remedy this situation. Sometimes, a consultation relates to thematic areas that are the competence of diverse administrative departments, which means that it is impossible to answer in a short space of time.

Democratic channels for political participation have been set up through regular procedures, and citizens can intervene directly (organically, functionally and cooperatively) in government activities to protect the environment. However, certain shortcomings have been detected, especially in the field of organisation.

35. Besides those indicated in paragraph 22, the difficult should be emphasized to **made compatible the intellectual property rights and the right of access to environmental information.**

36. In this context, it can be mentioned, by way of example, the **obligation to inform the public of the exact location of the fields where GMO's are deliberately released.**

Sweden

Year: **2008**

39. Implementation has not resulted in any particular problems.

Year: **2011**

39. Implementation has not resulted in any particular problems.

TajikistanYear: **2005**

There are no obstacles from the legal standpoint, but there may be obstacles due to **the legal illiteracy of the public** itself and the exploitation of the situation by officials.

The former Yugoslav Republic of MacedoniaYear: **2008**

30. The same obstacles apply here as do for article 3.

12. The following obstacles have been encountered:

The ongoing process of decentralization is an additional obstacle for the realization;

Difficulties vis-à-vis increasing capacities for practicing the right to access to environmental information regarding all information, in written, visual, audio, electronic or any other type of available form;

Lack of financial resources needed for dissemination of data and information, establishing and equipping information points;

Lack of available human resources at both the national and local levels;

Need to strengthen the capacities of the non-governmental sector.

TurkmenistanYear: **2008**

67. Under conditions currently prevailing in the civil society of Turkmenistan, there are no obstacles to the implementation of the provisions of any of the paragraphs of article 4.

Year: **2011**

75. Under the conditions currently prevailing, there are no obstacles to the implementation of any of the provisions of article 4.

UkraineYear: **2005**

The **main obstacles are related to the financing of information and organizational needs** in the system of the Ministry of Environmental Protection.

Year: **2008**

87. No information was provided under this heading.

Year: **2011**

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

United Kingdom of Great Britain and Northern Ireland

Year: 2008

42. One response to the public consultation noted that there is some anecdotal evidence of restrictions to access to information, **where planning authorities have not been able to supply requested documents in an alternative format (in a different language), even though this alternative format is specified to be available.**

Year: 2011

37. No obstacles encountered.

B. COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION (ARTICLE 5)

Albania

Year: 2005

Lack of funds for other publications.

Year: 2008

40. One obstacle that has been encountered is **the lack of funds for other publications.**

Year: 2011

The Ministry of Environment publishes its own magazine on environment, the compendium of Albanian environmental legislation (Albanian and English versions) and other stakeholders publish leaflets, posters, newspapers or other kind of publications on specific occasions. There are no statistics on the amount of publications on environmental matters.

Armenia

Year: 2005

Insufficient awareness on the part of State officials of their responsibilities under the Convention, necessity of standards and legal changes, inadequate technical base, inadequate standards base, unwillingness of enterprise owners to provide information about pollutant emissions.

A metabase of data on publications relevant to nature protection can be found on the website of the Ministry of Nature Protection or in the Aarhus Centre.

Year: 2008

110. **Government officials are insufficiently aware of their obligations under the Convention;** there is a lack of the necessary regulations and amendments need to be made to the law; the country's technological facilities base and systems of standards are inadequate; factory owners are reluctant to provide information about pollutant releases and transfers.

111. A metabase of data on environmental publications can be consulted on the website of the Ministry of Nature Protection or at the Aarhus Centre.

Year: 2011

1. **Government officials are insufficiently aware of their obligations under the Convention**; standards and legislation need to be amended; the country's technological base and systems of standards are inadequate; factory owners are reluctant to provide information about pollutant releases and transfers.

2. A metabase of environmental publications can be consulted on the website of the Ministry of Nature Protection or at the Aarhus Centre.

Austria

Year: **2008**

61. No information was provided under this heading.

Year: **2011**

59. The competent authorities did not provide any information on this issue.

Azerbaijan

Year: **2005**

There are no serious obstacles to the implementation of the provisions of article 5 of the Convention. In order to simplify the procedure for obtaining environmental information, the MENR has issued a list of ministries and departments from which environmental information can be directly obtained. Moreover, the Aarhus Information Centre set up in the Ministry is a venue for regular meetings between officials of the various ministries and departments and representatives of the public.

Year: **2008**

58. There are no obstacles to the implementation of Article 5 of the Convention in Azerbaijan.

59. The Ministry of Ecology and Natural Resources of the Republic of Azerbaijan carries out significant work in this area. The website of the Ministry (www.eco.gov.az) already comprises over 1,000 pages of information, and it is being regularly updated. In addition, information related to the environment is also collected at Archived Information Fund of the Ministry, where it is regularly updated and made widely available to the public.

Year: **2011**

30. No obstacles were encountered in the implementation of the provisions of article 5 relating to the collection and distribution of environmental information.

Belarus

Year: **2011**

No information was provided under this heading.

Belgium

Year: **2008**

Federal authority

137. The main obstacles encountered are inherent in the very nature of administrations. The implementation of the concrete measures in the Aarhus Convention regarding access to environmental information **demands significant funding**, which must be mobilised every year.

138. It is also difficult to check what citizens think of the DG Environment (Directorate General responsible for environment, nuclear safety and civil protection) communication strategy.

Bosnia and Herzegovina

Year: **2011**

Although it is provided for in the country's legislation, the competent institutes **do not have technical possibilities to issue timely information to public about the quality of air**, except in several major urban centres of BiH. The representatives of NGOs have repeatedly pointed out the problems of public information on instances such as interventions in incidents with pollution, using the public information media, web pages, as well as direct contacts and gatherings. The representatives of NGOs believe that data published by BHAS are incomplete, hard to access and that it is difficult to understand their format. They have also pointed **at the lack of coordination between different databases containing environment-related information**. BD does not have any environmental protection information system.

Bulgaria

Year: **2008**

68. No information was provided under this heading.

Year: **2011**

58. None.

Croatia

Year: **2011**

Certain problems were encountered when reporting into the register of installations that use volatile organic compounds. However, through cooperation between the MEPPPC, the Environmental Inspectorate, the Croatian Chamber of Commerce and the Croatian Chamber of Crafts and Trades information campaigns were launched for the purpose of communicating the need to be registered. As a result, more than 1,400 installations have been entered into the register of installations that use volatile organic compounds until October 2010.

Regarding the paragraph 2, NGOs are of the opinion that the public is not sufficiently well informed about information being provided on the websites, and that **these websites are not sufficiently transparent / well organised**.

Cyprus

Year: **2005**

None.

Year: **2008**

52. Often **the public is not aware of the kind of information available to them and where this can be obtained**. Steps have already been taken to address this by publicizing on the Internet lists of the environmental information that is

held by each department, together with contact details; however, more efforts are still required to ensure easier and wider accessibility by the public.

Czech Republic

Year: 2005

A uniform environmental information system with required partial coverage of other areas (e.g. agriculture) is **not yet operational**. According to information provided by the Czech Environmental Institute, there are **37 environmental information systems which need to be interconnected and mutually coordinated**.

Environmental information can be disclosed not only through publicly accessible lists or registers, but also through environmental information centres, environmental consultancy centres or other contact points for the general public. The number of these points is generally inadequate and the current centres are not evenly spread throughout the country; even the MoE itself does not have a suitable information centre for the general public.

Problems are found for instance in relation to the publication of Czech translations of EU environmental legislation, where substantial delays occur; at the present time, not all current EU legislation has been translated.

Year: 2008

57. **An environmental information system** with a necessary overlap with other sectors (e.g. agriculture or health care) is **not sufficiently interconnected and unified**.

58. Environmental information can be made accessible not only through publicly available lists and registers but also via environmental information centres, environmental advisory offices or other contact points for the public. Unfortunately, there is **a lack of such places; existing centres** are not distributed evenly within the Czech Republic and the Ministry of the Environment itself does not have a public information centre of good quality.

59. There are also **problems e.g. with publishing Czech translations of the European Union (EU) environmental legislation**. The materials are published very late and so far the complete European Commission (EC) legislation has not yet been translated.

Year: 2011

The Uniform Information System on the Environment with the necessary overlap into other sectors (e.g. agriculture, health) has yet to be created, because adequate requirements have yet to be established in respect of the systems included in the Uniform Information System on the Environment with the aim to link the data with the data in information systems of other sectors (such as agriculture and health). In this sense, the visions of drawing up a strategy of development of the uniform information system or a Government regulation have also not yet been applied. Any “grassroot” initiative is hindered by **insufficient financial resources** and **competence disputes**. It is also not always unambiguous in practice as to what information a given public authority should have available.

Environmental information may be disclosed, not only through publicly accessible lists or registers, but also through **environmental information centres, environmental consultancy centres** or other contact points for the general public. The information centre of the Ministry of the Environment was newly opened in the building of the Ministry on 22 April 2009 to provide interested persons with information on the environment. Information centres are also operated by protected landscape areas and national parks, as well as municipalities.

Denmark

Year: 2008

109. No information was provided under this heading.

Estonia

Year: 2008

42. No information was provided under this heading.

Year: 2011

Relevant publications providing substantial and statistical information on the county are issued by some counties. Several booklets have been prepared on various environmental issues.

Measures for promoting environmental education and environmental awareness in the society:

- Information days, seminars, environmental awareness promotion campaigns and other events promoting awareness are organized for the leaders of local governments and environmental specialists, educational workers etc;
- Participation in the arrangements of campaigns targeting arising environmental awareness in the counties - nature protection month, forest week, campaigns for collection of scrap paper etc.
- Environmental events are organised for various target groups: students, entrepreneurs, the public (environmental camps, quizzes, thematic days).

For each year, special programme objectives are agreed.

NGOs have pointed out the following problems in the implementation of article 5 of the Convention:

(a) **Irregular disclosure of the progress in planning and EIA procedures;**

((d) There is a need for more active dissemination of information by the environmental services and local authorities.

According to the study mentioned in paragraph 29 above, published by the Estonian Institute for Sustainable Development (EISD) in January 2005 regarding access to environmental information and possibilities of participating in decision-making in Estonia, the information forwarded to the public is timely, regular and of good quality. As negative aspects, **the study states that the confidentiality requirements to environmental information have not been clearly defined, the circle of persons receiving information is limited and the information searched for is often not available on the Internet.** On the basis of the cases analysed, the study has reached the conclusion that the coverage of emergency situations in the mass media has been good, but **the public authorities' initiative to release information needs to be improved: although the law prescribes the obligation to prepare information during emergency situations and environmental accidents, the order and procedure of notification has not been clearly defined.**

The environmental monitoring situation is considered good in the study: air monitoring in particular is regular and thorough and information is of good quality, timely and accessible to the public. **The level of accessibility of information is, however, uneven among departments, as no uniform procedures have been developed.** The study considers the accessibility of national reports on the environmental condition to be good, the annual publication Keskkond (Environment) issued (since 1999) by the Statistical Office is thorough, of good quality and easily found on the Internet. However, according to the study **more information materials on environmental statistics should be issued for specific target groups.**

Local government authorities operate registers and databases with information regarding their own territories. Also NGOs and profit organizations collect and disseminate information related to their activities regarding environment. State authorities collect and disseminate environmental information according to requirements set out in legal acts and keep and develop relevant databases. More and more environmental information is available through the Internet, printed publications are prepared for specific target groups. Tartu Environmental Education Centre has set a target to collect and store a copy of all materials regarding environment printed in Estonia.

The State Audit completed an audit on organization of environmental monitoring in 2007. The audit report indicated the need for further analyses of characteristics and amount of data collected in the course of environmental monitoring, and publication of results and organization of environmental monitoring, as well as the deficits regarding the transfer of monitoring data to the environmental register. At this moment a national system of environmental monitoring data is being developed with the support of the structural funds of the EU in order to eliminate the shortcomings. The comments of the State Audit have been also taken into account while drawing up the draft General Part of the Environmental Code Act.

One of the problems remains with the possibility of an individual to get information on the quality of environment and processes and activities affecting the environment around his/her home. The implementation of the EU INSPIRE regulation will serve towards this objective by gradual introduction of cross-use of different databases of spatial data

The public can access information on the existing spatial data and services at the geoportal of the Land Board (<http://geoportaal.maaamet.ee/>). Map applications allow examining and making inquiries from different thematic layers (e.g. cadastral units, roads, soil map, geology, deposits, cultural monuments etc.) that, inter alia, help to improve public awareness of the environmental condition and sites of interesting natural objects. Geoportal discloses meta data of all

data collected and services offered by the Land Board, but also the total balance of mineral reserves and the reports pertaining to INSPIRE Directive.

The Environmental Inspectorate has prepared the yearbooks reflecting the organisation, exercise and results of environmental supervision in the form of printed matter, these are also available at the web page of the Inspectorate at www.kki.ee. The yearbooks contain information regarding environmental situation and changes thereto (mainly in the form of general estimations). The printed issue is distributed to other agencies and NGOs free of charge. The results of analyses ordered by KKI within the process of environmental supervision are also available from the web page of KKI. The bureau of fuel quality of OÜ EestiKeskkonnauuringuteKeskus (Estonian Environmental Research Centre) prepares and submits annual reports to the Ministry of the Environment regarding the quality of fuels for forwarding to the European Commission. The reports and results of the monitoring of fuel quality are publicly available in the Internet through the Fuel monitoring data base (<https://kytus.keskkonnainfo.ee/>), of the Environmental Information Centre where data are entered by the OÜ EestiKeskkonnauuringuteKeskus, Tax and Customs Board and other institutions. Air quality management system of Estonia (www.klab.ee/ohuseire) collects data and measuring results from continuous monitoring stations making them also accessible for the public.

European Union

Year: 2008

62. No information was provided under this heading.

Finland

Year: 2008

73. No information was provided under this heading.

Year: 2011

94. No specific information under this heading.

France

Year: 2005

The stages of collection of data and making them available have been accomplished, but there is room for improvement. **Difficulties arise mainly from a shortage of data in certain areas**, or else **a profusion of data or data generators**. These are gradually being addressed. For example, the Ministry's water department is developing a new site known as "eaufrance" to facilitate public access to information and clarify the nature of the available data, bearing in mind the fact that the data are very diverse.

Year: 2008

78. The collection and publication of data are in place, but there is room for improvement. The main difficulties, which are caused by **a lack of data on some subjects**, or else **a profusion of data or data generators**, are gradually being resolved. Some associations report that the kind of information the public is given about classified installations (ICPE) differs from one area to another.

Year: 2011

87. The collection and publication of data are in place, but there is room for improvement. The main difficulties, which are caused by **a lack of data on some subjects**, or else **a profusion of data or data generators**, are gradually being resolved.

88. France, Nature, Environnement and Friends of the Earth regret that **the information given to the public about impact studies and installations classified for environmental purposes (ICPE) differs from one area to another**.

89. The NGOs also emphasize **the need to improve access to standards** produced by AFNOR (the French Standards Association). Some of these are not made available free of charge although they are compulsory under French legislation.

Georgia

Year: 2005

-**The absence of clear procedures** (i.e. what type, volume and origin of information should be collected, processed and published) is a significant obstacle to collecting, processing and disseminating information. Generally, the following **practical obstacles should be mentioned: lack of knowledge, experience and motivation of public officers; inadequate office equipment; lack of financial resources** both for covering current expenditures and for hiring qualified experts when necessary;

-It is **difficult to seek the necessary environmental information from the numerous public institutions** (it is difficult for both citizens and public institutions to identify who has the information). There is a need to develop a complete environmental database to facilitate the search for information. Unfortunately, the Ministry of the Environment does not have enough resources for this;

-**There is no established procedure for providing timely and reliable information about emergencies to the public**. That is why incorrect and outdated information is sometimes disseminated. The mass media disseminate information with their own interpretation. It is necessary to establish a procedure for the prompt dissemination of information to all potential sufferers;

-**The quality of the annual reports on the state of environment is poor**. The Ministry does not have the expertise to prepare high-quality reports, nor the financial resources to hire qualified experts. The same obstacles also hamper printing and dissemination of the reports. The latest report (2003) was disseminated through the CENN electronic network on 22 December 2004;

-**The high cost of publishing the information** hampers the dissemination of information required under paragraphs 5 and 7. The existence of a regular press office at the Ministry would improve the situation significantly;

-**The approved provision regarding eco-labels does not correspond to the best international experience**. The standards of various ecologically pure products are not elaborated; no eco-labels have been granted yet; no application has been received yet (there is little awareness); the term "ecologically pure product" is not understandable by the public – both consumers and providers identify it with the term "harmless to health." It is used in advertisements of various products without regulation and thus does not provide the public with any information;

-The press reaches the countryside quite late; the postal system does not work properly; Internet connections are scarce. These are the main obstacles to providing information to NGOs and others in rural regions;

-The Ministry of the Environment plans to analyse European experience in pollutant inventories and develop a national system but does not have the necessary funds.

Year: 2008

136. **The absence of clear procedure** (i.e. what type, volume and origin of information should be collected, processed and published) is the significant obstacle vis-à-vis collecting, processing and dissemination of information. Generally, the following practical obstacles are notable: lack of knowledge, experience and motivation of public officers; inadequate office equipment; and lack of financial resources both for covering current expenditures and hiring qualified experts when necessary.

137. To timely obtain public information, **there is a need to develop the entire environmental database** for facilitation of seeking of information. MoE is currently working with relevant institutions to set up this issue.

138. On 8 June 2007, the Law of Georgia on Protection of Citizens and Areas from Emergency Situations Caused by the Natural Disasters or Man-made Activities was adopted. The purposes of this law are:

- a. Prevention of emergency situations and their proliferation;

- b. Decrease of loss caused by emergencies;
- c. Elimination of results caused by emergency situations, though collaborative efforts.

139. **The quality of the National Report on the State of Environment highly depends on the timing and efficiency information contributed from different entities; often the material is poor and does not provide an opportunity for analysis.** Except the afore-mentioned, the standards of elaboration of National Reports are outdated and need improvement. Concerning the publishing of reports, it should be noted that, according to the 25 June 1999 (No.89) decree of the President of Georgia, the publishing of a national report was the duty of the State Chancellery before the Presidential Decree No.60 of 13 February 2004 entered into force (according to this Decree, the Presidential Decree No.81 of 31 January 1997 on “Temporary Statute and Structure of Georgian State Chancellery” became null and void and “State Administration” was established). Currently, the responsible body for the printing and publication of the national report is not defined.

140. **The annual reports on the state of environment are of low quality.** The MoE has a lack of expertise in the preparation of high-quality reports and has no financial resources to hire the qualified experts for this. Related reasons are the obstacles of printing and the dissemination of the reports. The final report for 2003 was disseminated through the CENN electronic network in 22 December 2004.

141. **The high costs of publishing** the information hamper the dissemination of information stated in the paragraphs 5 and 7. The existence of a regular press organ at MoE would improve the situation significantly.

142. **The approved provisions regarding the eco-label are not up to the best international experience.** The standards of various ecologically pure products are not elaborated; no one eco-label has been granted yet; no application has been received yet (this fact notes itself to the low awareness); the term “ecologically pure product” is not understandable to the public – and both consumers and providers identify it with the term “harmless for health”. It is used in advertisements of various products with unlimited and unconfirmed forms, which provide the public with no information.

143. **Several instruments of mass media reach backcountry regions quite slowly; the postal system does not work properly; Internet communications are not in order yet** (it is worth noting however that during last years, the situation has improved significantly). Such are the main obstacles for providing information to the NGOs and active people living in the backcountry regions.

144. The goals of analysing European experience in pollutant inventory and developing a national system on its basis are planned at MoE, but the Ministry is not provided with the necessary resources.

Year: **2011**

- Collection, appropriate processing and dissemination of information is partially regulated. Despite the fact that Public Relations Service collects, processes and uploads certain information obtained from the structural units of the Ministry, **some problems and gaps in this direction still exist.**

- In order to timely obtain environmental information from the public institutions, **development of an entire environmental database for facilitation of seeking of information is needed.** The MEPNR is currently working with applicable institutions regarding this issue.

- **The high cost of publishing** the information hampers the dissemination of information stated in paragraphs 5 and 7.

- **The regulation for Eco-labelling practically does not work.** The obstacles to dissemination of information in regions of Georgia are relatively overcome with a proper functioning postal service and internet availability.

Germany

Year: **2008**

39. No information was provided under this heading.

Year: **2011**

37. No information was provided under this heading.

Greece

Year: 2008

86. Possible problems may occur from:

- a. Delayed flow of information to the central administration;
- b. Delays in rendering of reports and data to the public.

Year: 2011

67. Possible problems may occur from:

- (a) Delayed flow of information to the central administration;
- (b) Delays in rendering of reports and data to the public.
- (c) Lack of staff .
- (d) By some authorities reported no systematic and continuous maintaining of records because of the fragmentary nature, either sent outside time limits or is of medium quality.

Hungary

Year: 2005

Financing difficulties due to highly resource-intensive developments (e.g. total expenditure on the Air Quality Monitoring System programme was Ft 350 million (€ 1.4 million)) constitute the main obstacle. In November 2004, the Ministers of Environment and Water, and of Informatics and Communications concluded a cooperation agreement for further development with a Ft 45 million (€ 180,000) budget provided by the Ministry of Informatics and Communications for the MoE to implement the “e-Environment” (eKörnyezet) programme. During implementation, the Air Quality Monitoring System, the nature conservation information system and the regional climate change database for the Carpathian Basin will be made easy to access for users. The cooperation agreement also includes an agreement on general principles to facilitate the upgrading of environmental data collection systems, publication of data, integration of local and regional systems and the environmental application of new infocommunication technologies.

The legislative framework in the Environment Act specifying the responsibilities for the operation of the National Environmental Information System is in theory sufficient, but **in practice, a number of factors obstruct the completion of this relatively complicated system.**

The past development of subsystems now constituting the System was based on different principles, which precluded “simple” interconnection. Adopting a uniform technical basis (identifiers, common basic data) required several years of efforts. Another difficulty was that data could only be collected on the basis of relevant legislation, as data had to be collected from data providers to fill the information systems. Setting up the relevant legal framework (obligatory use of identifiers) allowed for the renewal of old, still operational, systems and for new systems to be developed on this common basis.

In recent years, a number of disputes have arisen over the confidentiality of business information. By citing trade secrecy, **companies have in some cases managed to avoid disclosing the requested information or have disclosed it only under special circumstances.** The “Glass Pocket” Act (Act XXIV of 2003 on the amendment of certain acts on the use of public funds, and the disclosure, increased transparency and improved control of the uses of public properties) brought significant changes in this field. This Act made an addition to the Data Protection Act stating that, in the context of access to, and disclosure of, information of public interest, disclosure of confidential business information is subject to the provisions of the Civil Code (see appendix IX).

Year: 2008

87. **The poorly developed links among the various thematic databases** included in the NEIS are considered a fundamental obstacle to users. As the NEIS does not constitute a single, user-friendly system, the thematic pages cannot be directly accessed from the official website of the Ministry of Environment and Water. Due to the lack of funding, the provision of environmental information through publications was rather uneven during the reporting period.

88. An internal obstacle within the administration is that there is **no free-of-charge data transfer among the various governmental spatial databases**. E.g. some of the basic information of the Nature Conservation Information System (e.g. aerial photographs, topographic maps, etc.) are generated and updated by institutions under the auspices of the Ministry of Agriculture and Regional Development. The Ministry of Environment and Water has to purchase these data at market prices.

89. **Provision of local environmental information** by municipalities under Article 51.3 of the Environment Act varies greatly.

Year: **2011**

The nature conservation branch provides access – free of charge – to the description of natural values and areas through the customer service module of the Nature Conservation Information System. **The nature conservation branch, however, needs to pay hundreds of millions of forints to enable access to core government data, basic government land survey maps necessary for the creation of the maps**. For the purpose of ensuring legal security, the registration of the legal aspects of nature conservation in the land registry is a task awaiting resolution.

83. Difficulties reported by the NGO sector:

Pursuant to Article 2, point 3 of the Convention, spatial planning is deemed to be environmental information. Spatial planning not indicating true conditions and a lacking harmony between the plans have impeded access to fair environmental information.

Modifications in national spatial planning are transposed only with years' delay to the spatial plans of priority regions and counties. Therefore contradictions may arise between requirements set out in the plan documents at various levels of the plan hierarchy.

The effective spatial planning of Budapest's agglomeration varies from the version adopted by legislators and certified by the National Regional Development Office. This is attributable to the fact that the municipalities are unrestricted in passing decisions that modify the use of areas during the planning and subsequently the legislative phase of spatial planning.

Italy

Year: **2005**

With regard to pollutants registers, since the INES questionnaires have not yet been fully and correctly compiled by the operators, **the validation of data at this stage is still problematic**.

Year: **2008**

83. In addition to the difficulties in validating INES data, other critical tasks have been added, such as the **management of a larger number of data derived by the increased number of industrial activities** requested to report and the obligation to evaluate the data quality.

Year: **2011**

The implementation of EU Regulation 166/2006 has implied the addition of new critical tasks for the environmental authority, such as **the management of a larger number of data derived by the increased number of industrial activities requested to report, and the obligation to evaluate the data quality**. These changes have raised the need to identify new competent authorities and the establishment of data quality evaluation procedures. Moreover a new or improved website would be needed in order to collect and host this quantity of data, because the present website contains only INES data.

Kazakhstan

Year: **2005**

Many State bodies, particularly in Kazakhstan's regions, **do not have electronic databases on environmental information**. Even in the central Government, many ministries and committees have been equipped with computer technology only in the past several years, and in the regions many State bodies continue to **experience serious problems with technical equipment**.

According to information from the territorial administrations of the Ministry of Environmental Protection, most of them do not have electronic databases.

During preliminary consultations with the public concerning the national report, a serious problem was pointed out, namely that **the functions of collecting, processing and storing environmental information are often carried out by State enterprises that have the status of commercial organizations**. The work that they do is paid in part from the "State purchases" item of the national budget; however, as a rule, **such enterprises make their information available to only an extremely limited number of State bodies, setting very high payment rates for most other State bodies and non-State users**.

Year: 2008

63. No information was provided under this heading by this party to the Convention.

Year: 2011

95. Act No. 98-1 on State Statistics of 7 May 1997 guarantees natural and legal persons **confidentiality of primary statistical information**. This may limit provision to the public of primary information on emissions, and is also an obstacle to implementation of the PRTR Protocol.

Kyrgyzstan

Year: 2005

(1) **Lack of a single centre** for the collection and communication of environmental information.

(2) **Lack of funds** is preventing access to reliable, up-to-date and complete environmental information.

(3) The **inaccessibility of the sites** to the general public.

(4) **Information is not being provided in a timely fashion**.

(5) **Lack of a single national environmental monitoring system** is preventing access to up-to-date reliable information on the state of the environment.

(6) **Obsolete technology and the lack of sufficient funding** is preventing the national report on the state of the environment from being widely circulated. Small print runs for the national report, collections of statistics, etc.

(7) The chief problems with the **web pages are that they are not sufficiently informative and that the opportunities for user access are restricted by the generally inadequate information technology (IT) infrastructure and poor communication**.

Year: 2008

106. The obstacles include:

a. **Lack of a single centre** for the collection and communication of environmental information;

b. **Limited access to Internet resources in remote parts of the country**;

c. Information is not being provided in a timely fashion. **Lack of a single national environmental monitoring system** is preventing access to reliable, up-to-date information on the state of the environment;

d. **The lack of sufficient funding** for the State Agency on Environmental Protection and Forestry is preventing the national report on the state of the environment from being widely circulated. The national report and statistical handbooks have had small print runs.

Year: 2011

159. The obstacles include:

The lack of a single centre for the collection and communication of environmental information;

Limited access to internet resources in remote parts of the country;

Information is not being provided in a timely fashion. Lack of a single national environmental monitoring system is preventing access to reliable, up-to-date information on the state of the environment;

The lack of sufficient funding for the State Agency for Environmental Protection and Forestry is preventing the national report on the state of the environment from being widely circulated. The national report and statistical handbooks have had small print runs.

160. In the period 2007-2010, mechanisms to disseminate information were defined and enshrined in law. However, data collection and database management remain problematic. The limited ICT skills of civil servants and poor awareness do not allow this means of providing information to be used to its full potential.

161. Environmental information is not sufficiently disseminated in the mass media or on the websites of state bodies.

Latvia

Year: 2005

- **Insufficient access to modern information technologies in rural areas.**
- **No unified system of providing environmental information services** has been established so far, however actions have been taken to establish one. An international project was started to improve the environmental information system and to establish an environmental information and education center in Latvia.
- **Information is not always understandable to the public.**
- **The most difficult environmental terms, parameters and measurements are not sufficiently explained.**
- **Often raw data are included in databases, which makes them difficult to understand for the public.**
- **Insufficient financial, material, technical and intellectual resources** for the development of the environmental information system.
- Representatives of the public indicate that due to the lack of resources, **State and municipal authorities do not gather certain kinds of environmental data.** It has also been pointed out that data are lacking on the spread of genetically modified products in Latvia, as they are not properly labelled and control is performed randomly.
- **Insufficient and ineffective information exchange between State authorities and municipalities**, as well as unreliable access to it on a local level through electronic media.
- **Other institutions (non-environmental institutions) have not duly implemented the requirements for access to environmental information.**
- Representatives of the public indicate that **not all municipal legislative documents are easy to access** for the public (for example, not all the information is available on municipal home pages).
- Public representatives also indicate that **no institutional system is established at the national level to promote environmentally friendly choices.** At the moment it is mostly positive information that is provided, contributing to the implementation of eco-labelling, but there is **no process to ensure the labelling of environmentally hazardous groups of products indicating their environmental impact.**

Year: 2008

94. Obstacles encountered include an **insufficient number of analytical publications** giving better insights into environmental problems and the mutual relationship of environmental, economic and public issues. Accessibility to contemporary information technologies is insufficient in rural areas.

95. **Explanations to the public of most complicated environmental terms, parameters and indicators are not clear and simple enough.** This encumbers publications on environmental issues in the mass media.

96. **Data in databases often is raw and therefore difficult to understand.** Environmental information must be prepared and provided in a simpler form.

97. **Not all problems concerning environmental information access and exchange have yet been solved.** Remaining obstacles include:

- a. Insufficient finance, technical and intellectual resources for development of environmental information system;
- b. Insufficient and inefficient information exchange between public authorities, which also encumbers local level accessibility through electronic media.

98. Public debates show the opinion that **acts regulating the competence of public authorities or not provide or are unclear as to what environmental information should be actively distributed by a given authority.**

Year: **2011**

131. In view of the ECC, information provided by public authorities is considered to be precise and legitimate in contrast to the data of the information systems maintained by NGOs which are not legally applicable. However, such assertion is not accurate. Public authorities need environmental information of good quality. Therefore data suppliers both from the private and public sector who provide data of the necessary quality are used.

132. Environmental institutions **not always have sufficient access to the modern information technology.**

Lithuania

Year: **2005**

The experts who contributed to the report, as well as NGOs, have identified the following obstacles:

- **The complexity of the structure of the MoE's website makes it difficult to find required information.** The website must be improved and updated more regularly, and must contain information which is useful and practical;
- **Significant funds are necessary** for implementing or supporting environmental education projects, publishing and other campaigns. The lack of funds is often a factor impeding the educational and information processes;
- According to NGO representatives, the regional environmental protection departments and municipalities do not provide enough information;
- **Lithuania does not have accredited laboratories to test the compatibility of products with the criteria for the award of eco- labels.** On the other hand, it would not be reasonable to set up laboratories which would be inactive.

Luxembourg

Year: **2008**

46. Data collection and its public access are provided but further improvements can be achieved. The difficulties are mainly due to the **lack of data on some subjects, their proliferation or the multiplicity of data producers.** These difficulties are being solved gradually.

Year: **2011**

Data collection and its public access are provided but further improvements can be achieved. The difficulties are mainly due to the **lack of data on some subjects, their proliferation or the multiplicity of data producers.** These difficulties are being solved gradually.

Malta

Year: **2008**

65. No information was provided under this heading.

Montenegro

Year: **2011**

The Law on Environment stipulates that the Environment Protection Agency shall establish and manage information system at national level. The Environment Protection Agency applied with the Project Fiche - IPA 2011 to get assistance for developing software design for the establishment of environmental protection information system. Implementation of this Project is expected end of 2014.

The environmental protection information system will improve and facilitate making decisions related to environmental management (improvement of the quality of strategic and planning documents, improvement of the process of making decisions on issuing approvals to reports of strategic impact assessment and environmental impact assessment, improvement of the work of inspection authorities, etc.), and improve environmental reporting to national and international institutions and public.

Netherlands

Year: 2005

The first EPER report mentioned above, made clear that although the data available in the Dutch system are more than sufficient, **additional efforts are needed on the legal and institutional aspects of our system**. The Ministry of Housing, Spatial Planning and the Environment is currently working to align the national system with the above-mentioned requirements.

Year: 2008

40. In the context of the implementation of the European PRTR Regulation and the Protocol on PRTRs, the alignment with the existing Annual Environment Report required discussion with stakeholders. In some respects, the **existing system of environmental reporting in the Netherlands asks for more detail compared to the requirements of PRTRs, which brings about discussion whether this extra information (lower thresholds) should continue to be part of the Annual Environment Report**.

41. Another limitation is that **the environmental information required to be published on the PRTR website (yearly emissions of specific substances) is often not suitable for most citizens**. Given the rather technical nature of the information, it is mainly used by professional users and environmental NGOs.

Year: 2011

In the context of the implementation of the European PRTR-Regulation and the PRTR-protocol, the alignment with the existing Annual Environment Report took discussion with stakeholders. In some respects, the existing system of environmental reporting in the Netherlands asks for more detail compared to the requirements of PRTR, which brings about the discussion whether this extra information (lower thresholds) should continue to be part of the Annual Environment Report. This resulted in an amendment in the implementation legislation in 2009 integrating the Annual Environmental Report and the PRTR Report. **The practical consequence is that compared the PRTR Report facilities need to report additional data which are either necessary for reports by the Netherlands on the implementation of other treaties (Kyoto Protocol, CLRTAP, and Montreal Protocol etc) or locally relevant (odour and noise).**

Another limitation is that **the environmental information required to be published on the PRTR-website (yearly emissions of specific substances) is often not suitable for most citizens**. Given the rather technical nature of the information, it is mainly used by professional users and environmental NGOs.

The presented PRTR-information remains unsuitable for citizens to comprehend.

Norway

Year: 2005

No specific obstacles have been encountered.

Year: 2008

78. No specific obstacles have been encountered.

Year: 2011

No specific obstacles have been encountered.

Poland

Year: 2005

There is **no general obligation for the immediate notification of the public about imminent threats to human health or the environment.**

Year: 2008

72. Authorities report problems with proper collection and dissemination of information, which are due to **insufficient technical equipment and shortages of staff.**

73. NGOs report cases of authorities **lacking the information they should have or having information that is outdated or inaccurate.**

Year: 2011

85. In 58.5% of units inspected by the Supreme Chamber of Control there were **irregularities in keeping the register of publicly available data on documents containing information on the environment**, which was required by the Law on Environmental Protection and the Law on Public Access to Information on environment and its protection, public participation in environmental protection and environmental impact assessment. In relation to the situation five years ago the improvement was insufficient. Irregularities included: **the lack of publicly available register, not entering the data of parts of documents to the register, entering the data with a few months delay and the wrong form of the register.**

In the opinion of non-governmental organizations (Stowarzyszenie Pracowników i Arzecz Wszystkich Istot) the above mentioned irregularities result from **absence of legal sanctions to be imposed on offices for failure to comply with applicable regulations.**

Portugal

Year: 2005

Water resources

The availability of information on water resources has been subject to improvements, namely through the Internet, although it is still not possible to satisfy the growing interest of the public on these matters. There is currently a **shortfall in the monitoring of the status and use of water.**

Moreover, **the dissemination of data is not yet as swift as it should be.**

The public dissemination of data on the quality of the public water supply system, a sensitive issue for most citizens, is still incomplete, although the number of quality tests has been increasing.

Air quality

The main problems of the information dissemination mechanism are related to logistics and management of the technical staff of the Commissions on Regional Development Coordination in order to ensure “round the clock” prevention against pollution incidents, especially ozonelated ones.

State of the environment reports

In view of the preparation of state of the environment reports and the Indicators on Sustainable Development System, the Environment Institute has set up a network of focal points in many bodies and ministries with whom data is

exchanged every year. Although there is openness and a will for this network to work, **difficulties in obtaining the appropriate information in due time still remain.**

Republic of Moldova

Year: 2005

A significant proportion of **the population does not and will not have regular access to the Internet** and needs to be provided with information in writing or by radio or television.

Accessing electronic databases via the public telecommunications networks is expensive.

At present, there is **no real possibility of posting all the information on the Internet.**

Year: 2008

99. No information was provided under this heading.

Romania

Year: 2005

The economic **operators do not pay sufficient attention to the reporting requirements.**

Year: 2011

The economic **operators do not pay sufficient attention to the reporting requirements.**

Serbia

Year: 2011

- **The monitoring** in the Republic of Serbia is mostly focused on the quality of the surroundings **and does not cover all priority areas.**

- **The effects of self-monitoring of polluters are very limited**, primarily due to the **lack of synchronization between laws and regulations.**

- Soil monitoring as a systematic and permanent activity has not been organized on the entire territory of the Republic of Serbia.

- The development of legislation related to monitoring the condition of soil and water has not reached a satisfactory level in the Republic of Serbia.

- **No suitable system of monitoring and data collection in a range of other areas** (biodiversity, fish species, waste, trade in chemicals and their use, environmental noise monitoring), has been established.

- It has been pointed out, in the course of public debate, that **the website** of the Ministry of Environment and Spatial Planning **does not feature information about strategic environmental impact assessments and cross-border impact assessments or makes reports available**, namely, impact assessment studies, there is lack of information on the ways of public participation in the process of drafting legislation. Additionally, it has been pointed out that most local self-government units do not fulfil obligations of publishing reports on the state of the environment.

Slovakia

Year: 2008

Article 5 of the Aarhus Convention is in Slovakia fully implemented.

Year: 2011

Article 5 of the Aarhus Convention is fully implemented in the Slovak Republic.

We have identified obstacles of technical nature such as: **regular increase of the capacity of transmission networks is not performed**, there are **no sufficient resources to modernize the computer equipment** of environment offices.

Slovenia

Year: 2005

The provisions of the Convention are fully transposed into national legislation and the environmental information system is established, the only obstacle being that **the data are not horizontally connected**. This project is currently being undertaken by the Agency for the Environment.

Year: 2008

46. The provisions of the Convention are fully transposed into national legislation. Legal Information Centre of NGOs has suggested a more active role for the MoE in informing the public. In the past, the NGOs were better informed about all the relevant issues (e.g. consultation on legal drafts, open calls, etc.). **From the time the MoE changed its website, information to the public has been given under different columns, which can be time-consuming and hard to follow.**

47. Furthermore, the Legal Information Centre of NGOs has also pointed out that information on the **MoE website regarding integral environment assessment is not up-to-date**, as the last published data is from 2006.

Year: 2011

The provisions of the Convention are fully transposed into national legislation.

Legal Information Centre of Non-governmental Organizations suggests more active role of Ministry of the Environment in informing the public. In drafting the last report, PIC underlined that the Ministry of the Environment and Spatial Planning has changed the manner of notification of Non-governmental Organizations from active to passive. Previously, the organizations were notified on important events, following the change, **the Ministry only facilitates access to information via its webpage**. Positive shifts in the relationship to non-governmental organizations and the public are noticeable in terms of better identification of target public and engagement with it. Similarly, there were more cases of good practice in terms of cooperation between the public and non-governmental Organizations (for example, for preparation of the draft of the Climate Change Act, a work group was formed for funding of environmental NGOs, which includes also representatives of NGOs, the drafting of the National spatial plan for the construction of the road in Mežiškadolina is proceeding in good cooperation). Despite the above, providing information to NGOs could be generally better. In the sense of realization of the third pillar of the Convention, informing NGOs with a status in public interest in the field of environment on procedures representing important changes in the environment would be particularly necessary. Through informing of NGOs with a status in public interest, both on the basis of the Environmental Protection Act as also on the basis of the Nature Conservation Act (at present, there are 33 such NGOs), the participation of the public would also improve.

Spain

Year: 2011

65. The cross-cutting nature of the subject matter creates **problems with administrative organisation and coordination that**, to a greater or lesser extent, affect the various public authorities in the application of article 5.

66. The difficulties in preparing specific aggregate information for the whole of Spain using data supplied by the local and Autonomous authorities include **problems with uniformity**, which suggests the need to reinforce mechanisms of coordination.

67. In some Autonomous Communities, the available **human and material resources have been insufficient to adequately meet the obligations of access and dissemination of environmental information** within the set terms. Greater difficulties have been encountered with the statistical monitoring of requests and their processing at local level.

Sweden

Year: 2008

58. Implementation has not resulted in any particular problems.

Year: 2011

57. Implementation has not resulted in any particular problems.

Tajikistan

Year: 2005

The main obstacle to the collection and dissemination of environmental information is the fact that **not all public authorities, either in Dushanbe or in the regions, have websites and the necessary technical equipment**. Government agencies do not always possess the necessary information.

The former Yugoslav Republic of Macedonia

Year: 2008

43. The following obstacles have been encountered:
- Secondary legislation acts need to be adopted;
 - The process of decentralization needs to be completed, thus creating capacities at the local level capable to manage the environmental data and information;
 - Capacities need to be created** to enable the right of access to environmental information to be exercised with respect to all information in written, visual, audible, electronic or any other available form;
 - There is **a lack of financial resources needed for dissemination of data and information**, as well as opening and equipping information points/offices;
 - There is a **need to strengthen capacities in the non-governmental sector**.

Turkmenistan

Year: 2005

The mechanism for **interaction between different agencies is not sufficiently well adjusted**.

Year: 2008

77. There are no obstacles to the implementation of the provisions of this article.

Year: 2011

91. No obstacles were encountered in the implementation of any of the provisions of article 5.

Ukraine

Year: **2005**

Lack of harmonization of existing legislative and regulatory acts; lack of a normative base for regulating payment for information services, lack of information units and insufficient staffing in the system of the Ministry of Environmental Protection.

Year: **2008**

132. No information was provided under this heading.

Year: **2011**

168. No information was provided under this heading.

United Kingdom of Great Britain and Northern Ireland

Year: **2008**

57. No obstacles have been encountered.

Year: **2011**

52. No obstacles have been encountered.

IV. Extracts from the Compliance Committee documents⁶ with regard to access to environmental information

A. GENERAL ISSUES OF COMPLIANCE

(a) Extract from the report by the Compliance Committee on review of compliance to the Meeting of the Parties at its third session⁷

55. The question of confidentiality of information in the context of EIA procedures has been raised in several communications and has also been addressed in a number of national implementation reports by the Parties. The correct interpretation and application of the exceptions contained in article 4, paragraphs 3 and 4, are central to ensuring that the public has access to environmental information and can effectively participate in the decision-making processes. As the Committee has stated in earlier findings and recommendations (e.g. ECE/MP.PP/C.1/2005/2/Add.3, Ukraine (ACCC/C/2004/03), para. 31), the Convention aims to provide the public concerned with an opportunity to examine relevant details to ensure that public participation is informed and therefore effective. If a competent authority is considering whether it may refuse to disclose environmental information, the possible grounds for refusal are to be interpreted in a restrictive way, taking into account the public interest served by the disclosure. In particular, disclosure of EIA studies in their entirety should be considered as the rule, with the possibility of exempting parts of them being an exemption to the rule.

(b) Extract from the report by the Compliance Committee on review of compliance to the Meeting of the Parties at its fourth session⁸

International financial institutions and public functions related to provision of information and public participation

81. The Committee has considered in the past the role of international financial institutions with respect to the implementation of the Convention (ACCC/C/2005/12 (Albania) and ECE/MP.PP/2008/5, para. 67). The Committee was called to consider the nature of financing agreements in relation to the Convention, as well as the nature of information contained in such agreements in the context of communication ACCC/C/2007/21 (European Community) (see paras. 36 and 30 (b), respectively). The Committee considered that, in general, a decision of a financial institution to provide a loan or other financial support is legally not a decision to permit an activity, as is referred to in article 6 of the Convention. However, the Committee found that financing agreements, even though not listed explicitly in the definition of environmental information under article 2, paragraph 3 (b), may sometimes amount to “measures ... that affect or are likely to affect the elements of the environment” as set out in article 2 (b) of the Convention. This is because, by including a list of examples of types of “activities or measures” preceded by the word “including”, the Convention text implies that the list is not exhaustive. For example, if a financing agreement deals with specific measures concerning the environment, such as the protection of a natural site, it is to be seen as containing environmental information. Therefore, whether the provisions of a financing agreement are to be regarded as environmental information cannot be decided in a general manner, but has to be determined on a case-by-case basis.

82. In this context, the question of **confidentiality of information** [emphasis added] has been raised (see also ECE/MP.PP/2008/5, para. 55) with regard to “commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest” (art. 4, para. 4 (d) of the Convention). The Committee points out that this exemption may not be read as meaning that public authorities are only required to

⁶ Available from: <http://www.unece.org/env/pp/cc.html>.

⁷ The document (ECE/MP.PP/2008/5) is available from: http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_e.pdf

⁸ The document (ECE/MP.PP/2011/11) is available from: http://www.unece.org/fileadmin/DAM/env/pp/mop4/Documents/ece_mp_pp_2011_11_eng.pdf

release environmental information where no harm to the interests concerned is identified. The exemptions of the Convention under article 4, paragraph 4, are to be interpreted in a restrictive way, taking into account the public interest served by disclosure. Thus, in situations where there is a significant public interest in disclosure of certain environmental information and a relatively small amount of harm to the interests involved, the Convention would require disclosure (ACCC/C/2007/21 (European Community), para. 30 (c)).

Private entities and public functions related to provision of information and public participation

83. In several cases, the Committee had to review legal systems in which many of the functions of public authorities with respect to access to information and public participation are delegated to private entities. The Committee considers that it is not a conflict with the Convention when national legislation delegates some functions related to maintenance and distribution of environmental information to private entities. Such private entities, depending on the particular arrangements adopted in the national law, should be treated for the purpose of access to information as falling under the definition of a “public authority”, in the meaning of article 2, paragraph 2 (b) or (c) (ACCC/C/2009/37 (Belarus), para. 67). Delegating should not be an excuse for not having information that is relevant for their functions.

84. Similarly, in the context of public participation, national legislation sometimes makes the developer/investor responsible for the public participation process. The Committee recognizes that to ensure proper conduct of the public participation procedure the administrative functions related to its organization may be delegated to bodies or persons who are quite often specializing in public participation or mediation, are impartial and do not represent any interests related to the proposed activity being subject to the decision-making. This differs, however, from relying solely on the developer for public participation (see also ACCC/C/2009/37 (Belarus) and previous findings for ACCC/C/2006/16 (Lithuania), para. 78). While developers (project proponents) may hire consultants specializing in public participation, neither the developers themselves nor the consultants hired by them can ensure the degree of impartiality necessary to guarantee proper conduct of the public participation procedure in compliance with the Convention. In this context the Committee finds the following features of such systems as being not in compliance with the Convention:

- (a) Making the developers (project proponents) rather than the relevant public authorities responsible for organizing public participation, including for making available the relevant information to the public and for collecting comments;
- (b) Not establishing mandatory requirements for the public authorities that issue the expertiza⁷ conclusion to take into account the comments of the public;
- (c) Not establishing appropriate procedures to promptly notify the public about the environmental expertiza conclusions and not establishing appropriate arrangements to facilitate public access to these conclusions.

85. The observations of the Committee regarding the role of the developers should not be read as excluding the involvement of any private entities in the process. The public authorities should maintain control of the involvement of such private entities in the organization, for instance, of public hearings, or imposing fees to cover the costs related to public participation.

B. FINDINGS AND RECOMMENDATIONS ENDORSED BY THE MEETING OF THE PARTIES OR TO BE SUBMITTED TO THE MEETING OF THE PARTIES AT ITS FIFTH SESSION (JUNE 2014) WITH REGARD TO ACCESS TO INFORMATION

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
<i>Decision II/5a⁹ on compliance by Kazakhstan with its obligations under the Convention (follow up: through decision III/6c¹⁰, the Meeting of the Parties took note of the Progress made by the Party concerned, including the introduction of detailed procedures for access to information)</i>			
ACCC/C/2004/01 Kazakhstan Green Salvation The communication concerned access to information held by the National Atomic Company Kazatomprom and relating to the proposed draft act on the import and disposal of radioactive waste in Kazakhstan.	Access to information (including the feasibility study) justifying the proposed legislative amendment to allow for the import and disposal of low- and medium-level radioactive waste in Kazakhstan.	The Committee finds that, by having failed to ensure that bodies performing public functions implement the provisions of article 4, paragraphs 1 and 2 , of the Convention, Kazakhstan was not in compliance with that article.	The Committee recommends to the Meeting of the Parties to request the Government of Kazakhstan to submit to the Compliance Committee, not later than the end of 2005, a strategy, including a time schedule, for transposing the Convention's provisions into national law and developing practical mechanisms and implementing legislation that would set out clear procedures for their implementation.
<i>Decision II/5b¹¹ on compliance by Ukraine with its obligations under the Convention (follow-up: through decisions III/6f¹² and IV/9h¹³, the Meeting of the Parties issued a caution)</i>			
ACCC/C/2004/03 Ukraine Ecopravo-Lviv The communication concerned a	Access to project-related information, including the information developed in the course of the environmental impact assessment procedure, because it was property of the developer.	The Committee finds that, by failing to ensure that information was provided by the responsible public authorities upon request, Ukraine was not in compliance with article 4, paragraph 1 , of the Convention.	The committee recommends to the Meeting of the Parties to: (a) Request the Government of Ukraine to bring its legislation and practice into compliance with the provisions of the Convention and

⁹ More information is available from: <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocskazakhstan.html>;

¹⁰ More information is available from: <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocskazakhstanmop3.html>

¹¹ More information is available from: <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocsukraine.html>

¹² More information is available from: <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocsukrainemop3.html>

¹³ More information is available from: <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/ukraine-decision-iv9h.html>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
proposal to construct a navigation canal in the Danube Delta passing through an internationally recognized wetlands area.			include information on the measures taken to that effect in its report to the next meeting of the Parties; (b) ... request the Government of Ukraine to submit to the Compliance Committee, not later than the end of 2005, a strategy, including a time schedule, for transposing the Convention's provisions into national law and developing practical mechanisms and implementing legislation that sets out clear procedures for their implementation.
<i>Decision III/6b¹⁴ on compliance by Armenia with its obligations under the Convention (follow-up: through decision IV/9a¹⁵, the Meeting of the Parties took note of the serious and active engagement of and progress made by the Party concerned in implementing decision)</i>			
<p>ACCC/C/2004/8 Armenia</p> <p>Center for Regional Development/ Transparency International Armenia, the Sakharov Armenian Human Rights Protection Center and the Armenian Botanical Society</p> <p>The communication concerned the decision-making process on modification of land use designation and zoning as well on leasing for certain plots in an agricultural area of</p>	Public authorities either did not respond at all or responded in an incomplete and inadequate manner to the communicants' requests for information on the land use designation and zoning decision-making process in Dalma Orchards.	The Committee finds that by failing to ensure that bodies performing public functions to implement the provisions of article 4, paragraphs 1 and 2, of the Convention , Armenia was not in compliance with that article.	The Committee recommends to undertake practical and legislative measures to overcome the existing problems with access to environmental information, including, where appropriate, statistical monitoring of processing information requests.

¹⁴ More information is available from: <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocsarmeniamop3.html>

¹⁵ More information is available from: <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/armenia-decision-iv9a.html>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
Dalma Orchards			
<i>Decision IV/9b¹⁶ on compliance by Belarus with its obligations under the Convention</i>			
<p>ACCC/C/2009/37 Belarus</p> <p>The communication concerned the decision-making process for a hydro power plant (HPP) on Neman river.</p>	<p>Public authorities did not provide project-related information upon request, including information developed through the environmental impact assessment process (OVOS and <i>expertiza</i>).</p>	<p>The Committee finds that:</p> <ul style="list-style-type: none"> - in relation to the HPP project the Party concerned by failing to provide the requested information, it failed to comply with article 4, paragraph 1, of the Convention. - requiring an interest be stated for access to environmental information (art. 4, para. 1) are not in compliance with the Convention; - in relation to compliance with article 5, paragraphs 1 (a) and (b), the law in Belarus renders only the developer responsible for maintaining the documentation relevant to OVOS and <i>expertiza</i>, including the documents evidencing public participation, and they do not impose any obligation in this respect on the authorities competent to examine the results of OVOS and those competent to issue <i>expertiza</i> conclusions. 	<p>The Committee recommends to the Party concerned to take the necessary legislative, regulatory, and administrative measures and practical arrangements to ensure that:</p> <ul style="list-style-type: none"> (i) The general law on access to information refers to the 1992 Law on Environmental Protection that specifically regulates access to environmental information, in which case the general requirement of stating an interest does not apply; (ii) There is a clear requirement for the public to be informed of decision-making processes that are subject to article 6 in an adequate, timely and effective manner; ... (viii) There is a clear responsibility of the relevant public authorities to: <ul style="list-style-type: none"> a. Inform promptly the public of the decisions taken by them and their accessibility; b. Maintain and make accessible to the public: copies of such decisions along with the other information

¹⁶ More information is available from: <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/belarus-decision-iv9b.html>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
			relevant to the decision-making, including the evidence of fulfilling the obligations regarding informing the public and providing it with possibilities to submit comments; c. Establish relevant publicly accessible lists or registers of the decisions held by them.
<i>Decision IV/9f¹⁷ on compliance by Spain with its obligations under the Convention</i>			
<p>ACCC/C/2008/24 Spain</p> <p>Association for Environmental Justice</p> <p>The communication concerned the decision-making process on a residential development project in the city of Murcia, Spain.</p>	<p>Access to information in the form requested, in a timely manner and at reasonable costs</p>	<p>The Committee finds that as a result of a public authority ignoring a request for environmental information for a period of three months after the submission of the request, by failing to provide the information in the form requested without giving any reasons and by imposing an unreasonable fee for copying the documents, Spain failed to comply with article 4, paragraphs 1 (b), 2, and 8, of the Convention.</p>	<p>The Committee recommends to take the necessary legislative, regulatory, and administrative measures and practical arrangements to ensure that:</p> <p>(i) Only reasonable costs, equivalent to the average costs of a photocopy on paper or electronic means (CD-ROM/DVD) are charged for providing access to environmental information to the public at central, regional and local level, with such measures including a review of the Murcia City Council Fees Chart for Services;</p> <p>(ii) Information requests be answered as soon as possible, and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of</p>

¹⁷ More information is available from: <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/spain-decision-iv9f.html>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
			<p>this period up to two months from the date of the request; and that related legislation be reviewed to provide for an easy and specific procedure to be followed, in the event of a lack of response to a request;</p> <p>(iii) Clear requirements be established for the public to be informed of decision-making processes in an adequate, timely and effective manner, including informing public authorities that entering into agreements relevant to the Convention that would foreclose options without providing for public participation may be in conflict with article 6 of the Convention...</p>
<p>ACCC/C/2009/36 Spain</p> <p>Plataforma Contra la Contaminación de Almendralejo</p> <p>The communication concerned a general failure of the local authorities (in the autonomous community (<i>junta</i>) of Extremadura) to provide access to environmental information, including information about waste disposal activities; the communication focused on two projects: the Vinibasa distillery</p>	<p>Access to information without stating an interest, in a timely manner and in the form requested</p>	<p>The Committee finds that”</p> <ul style="list-style-type: none"> - as a result of public authorities not making the requested information available unless an interest was stated on the part of the requester, the Party concerned failed to comply with article 4, paragraph 1, of the Convention; - as a result of public authorities not responding or delaying response to requests for environmental information, and without notifying the requester that a one-month delay is needed along with reasons for that 	<p>The Committee recommends to take the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that the recommendations of the Committee in its findings for communication ACCC/C/2008/24 become effective.</p>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
and the oil refinery project in the area.		<p>delay, the Party concerned was not in compliance with article 4, paragraph 2, of the Convention;</p> <p>- the public authorities did not allow for access to information in the form requested, and did not provide copies, and as a result the Party concerned failed to comply with article 4, paragraph 1 (b), in conjunction with article 6, paragraph 6, of the Convention.</p>	
<i>Decision IV/9d¹⁸ on compliance by the Republic of Moldova with its obligations under the Convention</i>			
<p>ACCC/C/2008/30 Republic of Moldova</p> <p>Eco-TIRAS International Environmental Association Of River Keepers</p> <p>The communication concerned the request for information on contracts of rent for land of the State Forestry Fund (Moldsilva) and confidentiality of information.</p>	<p>The authorities did not provide for the information requested by the communicant on contracts for rent of land of the State Forestry Fund because the information was considered confidential.</p>	<p>The Committee finds that:</p> <p>- the failure of the public authority Moldsilva to provide copies of the requested contracts of rent of lands of the State Forestry Fund to the communicant constitutes a failure by the Party concerned to comply with article 4, paragraphs 1 and 2, of the Convention;</p> <p>- the adoption of article 48 (e) of the Government Regulation No. 187 of 20 February 2008 on Rent of Forestry Fund for Hunting and Recreational Activities setting out a broad rule with regard to the confidentiality of the information received from the rent holders and the refusal for access to information on the grounds of its large</p>	<p>The Committee recommends:</p> <p>- to take effective measures (e.g. the development and implementation of adequate and effective regulations; the establishment, strengthening and/or enforcement of administrative penalties on public servants who do not comply with the legislative requirements on transparency of information; the involvement of representatives of the public in monitoring procedures; and the publication of statistics concerning requests for environmental information) for enhanced monitoring of the implementation by public authorities of the Convention and of the Moldovan legislation with</p>

¹⁸ More information is available from: <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/the-republic-of-moldova-decision-iv9d.html>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
		<p>volume constitute a failure by the Party concerned to comply with article 3, paragraph 1, and article 4, paragraph 4, of the Convention;</p> <p>- the failure of the public authority Moldsilva to state lawful grounds for refusal of access to information in its letters No. 01-07/130 and No. 01-07/362 of 31 January 2008 and 14 March 2008 respectively, and the failure of the same public authority to give in its letters of refusal information on access to the review procedure provided for in accordance with article 9, constitute a failure by the Party concerned to comply with article 3, paragraph 2, and article 4, paragraph 7, of the Convention;</p> <p>- the failure of the public authority Moldsilva to respond in writing and in a timely manner to the last request for information submitted by the communicant to Moldsilva in the beginning of January constitutes a failure by the Party concerned to comply with article 4, paragraph 7, of the Convention.</p>	<p>regard to transparency of information, and for prevention of any future violation of the rights of the public under the Convention and the relevant Moldovan legislation by public authorities;</p> <p>- to amend article 48 (e) of Regulation No. 187, so as to exclude its interpretation in contradiction with the requirements of article 4 of the Convention;</p> <p>- to take effective measures, such as training activities, publications and conferences, with the objective of raising awareness of public servants, including representatives of Moldsilva and public servants of other public agencies responsible for the collection, maintenance and/or dissemination of environmental information, as well as the members of the judiciary, about requirements of the Convention;</p> <p>- to examine the Moldovan regulatory framework on access to information in cooperation with representatives of the public and independent experts, in order to identify any provisions that may not be compatible with the provisions of the Convention, and accordingly decide on whether any amendments</p>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
			<p>are necessary;</p> <ul style="list-style-type: none"> - to avoid inclusion in the contracts on the rent of lands administered by the State Forestry Fund of any clauses on confidentiality contradicting the requirements of article 4, paragraph 4, of the Convention; - to develop and adopt an action plan for the implementation of the Convention, which would involve, inter alia, the measures recommended by the Committee.
<i>Findings and recommendations of the Compliance Committee to be submitted to the Meeting of the Parties at its fifth session (June-July 2014)</i>			
<p>ACCC/C/2009/44¹⁹ Belarus</p> <p>European ECO Forum</p> <p>The communication concerned the planning and authorization procedure for the construction of a nuclear power plant (NPP) in Belarus.</p>	<p>The accuracy of the information provided and the form in which information was provided</p>	<p>The Committee finds that by restricting access to the full version of the EIA Report to the premises of the Directorate of the NPP in Minsk only and by not allowing any copies to be made, it failed to comply with article 6, paragraph 6, and article 4, paragraph 1 (b), of the Convention. (ECE/MP.PP/C.1/2011/6/Add.1, para. 89)</p>	<p>The Committee recommends that in amending its legislative, regulatory and other measures, take note of the Committee recommendations on communication ACCC/C/2009/37 with respect to the general legal framework, and ensure the compatibility of and coherence between the general framework for public participation in decisions on specific activities (the general EIA legislation) and the framework for public participation in nuclear activities. (ECE/MP.PP/C.1/2011/6/Add.1, para. 90)</p>

¹⁹ Findings and recommendations are available from: <http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC-33/ece.mp.pp.c.1.2011.6.add.1.e.pdf>

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
<p>ACCC/C/2010/48²⁰ Austria</p> <p>Oekobuero</p> <p>The communication concerned judicial remedies according to the Convention in general, including the time limits for public authorities to respond to requests for access to environmental information and the remedies available.</p>	<p>Time limits for public authorities to respond to requests for environmental information and remedies available in case of refusal.</p>	<p>The Committee finds that the requirement for a separate “official notification” as a precondition for an appeal of a denial of an information request is not in compliance with article 4, paragraph 7, of the Convention. (ECE/MP.PP/C.1/2012/4, para. 78)</p>	<p>The committee recommends to take the necessary legislative, regulatory, and administrative measures and practical arrangements to ensure that:</p> <ul style="list-style-type: none"> - the procedure for having a refusal of a request for information reviewed is simplified for the requester. This could preferably be done by requiring any written refusal of a request for information to have the legal status of an “official notification” and that any such refusal is to be made as soon as possible, and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request; - the available review procedures for persons who consider that their request for information under article 4 has been ignored, wrongfully refused or inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, are timely and expeditious. (ECE/MP.PP/C.1/2012/4, para. 81)

²⁰ Findings and recommendations are available from: http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2010-48/Findings/ece_mp_pp_c.1_2012_4_eng.pdf

Communication	Issue related to access to information	Findings of non-compliance	Recommendations
<p>ACCC/C/2010/53²¹ United Kingdom</p> <p>The Moray Feu Traffic Subcommittee of Lord Moray's Feuars Committee</p> <p>The communication concerned the permanent rerouting of traffic in the City of Edinburgh through the residential area of Moray Feu, in order to make room for a light rapid transit system the "Edinburgh Tram Network".</p>	<p>Authorities refused access to "raw data" and reasons for refusal.</p>	<p>ADVANCE UNEDITED DRAFT:</p> <p>The Committee finds that by not providing the requested raw data to the public the Party concerned failed to comply with article 4 paragraph 1 of the Convention for a certain period, but its notes that the raw data are provided to the public now Therefore, the Party concerned is no longer in non-compliance with article 4, paragraph 1, of the Convention.</p>	<p>The Committee recommends to the Party concerned to ensure that the practice to release raw data in on-going decision-making processes is maintained</p>

C. OTHER CONSIDERATIONS RELEVANT TO THE APPLICATION OF PROVISIONS ON ACCESS TO INFORMATION²²

Communication	Issue related to access to information	Compliance Committee considerations
<p>ACCC/C/2004/4²³ Hungary</p> <p>Clean Air Action Group</p> <p>The communication concerned the alleged incompatibility of the 2003 Act on Public Interest and Development of the Expressway Network with the provisions</p>	<p>Refraining from taking any measures which would reduce existing rights of access to information</p>	<p>The Committee recommends that the Meeting of the Parties should urge Parties to refrain from taking any measures which would reduce existing rights of access to information, public participation in decision-making and access to justice in environmental matters, even if such measures would not necessarily involve any breach of the Convention and should recommend to Parties having already reduced existing rights to keep the matter closely under review. (ECE/MP.PP/C.1/2005/2/Add.4, para. 21).</p>

²¹ Advance unedited draft of findings and recommendations is available from: http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2010-53/Findings/C53_FindingsCORRIGENDUM.doc

²²On the occasion of these communications, the Committee did not find Parties to be in a state of non-compliance. However, it shed light on how to apply certain provisions of the Convention on access to information.

²³ Findings and recommendations are available from: <http://www.unece.org/fileadmin/DAM/env/documents/2005/pp/c.1/ece.mp.pp.c1.2005.2.Add.4.e.pdf>

Communication	Issue related to access to information	Compliance Committee considerations
of the Convention, because it introduced a special process of decision-making for the construction of expressways.		
<p>ACCC/C/2004/15²⁴ Romania</p> <p>AlburnusMaior</p> <p>The communication concerned the decision-making procedure on the environmental impact assessment (EIA) for the Rosia Montana open-cast gold mine proposal, in particular at the scoping stage of the procedure.</p>	<p>Access to environmental impact assessment studies should be considered as the rule. The possibility of exempting parts of the material should be an exception and the decisions for exempting parts from disclosure should be clear and transparent as to the reasoning.</p>	<p>Article 5, paragraph 1, of the Convention requires public authorities to possess and update information relevant to their functions, and requires Parties to establish mandatory systems ensuring an adequate flow of information about proposed and existing activities which may significantly affect the environment. It is the understanding of the Committee that as a minimum this should include EIA studies in their entirety, including specific methodologies of assessment and modelling techniques used in their preparation (ECE/MP.PP/2008/5/Add.7, para. 27).</p> <p>Decisions on exempting parts of the information from disclosure should themselves be clear and transparent as to the reasoning for non-disclosure. Furthermore, disclosure of EIA studies in their entirety should be considered as the rule, with the possibility for exempting parts of them being an exception to the rule. A general exemption of EIA studies from disclosure is therefore not in compliance with article 4, paragraph 1, in conjunction with article 4, paragraph 4, and article 6, paragraph 6, in conjunction with article 4, paragraph 4, of the Convention (ECE/MP.PP/2008/5/Add.7, paras. 28-30)</p>
<p>ACCC/C/2007/21²⁵ European Union</p> <p>Civic Alliance for the Protection of the Bay of Vlora (Albania)</p> <p>The communication concerned the actions of the European Investment Bank (EIB) with respect to access to information and</p>	<p>Nature of finance agreements as “environmental information”. Access to finance contract and framework agreement and grounds for refusal</p> <p>Deciding on whether or not the information requested is environmental information</p>	<p>The Compliance Committee noted:</p> <p>(a) With regard to the communicant’s request ... for (inter alia) a copy of the finance contract:</p> <p>- The request made for the finance contract concerned the disclosure of the full document and did not mention “environmental information” as such. The Committee notes that the grounds for refusing the request provided by EIB ... that the document was confidential, were incorrect as the document was already in the public domain. It has to be noted in the context that the documents requested are in general not</p>

²⁴ Findings and recommendations are available from: http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

²⁵ Findings and recommendations are available from: http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC-23/ece_mp_pp_c.1_2009_2_add.1_eng.pdf

Communication	Issue related to access to information	Compliance Committee considerations
<p>public participation in the decision-making on the financing and construction of a thermo-power plant in Vlora, Albania.</p>	<p>Obligation to provide information on access to the review procedures available in accordance with article 9</p>	<p>environmental information and only some parts of the documents ... relate to the environment.</p> <ul style="list-style-type: none"> - ... whether the provisions of a financing agreement are to be regarded as environmental information cannot be decided in a general manner, but has to be determined on a case-by-case basis. - ... The Committee wishes to point out that this exemption [article 4, paragraph 4 (d),] may not be read as meaning that public authorities are only required to release environmental information where no harm to the interests concerned is identified. Such a broad interpretation of the exemption would not be in compliance with article 4, paragraph 4, of the Convention which requires interpreting exemptions in a restrictive way, taking into account the public interest served by disclosure. Thus, in situations where there is a significant public interest in disclosure of certain environmental information and a relatively small amount of harm to the interests involved, the Convention would require disclosure (ECE/MP.PP/C.1/2009/2/Add.1, para. 30). <p>(b) with regard to the communicant's request ... for a copy of the Framework Agreement:</p> <ul style="list-style-type: none"> - The grounds for refusing the request ..., namely that the document was already in the public domain, turned out to be erroneous.... However, even if the document had not been in the public domain, this would not have been a legitimate ground under the Convention for the Bank to refuse to provide environmental information. - One of the grounds for refusing the request ... , namely that a third party, the Albanian authorities, had not authorized the release of the document, does not constitute a legitimate basis under the Convention for failing to provide environmental information, and no linkage was made between the lack of such authorization and one or other of the exemptions permitted under the Convention in regard to environmental information. - When refusing to provide environmental information, a public authority is required under the Convention (art. 4, para. 7) to provide

Communication	Issue related to access to information	Compliance Committee considerations
		<p>information on access to the review procedures available in accordance with article 9... (ECE/MP.PP/C.1/2009/2/Add.1, para. 31)</p> <p>(c) filing an information request: - ... If a request is made for information that does not obviously fall within the definition of environmental information and the request does not indicate that the information that is being requested is environmental information, the public authority may not recognize it as such, and therefore may be unaware of the associated legal obligations, or the potential legal obligations (ECE/MP.PP/C.1/2009/2/Add.1, para. 34); ... while the Convention does not require a person making an information request to explicitly refer to (a) the Convention itself, (b) the implementing national legislation or (c) even the fact that the request is for environmental information, any or all such indications in the request would, in practice, facilitate the work of the responsible public authorities and help in avoiding delays. This is particularly so where only part of the requested information constitutes environmental information as defined in article 2, paragraph 3, of the Convention, or where the relevance of the requested information to the environment might not be obvious at first glance (ECE/MP.PP/C.1/2009/2/Add.1, para. 35).</p>
<p>ACCC/C/2009/38²⁶ United Kingdom</p> <p>Road Sense</p> <p>The communication concerned the procedures adopted in the promotion of the proposed construction of a road by-pass around the Scottish city of Aberdeen, known as the Aberdeen Western</p>	<p>Refusal to provide details on breeding sites of freshwater pearl mussels</p>	<p>The Committee finds that the redacted information relates to the “breeding sites of rare species” under article 4, paragraph 4 (h), being in this case the breeding sites of rare freshwater pearl mussels. (ECE/MP.PP/C.1/2011/2/Add.10, para. 72)</p> <p>The Committee notes that article 4 of the Convention refers to the “public”, whereas article 6 of the Convention makes reference to the “public concerned”. However, the Convention makes no further distinction between members of the public concerned. Thus, all members of the public concerned are equally entitled to enjoy the rights under the Convention. (ECE/MP.PP/C.1/2011/2/Add.10, para. 76)</p>

²⁶ Findings and recommendations are available from: <http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC-31/ece.mp.pp.c.1.2011.2.add.10.e.pdf>

Communication	Issue related to access to information	Compliance Committee considerations
Peripheral Route.		<p>Thus, if the exception in article 4, paragraph 4 (h), is to be read restrictively to allow Mr. Hawkins to have access to the redacted information in order that he might exercise his right to participate under article 6, then other members of the public concerned would be entitled to the same right. The problem is that, while [Scottish National Heritage] does not question Mr. Hawkins' suitability to receive the redacted information, there may be others among the public concerned who would be less trustworthy. However, disclosing the redacted information to Mr. Hawkins would mean that all members of the public concerned would be entitled to such disclosure. Recognizing the possibility that disclosure to the wider public concerned may result in adverse effects on the breeding sites of the mussels, the Committee finds that the Party concerned was not in non-compliance with article 4 by withholding the redacted information in the circumstances of this case. (ECE/MP.PP/C.1/2011/2/Add.10, para. 77)</p>