

Task Force on Access to Information

Fourth meeting

Geneva, 8–10 December 2015

Item 2 (c) of the provisional agenda:

Environmental information: improving public access

Associated costs

Charges for supplying environmental information: Implementation outlook Background paper¹

This document contains a “cut and paste” compilation of the relevant extracts from the synthesis report² submitted to the Meeting of the Parties at its fifth session (Maastricht, the Netherlands, 30 June – 1 July 2014)³ and reports on the implementation of article 4, paragraph 8, of the Aarhus Convention provided in the national implementation reports submitted by Parties to the Convention in the 2014 reporting cycle (see question VII)⁴.

Delegates are invited to consult this document in advance of the meeting in order to gain an overview of the status the implementation of article 4, paragraph 8, of the Aarhus Convention and to discuss further needs to be addressed under the auspices of the Task Force on Access to Information.

1 This document was not formally edited.

2 Available from http://www.unece.org/env/pp/aarhus/mop5_docs.html#/

3 Available from http://www.unece.org/env/pp/aarhus/mop5_main.html#/

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

I. Extract from the Synthesis report on the implementation of article 4, paragraph 8, of the Aarhus Convention

The following is extracted from the Synthesis report on the status of implementation of the Convention (ECE/MP.PP/2014/6):

Charges for supplying information (article 4, paragraph 8)

83. Keeping in mind relevant provisions of article 4, paragraph 8, of the Aarhus Convention, the majority of Parties enacted legislation regarding charges for services associated with providing access to information. Such services might include: making a copy of the document; searching for and sending documents to the applicant; providing publications; saving information on CD-ROMs or flash drives/USB keys, etc. As a rule, information is made available online, in public databases, and electronic copies of documents are provided free of charge. Special regulations on charges for access to information were adopted in almost all the countries, while a few Parties mentioned in their national reports the exact rates for photocopying and other services related to provision of information to applicants (e.g., Denmark, Estonia, EU, France, Latvia, Poland and Sweden). A few Parties mentioned the rule for charging for providing copies to the applicant starting from the fifth, tenth or twenty-first page. Poland introduced fees for finding information, not only for scanning and making copies of it, which creates confusion among NGOs. In Bosnia and Herzegovina, NGOs complained about being charged for copying of materials, even in electronic form, and there is no Government regulation setting out fees for copying services. The Republic of Moldova reported on the exemption of payment of fees if the information requested directly influences the rights and freedoms of the applicant or if it is in the interest of society. Fees for provision of information could be waived in Montenegro for applicants with disabilities and/or socially vulnerable groups, and in Serbia where the protection of public health or the environment was at stake.

84. National reports overall indicate a positive trend in terms of making information available to the public via the Internet, the web pages of public authorities, online databases and unified online environmental information portals, which consequently decreases the amount of information requests addressed to the public authorities. In many countries in Eastern Europe, the Caucasus and Central Asia it was reported that there is still not enough information made available through the Internet, while in the EU countries and Norway electronic resources are increasingly utilized for providing information. E-government is making access to environmental information more user-friendly, faster and more transparent. The Netherlands reported on a recent initiative of sorting, digitalizing and arranging data to make it more understandable to users. The newly created “Environmental Atlas” portal is a good example of such efforts.

II. Extracts from the 2014 national implementation reports providing the outlook of the implementation of article 4, paragraph 8, of the Convention

Albania

There are a number of Albanian laws and subordinate regulations relating to the implementation of the provisions of Article 4 of the Convention, as specified in the previous national report. However, since the completion of the second report the decision of Council of Ministers, the main legislative act that deals with the public right to access to environmental information is Law Nr. 10431 of 9 June 2012 On Environmental Protection (LEP), implemented, inter alia, through the Decision of the Council of Ministers Nr. 16 of 4 January 2012 on the Right of the Public to Access Environmental Information (DoAEI), which create a proper access-to-environmental-information legal framework in compliance with Convention provisions. LEP and DoAEI were prepared taking into consideration the provisions of the Aarhus Convention and directly implement the requirements of the Convention.

According to its paragraph 8, there are no financial barriers for access to information as DoAEI establishes that provision of environmental information is free of any charges. The only exception is in case the requested information is voluminous or is not available. In such cases fees might apply. DoAEI delegates the responsibility for setting the applicable fees for provision of information to the Ministers of Finance and Environment.

Belgium

Federal authority:

g) The right to inspection and explanation about administrative documents is free of charge. On the basis of a reasonable cost price, payment may be charged for the provision of a copy (Art. 20, § 3, third paragraph DOB). The ministerial circular VR 2006/26 also referred to the free of charge principle: "Inspection and explanation are free of charge. In principle, the provision of a copy is so as well, but the authorities may ask a fee for this, the amount of which has been defined in advance on the basis of a reasonable cost price (personnel costs, for instance, must not be charged). Thus, each authority can decide for itself whether or not to ask such a fee for the provision of a copy. (...) The existing decisions by municipal councils that impose the payment of a fee continue to be in force after this Flemish Parliament Act of 26 March 2004 has come into effect".

Walloon Region:

Access to environmental information in Wallonia is governed by decree since 1991 and has been recently reinforced by the decree of 16 March 2006 amending the Environment Code. This decree fully transposes European Directive 2003/4 of 23 January 2003 on public access to environmental information into regional law.

g) Free on-site or online consultation. For the delivery of copies, the actual cost can be borne by the applicant.

Brussels Capital-Region:

Ordinance of 18 March 2004 on access to environmental information (published in the Moniteur Belge of 30 March 2004).

(g) §8: see Ord. art.5.

Flemish Region:

(g) The right to inspection of and explanation on administrative documents is free of charge. On the basis of a reasonable cost price, payment may be charged for the provision of a copy (Art. 20, § 3)

Bosnia and Herzegovina

- Law on Freedom of Access to Information of BiH (Official Gazette of BiH28/00, 45/06, 102/09, 62/11) (LoFAI BiH),
- Law on Administrative Procedures of BiH („Official Gazette BiH“, 29/02, 12/04, 88/07, 93/09 and 41/13) (LoAP BiH);
- Law on Administrative Procedures of FBiH („Official Gazette FBiH“, 2/98, 48/99) (LoAP FBiH);
- LoFAI FBiH;
- LoPE FBiH;
- Law on General Administrative procedures RS („Official Gazette RS“, 13/02, 87/07, 50/10) (LoGAP RS);
- LoFAI RS;
- Law on Administrative Procedures of BD („Official Gazette BD“, nr: 48/11), (LoAP BD);
- LoPE BD;

(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

According to Article 16 LoFAI BiH/FBiH/RS, prices are set only for copying services, except for the copying of the first 10 pages, which are not charged. Relevant is also Article 35 LoPE FBiH/38 LoPE RS/34 LoPE BD.

Bulgaria

According to Art. 20, para.1 of APIA access to public information is free. Costs incurred in providing access to public information shall be paid according to norms set by the Minister of Finance, which does not exceed the actual cost. Cost justification is available to applicants upon request. According to Art. 22 of APIA, no additional costs shall be paid for corrections and / or additional information on already provided public information in cases when it is incorrect or incomplete and it is requested by the applicant. According to Art. 29

of the EPA, the fee provided for provision of specially processed information should be defined for each concrete case.

Croatia

The EPA, the LRAI and the Regulation on Information and Participation of the Public and the Public Concerned in Environmental Matters (OG 64/08, hereinafter referred to as: RIPPCEM) are the core regulations applicable in relation to the implementation of Article 4. Certain measures are additionally integrated in other regulations related to particular environmental areas. It is important to note that Directive 2003/4/EC of the European Parliament and of the Council on Public Access to Environmental Information has been fully transposed into the national legislation. Definitions from Art. 2 of the Aarhus Conventions have been transposed into the EPA and the LRAI.

Art. 19 of the LRAI is applied in this context. In cases when actual material expenses are incurred by providing information and delivery of the requested information (such as the price of copying, storing on electronic media, and similar), a fee shall be charged (CEA, SINP, MENP).

Cyprus

The Law on Public Access to Environmental Information (119(I)/2004) implements the requirements of Article 4 of the Convention, which transposes the relevant EU Directive 2003/4/EC.

Charges

Access to public registers and lists compiled and maintained in accordance with this law is free. Public authorities may apply a charge for providing environmental information provided that such charges do not exceed the reasonable cost of providing the information. When charges are made, public authorities must publish a schedule of charges and information regarding the circumstances under which charges may be levied or waived.

Most public authorities holding environmental data have not to this point applied charges for supplying environmental information. Charges are made by certain departments only when supplying copies of planning permits, maps, including digital maps, and statistical publications which relate to the environment. Detailed schedules of charges are always posted in the offices of the competent authorities and their websites, and applicants are informed when making an application if a charge needs to be made and where detailed schedules can be found.

Czech Republic

In the Czech Republic the right to environmental information is established by Act No. 123/1998 Coll., on the Right to Environmental Information (InfŽP). Another Act relevant for this right is Act No. 106/1999 Coll., on Free Access to Information (InfZ) that generally regulates the provision of information by public authorities. Both the above stated Acts make it possible for obliged entities to require compensation of costs connected with making the information available; according to the InfŽP (section 10) only compensation of costs connected with making copies, purchasing technical data carriers and sending the information to the applicant may be required, while according to the InfZ (section 17) it is also possible to require, in addition to the costs arising for above stated reasons, a payment for an extraordinarily extensive search for the information. From the wording of the Convention the InfŽP adopts the requirement for publishing a schedule of charges, which is set out in the second sentence of article 4, paragraph 8 of the Convention. An important difference is that the InfZ makes it possible for authorities to withhold information until the payment is made, while the InfŽP does not allow so.

Denmark

In 2003 the EU implemented article 4 of the Aarhus Convention in Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The necessary adaptations to Danish legislation consequential upon the Directive were implemented in Danish Act no. 310 of 2 May 2005 (amendment to the Environmental Information Act).

On 1 January 2014 a new act on Access to Public Administration Files will enter into force.

From a general point of view, the new act on Access to Public Administration Files contains elements to both broaden and restrict the principles of openness compared with the existing act. Besides that the new act is based on the same principles as the existing act.

Due to this a new bill on Environmental Information is expected to be presented before the Danish Parliament. The Environmental Information Act in force has many references to the present Act on Access to Public

administration, and these references will continue to stay in force after the entry into force of the new Act on Access to Public Administration Files. Until the Danish Parliament has passed a new bill on Environmental Information the assessment of a request for access to environmental information will be based on those rules that give the applicant the best legal position.

(g) The Environmental Information Act states that payment for transcripts and copies of environmental information in written documents is due in accordance with the regulations pursuant to the Access to Public Administration Files Act although with respect to the parties to a case in accordance with the Public Administration Act.

The Environmental Information Act only contain authority to levy charges for the supply of transcripts and copies of information, and therefore do not give authority to levy charges for access to registers of authorities or environmental information, irrespective of whether they are inspected on-site or via electronic access to the registers.

There are various Statutory Orders on payment for transcripts or copies in connection with access to documents. According to these orders DKK 10 (EUR 1.34) for the first copy and DKK 1 (EUR 0.13) per copy thereafter can be charged. In some cases charges are also levied on the basis of the actual costs of making a copy of – in example – a tape, film or other media.

If the demanded environmental information not can be delivered on paper because it is kept in electronic databases or on audiotapes, motion pictures or other medias, a payment for the actual cost for making a copy can be charged on the basis of public available rates. The court fee for transcripts completed by the court is DKK 175 (EUR 23,46). This also applies for transcripts of judgements etc. pursuant to the Environmental Information Act.

Estonia

Pursuant to section 25 of the Public Information Act generally a holder of information shall cover the expenses relating to compliance with requests for information. A person making a request for information shall pay up to three kroons per page for printouts and copies on paper starting from the twenty-first page, unless a state fee for the release of information is prescribed by law.

European Union

As indicated above, the EU has adopted secondary legislation to implement the provisions of the Aarhus Convention on access to environmental information with respect to EU institutions and bodies and with respect to Member States.

Article 4, paragraph 8

Article 5 of the Environmental Information Directive governs charges. Examination *in situ* must be free of charge; it is possible to charge a reasonable amount for supplying information in any other way. Public authorities have to publish a schedule of charges and the circumstances in which they are required.

Finland

Article 4, paragraph 8 - measures taken to ensure that the requirements on charging are met:

66. Charges to be collected in connection with providing information are provided for in Section 34 of the Act on Openness (621/1999; amended 495/2005). The purpose of this provision is that the charges will not be exorbitant and that the payment practices are congruent.

67. In the field of environmental protection, more detailed provisions on charges are issued in the Decree of the Ministry of the Environment on charges collected by the Finnish Environment Institute (1141/2009, amendments 1348/2010, 306/2012 and 190/2012) and in the Government Decree on charges collected by the Centres for Economic Development, Transport and the Environment as well as Employment and Economic Development Offices (1097/2009), which includes the charges for the area of responsibility of the environment and natural resources, i.e. the charges of the former regional Environment Centres, with the exception of environmental permits. The Government Decree on charges collected by the Regional State Administrative Agencies (1145/2009) includes the charges for environmental permits.

68. The response given above in article 3, paragraph 3 explains the new regulation on the openness and delivery of, as well as the charges on the collection of, data possessed by the environmental administration, said regulation having entered into force on January 1, 2008.

69. A separate Government Decree (1158/2009) has been issued on charges collectible for the performances under the Gene Technology Act. The environmental organisations consider it to be a good practice that the environmental authorities have increasingly made documents available on the Internet for free.

France

42. - On-site consultation is free of charge, except where it is precluded by considerations relating to preservation of the document. If copying is technically feasible, it shall be charged to the applicant, provided that this charge shall not exceed the cost of reproduction. It is also possible for the interested party to obtain the requested document by electronic mail and without charge if it is available in electronic format (Article 4 of Act No. 78-753 of 17 July 1978).

43. - Article 35 of Decree No. 2005-1755 of 30 December 2005 lays down the conditions for calculating the cost of reproducing documents to be charged to the applicant, as well as postage costs, where applicable. The applicant is advised of the total charge, and the administration may require payment in advance.

44. - The cost of copying an administrative document may not exceed €0.18 per A4 page for black and white printing and €2.75 for a CD-ROM (Order of 1 October 2001).

Georgia

The General Administrative Code of Georgia (especially Chapter III of the Code) to a great extent covers the requirements of article 4 of the Aarhus Convention. (g) According to article 99 of the General Administrative Code of Georgia no fee should be charged for information and no impediment should be created for obtaining of a document or a copy and a fee can be charged only for coping or sending of the information through post. The law of Georgia on Charges for Copying of Documents defines the amount to be paid for making of copies of public information and the rules of payment of such amounts.

Germany

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

At the Land level, the Länder have adopted corresponding legislation within their jurisdictions:

Baden-Württemberg Environmental Information Act of 7 March 2006 (LUIG B-W)

Bavarian Environmental Information Act of 8 December 2006 (BayUIG)

Berlin Freedom of Information Act, as amended on 11 July 2006, particularly Section 18a concerning environmental information (IFG Bln)

Environmental Information Act of the Land Brandenburg of 19 December 2008 (BbgUIG)

Bremen Environmental Information Act of 15 November 2005 (BremUIG)

Hamburg Environmental Information Act of 4 November 2005 (HmbUIG)

Hessian Environmental Information Act of 14 December 2006 (HUIG)

Lower Saxon Environmental Information Act of 7 December 2006 (NUIG)

Mecklenburg-Western Pomerania Environmental Information Act of 14 July 2006 (LUIG M-V)

North Rhine-Westphalia Environmental Information Act of 29 March 2007 (UIG NRW)

Rhineland-Palatinate Land Environmental Information Act of 19 October 2005 (LUIG RPF)

Saarland Environmental Information Act of 12 September 2007 (SaarlUIG)

Saxon Environmental Information Act of 1 June 2006 (SächsUIG)

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

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

Thuringian Environmental Information Act of 10 October 2006 (ThürUIG).

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

(g) Article 4 (8) of the Convention is transposed for the federal level by Section 12 UIG and the Environmental Information Charges Ordinance (*Umweltinformationsgebührenverordnung – UIGGebV*). The Annex to this ordinance sets out a comprehensive list of the charges and expenses that may be incurred when environmental information is communicated, in which respect these charges and expenses must not be prohibitive. The charge levied may not exceed a maximum of €500. Hence the inspection of files on site, oral and simple written

information (including the provision of a small number of duplicates), and active information for the public (e.g. via the Internet) are available free of charge. The Länder have adopted corresponding legislation.

Greece

Legislation and Information provided under this Article remain the same as it is in the Report of the previous reporting cycle.

Hungary

57. The Information Act and Act No. LXIII of 2012 on the recyclability of information of public interest governs in relation to the charging of access to information.

A copy of the document or a part of it containing the data regardless of the manner of its storage may be provided to the claimant. The data processing public function organ may charge expenses, up to the actual extent thereof, for the preparation of the copy. The claimant shall be informed in advance about the amount of expenses.

If the document or part of document the claimant asked a copy of, is extensive in size, the claim must be fulfilled within 15 days after payment by the claimant. The claimant must be informed within 8 days after the submission of the claim, if the document is considered to be extensive in size, furthermore about the amount of expenses and about the possibility of fulfilling the data claim without the need for copying.

A regulation framework ascertains the cost components of the expenses, and the viewpoints to be used when ascertaining if a document is considered to be extensive in size.

Iceland

In 2003 the EU implemented article 4 of the Aarhus Convention by Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The Directive was incorporated into the EEA Agreement, which Iceland is a party to, by the EEA Joint Committee Decision No 123/2003. The Directive was transposed in Iceland by Act No 23/2006 on Access to information on environmental matters (lög um upplýsingarétt um umhverfismál). The act ensures the public a right to access to information on the environment without discrimination. Main definitions in the Icelandic act are the same as in the directive.

(g) According to Act No 23/2006 on Access to information on environmental matters a fee can be charged for printing, photocopying and other costs that may derive from making the requested information available, such as staff costs. The Minister for the Environment and Natural Resources must decide these fees by regulation.

Ireland

The provisions of Article 4 of the Convention fall within the competence of the European Union, Directive 2003/4/EC [public access to environmental information and repealing Council Directive 90/313/EEC](#).

Ireland has transposed the provisions of Article 4 of the Convention in accordance with the requirements of Directive 2003/4/EC through the European Communities ([Access to Information on the Environment](#)) Regulations 2007 to 2011 ([SI 133/2007](#) and [SI 662/2011](#))⁵ [1]. Further information on access to information on the environment in Ireland can be found on the [DECLG](#) website.

(g) Under Article 15 charges applicable under the Regulations are limited to costs associated with the actual supplying of the information. Furthermore, any such charge may not exceed a reasonable amount.

Italy

Legislative Decree 195/2005, subsequently integrated by Legislative Decree 152/2006 –Environmental Code (art.3) - and by Legislative Decree 33/2013 – Reordering of publicity, transparency and diffusion on information's obligations (in particular art 40 on environmental information- see response to art 5 in this Report) regulates access to environmental information, implementing Directive 2003/4/CE.

Its goals are to guarantee the access to information, establishing terms and conditions for it, and to provide active dissemination of information to improve transparency.

A series of new provisions have been introduced by Legislative Decree 195/2005, in particular:

- duty to the Public Administrations to create public databases and information points (utilizing URPs where available)
- restricted list of cases in which the release of the environmental information can be denied

⁵ [1] Referred to hereafter as the AIE Regulations

- tariffs
- active dissemination of information
- quality of information
- reports on application of 195/2005
- coordination among Public Administrations.

Access to environmental information is generally free of charge. Tariffs can be applied but only to cover the costs of the release of the information. Such costs should be determined in advance and displayed to the public.

A permanent coordinating body has been established in order to guarantee uniformity in the application of the Legislative Decree, in particular the minimum level of environmental information made available, the cases of denial, the criteria for production of environmental reports.

In December 2009 the MoE has submitted to the Parliament the first implementation report of Legislative Decree 2005/195.

In addition, more general legislation on access to administrative documents (Law 241/1990) is applicable in other situations not specifically regulated by Legislative Decree 195/2005. (see response to art. 3).

Further measures are envisaged at the regional/local level (Regions, Provinces, Municipalities) in accordance with regional/local regulations.

With regard to access to information related to EIA and SEA procedures see response to art. 5, 6 and 7.

Kazakhstan

Answer to paragraph 8: Fees for provision of environmental information are regulated by Art.166 of EC: "For provision of environmental information, fees may be levied that are not higher than the actual cost of copying, retrieving and preparing the information. Fees shall not be levied for provision of environmental information by state bodies through open-access electronic registers and inventories of environmental information." Payment will be charged for the provision of environmental information by the state agency public electronic register and the inventory of environmental information. Currently online access is provided to: - State inventory of natural resources; - Registers of the State environmental information Archive; - Regulatory and legal data base "EcoInfoPravo". Analysis of these legal norms shows that Kazakhstan's current legislation in general meets the standards of Art.4 (8) of AC. A comparison of the provisions of the Convention and the Act reveals that Art.8 of the Act is somewhat ambiguous, and so does not meet the spirit and requirements of Art.4 (2) and the general provisions of Art.3 of AC. It is also important to note that this norm has not been adjusted to the time frame set by the Civil Procedure Code for complaints from citizens or legal persons (NGOs) for action or lack of action from officials: "Art.280. Time frame for applications to a court. Citizens and legal persons have the right to file an application to a court within three months of the day when they became aware of a violation of their rights, freedoms and legally protected interests." The draft law on AC will bring the norms of the law "On administrative procedures" and Act on the procedure for consideration of communications from natural and legal persons (Art.8) in full compliance with the provisions of AC (Art.4 (2)). MEP plans in 2014 to introduce state services for the provision of environmental information. This service will be provided free of charge.

Latvia

97. Conditions for application of the fee for provision of information are stated in: Article 13 of the ITL; Article 11, paragraph 2, of the EPL; CM Regulation No.940 "Regulations regarding Paid Services for the Provision of Information", dated 21 November 2006.

98. According to the conditions of paragraph 2 of Article 11 of the EPL, environmental information collected and aggregated from State financing and environmental information included in public databases is free of charge. Should additional processing or preparation be required for provision of the information, a fee can be set. If the fee is set, the applicant is informed of its size, and indication should also be given in cases where this fee can be waived.

99. The amount of payment for paid services for the provision of information by institutions is prescribed by CM regulations. Paid services are as follows:

- (a) issuing of information from the archive of an institution;
- (b) the preparation and issuing of information from the databases of an institution;
- (c) the preparation and issuing of a copy or duplicate of documented information, if the amount of the relevant information is larger than 20 pages.

For example, the price of a copy of one A4 format page from an institutional inventory document is LVL 0,06 / EUR 0,08.

Lithuania

(g) According to Article 6(6) of the RoL Law on Provision of Information to the Public (Žin., 1996, No 71-1706; 2006, No 82-3254), paragraphs 11 and 12 of Government Resolution No 1391 approving the procedure for the registration and provision of official information of state and municipal, government and administration institutions and other state-financed organisations to people or public information producers (Žin., 1996, No 1162720), and paragraph 26 of the Specification of the procedure for the provision of information on the environment in the RoL to the public approved by RoL Government Resolution No 1175 of 22 October 1999 (Žin., 1999, No 90-2660; 2005, No 26-831, 2010, No 19-864), information available to or intended for the institutions is free of charge. Pursuant to Article 2(3) of the RoL Law on the Right to Receive Information from State and Municipal Institutions (Žin., 2000, No 10-236; 2005, No 139-5008, 2009, No 75-3064; 2010, No 63-3088), all information on the activities of an institution in performing the functions assigned by legal acts shall be available to all and shall be provided free of charge. Article 8 of this Law details the charging procedure. According to paragraph 27 of the Specification of the procedure for the provision of information on the environment in the RoL to the public approved by RoL Government Resolution No 1175 of 22 October 1999 (Žin., 1999, No 90-2660; 2005, No 26-831, 2010, No 19-864), the applicant shall cover only the costs of provision of information in accordance with the procedure laid down in laws and other legal acts (pay for copying, publishing, etc.). RoL Government Resolution No 1039 of 1 September 2000 approving the procedure for reimbursing the costs of document copying (Žin., 2000, No 10-236) establishes the procedure for paying for copies. This is consistent with the provisions of the Convention.

REPDs provide information free of charge, and most often information is provided by means that demand no additional material costs, i.e. by electronic means.

Malta

(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

This requirement is catered for in Regulation 8 of the Freedom of Access to Information on the Environment Regulations, 2005 (LN 116/05).

Further guidance questions on specific aspects of implementation from: Guidance on Reporting Requirements ECE/MP.PP/WG.1/2007/1.4 20 February 2007.

Paragraph 1, chapeau: Ensuring provision of information and other general issues.

No requirement exists to keep records of information requests received and responses provided, including refusals however, MEPA does keep such records. In view of the interim lacuna referring to the period under review, MEPA is currently compiling the information to bring records up to date.

Paragraph 8: Charges

On the one hand, no charge is imposed if the information demanded is readily available and requested in electronic format. On the other hand, the applicant is charged minimal copy charges when physical copies of the information are required or when the authority needs to compile the information as requested by the applicant. In the latter case, charges are calculated on an hourly basis. Such charges are uniformly regulated and, as a result, no large differences between charges for information in different sectors exist. In some cases, such as student research, the charge can be waived.

Montenegro

Transposition of provisions on access to environmental information referred to in Article 4 of Aarhus Convention is ensured through a number of regulations in Montenegro:

- Constitution of Montenegro (“Official Journal of MNE”, number 01/07)
- Law on Free Access to Information (“Official Journal of RMNE”, number 44/12)
- Law on State Administration (“Official Journal of RMNE”, no. 38/03, “Official Journal of MNE”, no. 22/08, 42/11)
- Law on General Administrative Procedure (“Official Journal of RMNE”, no. 60/03, “Official Journal of MNE” no 32/11,)
- Law on Local Self Government (“Official Journal of RMNE”, no. 42/03... Official Journal of MNE 88/09, 3/10, 38/12)
- Law on Environment (“Official Journal of MNE”, number 48/08, 40/10)

- Law on Environmental Impact Assessment (“Official Journal of RMNE”, no. 80/05, 40/10, “Official Journal of MNE” no 27/13)
- Law on Integrated Prevention and Control of Environmental Pollution (“Official Journal of RMNE”, no. 80/05 and “Official Journal of MNE”, no. 54/09)
- Law on Strategic Environmental Impact Assessment (“Official Journal of RMNE”, no. 80/05 “Official Journal of MNE” no 73/10,59/11)
- Law on Nature Protection (“Official Journal of MNE”, no. 51/08, 62/13)
- Law on Genetically Modified Organisms (“Official Journal of Montenegro”, no. 22/08)
- Law on Chemicals (“Official Journal of MNE”, no. 18/12)
- Law on Prohibition of Discrimination (“Official Journal of Montenegro”, no. 46/10)
- Law on Media (“Official Journal of RMNE”, no. 51/02, 62/02 and “Official Journal of MNE”, no. 46/10)
- Law on Secrecy of Data (“Official Journal of Montenegro”, no. 14/08, 76/09, 41/10, 44/12,14/13)
- Regulation on reimbursement of costs in the procedure of accessing information (“Official Journal of Montenegro”, no. 02/07).

(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

Pursuant to the Law on Free Access to Information, no fee is charged for an application for access to information.

The applicant bears only the actual costs of the authorities relating to copying, scanning and submitting the requested information, which is regulated by the Decree on compensation expenses in the process of access to information ("Official Gazette of Montenegro", 2/07).

If the applicant is a person with disabilities or in social need, the authority shall bear the cost of the procedure for access to information.

Netherlands

(g) The requirements concerning charges are implemented by a decision based on article 12 of the Freedom of Information Act (Besluit tarieven openbaarheid van bestuur). Besides this general framework, article 3, paragraph 11(3) of the General Act on Administrative Law contains specific provisions on charges for the release of information in relation to public participation in specific decision-making.

(h) Most national requests for (environmental) information including the actual released documents are also published on internet (www.rijksoverheid.nl).

Norway

General

During the thorough review of national legislation that was carried out before the Environmental Information Act was adopted in 2003, it was concluded that most of the provisions of the Convention relating to access to information had already been implemented in the law in the Freedom of Information Act. However, certain elements of these provisions were identified as not being explicit enough in the law. Thus, amendments to the legislation were needed to ensure that the law was fully compatible with the Convention. A new Freedom of Information Act entered into force 1, January 2009 providing even simpler and more extended access to public information than the previous act. For example, the new corresponding regulation concerning freedom of information section 7 (not yet in force) provides that governmental postal logs will be made available for everyone on the Internet, and also makes it possible to make documents in the log 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 on the internet. Finally, a new provision provides that a request is to be considered a denial if not responded to within five working days, giving an automatic right to appeal. The provision does not apply to requests for information directed at ministries, where the King's Council is the appellate body. This is in addition to the general rule that a request must be responded to “without undue delay,” normally 1-3 working days.

The Environmental Information Act applies specifically to this context, together with the Freedom of Information Act, which applies more generally to all types of information. These two Acts are sufficient to ensure that article 4 is implemented in the law. The purpose of the Environmental Information Act is precisely to strengthen the right of access to information on the environment. In addition, the Act applies to information held by private enterprises. Moreover, the provisions of the Product Control Act apply in the case of product-specific information.

These rights apply to any person who wishes to obtain information from a public authority, regardless of their nationality, domicile or citizenship, or in the case of a legal person who is seeking information, regardless of where the registered seat of an enterprise is located.

(g) Paragraph 8

According to section 6 of the Environmental Information Act, it is not permitted to charge for environmental information to which a person is entitled pursuant to the Act. In other words, information is free of charge provided that the right of access to information under the Act applies. As a general rule, all other public information is also free of charge. However, pursuant to section 8 of the Freedom of Information Act and section 4 paragraphs 4 to 6 of the Freedom of Information Regulation, payment that may include a reasonable profit in addition to actual costs may be required in certain cases.

Poland

34. The basic legal act of Poland regulating the issues related with the access to information about the environment and its protection is the Act on access to information about the environment. In issues not regulated herein, the Act of 6 September 2001 on access to public information shall be applied (OJ 112, 1198 as amended), hereinafter referred to as the UDIP ACT ("Ustawa o Dostępie do Informacji Publicznej").

Article 4, paragraph 8

47. Regulation of the Minister of the Environment of 12 November 2010 on fees for providing information on the environment (OJ 215, item 1415) hereinafter referred to as the Regulation on the fees, regulates the rates of the fees for providing information on the environment and its protection. These fees are equivalent to costs incurred for the preparation of copies of documents.

48. Fees for providing information on the environment and its protection are the following (the payments are presented in approximation, in €, at the exchange rate of 13 September 2013):

- for finding up to 10 documents - 1.20 €;
- for finding each subsequent document - 0.12 €;
- for scanning of documents - 0.02 € per page;
- for a black-and-white photocopy of a document - 0.03 € per page;
- for a colour photocopy of a document - 0.03 € per page;
- for a CD or DVD - not more than 0.3€.

49. The information made available in electronic form via the Internet is free of charge.

Portugal

Besides the comments about Article 3 Paragraph 2, reference should be made to Law No. 19/2006, of 12 June, which regulates the access to environmental information - LAIA.

All matters not provided for in LAIA shall alternatively be governed by Law No. 46/2007 of 24 August, Law of Access to Administrative Documents (LADA), which repealed Law No. 65/93 of 26 August and transposes into national law Directive No. 2003/98/EC of the European Parliament and the Council of 17 November, on the reuse of public sector information.

Article 4, paragraph 8

Article 16 of LAIA defines how the fees should be charged for access to environmental information, predicting a 50% reduction for ENGOs and equivalent entities.

LADA, which alternatively applies, also governs this issue in its Article 12. The fees established by Order No. 8617/2002, of the Minister of Finance, published in the Official Gazette, Series 2, of 29 April, continue to be levied. Access to public registers or lists and looking up information held by public authorities is free of charge.

The fees payable for access to information in the GNR/SEPNA are regulated by Ordinance No. 1334-C/2010 of 31 December.

Republic of Moldova

The national legal framework that was intended to contribute to the implementation of provisions of Art. 4 of the Aarhus Convention, is represented by:

1. The Constitution of the Republic of Moldova from July 29, 1994, Art. 34, 37;

2. Law on Environmental Protection from June 16, 1993, Art. 3, item d), Art. 30;
3. Law on Sanitary-Epidemiological Security of the Population from June 16, 1993, Art. 6 b), 7;
4. Law on Petitioning from July 19, 1994;
5. Law on Ecological Expertise and Environmental Impact Assessment from May 29, 1996, Art. 10;
6. Law on Natural Resources from February 6, 1997, Art. 29;
7. Water Law no. 272 from December 23, 2011, art. 12,16,20
8. Law on Production and Household Waste from October 9, 1997, Art. 5, 15;
9. Law on Atmospheric Air Protection from December 17, 1997, Art. 8;
10. Law on Hydrometeorological Activity from February 25, 1998, Art. 6, 11, 13;
11. Law on Drinking Water from February 10, 1999, Art. 9, p.5, Art. 13;
12. Law on Access to Information from May 11, 2000;
13. Governmental Decision No. 847 from 18.12.2009 on approval of the Regulation regarding the establishment and operation of the Ministry of Environment, the structure and personnel of its central body.

Article 10, para 3 of the Law on Access to Information states the following “Any person requesting access to information in accordance with the present law is under no obligation to justify his/her interest for the requested information”.

In conformity with Article 12 from this Law, official information and documents may be obtained by the requesting party on the basis of a written or verbal request.

Article 13 of the same Law establishes the means of accessing official information:

- a) listening to the information that can be presented verbally;
- b) examining the document or information (or parts thereof) on the institution’s premises;
- c) releasing a copy of the requested document or information (or parts thereof);
- d) releasing a copy of the document’s or information’s translation (or parts thereof) into a language different from the original one, for an additional fee;
- e) sending by mail (including e-mail) the copy of the document or information (or parts thereof), a copy of the document’s or information’s translation into another language, upon the solicitor’s request, for a corresponding fee.

Fees should be levied for providing official information and documents, except the cases specified by law. The fees are established by representative bodies. They should not exceed the costs incurred during the search and processing of the information or parts thereof, copying, sending it to the applicant and/or translating it from the state language, based on the request of the information solicitor.

Fees for providing analytical, processed or novel information carried out on the request of the information solicitor, should be established on the basis of a bilateral contract between the solicitor and the corresponding institution. (Art. 20 of the Law on Access to Information).

No fees will be levied for information requested by the information solicitor, if this information:

- a) influences directly the rights and freedoms of the information solicitor;
- b) is presented verbally;
- c) is solicited for examination on the institution’s premises;
- d) contributes to the transparency of the public institution and is in the interest of society.
- (g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

Art. 20 of the Law on Access to Information stipulates that fees will be retained for providing official information and documents, except for cases specified by law, in amounts and according to procedures set by representative bodies. Such fees will be disbursed into state budget.

However, the amount of fees should not exceed the size of the payment of expenses incurred by the holder of information to prepare copies, sending or transferring them to the applicant upon request.

Fee for providing upon request analytical, synthetic or previously unknown information is determined on the basis of a bilateral agreement between the owner and applicant of information.

Applicants are offered free of charge following categories of information:

- a) that directly relates to the rights and freedoms of the applicant;
- b) that is presented verbally;
- c) that is solicited for examination at the institution’s premises;
- d) provision of which can help to elucidate the broader scope of activity of a public institution and meets the interests of society.

If the information the applicant provided incomplete or contains irregularities, the public institution is obliged to introduce changes and additions free of force, except when the information requires additional costs and contingencies and outstanding efforts

If the information provided to the information applicant contains inaccuracies or incomplete data, the public institution is obliged to introduce changes and additions free of charge, except for cases when such corrections require additional costs and contingencies not planned in the primary presentation of information.

The public institution will inform the applicant in the most appropriate and detailed method for fees calculation for the information release.

In practice, however in most cases environmental information is presented free of applicants being used Article 11 Paragraph 1 sub-paragraph 1 and 2 in the specified 'provider information in accordance with its powers, is obliged to actively provide accurate and timely information to citizens on matters of public interest and matters of personal interest and to guarantee freedom of information.

Romania

(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

In accordance with Article 29 of GD No.878/2005 on public access to environmental information, access to any public lists or registers prepared and made available to the public, and viewing or consulting the requested information on site shall be free of charge.

Under OUG No.70/2009 amending certain regulations on non-fiscal fees and tariffs, Article 30 and 31 of GD No.878/2005 have been repealed. Environmental protection agencies do not collect tariffs for information provision, and information is made available to the public in accessible formats.

Serbia

(g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

- Article 17, Paragraph 1 of the LFAIPI stipulates that access to a document containing requested information shall be granted free of charge. A copy of a document containing requested information shall be issued to the applicant, charging him/her with only the basic costs of reproduction, while if such copy is delivered to the applicant, he/she shall also be required to reimburse any delivering-related costs in accordance with the bill of charges adopted by the government. Article 17, Paragraph 41 of the Law on Free Access to Information of Public Importance defines the cases in which applicants shall be exempted from the duty of reimbursing costs. Thus, it is specified that the exemption refers, among others, to all persons who request information regarding a threat to, or protection of, public health and environment.

- Article 79, Paragraphs 3 and 4 of the LEP specifies that the cost of the supply of the data from paragraph 1 of this Article shall be borne by the applicant. The Minister shall prescribe the amount of costs depending on the scope and character of the data.

Slovakia

The implementation of Article 4 of the Convention is ensured in particular through the Act No. 211/2000 Coll. on free access to information and on amendment of some acts.

Article 3 paragraph 9 is guaranteed for the Slovak citizens by the Slovak Republic Constitution.

The Slovak Republic as a Member State of the European Union transposed the European Parliament and Council Directive No. 2003/4/EC of 28 January 2003 on public access to environmental information.

Article 4 of the Convention has been reflected also in the following legal regulations:

Act No. 17/1992 Coll. on environment as amended posterior;

Act No. 205/2004 Coll. on collection, storage, and dissemination of environmental information as amended posterior;

MoE Directive No. 1/2005-1.5. on process of making environmental information accessible MoE edict No. 448/2010 Coll. executing the Act No. 205/2004 Coll. on collection, storage, and dissemination of environmental information and on amendment of some acts as amended posterior Minister of Environment Instruction No. 3/2005- 1.7;

Act No. 24/2006 Coll. on environmental impact assessment and on amendment of some acts;

Act No. 215/2004 Coll. on protection of classified facts and on amendment of some acts;
Act No. 428/2002 Coll. on personal data protection as amended posterior;
Act No. 513/1991 Coll. Commercial Code as amended posterior;
Act No. 40/1964 Coll. Civil Code as amended posterior;
Act No. 71/1967 Coll. on administrative proceeding as amended posterior;
Act No. 25/2006 Coll. on public procurement and on amendment of some acts.
Act No. 514/2008 Coll. on treatment of waste from extractive industry and on amendment of some acts
Act No. 569/2007 Coll. on geologic works (Geologic Act) as amended posterior
Act. No. 3/2010 Coll. on national infrastructure for spatial information
MoE edict No. 352/2011, executing certain provision of the Act. No. 3/2010 Coll. on national infrastructure for spatial information
Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)
Act No. 541/2004 Coll. on the Peaceful Use of Nuclear Energy (Atomic Act) and on the amendments of some acts as amended posterior

Ad g)

Pursuant to § 21 of the Act on information freedom, information shall be made available free of charge except for a payment in the amount that cannot exceed the sum of material costs connected to the production of copies, obtaining technical data media (carriers) and the delivery of information to the applicant. The costs connected to making information available to a person with sensual disability shall be borne by the obliged person. The obliged person may remit the payment.

The reimbursement of cost of making information accessible is in detail specified in the Ministry of Finance of the Slovak Republic (MoF) Regulation No. 481/2000 Coll. on particularities of reimbursement of cost of making information accessible.

Slovenia

(g) Article 34 of the ZDIJZ regulates costs of the transmission of information. Consultation of the information requested on the spot is free of charge. The public authority may charge the applicant the material costs for the transmission of a transcript, copy or electronic record of the information requested. The schedule of costs on the basis of which the public authority charges material costs is prescribed by the Government. Any public authority must publish the schedule of costs in an appropriate manner (via the official bulletin of the public authority, via the internet, on a notice board, etc.) and enable each applicant to consult it on the spot.

The amended ZDIJZ-A (Uradni list RS, no. 61/05) also includes a new Article 34.a enabling the public authority to charge the costs for the re-use of information for gainful purposes, except when it is used for the purpose of informing, ensuring freedom of expression, promoting culture and arts, or facilitating the use of information by the media. However, the price may not exceed the costs of collecting, preparing, reproducing and disseminating information and the usual return on funds invested. The price must be cost-based and determined within the usual accounting period and in compliance with the accounting rules prescribed in respect of the relevant public authority. The calculation basis for the price is public information which, pursuant to this law, the public authority transmits to any applicant who so requires. The public authority also does not charge for the re-use of information if it transmits it via the internet free of charge.

Spain

41. Article 15 of Law 27/2006 establishes the obligation of public authorities to draw up, publish and make available to applicants of environment information the list of public and private fees and charges applicable to such requests and the events in which payment is not required. Moreover, First Additional Provision of Law 27/2006 creates a rate for environmental information supplying, at a national level. A specific regulation to establish fees for provision of environmental information at national level is currently being elaborated, bearing in mind the specifications of the Aarhus Convention. No fee will be charged by national authorities until this regulation is finally passed. For this purpose, the Autonomous Communities have their own legislation.

Sweden

Sweden has a long tradition of openness and transparency, or insight, in the activities of public authorities. Under the principle of public access to official documents, set out in the Constitution, the public and the media have to have insight into the activities of the State, local government and public authorities. Generally, when the principle of public access to official documents is discussed, what is being referred to in the first place are the rules on the public nature of official documents in chapter 2 of the Freedom of the Press Act, which is part of the Constitution. The principle that all citizens are entitled to examine documents held by public authorities was introduced in Sweden in 1766 through the adoption of the first Freedom of the Press Act. The regulations in chapter 2 of the Freedom of the Press Act give the public the right to examine both documents received by and documents drawn up by a public authority. An authority can only decide that a document shall be secret pursuant to a secrecy provision in an act of law. In addition, an authority is required to provide public information from official documents on request.

The principle of public access to official documents is also manifested in other ways. Officials in public authorities in Sweden have freedom of expression. This means that there is no general duty to observe confidentiality, and instead the general rule for officials is freedom of speech. In addition, officials in Swedish authorities have a far-reaching right to disclose information subject to secrecy in order for the information to be published in the media. Even if the freedom to communicate information does not give the public a right to information, the principle of freedom of communication does give officials an opportunity to inform the media about what is happening in their area. Other manifestations of the principle of public access to official documents are open debates and open court hearings.

The Swedish system is a good arrangement for fulfilling the provisions of the Convention concerning public access to environmental information.

The constitution guarantees every citizen freedom of information. Foreign citizens are equated with Swedes (chapter 2, article 22, second paragraph, point 1 of the Instrument of Government and chapter 14, article 5, second paragraph, of the Freedom of the Press Act).

Under chapter 2, article 12 of the Freedom of the Press Act a document that may be released has to be made available free of charge at the place where it is held. A charge may be levied for copies (chapter 2, article 13, of the Freedom of the Press Act). A special ordinance on charges applies to central government authorities (SFS 1992:191). The charges that may be levied under it are calculated to recover costs. Under the general rule, the first 10 copies are free and the charge thereafter is SEK 50 plus SEK 2 per copy. According to the cost-price principle, municipalities are not allowed to charge fees that more than cover the costs of the service being provided. The basis for deciding municipal charges is set out in the charge schedules adopted by the municipal assembly. The Environment Information Act contains provisions stating that reasonable reimbursement may be obtained for costs associated with releasing information and that there has, in that case, to be a pre-determined schedule of charges for this.

Tajikistan

The basic bodies responsible for submitting ecological information in Tajikistan are the Committee on the protection of the environment under the Government of the republic of Tajikistan, the Ministry of Melioration and water resources, the Ministry of energetics and industry, the State committee on land management, cartography and geodesy and other ministries.

The information concerning the health of population, sanitary –hygienic factors, epidemic and others as a rule is submitted by the Ministry of health or by the separate sanitary hygienic departments.

The public organizations have right to function according to the laws adopted in the republic of Tajikistan and their regulations.

The law of the republic of Tajikistan “About the hydrometeorological activity” foresees a payment for submission of information to individuals and legal entities mentioned in the law.

Article 5 of the law of the republic of Tajikistan “About guarantee of sanitary epidemiological safety of population” (from December 8, 2003 # 49) also foresees the right of people to get information. On the basis of this article an information about the conditions of the place of living, epidemiological conditions, about steps of providing sanitary-epidemiological prosperity, about the quality of goods, food and drinking water may be demanded.

It is necessary to mention that mostly the representatives of the interested community appeal for getting information, as public ecological organizations, students, journalists, aspirants. The rural people mostly appeal to specialists for consultation. Mostly they apply with problems of managing wastes, cutting trees, greening

yards and others and inquiries are offered in oral form. The mentioned citizens are directed to the competent bodies by the specialists. They make necessary written inquiry by the demand of the competent bodies and submit the necessary documents for solving problems.

United Kingdom of Great Britain and Northern Ireland

28. The provisions of Articles 4 and 5 of the Convention fall within the competence of the European Union, as do the related matters covered by Article 9, Paragraph 1, of the Convention.

29. On 28 January 2003, ‘Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC was adopted(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0004:EN:NOT>). Directive 90/313/EEC had previously established measures for the exercise of the right of the public to access environmental information.

30. The preamble of Directive 2003/4/EC states that “Provisions of Community law must be consistent with that [Aarhus] Convention with a view to its conclusion by the European Community” (paragraph 5) and that “Since the objectives of the proposed Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty.” (paragraph 23)

31. The European Union has therefore implemented article 4 of the Convention through this legislation. The UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2005. To do this, Defra introduced the Environmental Information Regulations 2004 (SI 2004/3391) which are the statutory provisions relating to public access to environmental information in England, Wales and Northern Ireland (<http://www.legislation.gov.uk/uksi/2004/3391/made>).

32. In Scotland, separate arrangements are in place, provided for by the Environmental Information (Scotland) Regulations 2004 (SSI 2004/520) (www.legislation.gov.uk/ssi/2004/520/pdfs/ssi_20040520_en.pdf). In addition, the INSPIRE (Scotland) Regulations (SSI/2009/440 and SSI/2012/284) aim to improve environmental policy making through improvements to spatial data sharing, availability and use.

33. The Freedom of Information Act 2000 (and the 2002 Scottish Act) took effect on 1 January 2005, and has brought about significant changes to access to information held by public authorities (http://www.ico.org.uk/for_organisations/freedom_of_information/guide).

Article 8 of the Environmental Information Regulation” 2004 No. 3391 states:

“Charging

8.—(1) Subject to paragraphs (2) to (8), where a public authority makes environmental information available in accordance with regulation 5(1) the authority may charge the applicant for making the information available.

(2) A public authority shall not make any charge for allowing an applicant—

- (a) to access any public registers or lists of environmental information held by the public authority; or
- (b) to examine the information requested at the place which the public authority makes available for that examination.

(3) A charge under paragraph (1) shall not exceed an amount which the public authority is satisfied is a reasonable amount.

(4) A public authority may require advance payment of a charge for making environmental information available and if it does it shall, no later than 20 working days after the date of receipt of the request for the information, notify the applicant of this requirement and of the amount of the advance payment.

(5) Where a public authority has notified an applicant under paragraph (4) that advance payment is required, the public authority is not required—

- (a) to make available the information requested; or
- (b) to comply with regulations 6 or 14, unless the charge is paid no later than 60 working days after the date on which it gave the notification.

(6) The period beginning with the day on which the notification of a requirement for an advance payment is made and ending on the day on which that payment is received by the public authority is to be disregarded for the purposes of determining the period of 20 working days referred to in the provisions in paragraph (7), including any extension to those periods under regulation 7(1).

(7) The provisions referred to in paragraph (6) are—

- (a) regulation 5(2);
- (b) regulation 6(2)(a); and
- (c) regulation 14(2).

(8) A public authority shall publish and make available to applicants—

- (a) a schedule of its charges; and
- (b) information on the circumstances in which a charge may be made or waived.”

From the guide to freedom of information: “The Act does not specify how much you can charge for information published in accordance with a publication scheme (this is different from the rule for information released in response to a request – see [What should we do when we receive a request?](#)). However, you must publish a list of charges indicating when you will charge and how much. You will not be able to charge if you have not indicated this in advance.

The ICO model publication scheme requires any fee to be justified, transparent and kept to a minimum. As a general rule, you can only make the following charges:

- for communicating the information, such as photocopying and postage. We do not consider it reasonable to charge for providing information online;
- fees permitted by other legislation; and
- for information produced commercially, for example, a book, map or similar publication that you intend to sell and would not otherwise have produced.

When you make a dataset available for re-use under your publication scheme, if you have a specific statutory power to charge for re-use, you may do so. If you do not have such a power, then you may charge a re-use fee in accordance with the Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013 no. 1977. However, in many cases datasets will be made available for re-use under the open government licence, and in that case there is no re-use fee.

This guidance explains to public authorities the general principles that should be followed in setting charges for information made available in a publication scheme.

What FOIA says

Section 19 states:

19.— (2) A publication scheme must—

....

(c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.

(3) In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest—

(a) in allowing public access to information held by the authority,

FOIA therefore requires public authorities to make it clear whether a charge is made for material which they routinely make available.

However, as FOIA does not say how charges should be calculated, there is no requirement for the Information Commissioner to approve specific charges in a publication scheme. This means that authorities have the discretion to determine the level of charges.

Clarity and transparency of charging

The ICO model publication scheme allows for fees to be charged where it can be justified, and it requires these charges to be published. Also, if a charge is to be made, the basis for the charge must be made clear.

Where a charge applies, the public should be left in no doubt as to what the charge is for and the amount. A schedule of charges included in an authority’s guide to information which is regularly updated will help to make this transparent.

A schedule should provide details of all the different types of charge that may be made, such as any printing, copying or postage charges and also statutory charges that apply to any specific types of information.

Example

HM Land Registry is able to charge for the supply of various categories of information, such as an official copy of a register or title plan, in accordance with the Land Registration Fee Order 2006.

Where commercial information (in general, publications made available on a commercial basis and subject to a cover charge, for example, guidebooks) is routinely made available and legal authority allows a charge to be made for this information, then these charges must be in the schedule. This is because such charges need to be clear in order for the information to be considered as reasonably accessible to an applicant for the purposes of section 21 (3) of FOIA. See our guidance about information reasonably accessible to the applicant by other means for further information on this exemption.

A public authority must outline how charges are calculated and do this so that someone can roughly work out the cost involved. If a public authority does not specify in its guide that charges will be made, then it will not be able to charge for this information.

There is no requirement to provide specific details of the charges in circumstances where a public authority is able to charge by means of a statutory charging regime. However, good practice would be to make reference to the regime in its guide.

As the Environmental Information Regulations 2004 oblige public authorities to publish a schedule of their charges (Regulation 8 (8)(a)), this approach should be extended to information which is made available on a routine basis.

Level of charges

The Act does not give public authorities the specific power to charge for information. This is because it was never the intention of FOIA to provide public authorities with a way to profit from routinely releasing information. As a result, the public authority should determine the extent of its powers to charge for information, by deciding a maximum amount it will charge.

We strongly recommend that the level of charges should be compatible with the principle of promoting public access to the information held by public authorities. While we cannot be prescriptive about the level of charges, we would expect a public authority to be able to justify them based on a transparent and publicly available charging policy or policies.

In making information available proactively an authority must consider the public interest in allowing access to the information. We will consider high levels of charges for routine information to be contrary to promoting public access to official information.

It is worth remembering that the public and the Information Commissioner will be easily able to compare different charging regimes across the public sector. We will also consider charges to be unreasonable where the only justification is that they have traditionally been made.

In practice, we expect that for much of the information which is routinely made available there will be either minimal or no cost. This will include information available from websites or supplied in hard copy form with any charges only being for the cost of any printing, copying or postage involved.

Examples of charges

An authority can charge for these in order to recover costs. It is still expected that any charges will be in accordance with the authority's published charging policy and schedule of charges.

Charges under statutory charging regimes

This will be self-explanatory to those authorities who can make such charges, but they should be made on a clear basis.

'Commercial' publications

This can cover a range of circumstances, such as:

- the need to charge in order to guarantee the continued collection and publication of the information;
- where information has been collected and analysed for commercial purposes and where this has required professional time and skill; and
- information which is normally made available on commercial terms as part of the authority's trading activities.

Datasets

Under section 19(2A) of FOIA, an authority's publication scheme must include a requirement to publish any dataset that has been requested, and any updated version that it holds, unless the authority is satisfied that it is not appropriate to publish it. The authority is required to publish the dataset in a re-usable form, where reasonably practicable. If the information in the dataset is a relevant copyright work of which the authority is the only owner, then the authority is required to make it available for re-use under the terms of a specified licence.

The public authority may charge a fee for allowing re-use of a dataset. If the authority has a power to do this under an enactment other than FOIA, it may charge under that power. If not it may charge under the regulations made under section 11B of FOIA. Those regulations are the [Freedom of Information \(Release of Datasets for Re-use\) \(Fees\) Regulations 2013 no. 1977](#); they set out how the public authority should calculate the re-use fee.

The fee for allowing the re-use of a dataset is in addition to the charges for making the information available, which are discussed above.

If a public authority is licensing the re-use of a dataset under the [Open Government Licence](#), then there is no re-use fee.

There is a further explanation of the datasets provisions in FOIA in our [guidance document on datasets](#).

Environmental information

Environmental information which is regularly made available by electronic means (for example the information can be downloaded from a website) should be included in an authority's guide to routinely released information. This information should not be charged for.

Regulation 8 refers to the ability to charge a "reasonable amount" for the supply of environmental information. In practice this should not present any conflict with the charging policy connected to the wider pro-active release of information. The requirement in Regulation 8 for public authorities to publish and make available a schedule of charges will complement the publishing of a schedule of fees for information which is routinely made available.

The Environmental Information Regulations do not include any provisions relating to the re-use of datasets. However, in a case where a public authority that is subject to FOIA has received a request for environmental information and it holds that information in the form of a dataset, then, as well as answering the request, it should consider whether it is appropriate to make the dataset available for re-use under its publication scheme as well. This is because under section 19(2A)(a) of FOIA the authority is required to make any dataset "in relation to which a person makes a request for information" available for re-use under its publication scheme, unless the authority is satisfied that it is not appropriate to do so.

If the authority is making a dataset of environmental information available for re-use under its publication scheme, then the provisions for charging for re-use described in the section on Datasets above also apply".