

# Report on Norway's implementation of the Aarhus Convention in accordance with Decisions I/8, II/10 and IV/4

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Responsible Officer:

Beate Berglund Ekeberg

Signature:

Date: February 2021

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## Implementation Report

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**Party: Norway**

### National Focal Point

Institution: Ministry of Climate and Environment

Responsible Officer:

Beate Berglund Ekeberg, Specialist Director

Postal Address:

P.O.Box 8013 Dep, 0030 Oslo

Telephone: +47 22 24 59 78

Mobile: +47 92 82 02 37

E-mail: AarhusNFP.Norway@kld.dep.no

## IMPLEMENTATION REPORT

### Norway

Based on the reporting format annexed to decision I/8, II/10 and IV/4

#### **I. *Process by which the Report has been prepared***

**1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.**

The draft report, based on the 2017 report with revisions in track changes, was circulated June 2020 to private organizations and local and central authorities for comments (about 100 recipients). The hearing was made available at the website of the Ministry of Climate and Environment. The deadline for replying was 31 August 2020. The Ministry received ~~17~~ 16 comments. ~~9~~ 4 of them were critical to parts of the draft report, mainly with regard to Article 9 on access to justice (7), Article 6 and 7 on public participation (2), Article 4 on access to environmental information (2) and Article 5 on collection and dissemination of environmental information (2), as a result of limited knowledge about the Environmental Information Act among journalists, lack of specific plans for increasing knowledge, limitations to access to information in internal communications/proceedings inter alia in connection with public hearings, examples of Ministries refraining from following opinions of the Parliamentary Ombudsman and possible costs resulting from bringing a case to the courts. All comments have been taken into account in the preparation of this report, and the comments will also provide valuable input when considering future improvements in the Norwegian implementation of the Convention.

The comments can be found at the following website: [Høring - rapportering om norsk gjennomføring av Århuskonvensjonen om tilgang til miljøinformasjon, allmennhetens deltakelse i beslutningsprosesser og adgang til klage og domstolsproving på miljøområdet - regjeringen.no](https://www.regjeringen.no/no/dokumenter/horing-rapportering-om-norsk-gjennomforing-av-arhuskonvensjonen-om-tilgang-til-miljoinformasjon-allmennhetens-deltakelse-i-beslutningsprosesser-og-adgang-til-klage-og-domstolsproving-pa-miljoomradet-regjeringen.no) ~~[https://www.regjeringen.no/no/dokumenter/horing-rapportering om norsk gjennomføring av århuskonvensjonen om tilgang til miljøinformasjon allmennhetens deltakelse i beslutningsprosesser og adgang til klage og domstolsproving på miljøområdet/id2510590/](https://www.regjeringen.no/no/dokumenter/horing-rapportering-om-norsk-gjennomforing-av-arhuskonvensjonen-om-tilgang-til-miljoinformasjon-allmennhetens-deltakelse-i-beslutningsprosesser-og-adgang-til-klage-og-domstolsproving-pa-miljoomradet/id2510590/)~~

#### **II. *Particular circumstances relevant for understanding the report***

**2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the**

provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Not applicable.

### ARTICLE 3

#### ***III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8***

Even before the Convention was adopted in 1998, there were a number of provisions in Norwegian law on public access to environmental information and public participation in decision-making processes relating to the environment, and a well-established practice with respect to these rights. For example, the principle that the public is entitled to environmental information was included in the Norwegian Constitution as early as 1992. The Public Administration Act 1967 regulates administrative procedure in cases concerning the public administration, and Norway's original Freedom of Information Act was adopted in 1970. The right of the public to participate in decision-making is also an important principle in most legislation concerning or of relevance to the environmental field, including the Pollution Control Act, the Cultural Heritage Act, the Nature Diversity Act, the Planning and Building Act, the Act relating to Petroleum Activities, the Planning and Building Act and the Energy Act (see more details in the sections on implementation of articles 6, 7 and 8).

In 1998, the Government appointed a committee with members from various sectors, including the business community, environmental non-governmental organizations (NGOs), consumers and the media, to review the need for changes in the legislation to strengthen public access to environmental information. This was done partly in the light of Norway's international obligations in this field. The committee drew up a proposal for a new Environmental Information Act. After a broad public consultation process, the Parliament adopted the Act relating to the right to environmental information and public participation in decision-making processes relating to the environment (the Environmental Information Act) in 2003 (<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>). The Act entered into force on 1 January 2004. The Act has a wider scope than the Convention since it not only regulates the duty of the public authorities to make information available, but also entitles the public to have access to environmental information from public and private undertakings. An Appeals Board has been established to consider complaints against rejections from undertakings of requests for information.

#### ***(a) Paragraph 2***

The Public Administration Act lays down a general duty for all administrative agencies to provide guidance, and this is firmly established in the administrative procedures of agencies that hold environmental information. The Environmental Information Act includes an explicit requirement that in cases where a request is not directed to the appropriate authority, the authority that receives it must as promptly as possible transfer the request to the correct authority or provide guidance on which of the public authorities that are assumed to have the information

requested. At local level, all municipalities are required to follow an active information policy as regards their work. The different sectoral authorities also have a clear responsibility to facilitate access to information and participation in decision-making processes within their spheres of responsibility. One example is the efforts made by the Directorate for Cultural Heritage to improve the management of cultural heritage by local authorities, emphasizing participation. The Directorate has developed guidance material for use by local authorities and stakeholders. It is accessible through its [website](#).

The Environmental Information Act must also be considered in the context of the new [Freedom of Information Act](#), which entered into force on 1 January 2009-).

~~In 2015, the Ministry of Climate and Environment has since 2015 held initiated regular~~ internal courses on the Environmental Information Act and the Freedom of Information Act. [An e-learning programme is now available for the Freedom of Information Act and internal courses on the Environmental Information Act will be held as needed. A new guide to the Environmental Information Act is now available on the website of the Ministry.](#)

The Ministry of Climate and Environment's website provides [information on the rights provided for by the Convention and Norwegian legislation](#): (not available in English)

~~Information on the Environmental Information Act is also provided on miljokommune.no, an internet site developed to provide assistance to municipal authorities;~~  
<http://www.miljokommune.no/Temaoversikt/Saksbehandling/Miljoinformasjonsloven/>

Information on the Environmental Information Act is included on the [website of the Electronic Public Records](#), where the public can search for and request access to information held by public authorities .

A workshop on the Environmental Information Act was arranged in October 2014 by the Ministry of Climate and Environment in cooperation with the Norwegian Press Association in order to increase knowledge and use of the Act among journalists. A study undertaken by the Stiftelsen for kritisk og undersøkende journalistikk (SKUP – Foundation for critical and investigative journalism) in 2013 revealed that 96,6 % of the journalists asked had never made use of the Act. These journalists either gave lack of knowledge (37,8 % ) or irrelevance (59,4 %) as the reasons for never having made use of the act..

At the same time, the amount of request and complaints regarding access to environmental information does imply that there is some knowledge of and willingness to use the Environmental Information Act.

Guidance on the Environmental Information Act will be finalized during ~~2017~~2020.

The need for and type of further measures to increase knowledge and use of the Environmental Information Act is regularly considered.

(b) Paragraph 3

Education for sustainable development is integrated into the National Curriculum for Knowledge Promotion in Primary and Secondary Training and Education (K). The National Curriculum for Knowledge Promotion is set out as regulations pursuant to the Education Act regulating primary and secondary training and education. ~~It changes and simplifies the National Curriculum and consists inter alia of new curricula for different subjects and principles for training and education. It also identified particular central skills as fundamental tools for learning and development. The pupils are taught critical thinking and ethical and environmentally conscious behaviour. Sustainable development is emphasized in several competence aims in natural science and social science, and several new optional courses in lower secondary education have content related to the environment. The natural environment is one of three interdisciplinary topics several themes in the general part of the National Curriculum for Knowledge Promotion in Primary and Secondary Training and Education. In working with this topic the pupils shall develop competence which enables them to make responsible choices and to act ethically and with environmental awareness. The pupils must learn to understand that all individual activities and choices are significant. This topic includes issues relating to the environment and climate, poverty and distribution of resources, conflicts, health, equality, demographics and education. The pupils shall learn about the different aspects of sustainable development. See also revised strategy for education for sustainable development 2010-2015;~~

The Ministry of Climate and Environment and its agencies offer material and have taken initiatives to support environmental education. The Environment Agency has a website with information dedicated to pupils and students. "Den naturlige skolesekken" is a cooperation between the Ministry of Education and Research and the Ministry of Climate and Environment aimed at strengthening education for sustainable development. It offers the possibility of greater use of the local environment. The schools develop multidisciplinary teaching plans focusing on environment, outdoor recreation and sustainable development in cooperation with external local partners including inter alia environmental organisations and research institutions. "Den kulturelle skolesekken" (cultural rucksack") is an obligatory programme for all pupils in primary, secondary and high school. The aim is to increase their cultural knowledge through experiencing professional cultural expressions, including cultural heritage. Experiences are offered by regional authorities, inter alia through archeology, visits at museums or by story tellers, or local authorities and schools. Friluftsliv i skolen (outdoor life in school) is an offer supported by the Ministry of Climate and Environment and managed by Norsk Friluftsliv, with the aim to increase the use of nature as an arena for learning.

Environment.no, Kartiskolen and Miljølære (the last two are not available in English) are important tools that give schools a unique possibility to collect and register updated environmental information. Several excellent teaching plans offer schools activities and different arenas which can be used to teach about issues related to the environment and climate change.

Environmental Authorities also have other projects that are directed towards schools that are adapted to the competence aims of different disciplines and aimed at inspiring teachers and pupils in secondary school. The Environment Agency has developed some concepts for schools and contributed to development of concepts by providing support. engaged young "ambassadors" for the environment who have held a presentation called Generation Green at secondary schools all over the country. The Agency also provides information on Outdoor Recreation at School (Friluftsliv i skolen) on its websites in order to promote the use and understanding of the natural environment. Furthermore, the National Park Centres make an

~~important contribution in the schools' efforts when it comes to the presentation information on the environment and promoting an understanding of the natural environment. Statens naturoppsyn, one of the environmental authorities surveilling the status of the environment and the compliance with environmental legislation, also contributes with information to and presentation on the natural environment at schools.~~ Written material developed by the environmental authorities in Norway and the EU is distributed to schools free of charge. The Norwegian Polar Institute is also active in schools and try to organize its internet sites and exhibitions in a way that is easily understood by pupils. Examples:

~~(<http://www.arcticsystem.no/en/index.html> & <http://www.polarhistorie.no/seksjoner/skoleportal.html>).~~

[Environment.no](http://www.environment.no) is the main public website for environmental information in Norway. Environment.no contains information from several sources and its aim is to provide the public with high quality and easily accessible information on the status and development of the environment and factors having an impact upon it. ~~Norsk klimaservicesenter (Norwegian Climate Service Centre – website not available in English) organize and convey data for use in adaptation to climate change and further research on the effect of climate change on nature and society. An internet site with information on chemicals found in consumer products has also been established (<http://www.erdetfarlig.no/>). These websites and the websites [norskeutslipp.no](http://www.norskeutslipp.no) and [naturbase.no](http://www.naturbase.no) are under consolidations with the aim of making them more efficient and easier to use. The website <http://www.npolar.no/no/> provides information on the environment, climate, flora and fauna in the Arctic and Antarctica.~~

Several organisations are actively engaged in increasing environmental awareness among the public and play a very important role in this regard. Some of these organisations receive support from and/or carry out tasks assigned by national authorities within areas such as environmental labelling and green public procurement.

(c) *Paragraph 4*

The Norwegian authorities support environmental NGOs and measures that are designed to improve people's knowledge of the environment or that focus on environmental problems. Many environmental organizations and public interest foundations receive basic funding as a means of maintaining a wide variety of democratic, nationwide organizations that focus on environmental protection, and thus ensuring voluntary efforts and strengthening participation in environmental issues at local, regional and central level. Furthermore, organizations that provide expertise and information on national and international environmental measures receive project grants.

NGOs are asked for comments during the public consultation processes, and are a channel for communication between the general public and the public administration. Environmental NGOs play an important role on various committees. There are also several formalised fora for cooperation between the environmental authorities and NGOs. Additional meetings with environmental organizations and other parties who will be affected are often arranged in connection with specific cases. In many cases, the NGOs themselves take the initiative to put new issues on the agenda, and they take part in environmental projects.

In connection with Norway's European Union-related and international environmental efforts, the Ministry of Climate and Environment has established an European Economic Area (EEA)

consultative body on environmental issues that meets approximately three times a year and includes representatives of civil society (trade unions, NGOs, research institutions, etc), the business sector and other ministries. The purpose is to submit proposals for new legislation within the field of the EEA Agreement to these representatives and include them in the public consultation process before including new EU Acts into the Agreement. This contributes to increased knowledge on the European Union and the EEA, and to raises awareness within environmental organizations on the impact of European Union environmental policy on Norwegian environmental politics. The consultative body is a forum for providing inputs on global and international environmental issues and spreading information from international conferences and negotiations;

(d) *Paragraph 7*

Norway promotes a high degree of transparency and participation by civil society in international bodies, including in the environmental field. For example, NGOs have been given financial support to enable them to take part in various international meetings. Norway also advocates giving NGOs real opportunities to be involved in preparatory processes and to play an active part in the meetings they take part in. Civil society has also been granted permanent representation with the Norwegian delegation to the UN negotiations on climate change, biodiversity and to the United Nations Environmental Assembly.

Staff at the Ministry of Climate and Environment who participate in meetings under international agreements have been made aware of the Almaty Guidelines that have been drawn up under the Aarhus Convention. The Guidelines have also been sent to the Ministry of Foreign Affairs. In addition, the National Focal Point for the Aarhus Convention provides assistance if necessary when issues related to access to information and participation arise in other international fora.

(e) *Paragraph 8*

The right to freedom of association and freedom of speech are laid down in the Section on Human Rights in the Constitution. Comprehensive legislation ensures security under the law for the individual, which among other things ensures that people who exercise their rights under the Convention are not persecuted in any way.

**IV. *Obstacles encountered in the implementation of Article 3***

No specific obstacles have been encountered.

**V. *Further information on the practical implementation of the general provisions of Article 3***

Limited knowledge of and usage of the Environmental Information Act among journalists and other parts of the public could contribute to weakened practical implementation of the rights provided by the Aarhus Convention. [The new guide to the Environmental Information Act posted at the website of the Ministry of Climate and Environment and the widely distributed](#)

information about the new guide, is meant to contribute to make the Act more widely known and used.

In their comments to the implementation report, Norsk Presseforbund, Norsk Redaktørforening og Norsk Journalistlag One of the calls for improvements of the search options on the website of the Appeals Board for environmental information from undertakings, and for reducing the processing time of complaints.

#### **VI. Website addresses relevant to the implementation of Article 3**

<https://www.stortinget.no/globalassets/pdf/english/constitutionenglish.pdf>  
<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>  
<https://lovdata.no/dokument/NLE/lov/2006-05-19-16>  
[https://www.regjeringen.no/no/dokument/dep/kld/lover\\_regler/rett-til-miljoinformasjon/id445355/](https://www.regjeringen.no/no/dokument/dep/kld/lover_regler/rett-til-miljoinformasjon/id445355/)  
<https://www.regjeringen.no/no/dokumenter/veileder-til/no/dokumenter/veileder-til-miljoinformasjonsloven/id2829895/>  
<https://einnsyn.no/informasjon/regelverk>  
<https://www.miljodirektoratet.no/om-oss/roller/for-skole/>  
<http://www.naturesekken.no/>  
<https://www.denkulturelleskolesekken.no/forside/om-dks/kulturarv-i-dks/>  
<http://www.environment.no/>  
[www.miljostatus.no](http://www.miljostatus.no)  
<https://www.miljolare.no/>  
<http://kartiskolen.no/>  
<http://www.arcticsystem.no/en/index.html>  
<http://www.polarhistorie.no/seksjoner/skoleportal.html>  
<https://www.riksantikvaren.no/kik>

### **ARTICLE 4**

#### **VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4**

##### *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 m~~Most of the provisions of the Convention relating to access to information have ~~been already~~ been implemented in the ~~law in the~~ Freedom of Information Act (Act 19 May 2006 No. 19). 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, section 6 of the regulation pursuant to the Act provide that the postal logs of most central and regional



~~authorities shall be made available for everyone on the Internet, and pursuant to section 7, public authorities covered by the Act may make documents in the log available on the Internet.~~

The Environmental Information Act ([Act 9 May 2003 No. 31](#)) contains specific provisions concerning access to environmental information but refers to and is supplemented by the Freedom of Information Act with regard to exemptions and handling of requests for 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 ([Act 11 June 1976 No. 79](#)) 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. [The Act does not apply to Svalbard and Jan Mayen, as the possibility pursuant to Section 4 of the Act to decide to make it applicable there has not yet been used.](#)

As regards implementation of the relevant definitions in article 2 of the Aarhus Convention, “public authority” is defined in section 5 of the Environmental Information Act. This was one of the necessary amendments before ratification of the Convention, since the term public authority as defined in the Convention has a wider scope than the term “administrative agency” in the Public Administration Act. The definition of a public authority in the Environmental Information Act and well as in the Freedom of Information Act of 2006 is now in accordance with the definition in the Convention.

Environmental information is defined in section 2 of the Environmental Information Act. The definition is in accordance with article 3 of the Convention, but also includes archeological and architectural monuments and sites and cultural environments.

The definition of “the public” set out in the Convention has not been specifically included in the legislation. This is considered to be unnecessary, since both the Environmental Information Act and the Freedom of Information Act apply to “any person”. The term “the public concerned” does not appear directly in the law, but wording with substantially the same meaning is used. For example, the provisions on processing of applications for permits under the Pollution Control Act (see the section on implementation of article 6) clearly state that the public bodies involved and organizations representing the public interests affected or others who may be particularly affected shall be notified directly prior to a decision being made, and shall be given an opportunity to make their opinions known.

On the whole, the provisions of the Environmental Information Act on administrative procedure, the right of appeal and the duty of public authorities to provide guidance all ensure that requests for environmental information are processed in accordance with the provisions of the Convention.

*(a) Paragraph 1*

Section 10 of the Environmental Information Act lays down that “any person” is entitled to receive environmental information. There is no requirement to show any objective or legal

interest in the matter, and the purpose of the request is immaterial. The Act also stipulates that information is to be provided in the form requested by the applicant. Exceptions may be made, and these correspond to those in article 4, para. 1 (b), of the Convention. The Act does not require an applicant to put forward a request in any particular way (form). Furthermore, an applicant is not required to state a name, and may therefore put forward a request anonymously;

The Environmental Information Act contains a similar requirement to article 4, para. 1 (b) (i);

(b) *Paragraph 2*

Pursuant to Section 13, para 3 of the Environmental Information Act, the recipient shall as a main rule make a decision on the request and make the information available “as soon as possible” and no later than 15 working days after it was received. This time limit is shorter than the one set out in the Convention. According to the second paragraph of Section 32 of the Freedom of Information Act, a request for information that has not been answered within five working days, is considered as a refusal that may be appealed to the immediately superior administrative agency. The provision does not apply to requests for information directed at ministries, where the King’s Council is the appellate body.

The time limit under the Environmental Information Act may be extended to two months if, given the volume or type of information requested, it would involve a disproportionate amount of work to provide it within 15 working days. The applicant shall, within the original time limit, be informed of any extension, the reasons justifying it and when a decision may be expected. .

If the authorities fail to meet the maximum time limit of two months, this is considered as a refusal that may be appealed to the immediately superior administrative agency;

(c) *Paragraphs 3 and 4*

According to section 10, subsection 3, of the Environmental Information Act, a request for environmental information may be summarily dismissed if it is formulated in too general a manner or does not provide an adequate basis for identifying what is meant by the request. The legislative history of the Act makes it clear that both grounds for dismissal must be used restrictively. It is important to uphold the principle that a person who requests environmental information cannot be required to give any reason for requesting it. Legislative history also makes it clear that an applicant must be able to request information that must be obtained from several sources and that there is no requirement to identify a specific case. If a request is too general, the authority that receives the request is required to give the applicant reasonable assistance to formulate the request in such a way that it can be addressed. The scope of the duty to provide guidance corresponds to the general duty to provide guidance set out in section 11 of the Public Administration Act.

According to section 11, subsection 1, of the Act, a request for environmental information may be refused if there is a genuine and objective need to do so in a specific case and the information, or the document containing the information, may be exempted from public disclosure pursuant to the Freedom of Information Act. Pursuant to the Freedom of Information Act, such exemptions may be made for certain types of information, such as information that is subject to a statutory duty of secrecy (Section 13) or required to be exempted for foreign policy reasons (Section 20), or certain types of documents, such as internal documents (Section 14) or documents obtained externally for internal preparation of a case (Section 15). A duty of secrecy is most clearly

applicable if the information requested concerns technical devices and procedures or operational or business matters which for competition reasons it is important to keep secret in the interests of the person whom the information concerns. It is primarily in cases where providing the information would reveal information on the composition of products, production methods, etc. that is not already in the public domain that a duty of secrecy will apply. In any case, it is a basic requirement for refusing a request that the information is in fact secret. An evaluation of what information is to be regarded as trade secrets must be made on a case-by-case basis, and no more information must be exempted from public disclosure than is strictly necessary on the basis of the considerations underlying the duty of secrecy.

Section 14 of the Environmental Information Act authorises public authorities to require an undertaking to identify the information it considers it important to keep secret for competition reasons, and to give reasons why it should be kept secret. The purpose of this provision is to provide public authorities with a better factual basis for assessing whether the environmental information requested includes trade secrets. However, the public authority must make an independent assessment, and not automatically accept an evaluation from an undertaking that wishes to maintain secrecy.

Section 11, subsection 2 of the Environmental Information Act sets out the elements that must be considered in order to decide whether there is a genuine and objective need to refuse a request for information that may be exempted pursuant to subsection 1 and the Freedom of Information Act. If the environmental and public interests served by disclosure outweigh the interests served by refusal, the information shall be disclosed. This is in accordance with the last paragraph of article 4, para. 4, of the Convention, which specifies that grounds for refusing a request for environmental information be interpreted in a restrictive way and taking into account the public interest served by disclosure.

Section 12 of the Environmental Information Act lays down that certain types of information always be made available on request. This provision was prompted by article 4, para. 4, of the Convention. It lists certain types of information that are considered to be particularly important to the public. The provision also authorizes setting aside the duty of secrecy in special cases, but it should be noted that there will seldom be a conflict between the types of information involved and the duty of secrecy. The provision applies firstly to information on pollution that is harmful to health or that may cause serious environmental damage. Information to the population on such matters can be especially important in the event of acute pollution. Secondly, it applies to measures to prevent or reduce the damage caused by such pollution. These include all types of preventive measures that a polluter takes or decides should be used, and precautionary measures the general public are advised to take. This means specific measures such as recommendations to purify drinking water. Finally, information on unlawful intervention in or damage to the environment shall always be disclosed. This is important in the case of breaches of the law for which no penal sanctions are laid down or if for some other reason no criminal proceedings are instituted. The provision also applies if an undertaking contravenes the conditions of a license or a land use plan and this results in environmental damage.

(d) *Paragraph 5*

Section 10, subsection 4, of the Environmental Information Act clearly states that an authority that incorrectly receives a request for information shall transfer it to the appropriate authority as promptly as possible. The appropriate authority shall answer without unnecessary delay and according to normal rules of administrative procedure. However, if it concerns information which the authority has a duty to hold pursuant to Section 8, it may neither transfer the request or refuse it on the grounds that it does not have the information requested. Section 8 obliges public authorities to hold general environmental information relevant to their areas of responsibility and functions. If the authority does not hold such information, it must take steps to obtain it.

(e) *Paragraph 6*

Section 11, subsection 3 of the Environmental Information Act explicitly requires that in cases where part of the requested information is exempted from disclosure, the remaining information shall be disclosed provided that this does not give a clearly misleading impression of the contents;

(f) *Paragraph 7*

Section 13, subsection 4, of the Environmental Information Act states that a refusal shall always be given in writing, that a brief explanation of the refusal shall be provided, and that the applicant shall be informed of the right of appeal and the time limit for lodging an appeal;

(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..

## ***VIII. Obstacles encountered in the implementation of article 4.***

No specific obstacles have been encountered.

## ***IX. Further information on the practical application of the provisions of article 4***

Regarding the practical application of the provisions, the reader is referred to the general text above. There has not yet been established any statistics on the number of requests for information the public administration as a whole receives that concern environmental information. However, the Ministry of the Environment's statistics for 2021<sup>59</sup> show that it received ~~3167~~ 3842 requests for information ~~concerning 2780 documents,~~ provided access ~~to-in accordance with 2405~~ 3150 of the requests ~~documents~~ and refused access to ~~375- the information in 537 of the requests documents~~ (13,984 %) . ~~In 155 of the requests, partial access was provided (4.03%).~~ In about 90 per cent of the cases the information requested was provided within 1-3 days. The statistics do not separate between general requests for information and requests concerning environmental information and consequently does not provide information

on the distribution of information requests between the two categories. In their joint comments to the public hearing of the implementation report, Norsk Presseforbund, Norsk Redaktørforening og Norsk Journalistlag call for statistics on the total amount of requests for environmental information to gain better insights in the practical application of the Environmental Information Act throughout the public administration.

A request for access to environmental information rejected by the Ministry of the Environment and appealed to the Parliamentary Ombudsman ~~has~~<sup>is</sup> being considered by the Compliance Committee of the Aarhus Convention ([ACCC/C/2013/93](#)). The Committee concluded that the rejection did not breach the Aarhus Convention. The Meeting of the Parties to the Convention endorsed the findings of the Committee in 2017.

Norsk Friluftsliv ~~One of~~ refer in their ~~the~~ comments ~~received~~ in the public hearing of the implementation report ~~refers~~ to examples of public hearings based on information from internal communications/proceedings that is wholly or partly exempted from access. It also refers to examples where – in their view - impact assessments and other information upon which decisions are made does not contain sufficient relevant information.

#### **X. Web site addresses relevant to the implementation of article 4:**

<http://lovdata.no/dokument/NL/lov/2006-05-19-16>  
<https://lovdata.no/dokument/NLE/lov/2006-05-19-16>  
<http://lovdata.no/dokument/NL/lov/2003-05-09-31>  
<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>  
<https://www.regjeringen.no/en/dokumenter/product-control-act/id172150/>  
[https://www.sivilombudsmannen.no/?lang=no\\_NO](https://www.sivilombudsmannen.no/?lang=no_NO)  
[https://www.sivilombudsmannen.no/?lang=en\\_GB](https://www.sivilombudsmannen.no/?lang=en_GB)  
<http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/envppcccom/acccc201393-norway.html>

### **ARTICLE 5**

#### **X.1 List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.**

##### **(a) Paragraph 1**

Section 112 ~~A provision~~ of the Constitution ~~adopted in 1992~~ entitles the general public to information on the state of the environment. The Pollution Control Act lays down that the authorities are responsible for monitoring the general pollution situation and pollution from individual sources.

Administrative agencies acquire a great deal of information on the state of the environment in the course of their activities. This is a natural consequence of their management responsibilities and the exercise of their authority at central, regional and local levels. They obtain information on a variety of topics ranging from natural resource management, agriculture and fisheries to industrial and regional development and general planning activities. They are also required to obtain information by the rules for proper administrative procedure and have a duty to collect

information in connection with specific cases that are under consideration. Such requirements are found in the [Public Administration Act](#) (section 17, which deals with the duty of administrative agencies to clarify a case and to provide information), in the provisions on environmental impact assessment ([in particular the Planning and Building Act and the Regulations on impact assessments](#)), and in the [Instructions for Official Studies and Reports](#). ~~Provisions on mapping and impact assessments are also found in the Planning and Building Act.~~ There are also certain provisions that lay down a general requirement to provide information and thus, by implication, to obtain the information. One example is provided by the Local Government Act, which lays down a general requirement for municipalities to provide information about their activities.

In practice, the public administration has developed systematic routines for collection (monitoring and research) and dissemination of general information, for instance using databases and registers. This type of work is carried out continuously. The most important tools for overall, aggregated information on the state of the environment are the result monitoring system for environmental policy and national key figures and environmental indicators (these are still being developed).

Another relevant initiative is “Geo Norge” ([www.geonorge.no](http://www.geonorge.no)) whose purpose is to gather geographical data on different issues, including environmental issues, and make it available to the public. The initiative is coordinated by the Norwegian Mapping Authority, with a wide range of both public and private agencies, organizations and companies contributing to the project. MAREANO ([www.mareano.no](http://www.mareano.no)) maps depth and topography, sediment composition, contaminants, biotopes and habitats in Norwegian waters. The results of the surveys are available on this website, visualised through maps. It is financed by the Ministry of Climate and Environment and the Ministry of Industry and Fisheries, is managed by these and other relevant ministries. A number of partners including public agencies contributes, and the implementation is carried out by research institutions.

The website [www.luftkvalitet.info](http://www.luftkvalitet.info), which presents important information about air quality and air pollution in Norway, including daily measurements from the whole country, forecasts of air quality, reports, useful links and so on. Other initiatives are the websites [www.naturbase.no](http://www.naturbase.no) and [www.kulturminnesok.no](http://www.kulturminnesok.no) which contain information concerning nature and cultural heritage. Further information on cultural heritage (protected monuments and sites ) can also be found at the website of the national register called [Askeladden](#), which requires registering as a user.;

The [Norwegian Product Register](#) (~~administered by a subordinate agency of the Ministry of the Environment~~[Environment Agency](#)) contains information on about 25,000 products. Enterprises must submit declarations for all chemical products that require labelling under the regulations on the classification and labelling of dangerous chemicals if the quantity placed on the market in Norway each year exceeds 100 kg. Norway has also established a database containing information on contaminated sites, etc. A ~~- Knowledge Bank for biodiversity has been established (Artsdatabanken), which collects and makes publicly available knowledge on features and range of species, including threatened and alien species and the range and status of habitat types. has also been established, and an~~ [An environmental test bank was will be established and collection begun in 2014](#)<sup>2</sup>. This is not an exhaustive list. Due to the limited scope of this report, it is not possible to describe all existing measures to ensure that Norway meets its obligations under article 5, para. 1.

The Registry on environmental decisions is a public register which provides the public free access to individual decisions and regulations in the environmental field. The Registry is regulated in Regulations 14 June 2013 No 643.

Extensive information on activities that may have a significant impact on the environment is also acquired through the system of discharge permits under the Pollution Control Act. This Act makes it an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is caused by activities that are generally permitted. An enterprise that holds a discharge permit must submit annual reports on its emissions, and the pollution control authorities also ensure compliance through a system of inspections. A website holding information on emissions, production quantities and waste from major sources of pollution, both site specific and diffuse, has been established at [www.norskeutslipp.no](http://www.norskeutslipp.no).

To ensure that article 5 of the Convention is explicitly implemented in the law, section 8 of the Environmental Information Act requires administrative agencies to hold general environmental information relevant to their areas of responsibility and functions, and make this information accessible to the public, e.g. that the Ministry of Industry and Fisheries, the Ministry of Transport and Communication and the Ministry of Petroleum and Energy are responsible for providing such information. Relevant information means both information on environmental impacts in sectors where an agency has responsibilities as well as environmental information it needs to carry out its tasks satisfactorily. The provision applies to information on the state of the environment, which is acquired mainly through research and monitoring, but also to more general environmental information, for example data and factual information on sources of emissions, factors that may influence biological diversity, trends in society's use of resources, and the content of dangerous chemicals in products. In accordance with the Convention, the provision applies to all levels, i.e. to administrative agencies at the national, county and municipal level.

Sectoral legislation sets out a number of rules and arrangements for crisis management and the provision of information. In an emergency, it is of key importance to ensure that people are kept informed about what is happening and what they should do. Norway has a [Directorate for Civil Protection and Emergency Planning](#) and, in addition, sectoral authorities are responsible for crisis management within their own spheres of responsibility. Private-sector enterprises also have a responsibility to provide information before and during emergencies. [Two new information programs have been developed to inform inhabitants on how they can handle a crisis in the best possible way. The first one is called "being prepared" and the second is called "advice on self-preparedness for emergencies"](#). It is beyond the scope of this report to give an account of all provisions and arrangements for this area that help to implement article 5, para.1 (c), of the Convention.

*(b)-(c) Paragraphs 2 and 3*

According to the legislative history of the Environmental Information Act, general information must be provided coherently, systematically, and so that it is readily understood and easily accessible to the public, using lists, record systems, databases, registers and the like. Section 8 of the Act does not require the use of a particular form or medium for information, but

electronic databases will often be appropriate, see examples below. Public authorities must take steps to ensure that information is available, and not wait until they receive enquiries.

Section 8 of the Act gives administrative agencies an independent responsibility to hold environmental information relevant to their areas of responsibility and functions and to make this available to the public. The form in which information is provided and how this is done varies. Much of this information is at the national level, and it is therefore appropriate to use national information systems. If no appropriate information system exists, an agency may need to set up its own environmental information system: for example, it can provide statistics, information and registers electronically, set up a suitable website, etc.

Norway is aiming for a digital transformation in the public sector, in order to increase effectiveness, economic growth and simplification of citizens' daily life. A Digital strategy for the public sector for the period 2019-2025 was adopted in 2019. A new digitalisation strategy for the environment sector was adopted earlier this year for the period 2020-2024 (only in Norwegian). These strategies set aims and priorities for digital transformation of the public sector in general and the environmental sector in particular in the coming years. They have similar high ambitions and cover many of the elements contained in the draft of the updated Aarhus Recommendations on electronic information tools, although in a more general manner.

Norway has by means of implementing Directive 2003/98/EC on the re-use of public sector information in the Freedom of Information Act arranged for increased re-use of such information. Open public sector information is data from the public sector made available in a format that makes it possible to re-use the data in other situations. Data could be anything from simple lists and tables in case files, to reports to advanced databases with information from several data systems. These provisions improve public access to information, including environmental information, held by public authorities. The provisions concerning re-use requires some form of action on the part of the public authorities, and thus goes beyond the regular right to access to information pursuant to other parts of the Freedom of Information Act. A circular letter from the Prime Minister's office concerning digitalization inter alia requires that public authorities shall make suitable information accessible in machine-readable formats, and in addition also follow the guidelines for making public sector information accessible.

Information on relevant administrative agencies is available on the Internet, for example on the governmental website ([www.regjeringen.no](http://www.regjeringen.no)) and at [www.miljodirektoratet.no](http://www.miljodirektoratet.no). Regjeringen.no is the Government's primary web based channel of communication with the public. It is also a portal for the websites of the Prime Minister and the different ministries. Regjeringen.no is meant to provide opportunities for participation and spur engagement in democratic processes. Regjeringen.no shall provide correct, updated and comprehensive information about the rights and obligation of individuals. The portal shall also stimulate engagement in decision making processes and the shaping of policies by providing for the sharing of information, two-way communication and content created by users.

The website of the Ministry of Climate and Environment contains large amounts of systematic information and links to other sources of information. For example, there are links to all the ministry's subordinate agencies, which also provide extensive environmental information under different topics or headings such as news, public consultations, legislation, etc. The Environment Agency website has been consolidated for more user-adapted information and guidance. In most cases, contacts who can give further information are listed. One important site for environmental



information is Miljøstatus i Norge (State of the Environment Norway) at [www.miljostatus.no](http://www.miljostatus.no) ([www.environment.no](http://www.environment.no)), which was commissioned by the ministry and developed by its subordinate agencies. The website uses data from a number of registers. It is intended to give the general public easy access to environmental information. It provides updated information on the state of the environment, environmental trends and environmental pressures. The information is organized under several main topics, each of which is divided into sub-topics, with links to current legislation, agreements, environmental targets, and relevant websites. The website is updated regularly and quality assurance of all the information is carried out at least twice a year.

The Norwegian Polar Institute has established a new data portal (<http://data.npolar.no>) to distribute data collected or produced in connection with mapping and environmental surveillance for use in information or data products. Scientific and environmental surveillance data are published on the portal. as Additional data can be found at:

- o Svalbardkartet; <https://www.npolar.no/en/maps/>
- o Barentsportalen ; <http://www.barentsportal.com/barentsportal/>
- o Miljøovervåking Svalbard og Jan Mayen <http://www.mosj.no/en/>

The government regularly reports on the state of the environment and its plans through various white papers on the government's environmental policy, including previous white papers concerning the state of the environment, which has been replaced by continuously updated information on [www.environment.no](http://www.environment.no) and evaluation of environmental objectives in the annual budget proposition. All such documents are available in electronic form. The sectoral authorities also have an independent responsibility to hold environmental information on the relevant sectors and to report on this. Lists of all relevant legislation are easily found on the websites of administrative agencies, with hyperlinks to the full text on Lovdata's website. The Lovdata website contains all legislation and is regularly updated when amendments are made. The MoCE's website also includes a guide to environmental legislation and the authorities that are responsible for different acts and regulations. All the environmental authorities maintain updated information on relevant legislation on their websites, including the English and Norwegian texts of international environmental agreements that Norway has ratified. Strategies, plans and programmes are also published on the websites, but it is beyond the scope of this report to go into any more detail;

(d)-(e) *Paragraphs 4 and 5*

As regards the requirement to publish and disseminate national reports on the state of the environment, the Ministry of the Environment regularly publishes white papers on Norwegian environmental policy and the state of the environment, as mentioned above. Current information on the state of the environment is published regularly, for example on the website [www.environment.no](http://www.environment.no).

The Norwegian Polar Institute publishes research data and environmental data from the polar areas in its own data portal. All data are published under open licenses for further use. Adapted data are in addition published in information products such as:

- ☐ The Svalbard map
- ☐ The Norwegian Polar Institute's map sites
- ☐ The Barents Portal

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□ MOSJ The Norwegian Polar Institute has several regional information systems contributing to these reports. Environmental Monitoring Svalbard and Jan Mayen is a regional collection of relevant information collected from environmental monitoring covering land, air and ocean in the Norwegian Arctic Areas and is regularly used to evaluate the fulfilment the national environmental objectives. The Barents portal <http://www.barentsportal.com/barentsportal/> (Joint Norwegian-Russian Environmental Status Report for the Barents Sea), the thematic sites concerning the Barents Sea at [www.environment.no](http://www.environment.no) and Environmental Status Svalbard at the same website are other examples.

Information on the status of the environment and international environmental cooperation in the border areas with Russia is published on the websites of nettsidene of the County Governor of Troms and Finnmark and the national website on air quality in Norwegian cities. The information is not available in English.

NILU – Norwegian Institute for Air Research is chemical coordinating centre under UN-ECE Convention on Long-range Transboundary Air Pollution. NILU collects observation data from the atmospheric chemical composition and physical properties from the 40 Signatories of the EMEP Protocol. The data are accessible at <http://ebas.nilu.no>. This data service is also used by other international surveillance programmes such as AMAP (Arctic Council), the OSPAR and HELCOM Conventions and WMO Global Atmosphere Watch. The E-infrastructure represents the most comprehensive database of its kind globally, and is often referred to as a leading example on open data management.

All the information listed here is published electronically. As mentioned above (paragraph 3), legislation, strategies, action plans, etc. drawn up by administrative agencies at various levels are also published on the internet. The same applies to international agreements and other important international documents;

(f) *Paragraph 6*

The Norwegian Environmental Information Act requires all public and private undertakings to hold information about factors relating to their operations that may have an appreciable effect on the environment, and to supply such information on request. Similar provisions for product-specific information have been included in the Product Control Act. Undertakings are required to provide information as soon as possible and no later than one month after the request was received. This time limit can be extended to two months. The Appeals Board for Environmental Information, which is regulated under Section 19 of the Environmental Information Act and in the Regulations pursuant to the Act, has been established to consider appeals against refusals of requests for environmental information. The existence of the Appeals Board ensures proper evaluation and control of whether requests for environmental information are treated in accordance with the provisions of the Act. ~~The reader is referred to the translation of the Act (<http://www.regjeringen.no/en/doc/laws/Acts/environmental-information-act.html?id=173247>).~~ Annually the Board receives approximately 10 to 157 cases. I 20159 ~~eleven-thirteen~~ appeals were received by the Board, ~~four less one more~~ than in 20184 ~~and three but four~~ more than in 20127, ~~but four less than in and~~ 20135.

Under the Accounting Act, enterprises are required to take active steps to provide information about factors relating to their operations that have had an appreciable environmental impact. There are also voluntary environmental certification schemes, which include requirements to

provide environmental information. Eco-lighthouse is Norway's most widely used certification scheme for environmental management in public and private undertakings, covering around 70 different sectors. Eco-lighthouse requires all certified undertakings to publish an annual climate- and environment report on their websites or to make it available on request.

Regulations on warning labelling, including labelling to indicate environmental hazards, apply to chemicals that are marketed as such, i.e. as substances or preparations. The warning labelling system is based on a comprehensive, internationally harmonised set of rules for the classification of chemicals.

There are also voluntary eco-labelling schemes (the Nordic Swan and the EU Ecolabel), and environmental declaration schemes.

A website has been set up to help enterprises and individuals find their way around Norwegian legislation ([www.regelhjelp.no](http://www.regelhjelp.no)). Here are the most important regulations for 58 different industries collocated in a clear manner. This is believed to be particularly useful for small and medium-sized enterprises with limited resources. The Authorities responsible for health, environment and safety in the workplace (the Labour Inspection Authority, the Environment Agency, the Directorate for Civil Protection, the Radiation and Nuclear Safety Authority, the Industrial Safety Organisation and the Directorate of Health) have information on their websites to make it easier for enterprises and persons to find relevant legislation.

(g) *Paragraph 7*

According to this paragraph, each Party is required to publish the facts and related analyses considered relevant and important in framing major environmental policy proposals, make accessible explanatory material on its dealings with the public in matters falling within the scope of the Convention, and provide information on the performance of public functions relating to the environment by public authorities.

Compliance with the provisions of this paragraph is largely ensured by following the Instructions for Official Studies and Reports, which applies to all governmental studies.

The resulting monitoring system for environmental policy and the development of national key figures and environmental indicators are also important in implementing this provision. Key figures and indicators use environmental data to provide information about different environmental trends. In addition, Statistics Norway draws up annual statistics on important natural resources and environmental issues;

(h) *Paragraph 8*

When the Environmental Information Act was adopted, amendments were also made to the Product Control Act. These entitle the general public to receive information directly from producers, importers, processors, distributors and users of products. This includes information on whether products contain components or have properties that may cause injury to health or environmental damage, what these properties are, and what significant injury to health or environmental disturbance is caused by production and distribution of the product. All information held by a public body on products must also be disclosed unless specific grounds for exemption apply.

There are several voluntary ecolabelling schemes, of which the Nordic Swan is in most widespread use. This scheme is run by a foundation. Proposals for criteria for licensing different product groups are drawn up by highly qualified experts, and public consultations are held on the proposals, which are also published on the Internet for comment;

~~As mentioned above a website has also been established at [www.erdetfarlig.no](http://www.erdetfarlig.no), providing consumers with information on chemicals in consumer products, advise on which products to chose, as well as how to dispose of the products.~~

(i) *Paragraph 9*

Norway has for many years had a system for reporting on emissions and waste. Information on emissions and waste generated by individual companies may be found at [www.norskeutslipp.no](http://www.norskeutslipp.no)

**XII. Obstacles encountered in the implementation of article 5.**

No specific obstacles have been encountered.

**XIII. Further information on the practical application of the provisions of article 5.**

~~The reader is referred to the general text above. The Institute of Marine Research commented in their consultative statement upon Section 8 of the Environmental Information Act, which implements Article 5. In their view, there is insufficient information available to assess cumulative environmental effects across sectors on biodiversity in and the status of marine ecosystems. This assessment is among the main products of the Norwegian Management plans for marine areas. They underline the importance of assessing cumulative enviromental effects on coastal ecosystems, where both diversity and intensity in use is more extensive than in marine areas. They call for more detailed information about the extent, timing and position of factors impacting upon the ecosystems, in particular seismic surveys and fisheries.~~

~~The environmental organisation Sabima is of the opinion that there is insufficient data and reporting on the population of species, habitat types and environmental status at the municipal level. According to Sabima, Norwegian nature has not been sufficiently mapped out and that the knowledge has not been systemized. They are of the opinion that far more public resources must be invested in systems for collecting data.~~

~~Work to improve the knowledge base for planning is continuously ongoing. This will improve possibilities for following the development and reporting on plans and activities that concern important habitat types in the long run.~~

**XIV. Web site addresses relevant to the implementation of article 5:**

<https://lovdata.no/dokument/NLE/lov/1814-05-17?q=Constitution>  
<https://www.regjeringen.no/en/dokumenter/pollution-control-act/id171893/>  
<https://lovdata.no/dokument/NLE/lov/1967-02-10>  
<https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/>  
<https://www.regjeringen.no/en/dokumenter/regulations-on-impact-assessments/id2573435/>  
[https://dfo.no/filer/Fagomr%C3%A5der/Utredningsinstruksen/Guidance\\_Notes\\_on\\_the\\_Instructi](https://dfo.no/filer/Fagomr%C3%A5der/Utredningsinstruksen/Guidance_Notes_on_the_Instructi)

[ons\\_for\\_Official\\_Studies.pdf](#)  
<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>  
<https://www.regjeringen.no/en/dep/kld/id668/>  
[https://www.regjeringen.no/contentassets/db9bf2bf10594ab88a470db40da0d10f/en-gb/pdfs/digital\\_strategy.pdf](https://www.regjeringen.no/contentassets/db9bf2bf10594ab88a470db40da0d10f/en-gb/pdfs/digital_strategy.pdf)  
<https://www.dsb.no/menyartikler/english/>  
<https://www.miljoklagenemnda.no/>  
<http://www.environment.no/>  
<http://www.norskeutslipp.no>  
<https://www.regjeringen.no/en/dep/kld/id668/>  
[Norwegian Environment Agency - Norwegian Environment Agency](#)  
<http://www.riksantikvaren.no/en/>  
<https://www.geonorge.no/>  
<https://www.mareano.no/en>  
<http://www.ssb.no/en/natur-og-miljo>  
[http://lovdata.no/info/information\\_in\\_english](http://lovdata.no/info/information_in_english)  
[www.luftkvalitet.info](http://www.luftkvalitet.info)  
[www.regelhjelp.no](http://www.regelhjelp.no)  
[www.naturbase.no](http://www.naturbase.no)  
[www.kulturminnesok.no](http://www.kulturminnesok.no)  
<https://www.miljodirektoratet.no/ansvarsomrader/kjemikalier/regelverk/deklarering-av-kjemikalier/>  
<https://www.biodiversity.no/>  
[www.byggogbevar.no](http://www.byggogbevar.no)  
<https://www.regjeringen.no/no/dokumenter/retningslinjer-ved-tilgjengeliggjoring-av-offentlige-data/id2536870/>  
<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32003L0098>  
<http://data.npolar.no>  
<https://www.npolar.no/en/maps/>  
<http://www.barentsportal.com/barentsportal/>  
<http://www.mosj.no/en/>  
[The Norwegian Labour Inspection Authority \(arbeidstilsynet.no\)](#)  
[About DSB | Direktoratet for samfunnssikkerhet og beredskap](#)  
[Norwegian Radiation and Nuclear Safety Authority \(dsa.no\)](#)  
[English - Næringslivets sikkerhetsorganisasjon \(nso.no\)](#)  
[English - Helsedirektoratet](#)  
[Norwegian Environment Agency - Norwegian Environment Agency](#)  
[EBAS \(nilu.no\)](#)  
[www.eco-lighthouse.org \(eco-lighthouse.org\)](http://www.eco-lighthouse.org (eco-lighthouse.org))  
<http://www.nordic-ecolabel.org/>  
<https://ec.europa.eu/environment/ecolabel/>  
<http://piib.no/>

## ARTICLE 6

*XV. Legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.*

Article 112 of the Constitution entitles the public to information about measures that have been planned or commenced, and thus lays down the principle that the environmental impacts of projects should be assessed in advance. The phrase “the public” is interpreted broadly.

Article 6 of the Convention is essentially implemented through the provisions of the [Public Administration Act](#) that lay down a general requirement to notify and inform the parties to a case, the provisions on environmental impact assessment in the [Planning and Building Act](#), the [Act relating to petroleum activities](#) and the appurtenant [Petroleum Regulations](#), the provisions in the [Svalbard Environmental Protection Act](#) and the appurtenant [Regulation on environmental assessments and delimitation of the land use planning areas in Svalbard](#), and the provisions on permits in the [Pollution Control Act](#) and the appurtenant Pollution Regulations. There are also provisions on public participation in connection with the establishment of protected areas under the [Nature Diversity Act](#) and the [Svalbard Environmental Protection Act](#), protection under the [Cultural Heritage Act](#) and applications for licences for electrical installations under the Energy Act and measures pursuant to the [Water Resources Act](#) and [Act relating to Regulation of Water Courses](#), which partly refer to the Planning and Building Act and the Pollution Control Act, partly supplement these Acts. The development of plans pursuant to the Planning and Building Act shall be publicly announced, and participation shall be provided for. In the event of procedural errors, the decision may be appealed pursuant to the Public Administration Act.

(a)-(j) *Paragraphs 1 to 10*

Most of the activities to which article 6 of the Convention applies come within the scope of the provisions on environmental impact assessment in the Planning and Building Act, and require a permit pursuant to the Pollution Control Act [and its Pollution Regulations](#), and permit and impact assessment pursuant to the Svalbard Environmental Protection Act [and its Regulations on impact assessment](#). ~~These provisions Both the environmental impact assessment (EIA) provisions in the Planning and Building Act and the rules of procedure in the Pollution Control Act and Pollution Regulations~~ comply with the requirements of the Convention on public participation.

~~ECU Directive 2010/75/EU 2008/1/EC of 24 September 1996 concerning integrated pollution prevention (IPPC) industrial emissions~~ and Directive 2011/92/EU of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment have both been incorporated into the European Environment Agency (EEA) Agreement and have been implemented in Norwegian law. Thus, the activities listed in annex I to the Convention are explicitly listed in the law. ~~The IPPC Directive and some other Directives were replaced by Directive 2010/75/EU on industrial emissions. The implementation of this new Directive would require some amendments in Norwegian legislation.~~ Directive 2003/35/EC on public participation [has also been incorporated into the EEA Agreement and](#) is considered to be in accordance with Norwegian legislation.

As mentioned earlier, it is an offence to cause pollution unless an enterprise has a discharge permit issued by the pollution control authorities or the pollution is permitted pursuant to law or regulations. Chapter 36 of the Pollution Regulations [\(not available in English\)](#) deals with procedures for issuing discharge permits. It requires the authorities to ensure that the public have an opportunity to express their opinions on applications. It also states that prior notification of a proposal must give an account of what the proposal involves and contain any other information necessary to enable those who receive the notification to submit comments on the case. The

parties, public bodies and authorities, and organizations representing relevant public interests shall be notified directly before a decision is made and be given an opportunity to make their opinions known within a specified deadline ([sections 36-6 and 36-7](#)). If the application concerns an activity listed in Appendix I to Chapter 36 of the Pollution Regulations (see annex I of the [IPPC-Industrial Emissions Directive](#)) and in other cases of importance for an indeterminate number of people, the Ministry shall, before making a decision, give the general public an opportunity to express an opinion within a time limit that should not normally be shorter than four weeks. A public hearing may be dispensed with in accordance with section 36-~~79~~, second paragraph, *litra a and b*, of the Pollution Regulations [if issuing a permit is urgent for environmental reasons, if a permit is required to solve an acute problem or weighty social needs, or](#) if the decision will only have a minor impact on the environment.

A notification must be published in a way that is suitable for drawing public attention to the matter, and the documents in the case have to be made available. The costs of this are to be paid by the person who is applying for or who holds a permit. The Norwegian Environment Agency regularly posts notifications on its website. Any comments received are public. It is not unusual for either the recipient or the sender to publishes such answers on the Internet in addition. Decisions on applications shall make it clear how the comments received were evaluated and how much weight was attached to them (~~According to~~ [section 36-147 first paragraph litra d](#)). [According to section 36-18](#), the pollution control authorities shall publish their decisions.

Article 6, para. 10, which requires that the general public be given opportunities for participation when licences and permits are reconsidered or updated, has been implemented through section ~~47-26~~ of the Impact Assessment Regulations of ~~2009 no. 855~~[21 June 2017 No 854 \(not available in English\)](#). The Pollution Control Act and the Pollution Regulations also implement this provision. Section 36-1 of the Pollution Regulations makes it clear that the provisions also apply to the alteration of permits. A public hearing may be dispensed with in accordance with section 36-~~79~~, second paragraph, *litra a and b*, of the Pollution Regulations [if issuing a permit is urgent for environmental reasons, if a permit is required to solve an acute problem or weighty social needs, or](#) if the decision will only have a minor impact on the environment;

#### **XVI.           Obstacles encountered in the implementation of article 6.**

No specific obstacles have been encountered.

#### **XVII.           Further information on the practical application of the provisions of article 6.**

~~The reader is referred to the general text above.~~

[NOAH – an organisation working for the protection of the rights of animals - express the opinion in their consultative statement that Section 18, third paragraph of the Nature Diversity Act and Sections 23 and 35 of the Game Act, by stating that exceptions from strong protection of endangered species or otherwise forbidden hunting methods are not individual decisions subject to appeals, hinder the public from contesting the exceptions and are therefore not in line with the Aarhus Convention.](#)

[These exceptions are only applicable to the implementation of removal of wildlife, salmonides and freshwater fish by the competent authority on its own initiative and for specific purposes pursuant to Section 18 paragraph 3 of the Nature Diversity Act. It follows from the Public](#)

Administration Act that such decisions by the authorities are not individual decisions subject to appeal. The provisions in the Nature Diversity Act and the Game Act are only meant to clarify this. The definition of individual decisions in the Public Administration Act is inter alia based on an assessment of where legal safeguards in administrative procedures are most needed. Particular considerations are applicable in the environmental field. Decisions with environmental impacts may be of importance for many people even though they are not decisive for the rights and obligations of anyone. The question of how to protect the need for legal safeguards in the field of environment in the best possible way is a concern in administrative procedures in this field in general and not in the field of game management in particular.

**XVIII. Web site addresses relevant to the implementation of article 6:**

<https://lovdata.no/dokument/NLE/lov/1967-02-10>  
<https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/>  
<https://www.regjeringen.no/en/dokumenter/nature-diversity-act/id570549/>  
<https://lovdata.no/dokument/NLE/lov/1978-06-09-50>  
<https://www.regjeringen.no/en/dokumenter/pollution-control-act/id171893/>  
<https://lovdata.no/dokument/NL/lov/1981-03-13-6> (no updated version available in English)  
<https://www.regjeringen.no/en/dokumenter/svalbard-environmental-protection-act/id173945/>  
<https://www.regjeringen.no/en/dokumenter/regulations-relating-to-environmental-im/id512069/>  
<https://www.regjeringen.no/en/dokumenter/pollution-control-act/id171893/>  
<https://www.npd.no/en/regulations/acts/act-29-november-1996-no2.-72-relating-to-petroleum-activities/>  
<https://www.npd.no/en/regulations/regulations/petroleum-activities/>  
[https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act\\_no\\_82\\_of\\_24\\_november\\_2000.pdf](https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act_no_82_of_24_november_2000.pdf)  
[https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act\\_no\\_17-of\\_14\\_december\\_1917.pdf](https://www.regjeringen.no/globalassets/upload/oed/vedlegg/lover-og-reglement/act_no_17-of_14_december_1917.pdf)

**ARTICLE 7**

**XIX-XX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes and opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7..**

The Planning and Building Act lays down that the public must be involved in decision-making processes for plans to which the Act applies. Section 5.1 and 5.2 of the Act requires the planning authorities to actively provide information and accommodate at an early stage of the planning process, and to give individuals and groups the opportunity to play an active part in the planning process. The Act and national guidelines for children and youth in planning processes (not available in English), especially emphasizes the need to accommodate information to and participation of these groups as stakeholders and representatives of the sustainability perspective. Updated guidance on the participation of these groups in planning and building processes is available (not in English). The regional and local councils for elderly people, ~~and~~ people with disabilities and youth established pursuant to Section 5-12 of the Local Government Act (no updated version in English) have the right to express their views on matters concerning the



~~groups they represent provide their right to participate in public decisionmaking procedures to safeguard their interests directly.~~ Central government plans, municipal master plans and local development plans shall as a general rule be subjected to two thorough public hearings, once at the beginning of the process and then again when a draft plan has been proposed. The same requirements apply pursuant to Section 50 of the [Svalbard Environment Act](#). The provision on accommodating participation applies to anyone who proposes plans, whether public organs or private entities or persons.

As regards plans under the Planning and Building Act with substantial consequences for the environment, directive 2001/42/EC is applicable. The directive has been made part of the EEA-Agreement, and has been incorporated in Norwegian law through the provisions on environmental impact assessment in the Planning and Building Act in combination with provisions in the regulation relating to environmental impact assessment.

In addition to binding plans for land-use planning purposes under the Planning and Building Act, there are many other programmes and general decisions that can determine the framework and terms for later individual decisions. The [Instructions for Official Studies and Reports](#) laid down by the government apply to work carried out by or commissioned by central government agencies. To ensure that public participation is also possible in decision-making processes concerning more strategic programmes relating to the environment, this principle has been incorporated into section 20 of the [Environmental Information Act](#). The phrase “plans and programmes” includes everything from municipal land-use plans and cultural heritage plans to national action plans for specific sectors. The plans need not have legally binding effect. The provision applies to national, county and municipal authorities.

According to subsection 1 of Section 20 of the Environmental Information Act, administrative agencies shall, in connection with the preparation of plans and programmes relating to the environment, make provision for participation by the public in these processes and ensure that there are real opportunities to influence the decisions that are made. One way of complying with this requirement is to hold meetings to brief the public concerned. Another is to provide relevant information on the Internet. Information must be provided at a stage when there is still a real opportunity to influence the decisions that are made, i.e. as a general rule, early in the process. The time limits set must give organizations sufficient time to familiarize themselves with the subject matter and discuss the matter internally. The environmental impact of plans and programmes need not be significant for the provision to be applicable (see the use of the phrase “relating to the environment”). The term “environment” is intended to cover at least the same scope as in Article 2 (3) (a) of the Convention.

In the case of plans or programmes that may have a significant impact on the environment, subsection 2 of section 20 of the Environmental Information Act lays down that as a general rule, a public hearing shall be held well before a final decision is taken. It was considered logical to impose stricter requirements for plans or programmes that will have a more serious environmental impact. An assessment of whether a proposal will have a significant impact must be made on a case-to-case basis. If the proposal involves pollution, waste, energy, resource use, land use, transport or noise, the impact will generally be considered to be significant. An account of the environmental impact of the proposal shall be available at the hearing. In special cases, a public hearing may be dispensed of, see section 20, subsection 2.

Decisions taken on proposals to which this section applies must be made public. The grounds for a decision must make it clear how the requirements of the section have been met and how comments and other input from the public have been evaluated.

The provisions of section 20 of the Environmental Information Act do not limit the right to public participation in decision-making processes pursuant to other legislation.

**XXI. Obstacles encountered in the implementation of article 7.**

No specific obstacles have been encountered.

**XXII. Further information on the practical application of the provisions of article 7.**

National guidelines operationalizing procedures and possibilities set out in the Planning and Building Act have been developed. Among these are guidelines on children and youth in planning, registration of children's paths (by Norsk form and Statens kartverk) and guidelines on participation in planning (also in English).

The development of methods and tools for contribution and participation in planning pursuant to the Planning and Building Act promotes the practical implementation of Article 7. The Act and its sustainability perspective provides a framework for interplay between society and environment based on several dimensions of development such as health and quality of life. The authorities responsible for health cooperates with authorities responsible for transport, environment and planning respectively, and municipalities selected as pilots for an effort concerning local environment, which tries out methods for an improved knowledge based decisionmaking foundation in planning. Digital and map-based registration methods have also been developed. They focus on different behaviour in different areas as basis for decision inter alia in planning of environment friendly behaviour.

The environmental organisation Sabima is critical to the proposed changes in the Planning and Building Act and central planning guidelines for differentiated management of the coastal zone along the seaside. In their opinion, should these proposed changes be adopted, they will limit the planning processes and public participation in the development of decision impacting upon the environment, while making it easier for the municipalities to give dispensations for activities.

The requirements for municipal master plans and zoning plans follow from Sections 11-1 and 12-1. These requirements also apply to coastal zones, regardless of central planning guidelines. In the proposal for revised planning guidelines that was submitted to public hearing on the 5<sup>th</sup> of June 2020, it is stated in chapter 6 which applies to all zones, that the municipalities are obliged to actively clarify land use in the coastal zone through planning. The proposal for revised guideles is not considered to impact upon Norway's compliance with its obligations under the Aarhus Convention.

NOAH – an organisation working for the protection of the rights of animals - criticizes the transfer in January 2018 of the responsibilities for management of wildlife species that may be hunted from the Ministry of Climate and Environment to the Ministry of Agriculture and Food. They argue that the transfer without prior consultation or notification to environmental organisations or the general public has led to privileged participation by economically motivated

groups such as farmers, hunters and land owners in the development and implementation of policies in this field. They mention the development of two action plans as examples; *The action plan for commercial development on the basis of wildlife species that may be harvested* and *The action plan against wild boar 2020-2024*, and call for guidelines for the development of such plans and programmes.

The Action plan for commercial development on the basis of wildlife species that may be harvested was developed by a working group as an input to agriculture negotiations. The content of the document is primarily a description of possibilities for commercial development and is not considered as a plan as described in Article 7 of the Convention. The Action plan against wild boar 2020-2024 was developed by the Norwegian Environment Agency and the Norwegian Food Safety Authority, in collaboration with invited NGO's. NGO's representing specific animal interest was not represented. The Action plan against wild boar 2020-2024 has not been submitted to public hearing or otherwise made accessible for input from the public. However, the legal measures mentioned in the Action plan has been or will be subject to public hearing. The Ministry of Agriculture and Food will pay increased attention to the Environmental Information Act and the Aarhus Convention.

**XXIII. Web site addresses relevant to the implementation of article 7:**

[https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/Regulations concerning impact assessments](https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/Regulations%20concerning%20impact%20assessments) (not available in English)  
<https://www.regjeringen.no/en/dokumenter/svalbard-environmental-protection-act/id173945/>  
<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>  
[https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance Notes on the Instructions for Official Studies.pdf](https://dfo.no/filer/Fagomr%C3%A5der/Utrekningsinstruksen/Guidance%20Notes%20on%20the%20Instructions%20for%20Official%20Studies.pdf)  
(not available in English)  
[Guidelines for registration of children's paths](#) (not available in English)  
(not available in English)  
[Participation in planning](#) (not available in English)

Field Code Changed

**ARTICLE 8**

**XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to Article 8.**

Norway has a long tradition of encouraging public participation in the preparation of legislation and of taking into account the comments that are received. Chapter VII of the [Public Administration Act](#) contains provisions on the procedures to be followed in the preparation of regulations. Section 37 lays down a general requirement for administrative agencies to clarify a case as thoroughly as possible before a decision is made, and the second paragraph of this section requires public consultation. This provision requires that public and private institutions and organizations that the regulations concern or whose interests are particularly affected shall be given an opportunity to express their opinions. Opinions should also be obtained from others to the extent necessary to clarify all aspects of the case. These provisions are intended to ensure that decisions are taken on the best possible basis, and that all those whose interests are affected

by the regulations have an opportunity to express an opinion and to have this taken into account when the legislation is drawn up. Section 38 of the Public Administration Act lays down that regulations must be published in the Norwegian Law Gazette, and they are also published electronically on [Lovdata's website](#). The [Instructions for Official Studies and Reports](#) contain more detailed rules on the preparation of acts and regulations and procedures for public consultation. According to these rules, the time limit for public consultation should not normally be less than three months. This is to ensure that as many people as possible are given the time and opportunity to prepare their comments on draft legislation.

If major changes in the legislation are being considered, a committee is often appointed to review various options and their consequences, and to propose new legislation on the basis of its review. Each committee is made up of experts drawn from the public authorities, NGOs and other bodies with the necessary expertise. It produces a report (in the series Official Norwegian Reports), and the relevant ministry organises a public consultation process.

Section 20 of the [Environmental Information Act](#), discussed above under the implementation of article 7, applies to the preparation of legislation as well as to plans and programmes. Please see the previous section.

**XXV. Obstacles encountered in the implementation of article 8.**

No specific obstacles have been encountered.

**XXVI. Further information on the practical application of the provisions of article 8**

The reader is referred to the general text above.

**XXVII. Web site addresses relevant to the implementation of article 8:**

<https://lovdata.no/dokument/NLE/lov/1967-02-10>  
[https://lovdata.no/info/information\\_in\\_english](https://lovdata.no/info/information_in_english)~~No additional websites~~  
[https://dfo.no/filer/Fagomr%C3%A5der/Utreddningsinstruksen/Guidance\\_Notes\\_on\\_the\\_Instructions\\_for\\_Official\\_Studies.pdf](https://dfo.no/filer/Fagomr%C3%A5der/Utreddningsinstruksen/Guidance_Notes_on_the_Instructions_for_Official_Studies.pdf)  
<https://www.regjeringen.no/en/dokumenter/environmental-information-act/id173247/>

**ARTICLE 9**

**XXVII. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.**

**(a)-(b) Paragraphs 1 and 2**

Disputes relating to access to environmental information pursuant to the [Environmental Information Act](#) and the right to public participation pursuant to Chapter 5 of the Act can be brought before the ordinary courts under the [Civil Procedure Act \(Act of 17. June 2006 No. 90\)](#). The court will determine whether the decision is valid. In such cases, the public authority as such is the defendant, not the individual employee. However, in very rare cases an individual

employee may be taken to court in a case where access to environmental information has incorrectly been refused. In addition, such matters come within the sphere of authority of the [Ombudsman for Public Administration pursuant to the Act of 22 June 1962](#). The Ombudsman system represent “another independent and impartial body established by law”. The Ombudsman’s opinions are made in writing. In all but the fewest of cases, the public authorities act in accordance with his conclusions even though they are not binding. Anyone may file a complaint to the Ombudsman over a refusal of a request for information. This must be done within a year after the decision of the public administration has been made. The Ombudsman system is free of charge. These arrangements ensure that article 9, paras. 1 and 2 are implemented in the legislation.

A decision by the Appeals Board of Environmental Information ([website not available in English](#)) on the right to information from undertakings may also be brought to court. The losing party risks having to bear both their own legal expenses and those of their counterpart.

(c) *Paragraph 3*

This paragraph must also be considered to be implemented through the ordinary administrative appeals system and courts system under the law. The paragraph leaves it to national law to determine the criteria for the right to bring civil action and the right of appeal. According to the law, an organization that is an independent legal entity can act as a party in cases brought before the courts if it can show that it has an actual need to have its claim settled, cf. section 1-3 second paragraph of the Civil Procedure Act. Thus, the established environmental organizations normally have the capacity to be a party to a case. In addition, the party must have a legal interest in the matter, see section 54 of the Civil Procedure Act. This means that the lawsuit must deal with a matter that comes within the scope of the organization’s objectives or of its operations in practice. Furthermore, the membership of the organization must make it a natural representative of the environmental interests the lawsuit is intended to safeguard;

(d)-(e) *Paragraphs 4 and 5*

Article 9, paras. 4 and 5, have been implemented through the ordinary law of procedure. When the Environmental Information Act was adopted, amendments were also made to sections 3-5 and 15-6 of the Enforcement Act to satisfy the Convention’s requirement that procedures to which Article 9 applies must not be “prohibitively expensive”. These provisions were repealed 1 January 2008 and replaced with respectively sections 32-11 and 34-2 of the Civil Procedure Act. Normally, a claimant is liable for damages if interim measures are granted under the Enforcement Act and it later proves that the claimant’s claim was not valid when the application for interim measures was granted. For example, this would be the case if a company had later reduced its emissions in accordance with the currently applicable discharge permit. The principle of strict liability applies, which means that the claimant may be liable to pay damages even if he acted in good faith, and substantial sums of money may be involved. The amendment to section 3-5 provided that in cases relating to the environment, a claimant may only be ordered to pay damages if he knew or should have known that his claim was not valid when his application for interim measures was granted. Similarly, section 15-6 was amended so that in cases relating to the environment, the claimant cannot be ordered to provide security to cover his possible liability for damages if interim measures are granted after oral proceedings and the claim has been shown to be probable. These amendments, now found in sections 32-11 and 34-2 of the Civil Procedure Act, ensure that procedures under article 9 of the Convention are not prohibitively expensive.

Bringing a case to court always involves costs, which will depend on the legal procedure involved and the time a case is expected to take. The simplest procedure in the Norwegian legal system is to use a conciliation board (*forliksrådet* – [website not available in English](#)), where parties seek to reach a settlement. As a main rule, the conciliation board does not settle disputes where the public administration is one of the parties. Taking a case to a conciliation board costs NOK 1025. If a case is not resolved through a conciliation board or is brought directly to a district court, the standard court fee is NOK 5125 for a main hearing that is stipulated to last for one day. It is only in special cases that a main hearing is stipulated to last for more than one day. In addition to the court fee, costs may be awarded in the case, for example for legal assistance and other expenses for all parties.

## **XXVIII. Obstacles encountered in the implementation of article 9.**

8 of the organisations that have submitted comments in the public hearing of the draft report raise doubt about whether Article 9 has been sufficiently implemented (Advokatforeningen, Foreningen Grunnloven § 112, International Commission of Jurists Norge, Norges institusjon for menneskerettigheter, Norsk Friluftsliv, Norsk Presseforbund, Norsk Redaktørforening, Norsk Journalistlag NOAH – for dyrs rettigheter and Sabima). Seven of them refer to legal costs and the risk of being sentenced to cover the legal costs of the opponent as the main reason, and some of them call for a more accurate description of the real legal costs, including attorney's fees and the total amount of court fees in cases lasting more than one day, which often is the case for environmental cases. Several of them refer to the fact that few environmental cases are brought to court and that the legal costs may be a contributing factor. One of them suggests that the authorities should consider the relationship between the rules applicable to legal costs in cases concerning climate and the environment and the obligations of the Aarhus Convention. Four of them opines that the establishment of an independent appeals board or a tribunal for cases concerning the environment should be considered. The UN Special Rapporteur on human rights and the environment recommended to consider this in the report from his country visit to Norway in 2019. Two of them refer to the processing time for court cases as a challenge, and one of them calls for statistics concerning the processing time and number of cases concerning the environment in the courts of first instance, the appellate courts and the Supreme Court. Three of them raise doubts about whether the Parliamentary Ombudsman satisfy the requirements of Article 9. One of them calls for similar statistics for cases brought to the Parliamentary Ombudsman and for information about whether the opinion of the Ombudsman are being followed in all cases concerning the environment. In three of the comments doubt is being raised as to whether the system of administrative complaints ensures that the administrative body handling an appeal is sufficiently independent from the administrative body that has taken the decision subject to the appeal.

Three of the comments received from organisations within media, environment and outdoor recreation to the draft implementation report point out that access to justice is hampered by legal expenses and lack of binding effect of the opinions of the Parliamentary Ombudsman. They claim that this is contrary to the obligations of the Convention. One of the comments points out that most cases within the environmental field are finally decided within the organs of public administration, claiming that the administrative appeals system is not sufficiently independent. It is pointed out that only 0,5 % of the cases brought before the courts during the period between 1996–2005 concerned environmental issues. It is suggested that an expert committee is

established to consider the introduction and organisation of a nature and environment appeals board as broadly described in the comment, or other similar solutions.

One of them claims that the Ministry of Climate and Environment regularly declines requests for postponement of decisions to licensed hunting of wolves, and that this makes it impossible to request an interim court order, which in their opinion breaches the obligations in Article 9.

One of the ~~other~~ comments points to the risk of having to pay legal costs if a decision of the Appeals Board for environmental cases, which handles complaints against rejection of requests for information from an enterprise, are challenged in court. It has previously been suggested ~~argues~~ that the Regulations on the Appeals Board for environmental information of 2003 nr. 1572 § 10 should be changed to avoid that legal expenses hampers justice. It is proposed to make the Appeals Board for environmental information the legal counterpart in cases where an undertaking contests a decision finding for the claimant's right of access to information. ~~It is argued that in some cases where the Board have found in favour of those requesting information the undertaking has refused to provide access and the claimant has not been able to enforce his claim due to legal expenses.~~

The level of legal costs in Norwegian courts is high and has increased quite significantly in the last years. This is a development that the Ministry of Justice and Public Security is following, and that was considered in the report from the commission appointed by the Government to consider the status and development of the courts in Norway (Domstolskommissjonen; NOU 2020:11 Den tredje statsmakt – Domstolene i endring). The commission points out that the high level of legal costs is particularly worrisome with regard to access to court. It recommends that a commission is being appointed to consider measures to reduce the increase of legal costs (see point 24.4 of the report). It has not yet been decided how to address the findings and recommendations in the report. Should a commission be appointed, it is presumed that the impact of legal costs on cases concerning the environment and the relationship to the Aarhus Convention will also be considered. There are nevertheless not sufficient basis for concluding that the level of costs in cases concerning the environment is prohibitively expensive and hinders the implementation of Article 9. Even though the main rule in the first paragraph of Section 20-2 of the Act relating to mediation and procedure in civil disputes (the Dispute Act) is that the losing party pays the legal costs of the successful party, the court can make exceptions in whole or in part if it finds that compelling grounds justify exemption. This follows from the third paragraph of Section 20-2, which also contains a non-exhaustive lists factors that the court shall take into account in this regard. Environmental cases may concern fundamental questions of general interest. In some cases it may also be in the interest of the government to have it decided by a court. These are distinctive features of environmental cases that are relevant to the consideration of whether there are compelling grounds for exempting a losing party from the obligation to pay the legal costs of the successful party. The importance of courts controlling the administration is also a relevant factor in environmental cases. The judgement of Borgarting Court of Appeals in the so-called climate case is one example of the application of the exception in the third paragraph of Section 20-2 of the Dispute Act (LB-2018-60499). The provision provides the courts with a flexible and appropriate legal framework for reasonable decisions on legal costs in environmental cases. It follows from Section 1-2 of the Dispute Act that Article 9 of the Aarhus Convention would prevail if a court – contrary to expectations – should reach the conclusion that the provisions of the Dispute Act are not in conformity with the obligations under the Convention.

~~A similar proposal to consider the establishment of an nature and environment appeals board or tribunal have been considered by Stortinget (the Parliament) in 2016 and 2019. Stortinget supported the Government's opinion, as expressed by the Minister of Climate and Environment in his letter to Stortinget 13 May 2019, that the system of administrative appeal within the authorities and the access for individuals and organisations to regular courts is sufficient also in cases concerning climate and environment, was introduced in connection with consideration by the parliament of the whitepaper 14 (2015-2016) on a Norwegian action plan for nature diversity, but did not receive sufficient support.~~

The parliament received a report from the Ombudsman recently concerning a case where a ministry did not follow its opinion (Dokument 4:2 (2015-2016) ~~– not available in English~~).

**XXIX. Provide further information on the practical application of the provisions of article 9.**

No further information.

**XXX. Web site addresses relevant to the implementation of article 9:**

<http://www.regjeringen.no/en/doc/laws/Acts/environmental-information-act.html?id=173247>  
<https://lovdata.no/dokument/NLE/lov/2006-05-19-16>  
<https://lovdata.no/dokument/NLE/lov/2005-06-17-90>  
<https://www.sivilombudsmannen.no/en/>  
<https://lovdata.no/dokument/NLE/lov/1962-06-22-8>

**XXXI. General comments on the Convention's objective.**

No comments.

**ARTICLE 6bis AND ANNEX I bis**

**XXXII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6bis and annex I bis.**

*Introduction*

Public participation and effective access to information as regards the deliberate release into the environment and placing on the market of genetically modified organisms is regulated by the [Gene Technology Act](#) of April 32, 1993 no. 38, as well as the [Regulations on Impact Assessment](#) of December 16 2005 no. 1495. EU directive 2001/18/EC [on the deliberate release into the environment of genetically modified organisms has been incorporated into the EEA Agreement and the Directive](#) as well as the Cartagena Protocol [on biosafety](#) are implemented through the Gene Technology Act with regulations.

- a) Paragraph 1 of article 6 bis and paragraphs 1-8 of Annex I bis*  
*i) Implementation of article 6 bis and annex I bis paragraph 1*



According to section 13 of the Gene Technology Act, a public hearing shall always be conducted before approval is given for the release of genetically modified organisms (GMO) into the environment. This hearing must be carried out in a way that ensures that the general public, and particularly interest groups who will be affected, are given access to relevant information and a real opportunity to make their opinions known. A decision to hold a public consultation shall always be published.

*ii) Implementation of article 6 bis and annex I bis paragraph 2*

As noted, a public hearing must always be held if the release of GMO into the environment requires approval. According to section 10 of the Gene Technology Act, the release into the environment and placing on the market as defined in the Aarhus Convention always requires approval. There are therefore no exceptions to the duty to conduct public hearings.

*iii, iv, v) Implementation of article 6bis and annex I bis paragraph 3, 4 and 5*

According to section 13 of the Gene Technology Act, a public hearing shall ensure that the general public is given access to all relevant information, also procedural. The decision to hold a public hearing shall always be published. The decision is therefore always published on the website of the relevant public authority, together with all other relevant information. Letters containing this information are also generally sent to all parties considered affected by the decision. In addition, section 12 of the Gene Technology Act provides that the [Public-Freedom of Information Act](#) applies in full as regards the release of GMO into the environment. As previous chapters have demonstrated, the Public Information Act provides a right to all information included in annex I bis paragraph 3 and 5.

In addition the following information shall, according to section 12 of the Gene Technology Act, not be considered confidential and therefore always be available to the public:

- a. the description of the genetically modified organism, the user's name and address, the purpose of the use and the location of use
- b. methods and plans for monitoring and emergency response
- c. assessments of foreseeable effects.

This fully satisfies the requirements of paragraph 4 of annex I bis.

*vi) Implementation of article 6bis and annex I bis no. 6*

This is satisfied by the requirement to conduct a public hearing, see *i)* above.

*vii) Implementation of article 6bis and annex I bis no. 7*

According to state practice, all responses to a public hearing are submitted to the public authority making the decision. These responses are thoroughly examined and taken into account before a decision is made.

*viii) Implementation of article 6bis annex I bis no. 8*

All decisions regarding the deliberate release into the environment and placing on the market of genetically modified organisms are published on the website of the public authority having made the decision. In addition, the Gene Technology Act section 12 states that all decisions made are

subject to the conditions of the ~~Public-Freedom of~~ Information Act. The public therefore has a right to access all final decisions, as well as the terms upon which the decision was made.

*b) Article 6bis paragraph 2*

Section 9 of the Gene Technology Act incorporates import, export and transport in the definition of release into the environment of genetically modified organisms. This means that such actions are subject to the same requirements as regards public access and participation as other decisions under the Convention. In addition, there is also a Regulation on the Labeling, Transport, Import and Export of Genetically Modified Organisms of 2005 no. 1009 that ensures consistency with the objectives of the Cartagena Protocol.

**XXXIII. Obstacles encountered in the implementation of the provisions of article 6bis and annex I bis**

No obstacles have been encountered in the implementation of any of the paragraphs of article 6bis and annex I bis.

**XXXIV. Further information on the practical application of the provisions of article 6bis and annex I bis**

The Norwegian government does not hold specific statistics as regards public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms. Further, as there is a legal requirement to always conduct a public hearing in such cases, there will be no statistics as regards exceptions to this rule.

**XXXV. Website addresses relevant to the implementation of article 6bis**

<https://www.regjeringen.no/en/dokumenter/gene-technology-act/id173031/>  
<https://lovdata.no/dokument/NLE/lov/2006-05-19-16>  
<https://www.regjeringen.no/en/dokumenter/impact-assessment/id440455/>  
<http://www.regjeringen.no/en/dep/md/documents-and-publications/acts-and-regulations/regulations/2005/regulations-relating-to-the-labelling-tr.html?id=440383>

**XXXVII. Follow-up on issues of compliance**

No previous cases requiring ~~to~~ follow-up.