

**Format for the Aarhus Convention implementation
report in accordance with Decision IV/4
(ECE/MP.PP/2011/2/Add.1)**

**The following report is submitted on behalf of Belgium, Flemish
Region**

Name of officer responsible for
submitting the national report: SMAERS Marc

Signature:

Date: 26/01/2021

Implementation report

Please provide the following details on the origin of this report

Party: Belgium, Flemish Region

Responsible regional institution:

Full name of the institution: Flemish Authorities
Departement Omgeving (Environment
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I. Process by which the report has been prepared

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

Answer:

The Flemish partial report was prepared by the Environment Department on the basis of the report of 2016, through consultation with VMM, OVAM, VLM and the appeal body for open government.

Public consultation:

The Flemish draft report was made available on the Internet from 20 October to 24 November 2020 (<https://omgeving.vlaanderen.be/aarhus>). Everybody got the opportunity to submit written remarks.

No remarks were received.

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II. Particular circumstances relevant for understanding the report

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

Answer:

Flemish Parliament Acts have the same legal power as federal laws. Belgium is a federal state. See the answer in the federal report (www.health.fgov.be).

Abbreviations used:

B.S.: Belgian Official Gazette

BD: Governance Decree of 07.12.2018 (*B.S.*, 19.12.2018, err. *B.S.*, 11.01.2019), as amended by the decrees of 19.07.2019 (*B.S.*, 02.09.2019) and 19.06.2020 (*B.S.*, 08.07.2020)

DABM: Decreet Algemene Bepalingen Milieubeleid: Flemish Parliament Act of 5 April 1995 on the general provisions regarding environmental policy, (*B.S.*, 03.06.1995)

EIR: environmental impact report

OVD: Flemish Parliament Act of 25.04.2014 regarding environment permits (*B.S.*, 23.10.2014), *multiple amendments*

OVB: Government of Flanders Order of 27.11.2015 on the implementation of the decree of 25 April 2014 regarding environment permits (*B.S.*, 23.02.2016) *multiple amendments*

VMM: Vlaamse Milieumaatschappij (Flemish Environment Agency)

VLM: Vlaamse Landmaatschappij (Flemish Land Company)

INBO: Instituut voor Natuur- en Bosonderzoek (Research Institute for Nature and Forest Research)

SERV: Sociaal-Economische Raad van Vlaanderen (Flanders Social and -Economic Council)

Mina-Council: Milieu- en Natuurraad van Vlaanderen (Environment and Nature Council of Flanders)

OVAM: Openbare Vlaamse Afvalstoffenmaatschappij (Public Waste Agency of Flanders)
VCRO: Vlaamse Codex Ruimtelijke Ordening (Flemish Codex Spatial Planning)
SIP: Spatial Implementation Plans (RUP-Ruimtelijke Uitvoeringsplannen)

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

List legislative, regulatory and other measures that implement the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8, of the Convention.

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
 - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are ongoing;
 - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;
 - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party's delegation in international environmental negotiations, or involving NGOs in forming the Party's official position for such negotiations), including the stages at which access to information was provided;
 - (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;
 - (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed

Answer:

Paragraph 1 (cfr “*Guidance on reporting requirements*”): A report is drawn up annually on the appeals regarding public access to administrative documents (Art. 9.1 of the Convention).

(a): With respect to paragraph 2

The code of professional conduct of 6 July 2011, which applies to all Government of Flanders staff, describes the joint mission of all members of staff as follows: “*We seek to provide the best possible service to the people...*”. The principle of customer-friendly service provision implies among other things that all correspondence mentions the official’s name, position and address or a general telephone number or functional mailbox for the body or part thereof. In addition, it is explicitly stipulated that staff members are to assist customers in complying with administrative formalities and that they must refer them to the right person or department. This general obligation is explained in greater detail where it concerns obtaining access to environmental information (see the answer to the question regarding Article 5, paragraph 2 of the Convention).

A provision was also included in article II.6, second paragraph, of the Governance Decree, in which an explicit duty of assistance was created for all staff members of the Flemish government.

Opportunities for participation are announced in the public media. To that end, the Government of Flanders takes initiatives for digitisation and electronic data exchange. If citizens require any additional information regarding opportunities for participation, they can turn to the public authorities starting at the closest local level. In addition to this, the Flemish Region has a first line information service (telephone number 1700) which acts as a one-stop shop for any questions: the ‘*Vlaamse Infolijn*’ (Flemish Information Line).

There is an ongoing project to better organise information about participation. This project consists of three parts 1. Building a digital portal with information about participation at regional level in the Environment policy area; 2. Developing an information strategy - harmonising regulations on information about participation; 3. Drawing up types of texts that provide a clear explanation about participation. See also article 6 of the Convention.

(b): With respect to paragraph 3

Every public authority is under the obligation to inform the public about the rights given to the public with regard to access to information (Art. II.2 1st para BD).

The <https://www.vlaanderen.be/openbaarheid-van-bestuur> website contains in this respect a lot of useful information for the citizens, among other things an explanation to the legal framework, thematic information and the anonymized decisions of the appeal body.

From the evaluation of the previous decree on open government, it appears that additional efforts are necessary to inform members of the public in more a systematic way about their right to inspection of official documents.

Environmental education and environmental awareness in general.
Up till now, environmental education has not been laid down by Flemish Parliament

Act.

On 18 July 2003, the Government of Flanders adopted the “Nature and Environmental Education Programme” (NME) for an unlimited period of time.

Within the Environment Department, the PBM division (Partnerships with Authorities and Society) fulfils a catalyst role in the development of target group-oriented, participative and integrated nature- and environmental education. Sustainable development hereby forms the reference framework.

Nature- and environmental education is a part of the social instruments of the environmental policy. The 2011-2015 Environmental Policy Plan perpetuates the supporting and stimulating role of nature and environmental education in Flanders and stipulates further: “This happens in an experience-based, integrated and participative way. Thereby, the “Vlaams Implementatieplan Educatie voor Duurzame Ontwikkeling” (EDO – Flemish Implementation Plan on Education for Sustainable Development) is carried out. Both informal and non-formal learning (youth, adults, families) and formal education (MOS and Ecocampus) are dealt with. In this, the Flemish educational centres play an important role as knowledge and educational centres for nature and environment and testing grounds for innovative techniques.”

Through the atria the exchange of knowledge and involvement regarding environmental themes is stimulated. The atria network is an informal knowledge exchange network, where environmental officials, mandataries and general managers of local governments and provinces, inter-communal associations and umbrella organisations are in contact with each other across the levels of government.

The atria form a platform to co-create Flemish policy, among other things by identifying local initiatives that are relevant to the Flemish agenda, and by working on governance.

Within the Atrium Learning Network there are various consultation platforms, each with a specific goal and field of participants.

(c): With respect to paragraph 4

The following regulation applies in Flanders:

- Flemish Parliament Act of 29 April 1991 laying down the general rules for the recognition and subsidisation of environmental and nature associations, *B.S.*, 31.05.1991;
- Government of Flanders Order of 16 December 1992 laying down the conditions for recognition and criteria for the allocation of a subsidy to recognised associations active in the field of forestry, hunting or wildlife management, *B.S.*, 02.04.1993;
- Government of Flanders Order of 16 December 1992 implementing Articles 8, 9 and 10 of the Flemish Parliament Act of 29 April 1991 establishing the Environment and Nature Council of Flanders and laying down the general rules for the recognition and subsidisation of environmental and nature associations, *B.S.*, 27.05.1993;
- Government of Flanders Order of 10 October 2003 laying down special rules for the subsidisation of projects regarding sustainable nature and environmental policy, *B.S.*, 04.11.2003;
- Government of Flanders Order of 10 October 2003 laying down special rules for the recognition and subsidisation of environmental and nature associations, *B.S.*, 10.12.2003.
- Government of Flanders Order of 18 December 2015 laying down the recognition and subsidisation of environmental and nature associations, *B.S.*,

26.02.2016.

(d): With respect to paragraph 7

In the past, a survey was organised within the public services on the application of the PPIF-guidelines. The civil service coordination of the Flemish International environmental policy is conducted by a permanent body: the Flemish International Environmental Policy Consultation (VOIO) and for Belgium by the permanent Coordination Committee for International Environmental Policy (CCIM). Each time the EU Presidency rotates (January and July), an information meeting is organised at Flemish level through the MINA Council and the Liaison Agency Flanders-Europe (VLEVA) not-for-profit organisation, and at Belgian level through CCIM, with civil society organisations involved in environmental policy: professional federations, trade unions, environmental organisations, ... At the six-monthly CCIM- 'Stakeholder Dialogue', priority files for negotiation for the coming six months are further explained. Often, these cases are also discussed at separate consultation sessions among the competent civil servants and the community-based organisations that are most directly involved.

(e): With respect to paragraph 8

The principle of the right to freedom of speech, together with the right to protection of a healthy living environment is constitutionally embedded in Articles 19 and 23 respectively of the Co-ordinated Constitution.

Art. 19 reads as follows with regard to this matter: "*The freedom of worship, the free public practice thereof, as well as the freedom to express one's opinion in any field, are guaranteed, subject to the punishment of offences committed during the application of these freedoms*".

Art. 23 stipulates the following: "*Everyone has the right to a decent existence. This is guaranteed by the law, the decree or the rule referred to in Article 134, taking into account the corresponding obligations, the economic, social and cultural rights of which they lay down the terms for exercise.*

These rights include especially: (...) 4° the right to the protection of a healthy living environment (...)

See also the federal report (www.health.fgov.be)

IV. Obstacles encountered in the implementation of article 3

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.*

Answer:

V. Further information on the practical application of the general provisions of article 3

*Provide further information on the **practical application of the general provisions of article 3.***

Answer:

(a) With respect to paragraph 2
The principles of the Aarhus Convention, including the obligation of officials to provide guidance, were explained in great detail during various info sessions on the Convention organised with several public services.

(b): With respect to paragraph 3
The Convention is promoted on the internet, through the federal portal site www.aarhus.be.

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

www.aarhus.be

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

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO THE PASSIVE PUBLIC NATURE OF ENVIRONMENTAL INFORMATION

- Art. 32 of the Co-ordinated Constitution: "*Anyone has the right to consult each administrative document and receive a copy thereof, except in the cases and under the conditions laid down by the law, the Flemish Parliament Act or the rule referred to in Article 134*".
- Governance Decree of 07.12.2018 (B.S., 19.12.2018, err. B.S., 11.01.2019) amended by the decrees of 19.07.2019 (B.S., 02.09.2019) and 19.06.2020 (B.S., 08.07.2020).
- Government of Flanders Order of 19 July 2007 establishing the appeal body concerning open government and reuse of public information, (B.S., 05.11.2007), amended by the Government of Flanders Orders of 13 March 2015, (B.S., 01.04.2015), 16.09.2016 (B.S., 18.11.2016), 02.06.2017 (B.S., 13.07.2017), and 10.05.2019 (B.S., 01.08.2019).
- Government of Flanders Order regulating applications for public access for scientific purposes, as referred to in article II.38 of the Governance Decree of 7 December 2018 (B.S., 10/05/2019).
- Flemish Parliament Act of 20 February 2009 on spatial data infrastructure in Flanders, (B.S., 28.04.2009), amended by the Flemish Parliament Acts of 18.03.2016 (B.S., 02.06.2016), 23.12.2016 (B.S., 26.01.2017), 08.06.2018 (B.S., 26.06.2018) and 07.12.2018 (B.S., 19/12/2018).
- Government of Flanders Order of 10 September 2010 specifying further rules for access and reuse by the participants to the spatial data infrastructure (SDI) Flanders of geographic data sources and geographic services added to the SDI, B.S., 07.10.2010, amended by the Government of Flanders Orders of 02.10.2015 (B.S., 24.11.2015), 02.06.2017 (B.S., 13.07.2017) and 10.05.2019 (B.S., 01.08.2019).

The right to access to environmental information (and other information) is governed by the regulation on public access. The previous Flemish Parliament Act on open government of 26.03.2004, implementing international and European obligations, was integrated (and amended in a limited fashion) as of 01.01.2019 into the BD of 07.12.2018.

The rules regarding public access on request apply to all public bodies authorities within the Flemish Region, as well as to provinces as municipalities and institutions with a public service mission.

A Government of Flanders Order of 19 July 2007 governs the operation of the appeal body concerning open government.

II. APPLICATION OF THE NON-DISCRIMINATION REQUIREMENT

The principle of non-discrimination is constitutionally laid down in Art. 11 of the Co-ordinated Constitution, which reads as follows: "*The enjoyment of the rights and freedoms granted to the Belgian people must be guaranteed without discrimination. To this end, the law and the Flemish Parliament Act guarantee in particular the rights and freedoms of ideological and philosophical minorities*". The principle of non-discrimination is also present in Art. 32 of the Constitution as well as in the Parliament Act in which the right to access are guaranteed to everyone.

III. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

The BD contains the following relevant definitions relating to environmental information:

PUBLIC AUTHORITY (Art. II. 28 and I.3, 6th and 7th BD)

Article II.28

§ 1. Public access on request applies to the following public authorities:

- 1° the Government of Flanders;
- 2° the local authorities;
- 3° institutions with a public service mission, as far as their public service mission is concerned;
- 4° environmental authorities as regards their environmental responsibilities, functions, or services.

As regards institutions with a public service mission that meet the condition referred to in Article I.3, 6°, c), 1), but do not meet the conditions referred to in Article I.3, 6°, c), 2), or 3), this Chapter shall only apply to administrative documents relating to decisions that bind third parties.

§ 2. This chapter applies to the administrative documents in the possession of public authorities as referred to in paragraph 1, with the exception of:

- 1° the administrative documents of the Flemish Parliament and the institutions associated with it, which do not relate to public procurement or personnel matters;
- 2° the administrative documents of the Flemish administrative courts that relate to the exercise of the judicial function;
- 3° the administrative documents of other bodies with a judicial capacity, to the extent that the documents relate to the exercise of the judicial function.

Article I.3, 6°

6° institutions with a public service mission: institutions that do not belong to the Government of Flanders or to a local authority but that meet all of the following characteristics:

- a) they have been established with the specific purpose of meeting needs in the general interest which are not of an industrial or commercial nature;
- b) that have legal personality;
- c) 1) that receive more than half of their financing from the Government of Flanders, a local authority, or another institution with a public service mission;
- 2) or in which the Government of Flanders, a local authority or another institution with a public service mission holds more than half the votes on the Board of Directors;
- 3) or their management is supervised by the Government of Flanders, a local authority or another body with a public service mission.

ENVIRONMENTAL AUTHORITY (Art. I.3, 7°):

7° environmental authorities: natural persons, groups of natural persons, legal persons, or groups of legal persons, which do not belong to the Government of Flanders or a local authority, and which are not considered to be an institution with a public service mission as referred to in point 6°, but which meet each of the following conditions:

- a) they are under the supervision of the Government of Flanders, a local authority, or an institution with a public service mission;
- b) they exercise public responsibilities or functions, or provide public services, with respect to the environment;

ENVIRONMENTAL INFORMATION (Art. I.4, 11 BD):“information about:

- a) *the environment;*
- b) *measures and activities that lead or may lead to pressure on the environment,*

as well as the analyses and assessments thereof that are relevant for the measures and activities referred to in e);

c) the pressure the measures and activities referred to in b) place on the environment by means of the factors of environmental disruption such as pollution;

d) nature, buildings and areas of cultural importance, the health, safety and living conditions of the population and the impact on these, to the extent that these are or can be affected by the state of the environment, the measures and activities referred to in b), or the factors of disruption referred to in c);

e) measures and activities aimed at preserving, restoring or developing the environment and the elements referred to in d), or at preventing, limiting or compensating for pressures on the environment, as well as the analyses and assessments of such measures and activities;"

Note:

PUBLIC (CONCERNED):

This term is not defined in the BD.

Article II.31, first paragraph of the BD stipulates in this context: *The public authorities, referred to in article II.28, paragraph 1, must give anyone who requests it, access to the administrative documents he requires, by allowing him to inspect the documents, giving a copy of them or providing an explanation about them.*"

IV. IMPLEMENTATION OF ART. 4 OF THE AARHUS CONVENTION

(a) With respect to paragraph 1

"chapeau" (cfr. "Guidance on reporting requirements"): all applications for administrative documents must be registered. There is no difference between environmental information and other information. This will be reported randomly to the coordinating appeal body on open government.

- (i) the applicant is under no obligation to prove an interest. (Art. II.40, paragraph 3 DB); the only requisite is to provide his name and postal address, this is an admissibility condition;
- (ii) the applicant can choose whether he wishes to inspect the requested document, to receive an explanation about it, or to receive a copy of it. The public authority is obliged to respect this choice (Art. II.31, first paragraph BD);
- (iii) if the administrative document is available in the form requested, or can reasonably be made available, the authority in question will provide the administrative document in the form requested. If this is not the case, the authority must inform the applicant in its decision in what form or forms the document is available or reasonably can be made so (Art. II.45, first paragraph BD).

(b) With respect to paragraph 2

Applications are replied to as soon as possible and at the latest within twenty calendar days, in writing, by e-mail or, in applicable cases, by webform (applicable both for refusals as for positive decisions) and executed. This term can be extended by twenty calendar days if the information requested is difficult to collect in a timely fashion, or if the verification of the grounds for exemption is difficult to complete in time. (Art. II.43 and 44 BD). When this term is exceeded, the applicant has the right to lodge an appeal (Art. II.48, §1, paragraph 2 BD).

In the case of environmental information, the applicant can propose a shorter term; if the environmental information cannot be made available within this period, the environmental authority must state reasons as to why it cannot do so (Art. II.40, §4 and II.45 §3 BD).

(c) With respect to paragraphs 3 and 4

(i) The grounds for refusal are listed in Articles II.33 and II.36 to II.39 BD, quoted hereafter:

Art. II.33.

“Unless the public interest prevails, the public authorities referred to in Article II.28, § 1, may refuse an application:

- 1. if the application remains manifestly unreasonable or formulated in too general a manner after the authority concerned has requested the reformulation of the first application, as referred to in Article II.42;*
- 2. if the application concerns administrative documents that are unfinished or incomplete.*

Art. II.36.

§ 1 By way of derogation from Articles II.34 and II.35, if the application for public access concerns administrative documents containing environmental information, the following regime shall apply. The public authorities referred to in Article II.28 § 1 shall refuse the application for public access if they consider that the interest of public access is outweighed by the protection of one of the following interests:

- 1. the protection of individual privacy, unless the person concerned agrees to grant public access;*
- 2. the confidentiality of the deliberations of the bodies of the Government of Flanders, of the bodies of the local authorities, of the bodies of the institutions with a public service mission and of the bodies of the environmental authorities;*
- 3. the confidential nature of administrative documents that have been drawn up exclusively for criminal or administrative penalty proceedings;*
- 4. the confidential nature of administrative documents drawn up exclusively for the possible implementation of disciplinary measures, for as long as the possibility of a disciplinary measure continues;*
- 5. the protection of information provided by a third party without this party being compelled to do so, and which the said party has explicitly designated as confidential, unless this person agrees to grant public access;*
- 6. the confidential nature of the international relations of the Flemish Region or the Flemish Community and of the relations between the Flemish Region or the Flemish Community and the supranational bodies, with the federal government and with other Communities and Regions;*
- 7. the confidential nature of commercial and industrial information, when this information is protected to safeguard a legitimate economic interest, unless the party from whom the information originates agrees to the public nature thereof;*
- 8. the administration of justice in civil or administrative cases and the possibility to obtain a fair trial;*
- 9. the confidentiality of the actions of a public authority, if this confidentiality is required for administrative enforcement, an ongoing*

- audit or the political decision-making process;
10. public order and safety;
 11. the protection of the environment the information relates to.

§ 2. Insofar as the application concerns administrative documents on emissions to the environment, the grounds for exemption referred to in paragraph 1(2), 1°, 2°, 5°, 7°, 9° and 11° shall not apply.

For the grounds for exemption referred to in paragraph 1(2), 3°, 4°, 6°, 8° and 10°, the fact whether the requested information relates to emissions to the environment is taken into account.

§ 3. If the request concerns administrative documents containing information as referred to in the Cooperation Agreement of 16 February 2016 between the Federal State, the Flemish Region, the Walloon Region, and the Brussels-Capital Region on the control of major-accident hazards involving hazardous substances, the provisions of Paragraphs 1 and 2 shall apply.

Article II.37.

If the request for public access relates to administrative documents that were drawn up or received more than twenty years ago, the grounds for exemption mentioned in Article II.34, 3°, 4° and 5°, Article II.35, 1°, 4°, 5° and 6°, and Article II.36, § 1, second paragraph, 2°, 3°, 4°, 8°, 9°, 10° and 11° cannot be invoked to refuse public access.

If the request for public access relates to administrative documents drawn up or received more than fifty years ago, the grounds for exemption mentioned in Article II.34, 1° and 6°, in Article II.35, 2° and 3°, and in Article II.36, § 1, second paragraph, 5°, 6° and 7° cannot be invoked to refuse public access either.

If the request for public access concerns administrative documents drawn up or received more than one hundred and twenty years ago, or if the request concerns personal data of a person who passed away more than twenty years ago, the grounds for exemption mentioned in Article II.34, 2°, and in Article II.36, § 1, second paragraph, 1°, cannot be invoked to refuse public access either.

Article II.38.

If universities, colleges of higher education or recognised research institutions submit an application for public access for scientific purposes, the public authorities referred to in Article II.28, § 1, may decide not to invoke the following grounds for exemption:

- 1) the grounds for exemption as referred to in Article II.35 and II.36, § 1, second paragraph, 2° to 11° ;
- 2) the grounds for exemption referred to in Article II.34, 2°, and II.36, § 1, second paragraph, 1°, within the limits of Article 89, first paragraph, of the General Data Protection Regulation;
- 3) the grounds for exemption referred to in Article II.34, 5°, and 6°, provided that the data subject has consented to the public access.

The Government of Flanders shall lay down the detailed provisions for the application of this Article (See Government of Flanders Order regulating

application for publication for scientific purposes, as referred to in Article II.38 of the Governance Decree of 7 December 2018 (B.S., 10.05.2019)).

Article II.39.

The exemptions set out in this section shall be interpreted restrictively on a case-by-case basis.

The exemptions listed in this section apply without prejudice to the application of the other exemptions laid down by law, federate law or ordinance and which are related to the exercise of the powers of the federal government or other communities or regions.

The exemptions as referred to in this section also apply to the public authorities of other Communities and Regions and at the federal level to the extent that these exemptions prohibit or limit public access to administrative documents on grounds that fall under the competence of the Flemish Community or Region.

(ii) the balancing of interests is included in the head sentence of Art.II.33 and in Art. II.36, §1, second paragraph BD, cited below:

Article II.33.

Unless the interests of public access prevail, the public authorities referred to in Article II.28 § 1 may reject an application: (...)

Article II.36.

§ 1. By way of derogation from Articles II.34 and II.35, if the application for public access concerns administrative documents containing environmental information, the following rule shall apply.

The public authorities referred to in Article II.28 § 1 shall refuse the application for public access if they consider that the interest of public access is outweighed by the protection of one of the following interests: (...)

(d) With respect to paragraph 5

In the event of the application being submitted to an authority that does not have the administrative document at its disposal, this authority must forward the application as soon as possible to the authority that presumably does have the document at its disposal, and inform the applicant of this immediately (Art. II.40, §1, 2nd para BD). In this case, a new term begins.

The same applies when the application is submitted to the communications official appointed for each ministry: this official must also forward the application immediately and inform the applicant of this.

If the application is submitted to archives and concerns a document that was deposited in archives by an authority, then the archives must forward the application to this authority immediately.

(e) With respect to paragraph 6

This obligation is included in Article II.45, §2 BD: an administrative document is partly made public if in addition to other information the document contains information to which an exception applies, and if it is possible to separate the latter

information from the former. In such case the authority must explicitly indicate in its decision that the administrative document concerned can only partly be made public and indicate to the extent possible the locations where information was left out and also on the basis of which grounds for exemption this was done.

(f) With respect to paragraph 7

Applications are replied to as soon as possible and at the latest within twenty calendar days, in writing, by e-mail or by webform both for refusals as for positive decisions. If the information requested is difficult to collect in a timely fashion, or if checking the validity of the grounds for exemption is difficult to complete in time, this term of fifteen calendar days can be extended to forty calendar days. The applicant must be informed in writing of this decision on the extension which must also identify reason or reasons for this extension (Art. II.43 and 44 BD).

If this term is exceeded, the applicant shall be given the right to lodge an appeal (Art. II.48, §1, 2° BD).

If an application for granting access is refused, reasons must be explicitly stated for this. This obligation to state reasons largely results from the general federal Act of 29 July 1991 on the explicit stating of reasons for administrative acts (*B.S.*, 12.09.1991).

Any decision or administrative act that is significant for individuals and intended to have legal consequences for citizens or another public authority, must also mention of the possibilities and terms of appeal. Otherwise, the decision has not been validly notified. In the absence of this mention, the term for the submission of an appeal shall commence four months after notification of the decision (Art. II.21 and II.48, §1, fourth paragraph BD), whereas the regular period for lodging an appeal is thirty calendar days.

(g) With respect to paragraph 8

The right to inspection and explanation about administrative documents is free of charge. On the basis of a reasonable cost price, payment may be charged for the provision of a copy (Art. II.31, 2nd paragraph BD).

VIII. Obstacles encountered in the implementation of article 4

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.*

Answer:

In a number of annual reports the appeal body on open government (and reuse of public information) identified the following obstacles:

- not all applications for public access to documents are registered, so statistical data are incomplete; an attempt to remedy this is being undertaken by making a model register available online; however, during the past years the appeal body noticed that frequent use is made of the provided model register.
- a lot of appeals are submitted for the stand still of the authority because the maximum term in which an application must be answered, is often not respected. The term is a formal time-limit that is only sanctioned by giving the applicant the possibility to lodge an administrative appeal;
- in many cases, the decisions do not mention the possibilities of appeal, although it is obligatory. Not complying to this obligation will be penalized, because the deadline for an administrative appeal is extended with 3 months.

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

*Provide further information on the **practical application of the provisions on access to information in article 4**, e.g., are there any statistics available on the number of requests made, the number of refusals and the reasons for such refusals?*

Answer:

A model register for the registration of applications for public access has been placed on the website, which can be downloaded by the government authorities.

The decisions of the appeal body can currently be consulted on the website in a chronological register, which means all decisions of the appeal body are available to be consulted on a full text basis via a search engine.

Statistical data:

Access to environmental information can be gained via a range of authorities, such as for instance administrations, provinces and municipalities. Given this range of possibilities, there are no overall statistics available with regard to all applications for environmental information. Statistics are nevertheless available for the number of appeals lodged with the regional appeal body, but these statistics do not make any distinction between appeals relating to environmental information and other information.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

There are two websites, on which a lot of information can be found about "public access to administration":

<https://overheid.vlaanderen.be/organisatie/informatiemanagement/openbaarheid-van-bestuur> (for government bodies)

<https://www.vlaanderen.be/openbaarheid-van-bestuur> (for the public)

<https://navigator.emis.vito.be/mijn-navigator?woId=309>

XI. Legislative, regulatory and other measures implementing the provisions on the collection and dissemination of environmental information in article 5

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

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;
- (h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;
- (i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO THE ACTIVE PUBLIC NATURE OF ENVIRONMENTAL INFORMATION

- Governance Decree of 07.12.2018 (*B.S.*, 19.12.2018, err. *B.S.*, 11.01.2019), as amended by the decrees of 19.07.2019 (*B.S.*, 02.09.2019) and 19.06.2020 (*B.S.*, 08.07.2020)
- Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy (DABM), (*B.S.*, 03.06.1995)
- Government of Flanders Order of 28 October 2005 on the dissemination of environmental information (*B.S.*, 30.11.2005), as amended by the decisions of the Government of Flanders of 24.02.2017 (*B.S.*, 28.03.2017) and 10.05.2019 (*B.S.*, 01.08.2019)
- Government of Flanders Order of 28 July 1995 specifying further rules on the environmental report and the regional environmental policy plan, (*B.S.*, 27.10.1995)
- Flemish Parliament Act of 21 October 1997 on nature conservation and the natural environment (Nature Flemish Parliament Act), (*B.S.*, 10.01.1998)
- Regulation (EC) No 1221/2009 of the European Parliament and the Council of 25 November 2009 on the voluntary participation of organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and the Decisions 2001/681/EC and 2006/193/EC of the Commission (OJ L 342, 22 December 2009)
- Commission Regulation (EU) 2017/1505 of 28 August 2017 amending Annexes I, II and III to Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 222, 29 August 2017).
- Commission Regulation (EU) 2018/2026 of 19 December 2018 amending Annex IV to Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 325, 20 December 2018).
- Flemish Parliament Act of 18.05.2018 approving the cooperation agreement of 12 May 2017 between the Federal State, the Flemish Region, the Walloon Region and the Brussels-Capital Region on the implementation of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (*B.S.*, 06.06.2018)
- Cooperation Agreement of 12.05.2017 between the Federal State, the Flemish Region, the Walloon Region and the Brussels-Capital Region on the implementation of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (*B.S.*, 10.09.2018).
- Law of 15.06.2018 approving the Cooperation Agreement of 12.05.2017 between the Federal State, the Flemish Region, the Walloon Region and the Brussels-Capital Region on the implementation of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (*B.S.*, 10.09.2018).

Note: regulations on product standardisation, eco-labels, environmental advertising and eco-labelling are a federal competence.

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Article 4 of the Aarhus Convention.

III. APPLICATION OF THE NON-DISCRIMINATION REQUIREMENT

See earlier comments to Article 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 5 OF THE AARHUS CONVENTION

(a) With respect to paragraph 1

(i) In accordance with Article II.3, first paragraph BD, the public authorities shall ensure that the information that is relevant to their service mission and that they themselves manage or that is managed for them is, as far as possible, orderly, accurate, comparable and up-to-date. This obligation applies a fortiori to the environmental information of the authorities designated by the Government of Flanders in accordance with Article II.4 of the BD. These authorities shall ensure that environmental information is actively, systematically, and transparently disseminated to the public or to the target groups concerned and made accessible in an effective manner. Various environmental authorities in Flanders have targeted monitoring programmes to evaluate the condition of the environment (among other things, the water quality and water levels of groundwater and surface water, channel beds, air quality, vitality of forests, the occurrence of plant and animal species in wildlife areas, land take, land use, etc). These monitoring programmes are systematically harmonised and adjusted to the constantly evolving relevant legislation and national and international reporting obligations and are oriented towards environmental reporting (www.vmm.be/milieurapport), nature reporting (<https://omgeving.vlaanderen.be/het-ruimterapport>), so as to be able to monitor the condition of the environment, nature and land as closely as possible for the benefit of policy.

(ii) “*Guaranteeing*” that public authorities “*possess*” and “*update*” and make environmental information “*flow smoothly*”, is the object of a strategic project that was started early 2000 by the then Flemish Minister responsible for the environment: “*Milieu Management Informatie Systeem*” (MMIS), i.e. the environmental management information system (EMIS), now the “*Omgevingsinfostuurgroep*” (OIS), i.e. the environmental information group. This system fits in with the overall “*e-government*” concept of the Government of Flanders.

The strategic OIS project aims at developing – on a step by step basis – a general and integrated environmental information system where all available and relevant environmental data of all public environmental institutions can be consulted through a generally accessible medium (the Internet). Such an environmental information system is used for nature and environmental policy or other policy sections at all government or decision-making levels or for all kinds of reports and research assignments in society’s general interest.

Within the framework of the MMIS project, computer networks of the different environmental authorities were linked to one another (the so-called

Vo-net). At the same time, it is tried to logically gear the operational and new databases to one another by using common object descriptions (such as watercourses, land register plots, company data, address data). In this way, environmental data of different environmental authorities that are connected to these objects (for instance, watercourses, companies) can be linked to one another. Since 2018, new regulations concerning the application for permits have been in force. The so-called single permit replaces the building permit, the environmental permit, the retail permit and the permit to change vegetation. The entire permit procedure is supported digitally. Relevant data is captured in a structured manner. This leads to a better understanding of how the environment in Flanders is changing. Policy initiatives will also be more data-driven.

The obligations to inform which companies have within the framework of being a 'classified establishment or operation' (requiring an environmental permit) and within the framework of internationally imposed reporting obligations are retrieved through the 'Integrated Annual Environmental Report' (emission data, waste reporting, discharges, water extraction,...). As of 2005, this is possible via an Internet one-stop-shop where all information is available. The collected and processed data at corporate level are published via the PRTR one-stop shop <https://www.milieuinfo.be/prtr> after validation. These data are valuable for policy making and the knowledge regarding cause-and-effect relations and the state of nature and the environment. All these emission data are also available to the public, without however violating the confidentiality of business processes, for instance. In a general sense, the ambition to link and publicise data and to ensure due reporting, is to be delivered through INSPIRE and Linked open data technology and initiatives which have developed to become the new *de facto* standard in recent years.

(iii)

In the event of any imminent threat to human health or the environment, the public is jointly informed by the federal, regional, provincial and municipal authorities. Depending on the concrete situation, explicit provisions have been laid down regarding this matter in:

- the Co-operation Agreement of 16 February 2016 between the Federal State, the Flemish Region, the Walloon Region and the Brussels Capital Region on controlling the hazards of major accidents which involve dangerous substances. This Co-operation Agreement contains provisions for the formulation of a prevention policy for major accidents, the submission of a safety report, the formulation of an internal and an external emergency plan, etc. (*B.S.*, 20.04.2016 and *B.S.*, 30.05.2016);
- the Royal Decree of 16 May 2016 on the emergency and intervention plans (*B.S.*, 15.03.2006);
- the Government of Flanders Order of 1 June 1995 on general and sectoral provisions regarding environmental protection, VLAREM II (cf. reporting obligation and warning obligation in accidental emissions and breakdowns, the taking of safety measures etc) (*B.S.*, 31.07.1995).
- the Government of Flanders Order of 28 October 2005 on the dissemination of environmental information (*B.S.*, 30.11.2005).

Flanders pursues a preventive health policy in order to achieve health gains at population level and thus not only allow people to live longer, but also to maintain and increase their quality of life. This is done by taking initiatives

within the health care sector (preventive health care) and beyond (the so-called facet policy). These initiatives must be scientifically substantiated. The legal basis for this policy has been laid in the decree of 21.11.2003 concerning the preventive health policy.

The authority responsible for water policy has made the web portal www.waterinfo.be available and provides up-to-date information about flood risks. The webportal also provides information on drought, enabling users to assess the severity of the drought risk. The web site is supported by operational data and prediction systems in which hydrological and hydraulic models are fed by weather forecasts. These web sites also provide updated information for the emergency services in case of flooding.

Information on groundwater is made available via Databank Ondergrond Vlaanderen (www.dov.vlaanderen.be).

The air quality and air pollution (immission) are closely monitored in Belgium (and Flanders) (PM, NOx, Ozon, SOx,...) by means of a monitoring programme and are made available on the Internet in real time (www.vmm.be).

(b) With respect to paragraph 2

- The environmental information which environmental authorities have at their disposal must, to the extent possible, be categorised, accurate, comparable and updated (Art. II.3, first paragraph BD).
- The Flemish government must develop one or more joint data sources with basic information from the Flemish government, local authorities, institutions with a public service mission and environmental authorities. Basic information consists of identifying information, contact details and information on services and formal capacities. Local authorities, bodies with a public service mission and environmental authorities cooperate in one or more joint data sources with basic information (Art. II.5 BD).
- Staff members of the public authorities are obliged to provide assistance to anyone who is looking for information (Art. II, 6°, second paragraph BD). The obligation to provide assistance implies, for instance, that the applicant is given an answer to his question whether or not a particular administrative document exists or to the question where a particular administrative document can be found. This obligation to provide assistance is also explained in greater detail in various provisions of the BD, amongst other things in:
 - the obligation to forward the application (Art. II.40, §1, second paragraph BD): see question to Article 4, item (d), §5
 - the terms of the right to inspection (Art. II.44, § 2 BD): if the applicant wishes to use his right to inspect the document in situ, the place, date and time of the inspection will be defined in consultation between the authority and the applicant.
 - the reformulation of the application (Art. II.42 BD): if the application is manifestly unreasonable or formulated in too general a manner, the public authority must ask the applicant as soon as possible to complete his application or to reformulate it in a more specific manner (see also question to Article 4, where Article II.33 BD is quoted)
 - the right to inspection of administrative documents, including all environmental information laid down in lists, registers or files, is free of charge (Art. II.31, second paragraph BD).

(c) With respect to paragraph 3

A lot of environmental information has already been made available in electronic databases through public telecommunication networks, among other things via the web sites of environmental authorities.

The main general addresses are:

- www.vlaanderen.be (by clicking on the 'Natuur en Milieu' button, you will be directed to the homepage of Natuur en Milieu: www.vlaanderen.be/start/thema/leefmilieu_en_natuur/leefmilieu_en_natuur.htm)
- <https://omgeving.vlaanderen.be> (with, inter alia, direct links to the 'Vlaamse Navigator Milieuwetgeving' (Flemish Environmental Legislation Navigator), environmental impact reports, environmental policy plans, annual environmental programmes, research, figures, geo-counters, etc)
- www.emis.vito.be (the "Energy and Environmental Information System for the Flemish Region"). The web site <http://www.emis.vito.be> contains information about energy and environment in Flanders. The information provided with regard to (European, federal and regional) legislation is very detailed and up-to-date. The English translation of the basic environmental legislation can also be found at this web site.

In addition, there are the strongly developed and very informative web sites of different environmental authorities which make their information available through the Internet on a step by step basis: waste, materials and soil (OVAM), water, air (VMM), nature, forests (INBO, Agency for Nature and Forest); green spaces, e.g. countryside, fertiliser policy, projects (VLM; administrative data environmental licences, safety reports, environmental impact reports, research, figures and geo-counters, (Environment Department). This available information is mainly supply-driven and not integrated. The OIS project referred to above ensures increased integration.

The so-called geo-counters (Internet counters providing material about environment, nature and land by means of thematic maps) play an important role in this context. As such, a lot of effort has gone into making the GIS (Geographic Information System) on the environment and land easily accessible through the INSPIRE-compliant infrastructure. In recent years, the focus has expanded from the development of the INSPIRE-compliant GDI platform (Geographic Data Infrastructure) for the publication of data towards its use for specific purposes. Examples are www.ruimtemonitor.be (thematic map-shaped indicators to support spatial research, reporting and policy in Flanders), or the DSI platform (inter-administrative exchange platform to arrive at a (geographical) digital overview of all spatial planning plans of the Flemish Region) with accompanying viewer (geoplannen.omgeving.vlaanderen.be) and the platform of Databank Ondergrond Vlaanderen along which, with regard to soil and subsoil, data, information, maps, 3D models and network services are made accessible and a user-friendly explorer is available (www.dov.vlaanderen.be/portaal).

The Government of Flanders Order of 28 October 2005 obliges the governmental bodies to actively disseminate certain electronic environmental information.

Statistical information on the environment and nature is published on <https://www.statistiekvlaanderen.be/nl/omgeving>

(d) With respect to paragraph 4

In conformity with the Flemish Parliament Act on the general provisions regarding environmental policy the environmental planning at regional level includes, inter alia, an environmental report to be drawn up by the Flemish Environment Agency (VMM). The environmental reporting contains:

- A description, analysis and evaluation of the existing state of the environment
- A description, analysis and evaluation of the environmental policy that was conducted so far, insofar as this is relevant for weighing up the results of the conducted environmental policy against the policy objectives laid down in the environmental regulations or the environmental planning
- A description of the expected development of the environment in case the policy remains unchanged or in case it is changed, in accordance with a number of scenarios that are deemed relevant.

All information of the environmental report (e.g. environmental indicators) is available online: <http://www.vmm.be/milieurapport> and <https://omgeving.vlaanderen.be/onderzoek-cijfers-en-geoloketten>. Part of the information is translated into English: <http://www.environmentflanders.be>.

In conformity with the 21 October 1997 Flemish Parliament Act on nature conservation and the natural environment (Flemish Parliament Act on Nature) the Nature- and Forest Research Institute draws up a report on nature every two years. All information of this report is available online <http://www.nara.be>. The nature report is also made freely available in book form and is sent to public libraries, universities, etc.,...

Apart from the environment and nature report, the first Spatial Report was published in 2018, which describes, analyses and evaluates the state of space/spatial fabric in Flanders on the basis of the latest available figures. Information is available via internet <https://omgeving.vlaanderen.be/het-ruimterapport>. In addition, websites with indicators on the state of the environment, nature and space are available: <http://indicatoren.milieuinfo.be>, www.statistiekvlaanderen.be and <https://omgeving.vlaanderen.be/cijfers-en-kaarten>.

(e) With respect to paragraph 5

Active disclosure of government documents.

Based on the 'Active disclosure of the documents of the Government of Flanders' concept paper, on 29 January 2016 the Government of Flanders adopted the following general decisions in the field of active freedom of information (and consequently of environmental information):

- to actively disclose government documents, further to the (in-principle) access approval, with the exception of the individual decisions which regulate a concrete individual legal status and which apply for one or a few specific cases;
- to ensure the disclosure is made to occur in observance of the exceptions for documents the disclosure of which may or must be declined pursuant to the public access regulations;
- to disclose all documents of a given government dossier, save in certain exceptional cases, listed in the concept paper referenced above;
- to ensure the disclosure in principle is made to occur on the Monday that comes after the meeting of the Government of Flanders, unless a Minister has expressed reservations in the draft minutes.

From now on, this decision will be integrated into the BD (art.II.9, §1).

Active disclosure of (environmental) legislation, policy documents, reports, etc.

- All new legislation (Acts, Flemish Parliament Acts, Decrees) is published in the Belgian Official Gazette (B.S).
- The Flemish co-ordinated legislation from 1 January 1959 onwards is collected in the Flemish Codex (www.codex.vlaanderen.be) and updated on a daily basis.
- The Flemish co-ordinated environmental legislation is available through the “Flemish Environmental Legislation Navigator”.
- Policy documents (Government declarations, coalition agreements, policy papers, and policy memorandums) can be found on the Internet (www.vlaanderen.be).
- Public authorities should actively inform, on their own initiative, about their policies, regulations and services, whenever this is useful, important or necessary. They shall ensure that the information reaches as many people, associations or organisations of the target group as possible and shall choose appropriate communication strategies for themes that concern hard-to-reach target groups. The information must be correct, reliable, accurate and relevant and must be disseminated in a targeted, timely and systematic manner (Art. II.2 BD).
- The regional environmental report, nature report and spatial report are, as mentioned in item four (d) of Article 5, made widely known.
- The provincial environmental policy plan is brought to the notice of a number of specified authorities and is available for public inspection at the municipalities and provinces (Art. 2.1.17, § 4); the municipal environmental policy plan is brought to the notice of a number of specified authorities and is also available for public inspection at the offices of the municipalities (Art. 2.1.23, § 5).

The Government of Flanders Order of 28 October 2005 obliges the public authorities to actively disseminate certain electronic environmental information.

(f) With respect to paragraph 6

This provision relates on the one hand to providing information about activities and on the other hand to providing information about products. Both aspects are the subject of two different levels of competence in the Belgian rule of law.

Providing information about products is a federal competence.

Providing information about activities is a regional competence.

With regard to the provision of information by operators whose activities have a significant impact on the environment, we should in the first instance refer to Regulation (EC) No 1221/2009 of the European Parliament and the Council of 25 November 2009 on the voluntary participation of organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and the Decisions 2001/681/EC and 2006/193/EC of the Commission (OJ L 342, 22 December 2009), amended by Commission Regulation (EU) No 2017/1505 of 28 August 2017 (OJ L 222, 29 August 2017) and Commission Regulation (EU) No 2018/2026 of 19 December 2018 (OJ L 325, 20 December 2018).

The main lines of the EMAS Regulation can be summarised as follows. The basic principle is that companies in the industrial sector can participate voluntarily in the

evaluation and improvement of their environmental performance. In addition, the public must be informed of this. A system of environmental verifiers and registration is used. Before a registration can be made, the sites in question must meet a number of requirements, such as the drawing up of an environmental policy, review, programme, management system, audit, and statement.

On the basis of the co-operation agreement of 12.05.2017 (*B.S.*, 10.09.2018) between the federal state and the Regions, this matter is applied in a co-ordinated way in Belgium.

Apart from EMAS, “internal environmental performance” was integrated into the Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy in the Flemish Region. This regulation provides for a partial environmental performance system, which means that certain categories of installations are obliged to meet only the elements that are essential for government policy.

A first relevant regulation mentioned in this respect is the compulsory environmental audit. This may be either a one-off or a periodical (that is three-yearly) environmental audit. This is to be understood as a systematic, documented and objective evaluation of the management, organisation and equipment of the installation or activity concerned in terms of environmental protection. Concretely, it is examined, among other things, how the plant provides information/communication externally and an explanation is also given of its production methods.

Moreover, the Flemish Parliament Act containing general provisions regarding environmental policy also provides for the drawing up of an annual integrated environmental report for specific categories of installations. This report consists of the following partial reports: air emissions, energy data, water emissions, groundwater statistics, waste producers, waste processors and raw material producers.

(g) With respect to paragraph 7

As for the publication of facts and numerical analyses, it must first of all be pointed out that the BD provides for a general obligation to provide information: public authorities must actively inform, on their own initiative, about their policies, regulations and services (Article II.2 paragraph 1 BD).

The Flemish Parliament Act containing general provisions regarding environmental policy (Art. 2.1.3-2.1.6) also provides for the drawing up of a regional environmental report, which must, among other things, comprise a description of the state of the environment (see earlier comments to Art. 5, item (d)).

For the publication or the alternative provision of information on access to environmental information, participation and access to justice, we refer to the websites of the Environment Department (formerly LNE).

With respect to making available environmental information: see above and see the annual Environmental Enforcement reports put out by the Inspection Division (previously Environmental Enforcement reports by the Environmental Inspectorate Division), OVAM, VMM, VLM (annual fertiliser report), annual Enforcement Reports from the VHRM (Flemish Council for Enforcement for Land and the

Environment), the Flemish Ombudsman, etc.

With regard to the provision of information relating to public functions or the provision of public services we refer to the provisions in the Acts establishing environmental authorities such as OVAM, VMM and VLM, and to annual reports, information on web sites, etc.

The environmental complaints database is a registration and monitoring system for environmental complaints in Flanders introduced by municipalities through the Internet. (<http://milieuklachten.milieuinfo.be>). It offers an overview of environmental nuisance in Flanders.

(h) With respect to paragraph 8

Product information is a federal competence. See the federal report (www.health.fgov.be).

(i) With respect to paragraph 9;

On 4 June 2004, the Government of Flanders Order of 2 April 2004 introducing the annual integrated environmental report (IMJV) was published in the *Belgian Official Gazette*. This report contains the information reported each year by the company (on the basis of activity levels) about the relevant emissions into air and water (on the basis of threshold values), waste reporting, and groundwater abstraction and information regarding groundwater abstraction and statistics.

These data serve as a basis for a PRTR (Pollutant Release and Transfer Register) datasets about emission and transmission of pollutants) which is available on the Flemish web site <https://www.milieuinfo.be/prtr>. The Belgian Aarhus website (Aarhus.be), has links to the three regional websites and to the European E-PRTR web site which shows the national data (<https://prtr.eea.europa.eu>).

The PRTR Protocol was adopted by the Flemish Region by the 6 July 2007 Flemish Parliament Act, which ultimately led to the international ratification by Belgium on 12 March 2009. Belgium/Flanders also reports data to Europe in the framework of the European PRTR (E-PRTR)._____.

These data are available up to 2017 at <http://prtr.ec.europa.eu>. Data from 2018 onwards will be published on a new industrial emissions reporting portal currently under development.

XII. Obstacles encountered in the implementation of article 5

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.*

Answer:

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

*Provide further information on the **practical application of the provisions on the collection and dissemination of environmental information in article 5**, e.g., are there any statistics available on the information published?*

Answer:

(b): With respect to paragraph 2
The tasks and duties of officials in providing access to environmental information, such as the requirement to provide guidance, were explained in great detail during the various information sessions on the Convention with different public services.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

There are two websites with information on "public access to government" :

<https://overheid.vlaanderen.be/organisatie/informatiemanagement/openbaarheid-van-bestuur> (for public authorities)
<https://www.vlaanderen.be/openbaarheid-van-bestuur> (for the public)
www.vlaanderen.be: for general policy information, click 'leefmilieu en natuur'
www.emis.vito.be: environmental legislation, environment and energy, best available techniques
<http://milieuklachten.milieuinfo.be>: environmental complaints register
<http://milieujaarverslag.milieuinfo.be>: annual integrated environmental report e-window
www.codex.vlaanderen.be: Flemish Codex (legislation)
www.staatsblad.be: Belgian legislation

Thematic information (supply-driven) provided by public authorities:
www.omgeving.vlaanderen.be: administrative data and policy information, figures, studies and geo-counters, on nature, environment and land (Environment Department)
<https://omgeving.vlaanderen.be/omgevingsvergunning/milieueffectrapportage>: environmental impact reporting
www.ovam.be: waste, materials and soil
www.vmm.be: water and air and environmental reporting
www.inbo.be: nature and nature report
www.inbo.be: forests and wildlife
www.vlm.be: open space (contains among other things data on manure policy, rural and planning projects)
www.vmw.be: Flemish Water Supply Company
www.nara.be: nature report
www.natuurenbos.be: nature and forests
<http://indicatoren.milieuinfo.be>: indicators regarding environment nature and land
www4.vlaanderen.be/sites/ivr/Pages/default.aspx: statistics
<http://vmm.be/data>: all manner of data on air and water derived from reports and measurement networks
<https://klimaat.vmm.be>: maps and datasets on the climate situation, effects or impact in Flanders
<https://www.milieu-info.be/prtr>: PRTR-counters Flanders
www.ruimtemonitor.be: thematic (map) indicators to support spatial research, reporting and policy in Flanders.
<http://dov.vlaanderen.be>: all relevant information on the subsoil in Flanders
<http://www.omgevingsloket.be>: online environment licence applications
<https://www.mercator.vlaanderen.be/zoekdienstenmercatorpubliek>: GIS data from policy area Environment that are in the public domain
<http://www.geopunt.be>: GIS data from the entire Flemish region that are in the public domain
<https://omgeving.vlaanderen.be/dsi-platform>: inter-administrative exchange platform to create a (geographical) digital overview of all the spatial planning plans of the Flemish Region.
<https://www.statistiekvlaanderen.be/nl/omgeving>

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

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
 - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
 - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

(i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

(j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO PARTICIPATION IN SPECIFIC ACTIVITIES

- OVD: Flemish Parliament Act of 25.04.2014 on the single permit (*B.S.*, 23.10.2014), as amended several times.
- Flemish Spatial Planning Codex of 15.05.2009 (*B.S.*, 20.08.2009), repeatedly amended.
- Government of Flanders Order of 13.02.2015 designating the Flemish and provincial projects (*B.S.*, 04.03.2015).
- OVB: Government of Flanders Order of 27.11.2015 implementing the Flemish Parliament Act of 25 April 2014 on the single permit (*B.S.*, 23.02.2016), as amended several times.
- Flemish Parliament Act of 05.04.1995 containing general provisions regarding environmental policy, (*B.S.*, 03.06.1995) (DABM), Title IV: environmental impact and safety reporting.
- Government of Flanders Order of 10.12.2004 on the determination of the categories of projects subordinate to environmental impact assessment, (*B.S.*, 17.02.2005).
- Government of Flanders Order of 12.10.2007 on environmental impact reports on plans and programmes (*B.S.*, 07.11.2007).
- Government of Flanders Order of 17.02.2017 on more detailed rules for the environmental impact assessment of projects and for the environmental safety assessment (*B.S.*, 30.03.2017).
- Flemish Parliament Act of 25.04.2014 on complex projects (*B.S.*, 27.08.2014).
- Government of Flanders Order of 12.12.2014 in implementation of the Flemish Parliament Act of 25 April 2014 on complex projects (*B.S.*, 21.01.2015).

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

III. APPLICATION OF THE NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 6 OF THE AARHUS CONVENTION

(a) With respect to paragraph 1

(i)

Since 2018, there has been is one important licensing system that regroups various former licensing systems in the Flemish Region: the building permit, the environmental licence, the retail trade permit and the permit to change vegetation. These are grouped together in the single permit.

An environmental licence is required to operate or change category 1 or 2 hazardous installations. Hazardous installation (and their classification into three categories) can be found in Annex 8 of OVB. An environmental licence is also required for various activities such as: construction, deforestation, the felling of standard trees, considerable changes to the relief of the soil, etc..

In the context of safety reporting, the public accessibility of the environmental safety reports is regulated by Title IV of DABM.

Within the framework of the environmental impact reporting, disclosure of environmental impact reports on intended plans, programmes and projects is governed by Title IV of the DABM. For the generic EIR plan procedure, this disclosure is linked to the possibility for the public concerned to participate in the EIR approach mentioned in the notice.

The project EIR procedure has been integrated into the single permit procedure since the entry into force of the single permit and is open to the public at the same time as the permit application. Prior to this procedure, a public moment is optional.

For integrated SIP and EIR plan procedures, it is regulated by the decree of 16 July 2016 amending the regulations for spatial implementation plans in order to integrate environmental impact assessment and other impact assessments into the planning process for spatial implementation plans.

With regard to the projects that observe the procedure in compliance with the complex projects regulations, a similar freedom of information is in place.

Flemish regulations on environmental licences provide opportunities for participation (see below) and lists of activities and/or installations for which participation in the decision-making process is possible.

(ii)

The list of activities in the Flemish Region is not completely identical to the list in Annex I of the Aarhus Convention. Annex 8 of OVB contains a lot more activities and sometimes uses formulations or descriptions that deviate from those used in Annex I of the Aarhus Convention.

(b) With respect to paragraph 2

Disclosure of information to the public concerned with a view to participation in decisions on specific activities, specified by Art. 6, second paragraph, is regulated at the level of the Flemish Region in the "public consultation" procedures as laid down in the regulations regarding environmental licences.

In accordance with article 13 and thereafter of the OVB, each application must in principle be subject to a public consultation. They follow the "ordinary procedure". Only certain applications with a lesser impact are exempted from public scrutiny. They follow the "simplified procedure". This public consultation implies that – for thirty days – the application is made available for public inspection at the town hall and that it is displayed on the site of the project. If the application relates to a classified establishment or a category 1 activity, all property owners living within a hundred metres of the installation are also notified in writing of the licence application. Most other applications are addressed to the directly related owners. The public consultation is always announced in an appropriate and clearly designated area for announcements on the web site of the municipality. For first category installations for which an environmental impact report or a safety report is required, at least one information meeting must be organised within the framework of the public consultation about the licence application. Public access also covers the content of the project EIR or safety report.

The required content of these notices can be summarised as follows: they must contain, among other things, the subject of the application, together with a short description of the installation. In addition, it must be announced at which local authority services the file will be available for inspection during the period of notice. The possibility must also be mentioned to submit objections and remarks to the municipal authority, either orally, via the environment counter or in writing. If necessary, the notice must also specify the time and place of the information meeting.

(c) With respect to paragraph 3

The public consultation into the environmental licence application shall last at least 30 days. During this period the provided information will be available for inspection by the public which may give objections or remarks.

(d) With respect to paragraph 4

Environmental impact reporting

Within the framework of the environmental impact reporting the public nature of the environmental impact reports on intended plans, programmes and projects is linked to the possibility for the public concerned to participate. In the case of environmental impact assessment for plans and programmes (generic track), participation is provided for in the notification phase (scope of reporting), as well as in the approval phase (draft plan and report).

Thus the public is given the opportunity to participate in plans that are subject to environmental impact reporting at an early stage when alternatives are still possible. In the case of projects subject to environmental impact assessment, public access to the information is simultaneous with the licence application. Optionally, a public time can also be provided for in the preliminary phase prior to the licence application.

In the case of integrated planning processes and EIR plans, public access runs simultaneously with the preparation of the SIP in a scoping phase and also with the final plan.

Safety report

Within the framework of spatial safety reporting, the public accessibility of spatial safety reports on planned plans, programmes and projects is linked to the public participation times during the preparation of the SIP.

Similar publicity applies to the projects that follow the procedure in accordance with the regulation for complex projects.

Environmental licences

The public consultation will be held shortly (5 to 10 days) after the application has been submitted and declared admissible and complete. This is an early stage. The public participation is useful and can be fully taken into account.

(e) With respect to paragraph 5

Within the framework of the notification phase of the environmental impact reporting process the public nature of the notification dossier gives the public concerned the opportunity to participate. The resulting interaction may give an idea

of the public concerned and gives the initiator the chance to clarify the project objectives at an early stage. With regard to the projects that observe the procedure in compliance with the complex projects regulations, similar avenues of participation are in place.

(f) With respect to paragraph 6

(i) + (ii)

On the basis of the OVD, OVB and the DABM, certain proposed installations are required to submit an environmental impact report in addition to the environmental licence application.

With regard to the content of an environmental impact report, Art. 4.3.7 of the DABM requires to include, inter alia, the following data: a description of the project priorities, namely of the physical characteristics of the project, a description of the main characteristics of the construction- or production processes and a prognosis of the expected emissions and residues. Next, a draft of the main alternatives to the project, a description of probably major environmental effects on man and environment; when the occasion arises: a description of the probably major environmental effects of the proposed project on the territory of a neighbouring EU Member State or on the territory of another Region (Art. 4.3.4); a description of the intended measures so as to avoid, restrict and remedy or compensate major environmental effects of the project; and a non-technical summary.

The documents on establishments operated within the municipality (notifications of third category establishments, licence applications and related decisions, confirmations of notifications of small changes...) are on public display for third parties free of charge at the city/town hall. The documents can be consulted, without an interest having to be demonstrated.

In transposition of the Directive on Industrial Emissions, all decisions regarding an IPPC (Integrated Pollution Prevention and Control) establishment shall be notified to the public via the Internet (via environment counter). This information pertains to decisions on environmental licence applications or decisions to modify or complement the licensing conditions or the derogations from the emission limit values.

During the public consultation, the entire file can be consulted free of charge at the municipality, without any interest having to be demonstrated.

(g) With respect to paragraph 7

Environmental impact reporting

There is a possibility for the public concerned to react (see above) as a result of the right of access to the notification dossier in the environmental impact reporting.

Environmental licences

In accordance with the legislation, anyone may submit objections and comments in writing to the College of Mayor and Aldermen during the thirty-day period provided for. If an information meeting is to be held, the public may ask questions at this meeting.

(h) With respect to paragraph 8

General obligation to state reasons under the Act of 29 July 1981 on the explicit stating of reasons for administrative acts.

Environmental impact reporting

Art. 4.1.7. DABM contains a specific obligation to state reasons on the basis of which the decision-making on projects, plans or programmes should take into account the results of the environmental impact reports drawn up to this end.

It shall state reasons for any decisions on the intended action, in particular with respect to the following aspects:

- The choice of the intended action, a certain alternative or certain partial alternatives, except when it concerns the environmental safety report;
- The acceptability of the potential consequences or the consequences to be expected of the chosen alternative for man and environment;
- The measures proposed in the report(s).

Environmental licences

In accordance with Article 48, §1, 6° OVB, the licence decision must contain the following: “6) where appropriate, a reference to the nature of the positions, comments and objections submitted during the public consultation into the construction in question, and the manner in which they were dealt with;”

(i) With respect to paragraph 9

Environmental licences

Articles 55 to 64 of the OVB regulate in detail the publication of decisions on applications for environmental licences.

The decision on a single licence shall be published by:

- 1) where appropriate, the display of a poster at the place where the object of the licence application is to be carried out, in accordance with Article 59;
- 2) publication on the website of the municipality where the licence application is to be carried out, in accordance with Article 60;
- 3) where appropriate, publication in a daily or weekly newspaper, in accordance with article 61;
- 4) where appropriate, the individual notification, in accordance with Article 62;
- 5) analogue or digital notification of the decision in the town hall of the municipality where the licence application is to be carried out, in accordance with Article 63.

(j) With respect to paragraph 10

Environmental licences

An amendment or addition to the licence conditions is laid down in Articles 82 and 82/1 of the OVD. The same procedure as for the initial application must be followed. This ensures compliance with the previous points of Article 6.

(k) With respect to paragraph 11

No longer applicable due to the Almaty amendment.

XVI. Obstacles encountered in the implementation of article 6

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.*

Answer:

(e) With respect to paragraph 5

Currently, the Flemish environmental legislation does not contain an overall regulation with regard to the encouragement of the contact between potential applicants and the public concerned. Taking into account the fact that in the Flemish Region the participation procedure is led by the authorities instead of the applicant himself, the question could be raised whether an implementation is either desirable or necessary. Although it can hardly be disputed that this work method has many advantages, it cannot be denied that, once it has been formalised, it will not simplify the procedure. Moreover, the added value seems to be rather limited compared to the current work method used in the Flemish Region.

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

*Provide further information on the **practical application of the provisions on public participation in decisions on specific activities in article 6**, e.g., are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.*

Answer:

National defence is a federal competence.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

<http://www.omgevingsloket.be>
<http://navigator.emis.vito.be/>

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO PARTICIPATION IN PLANS AND PROGRAMMES

The Flemish environmental policy contains a wide range of plans and programmes relating to the environment.

The plans laid down by Flemish Parliament Act are, among other things:

- The prevention plans and the sectoral implementation plans resulting from the Flemish Parliament Act of 23 December 2011 on the sustainable management of material cycles and waste, (*B.S.*, 28.02.2012)
- The nature policy plan and the nature attainment plans resulting from the Flemish Parliament Act of 21 October 1997 on nature conservation and the natural environment, (*B.S.*, 10.01.1998);
- The water management plans resulting from the Flemish Parliament Act of 18 July 2003 on Integrated Water Policy, coordinated on 15 June 2018 (*B.S.*, 18.12.2018, *err. B.S.*, 18.07.2019) (for a more detailed explanation, see below point IV).

Apart from these instruments there also exists a wide range of regional plans and programmes, such as emission reduction plans, decontamination plans, ... For any of these instruments the government seeks the participation of at least the target groups and other actors that are directly involved.

Where a plan or programme is required by law to be subject to an environmental impact assessment, the public has a right to be consulted on the proposal for scoping (Article 4.2.8 § 3 and § 5 DABM; Article 2.2.7 § 2 VCRO, Article 2.2. 12 § 2 VCRO, Article 2.2.18 § 2 VCRO; Article 8 § 2 Flemish Parliament Act on Complex Projects) on the draft environmental report and on the draft plan (Article 4.2.11 DABM; Article 2.2.10 VCRO, Article 2.2.15 VCRO, Article 2.2.21 VCRO: Article 15 Flemish Parliament Act on Complex Projects).

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

The Flemish government maintains an extensive advisory and consultative network which is systematically involved in policy developments and through which the voice of a considerable number of stakeholders is heard. The regulation provides an adequate and balanced composition of the advisory and consultative bodies. For the more recent plans, there is also provision for an early participation period. When a plan, programme or policy development has been made subject of a public consultation, there are no restrictions with regard to the 'public' which is authorised to participate. Therefore, a formal 'indication' of such a public is unnecessary.

III. APPLICATION OF NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 7 OF THE AARHUS CONVENTION

The afore-mentioned plans and programmes have detailed provisions with regard to participation. By way of example regarding the provisions on participation, detailed information is given on the plans within the framework of the integrated water policy at the end of this section.

For the sectoral implementation plans regarding waste policy there exists a strongly established practice of involving other authorities and actors (mainly sectors involved in the waste chain, but other organisations as well).

European Directive 2003/35/EC has encouraged the Flemish government to screen the participation provisions of the various plans and programmes with an eye to improving them. The operation of implementation-oriented plans, programmes and some projects often provides for the establishment of an advisory body where the terms for implementation can be discussed between the government and the different stake holding sectors. During the reorganisation of the Flemish public administration, a limited screening has taken place of the operation of these bodies with a view to further optimising them.

Spatial planning

Spatial planning in Flanders is conducted in two tiered planning levels: structural planning which is being replaced by policy planning space; the spatial implementation planning. These two sorts of spatial planning are conducted at the three levels of governance: regional, provincial and municipal, each within their own scope of competence. The spacial policy planning sets out a strategic vision and at least a spacial policy framework. Both planning levels, spatial policy planning and spatial implementation planning, involve similar forms of participation, whereby early participation or consultation takes place and information provided and then the subject of the spatial plan is subject to public consultation before final adoption.

Moreover, the spatial implementation planning is subject to the environmental impact reports for plans and programmes at regional, provincial as well as municipal level, in amongst other things because spatial implementation plans constitute the framework for the permission to be awarded. As such, spatial implementation plans (at all three levels of governance), as a result of early public participation, a starting memorandum is prepared which covers both the plan and the possible impacts on the environment or nature. This note is submitted to the advisory bodies and to the public. In addition to this paper, a process paper is also drawn up which, among other things, clarifies how participation will take place during the process. If this is the case, an environmental impact report will be drawn up.

Integrated water policy.

The Flemish Parliament Act of 18 July 2003 on Integrated Water Policy coordinated on 15 June 2018 (*B.S.*, 18.12.2018) attaches much importance to citizen participation in the water policy to be conducted. This reveals itself in two ways. First of all, Art. 1.2.3, paragraph 8 of the Flemish Parliament Act – and this is a first in Flemish environmental regulations – explicitly raises the so-called *participation principle* to an environmental principle. On the basis of this principle, all Flemish public administrations, services and agencies carrying responsibility with regard to integrated water policy must allow the citizens to participate – *at an early stage, in time and in an efficient way* – in the preparation, definition, implementation, follow-up and evaluation of the integrated water policy. It is important to mention in this respect that on the one hand the participation principle originates from and refers to the Aarhus Convention (see the Explanatory Memorandum to the draft Flemish Parliament Act on Integrated Water Policy, *Parl. St.*, Flemish Parliament, 2002-2003, no. 1730/1, page 21), and that it contains on the other hand an imperative obligation for all bodies to actively involve the citizens, not only in the preparation and definition of the integrated water policy (through water management planning), but also in the concrete implementation thereof in the field.

Secondly, the Flemish Parliament Act on Integrated Water Policy develops a participation arrangement at each level of the water management planning (at the level of catchment basin and basin).

(1) Consultation of the population and of the social target groups

The measures regarding information and consultation of the public imposed by the Flemish Parliament Act on Integrated Water Policy are partially based on the procedure laid down by the Flemish Parliament Act containing general provisions regarding environmental policy for the regional environmental policy plan. In order to allow the public to be consulted and participate actively, the draft water management plans and a number of preparatory documents must be available for public inspection during six months at the offices of the municipal authorities. During this period anyone can submit written remarks to the local authority with regard to the documents available for public inspection (Art. 1.6.2.5., §1-2). Remarks can also be directly submitted digitally to the Coordination Committee for Integrated Water Policy. At the same time, the authorities that drew up the draft plans present these drafts to a number of institutional social target groups (Mina-Council, SERV, Strategic Advisory Council for Agriculture and Fisheries and the basin councils) for advice. These are given ample time (six months) to study these drafts and give advice on them (Art. 1.6.2.5., §3). The provisions regarding the announcement of the public consultation (such as the way in which the public consultation is announced, the content of this announcement, the organisation of information meetings) were deleted in the amended Flemish Parliament Act. This makes it possible to make the announcement in a more flexible manner that is customised to the target groups, in amongst other ways by way of digital media.

In this context the Explanatory Memorandum to the amended Flemish Parliament Act of 18.07.2003 on integrated water policy amended by the Flemish Parliament Act of 19.07.2013 reads as follows: "Naturally, this announcement will be done both in time and in an efficient manner in keeping with the participation principle from Article 6,8° (current Article 1.2.3, paragraph 8) of the Flemish Parliament Act."

However important citizen participation is, it is best to avoid an excessive inquiry of the population and interest groups. The original Flemish Parliament Act already aimed as much as possible at linking the formal procedures for public inspection of and participation in catchment basin management plans, flood risk control plans and those of the basin management plans in time. The flood risk control plans are an integral part of the catchment basin management plans. The amended Flemish Parliament goes even further in this respect. The basin and sub-basin management plans are integrated into the catchment basin management plans as basin-specific parts. Consequently, the water management plans are presented for public consultation at the same time at all levels. The participation procedures are also clustered to a maximum extent in the preparatory documents for the water policy memorandum.

(2) Procedure after the public consultation has ended

After the public consultation has ended, the authorities forward all written remarks which they received to the authorities responsible for drawing up the water management plans (namely the Co-ordination Commission on Integrated Water Policy, basin secretariats). These authorities examine all remarks and advisory opinions they receive, harmonise the various water management plans, and draw up a final draft plan which they submit to the Government of Flanders for approval. After completing the final draft of the water management plan, the Flemish government informs all authorities concerned of this (municipalities, provinces ...). Finally, the

approved water management plans are published by extract in the *Belgian Official Gazette* and they are made available digitally by the Coardination Committee for Integrated Water Policy.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

The water policy memorandum, and the sectoral waste plans are examples of instruments that are referred to as a “plan”, but that hold an overall policy vision covering several years. In that sense these examples could just as well be regarded as “policy”(instruments). The spatial structure plan that is followed up by the spatial policy plan (we are currently in a transitional phase) are plans that have to do with the policy to be followed.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

1.

The description “relating to the environment” does not ensure a sufficient or sound definition of the type of “plans and programmes” to which the provisions of the Convention apply. That is why the Government of Flanders has opted to consider the whole of participation regulations of the plans and programmes coming under the Environment policy area in the light of the Aarhus Convention. A project is underway to further review and adapt the rules on public participation information. To this end, a study has been carried out to determine whether the information channels used are effective and which adjustments can increase that effectiveness. In addition, this project also includes the creation of a portal containing all information on public participation periods at regional level within the Environment policy area.

In order to increase the basis for and quality of plans, the public and private actors concerned are starting to co-operate more and more with other actors involved. It indeed seems generally more difficult to organise participation successfully when:

- it takes place at a late stage (when the citizen has the impression that everything has been decided anyway);
- the 'mental distance' between the actors is very large (e.g. higher government with individual citizen)

In the case of strongly implementation-oriented “plans and programmes” various forms of ‘interactive policy’ are – in addition to formal regulations – increasingly experimented with. This is due to the fact that sometimes regulatory provided participation provisions are insufficient to reach local citizens and other parties involved to a sufficient extent in the field, for instance in the case of a development project.

2.

The following remarks are made about the participation regulation in the Flemish Parliament Act on Integrated Water Policy.

At legal level, it is unclear how the Government of Flanders will deal with the formulated remarks or objections. The Flemish Parliament Act on Integrated Water Policy does not give any ruling on this matter. From past public consultations on the first generation of water management plans (for the basin and sub-basin management plans of 22 November 2006 to 22 May 2007, for the catchment basin management plans of 16 December 2008 up to and including 15 June 2009), it appears that:

- it is difficult to reach the citizen and motivate him to use his right to participation;
- the planning of an integrated water policy with various planning levels and planning cycles was a complex issue for the citizen;
- the Flemish Parliament on Integrated Water Policy provisions on the practical organisation of the public consultation and public inspection were insufficiently linked to the possibilities of modern communication technology.

These conclusions were also considered in the amendments to the Flemish Parliament Act through the amended Flemish Parliament Act on Integrated Water Policy of 19 July 2013. The possibility was provided, among other things, to also reply digitally and the planning cycle was telescoped so that, from now on, the water management plans at the different levels are presented together. As part of the public participation in respect of the second generation water management plans, extensive use was made of this digital participation avenue.

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

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer:

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

www.milieubeleidsplan.be
www.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen
omgeving.vlaanderen.be

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

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

I. APPLICABLE REGULATION WITH REGARD TO PARTICIPATION IN DRAFT REGULATIONS

The most important regulations with regard to participation in draft regulation by the advisory system is laid down in the following Flemish Parliament Acts:

– Flemish Parliament Act of 27 June 1985 on Flanders Social and Economic Council, (B.S., 03.09.1985)
- Flemish Parliament Act of 7 May 2004 on Flanders Social and Economic Council, (B.S., 25.08.2004)
- Flemish Parliament Act of 29 April 1991 establishing the Environment and Nature Council of Flanders and laying down the general rules for the recognition and subsidisation of environmental and nature associations, (B.S., 31.05.1991)
- Flemish Parliament Act of 30 April 2004 supplementing the Flemish Parliament Act of 5 April 1995 on general provisions regarding environmental policy with a title "Strategic advisory council" and amending various other Flemish Parliament Acts, (B.S., 08.06.2004).

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

III. APPLICATION OF NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 8 OF THE AARHUS CONVENTION

Consultations on draft regulations mainly take place through the organised advisory system of the Flemish Parliament and the Flemish Government. Draft Flemish Parliament Acts and Decrees are submitted for advice to the MiNa-Council, the SERV, and SARO: Strategic Advisory Council Spatial Planning. These are mainly composed of social groups and experts (for instance from the academic world). The individual citizen is not directly involved in this. However, if important issues are being addressed, the advisory councils make efforts to gain information – to support their advice – about what is going outside their own environment, for instance by organising hearings.

In its intention to conduct regulatory management, the Flemish Government has decided to set up a system of 'regulatory impact analysis' (RIA), together with a 'regulatory agenda' indicating draft regulations. The idea is to have external consultations on policy intentions regarding regulations take place more systematically and more easily.

From now on, a consultation portal has been registered in the Governance decree (art.II.8).

If the Flemish Government wishes to ensure the participation of citizens in the preparation, implementation, or evaluation of its policy, it shall inform them at least via the consultation portal on the central website of the Government of Flanders (art. II.8).

This article is part of the evolution towards open active policy-making and enshrines the principle of a central consultation platform. This involves consultation on vision memorandums, draft memorandums, green and white papers, and on important preliminary drafts of decrees and draft implementing decrees (via "notice and comment") but also on initiatives by other authorities with an impact on Flemish competences (e.g., EU) or possibly on the evaluation of important existing decrees or decisions.

Consultation and participation must be tailor-made. This article therefore does not impose any obligation to consult. It is within the competence of the Government of Flanders or the Ministers to decide whether consultation is useful in the decision-making process on a particular policy initiative.

The provision means that if consultation is deemed useful, the intention is that participation should be made easily accessible to everyone by providing a central consultation platform. The provision also implies that the results of the consultation should be transparent. Principles on quality consultation and feedback on results may be laid down by the Flemish Government (by circular letter). For instance, an obligation to indicate in the memo to the Flemish Government (for draft orders) or in the explanatory memorandum (for preliminary drafts of decrees) what follow-up was given to the consultation.

This consultation portal for the entire Government of Flanders is not yet operational.

At provincial and municipal level: participation is only possible through the provincial or municipal advisory councils for environment and nature respectively and through the provincial or municipal commissions for spatial planning respectively during the preparation of implementing regulations and/or generally applicable legally binding normative instruments.

Apart from giving advice, consultations are often also held between the environmental authorities and target groups. The former project 'target group policy' has now become a permanent task of the Environment Department and optimises the involvement of industry, agriculture and consumers in the policy.

Both the Flemish authorities and the Environment policy area have implemented good practices of effective participation of target groups and citizens, inter alia the updated Sigma Plan through a cross-policy area steering group, a sounding board group of target groups, various thematic working groups involving target groups and hearings for citizens. Another example is participation of all target groups and administrations concerned and consultation with local authorities and citizens regarding conservation targets (conservation targets are targets for conservation of natural living areas and habitats of populations of wild animal and plant species). So as to lend shape to the policy aimed at counteracting food wastage, close cooperation and consultation is maintained with the entire food industry and consumer organisations. This co-operation is concretised in a food wastage chain road map for the 2015-2020 time frame.

Specific instruments of regulations contain an explicit system of participation and involvement, such as for instance the Flemish Parliament Act of 15 June 1994 on environmental policy agreements, *B.S.*, 08.07.1994. This system guarantees that environmental policy agreements are also subject to different external tests. A public consultation period of thirty days is provided for the proposed adaptation of general and sectoral environmental conditions (Article 5.4.4. DABM)

Met opmerkingen [SM1]: This is new tekst and should be put in "track changes"

XXV. Obstacles encountered in the implementation of article 8

*Describe any **obstacles encountered** in the implementation of article 8.*

Answer:

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

*Provide further information on the **practical application of the provisions on public participation in the field covered by article 8.***

Answer:

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

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

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
 - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
 - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that, within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
 - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
 - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

I. APPLICABLE REGULATIONS WITH REGARD TO ACCESS TO JUSTICE

- Governance Decree of 07.12.2018 (B.S., 19.12.2018, err. B.S., 11.01.2019), as amended by the decrees of 19.07.2019 (B.S., 02.09.2019) and 19.06.2020 (B.S., 08.07.2020).
- Government of Flanders Order of 19.07.2007 establishing the appeal body on public access to government information and the re-use of public sector information (B.S., 05.11.2007), as amended by the Government of Flanders Orders of 13.03.2015 (B.S., 01.04.2015), 16.09.2016 (B.S., 18.11.2016), 02.06.2017 (B.S., 13.07.2017) and 10.05.2019 (B.S., 01/08/2019).
- Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy, (B.S., 03.06.1995) (DABM), Title IV: environmental impact and safety reporting, Art. 4.6.4 (EIR/VR: Reconsideration possibilities)
- judicial possibilities: see federal report (www.health.fgov.be).

II. TRANSPOSITION OF RELEVANT DEFINITIONS FROM ART. 2

See earlier comments to Art. 4 of the Aarhus Convention.

III. APPLICATION OF NON-DISCRIMINATION REQUIREMENT

See earlier comments to Art. 4 of the Aarhus Convention.

IV. IMPLEMENTATION OF ART. 9 OF THE AARHUS CONVENTION

(a) With respect to paragraph 1

(i) + (ii)

The information seeker may lodge an appeal against any decision made by a public authority with regard to access to environmental information, either after the expiry of the term within which the decision had to be taken, or in the event of the decision being carried out reluctantly (Art. II.48, §1, first paragraph BD). This appeal must be lodged with an administrative appeal body composed of officials appointed by the Government of Flanders. This appeal is free of charge and must be submitted in writing, by web form or by e-mail within thirty calendar days after the sending of the decision or after expiry of the implementation period.

The autonomy of this appeal body is guaranteed by law (Art. III.91 BD): *“The appeal body carries out its duties fully independently and neutrally. The members of the appeal body:*

- 1) shall be protected against influence or pressure, in particular from persons involved in the administrative document to which the appeal relates;*
- 2) have sufficient time to deal with the appeals;*
- 3) shall not be subject to evaluation or disciplinary action on account of their findings in the investigation or their judgment on the appeal.”*

The appeal procedure is free of charge.

An appeal for annulment can be lodged with the Council of State against the decision of the appeal body within sixty days. This is a federal competence. See federal report. (www.health.fgov.be)

(iii)

The decisions of the appeal body to allow an appeal are binding for the authority they are meant for. Art. II.50 §3 BD obliges the public authority that has the information in its possession or has deposited it in an archive, to implement the decision to allow the appeal as soon as possible and at the latest within fifteen calendar days after receiving the appeal body's decision. If the public authority has not implemented the decision of the appeal body in due time, then the appeal body will

carry out the decision itself as soon as possible. For local government, the appeal body may instruct an official to proceed on-site and carry out the decision himself. This can only be done after a warning in writing.

(b) With respect to paragraph 2

Administrative appeal with regard to provisions of Article 6

As far as the environmental licence is concerned, there exists an administrative appeal procedure in first instance in accordance with the OVD. Next to this, judicial appeal procedures are available.

An appeal can be lodged with the provincial executive against decisions in first instance of the Board of Mayor and Aldermen and with the Government of Flanders (Minister responsible for Environment) against decisions in first instance of the provincial executive. This appeal can be lodged by the applicant, by the leading civil servant of the advisory public authorities, by the Board of Mayor and Aldermen (first category), and by the public concerned.

The administrative appeal has a devolutive effect: the appeal body must re-examine all aspects of the licence application.

If the above-mentioned administrative appeal possibilities are exhausted, judicial appeal is still possible to the Council for Licence Disputes.

(c) With respect to paragraph 3

Challenging, through administrative or judicial procedures, acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment is possible via various administrative appeal possibilities:

- submission of a complaint to an ombuds service;
- voluntary appeal with the authority that took the decision;
- hierarchical appeal with the higher authority;
- organised appeal provided by Act or Flemish Parliament Act;
- appeal with the supervisory authority

and via various judicial appeal possibilities when the above-mentioned administrative appeal possibilities are exhausted. This concerns a federal competence (see federal report)

(www.health.fgov.be).

(d): With respect to paragraph 4

(i) For the appeal body with regard to open government

If the appeal body allows the appeal, it also allows that it is made public (Art. II.50, §2 BD). The public authority the appeal has been lodged with implements the decision to allow the appeal as soon as possible and at the latest within fifteen calendar days after receiving the appeal body's decision. If the public authority has not implemented the decision within this period, then the appeal body will carry out the decision itself as soon as possible. For local authorities, the appeal body may order an official to proceed on-site and carry out the decision himself, after a warning in writing.

In general

Whether the above-mentioned administrative and judicial review procedures provide “adequate” and “effective” remedies is the subject of much discussion. Nevertheless, a wide range of remedies is available, depending on the case: restoring the original state, damages, imprisonment, a fine, an order to cease a certain act or activity, the execution of adaptation works, ordering the claimant to carry out the sentence himself at the expense of the defendant, imposing a penalty per time unit during which the sentence was not complied

with or for every violation, etc.

(ii) For the appeal body with regard to open government

The appeal body informs the applicant and the public authority concerned of its decision in writing, by web form or by e-mail within a period of thirty calendar days. This period can be extended to forty-five calendar days if the verification of the application as regards the grounds for exception are difficult to complete in time (Art. II.50, §1 BD).

The decisions of the appeal body are public (Art. 12, in fine of the Government of Flanders Order establishing the appeal body with regard to open government) and are published on the Internet.

https://www.vlaanderen.be/publicaties?type=beslissing%20Beroepsinstantie%20Openbaarheid%20van%20Bestuur&order_publicationdate=desc

In general

Whether or not the procedures are “fair”, “fast” and “not disproportionately expensive”, is also the subject of much discussion. Normally, the decisions within the framework of the review procedures mentioned above are in writing, public and accessible.

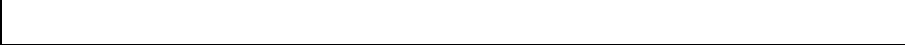
See also federal report: (www.health.fgov.be)

(e) With respect to paragraph 5

Any decision or administrative act of individual significance and intended to have legal consequences for citizens or another public authority, must also mention of the possibilities and modalities of appeal. Otherwise, the decision has not been brought to notice in a valid way. In the absence of this mention, the term for the submission of an appeal shall commence four months after notification of the decision, whereas the regular period for lodging an appeal is thirty calendar days (Art. II.21, 48 and 69 BD).

In this way, any legal subject who is faced with such government decisions, is informed about the possibilities of appeal, in accordance with the guarantee required by Article 9, paragraph 5 of the Aarhus Convention.

See also federal report: (www.health.fgov.be)



XXIX. Obstacles encountered in the implementation of article 9

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.*

Answer:

With regard to art.9.1: see under 'obstacles' in art. 4.

XXX. Further information on the practical application of the provisions of article 9

*Provide further information on the **practical application of the provisions on access to justice pursuant to article 9**, e.g., are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?*

Answer:

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

https://www.vlaanderen.be/publicaties?type=beslissing%20Beroepsinstantie%20Openbaarheid%20van%20Bestuur&order_publicationdate=desc
<https://www.dbric.be/rechtspraak>

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

See federal report: (www.health.fgov.be)

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

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1 of article 6 bis** and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market of such genetically modified organisms, as well as the assessment report where available;
 - (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;
 - (v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:
 - a. The nature of possible decisions;
 - b. The public authority responsible for making the decision;
 - c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
 - d. An indication of the public authority from which relevant information can be obtained;
 - e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;
 - (vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;
 - (vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;
 - (viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

(b) With respect to **paragraph 2 of article 6 bis**, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer:

The Almaty amendment was adopted by the Flemish Region by the 19 December 2008 Flemish Parliament Act, which ultimately led to the international ratification by Belgium on 17 June 2009.

Although Art. 6 bis and Annex I bis are only transposed at federal level, the Regions are closely involved in the consultation procedure regarding authorisation procedures for deliberately releasing of GMOs into the environment for any purpose other than their placing on the market. See federal report.

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I bis

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.*

Answer:

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

*Provide further information on the **practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis**, e.g., are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?*

Answer:

XXXVI. Website addresses relevant to the implementation of article 6 bis

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Answer:

XXXVII. Follow-up on issues of compliance

If, upon consideration of a report and any recommendations of the Compliance Committee, the Meeting of the Parties at its last session has decided upon measures concerning compliance by your country, please indicate (a) what were the measures; and (b) what specific actions your country has undertaken to implement the measures in order to achieve compliance with the Convention.

Please include cross-references to the respective sections, as appropriate.

Answer: