

## **Selected substantive issues examined by the Committee in its findings and advice adopted since MOP6**

### **I. Definitions and general provisions**

- **Article 2(2) – definition of public authority – acting in a “legislative capacity”**
  - C120 (Slovakia)
- **Article 2(3) – definition of environmental information**
  - Article 2(3)(b) – “Used in environmental decision-making”
    - C112 (Ireland)
  - Article 2 (3) (b) - Production Sharing Agreements for extraction of mineral resources as environmental information
    - C118 (Ukraine)
- **Article 2(5) – Criteria in national law for “environmental organizations”**
  - C137 (Germany)
- **Article 3(2) – Assistance to the public in facilitating public participation**
  - S2 (Belarus)

### **II. Access to environmental information**

- **Article 4(1) - Environmental information already made publicly available in other documents**
  - C124 (Netherlands)
- **Article 4(3)(c) and article 4(4) – Exemptions from non-disclosure**
  - Article 4(3)(c) - Materials in the course of completion
    - C124 (Netherlands)
  - Article 4(3)(c) - Internal communications
    - C124 (Netherlands)
  - Article 4(3)(c) and (4) – Confidentiality agreements
    - C118 (Ukraine)
  - Article 4(3)(c) and (4) – “Official use only” and “classified information”
    - C118 (Ukraine)
- **Article 4(7) - “Deemed refusal” and the requirement to state reasons for refusal of information**
  - C134 (Belgium)
- **Article 4(8) - Unreasonable costs for access to information**
  - C147 (Republic of Moldova)
- **Article 5(1)(a) - Requirement to possess and update environmental information relevant to functions**
  - C131 (United Kingdom)

- **Article 5(3) - Environmental information made “progressively available” and “easily accessible” in electronic databases**
  - C131 (United Kingdom)
- **Article 5(7)(a) - Publishing of facts and analyses of facts relevant and important in framing major environmental policy proposals**
  - C105 (Hungary)
  - C112 (Ireland)

### III. **Public participation in environmental decision-making**

- **Article 6(1)(b) – EIA screening decision and appropriate assessment**
  - C90 (United Kingdom)
- **Article 6 (2) – notification of the public concerned**
  - Content of the notice must be accurate
    - C98 (Lithuania)
  - Means of notification in transboundary context
    - S2 Belarus
- **Article 6(3) – Reasonable timeframes**
  - C98 (Lithuania)
- **Article 6(4) - Early public participation, when all options are open**
  - C98 (Lithuania)
  - C104 (Netherlands)
  - C100 (United Kingdom)
  - C118 (Ukraine)
- **Article 6(6) - Access to information relevant for the decision-making**
  - C104 (Netherlands)
- **Article 6(7) – Public hearings and written comments**
  - Written comments to be submitted directly to the public authority
    - C98 (Lithuania)
  - Expertise to answer the public’s questions at the hearing
    - S2 (Belarus)
- **Article 6(8) – Taking due account of the public participation**
  - Evaluation of comment by public authority
    - C98 (Lithuania)
  - Equal treatment of comments from the public
    - C106 (Czechia)
    - A2 (Kazakhstan)
  - Taking due account in transparent and traceable way
    - A2 (Kazakhstan)

- **Article 6(9) – Notification and access to the decision**
  - Prompt notification of decision once taken
    - C98 (Lithuania)
  - Statement of reasons to include how public participation taken into account
    - C98 (Lithuania)
  - Means of notification of the decision once taken
    - A2 (Kazakhstan)
  
- **Article 6(10) - Reconsideration or update of operating conditions**
  - Meaning of “where appropriate”
    - C104 (Netherlands)
    - C107 (Ireland)
    - C121 (European Union)
    - C122 (Spain)
    - C143 (Czechia)
  - Reconsideration of permitted duration
    - C107 (Ireland)
    - C104 (Netherlands)
  - Periodic safety reviews for a nuclear power plant
    - C143 (Czechia)
  
- **Special focus - Public participation under article 6 during the COVID-19 pandemic**
  - A2 (Kazakhstan)
  
- **Article 7 - Public participation concerning plans and programmes relating to the environment**
  - Typical characteristics of a plan or programme
    - C105 (Hungary)
  - A transparent and fair framework
    - C100 (United Kingdom)
  - Identification and notification of public concerned
    - C96 (EU)
  - Necessary information
    - C100 (United Kingdom)
  - Taking due account
    - C96 (EU)
  
- **Article 7 – public participation on policies relating to the environment**
  - C105 (Hungary)

- **Article 8 – Public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments**
  - Public participation on draft legislation
    - C120 (Slovakia)
  - Obligation to “strive to promote effective public participation”
    - C120 (Slovakia)

#### IV. Access to justice in environmental matters

- **Article 9(1) – review of information requests**
  - Expeditious and free of charge or inexpensive review procedure
    - C134 (Belgium)
    - C96 (EU)
    - C141 (Ireland)
- **Article 9(2) – access to justice regarding decisions subject to article 6**
  - Standing for NGOs
    - C137 (Germany)
  - Review of substantive legality
    - C90 (UK)
  - Access to justice regarding tiered decision-making
    - C138 (Armenia)
- **Article 9(3) – challenging contraventions of national law relating to environment**
  - Standing criteria
    - C135 (France)
    - C120 (Slovakia)
- **Article 9(4) – Requirements for review procedures**
  - Article 9(4) - Timely procedures and adequate and effective remedies regarding environmental information requests under article 9(1)
    - C141 (Ireland)
    - C134 (Belgium)
  - Article 9(4) - Requirements for review procedures under article 9 (2)
    - C131 (United Kingdom)
  - Article 9(4) - Injunctive relief
    - C106 (Czechia)
  - Prohibitively expensive
    - Filing fees
      - C130 (Italy)

- Costs for unsuccessful claimants
    - C130 (Italy)
    - C131 (United Kingdom)
  
  - Punitive costs
    - C130 (Italy)
  
  - Fair time limits to appeal
    - C118 (Ukraine)
    - C131 (United Kingdom)
  
  - Fair review procedures – developer gets full merits review
    - C90 (UK)
  
  - Fair procedures – paying costs of third parties
    - C98 (Lithuania)
  
  - **Article 9(5) - Establishment of an appropriate assistance mechanisms**
    - C130 (Italy)
    - C142 (United Kingdom)
-