Ministerstvo životního prostředí

National Report on the Implementation of the Aarhus Convention in the Czech Republic

in the period 2017–2020

The Czech Republic, as a party to the International Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (hereinafter also referred to as the "Aarhus Convention", the "Convention") is obliged to submit a report on its implementation. The reports shall be discussed at meetings of the Parties in accordance with Article 10, paragraph 2, of the Aarhus Convention. The next session of the Meeting of the Parties is planned to start on 18 October 2021. The recommended deadline for submitting the report is February 2021, latest 21 April 2021. The content of the report must follow a binding structure.

Compliance with the provisions of the Convention

I. Procedure of the Report preparation

The National Report on the Implementation of the Convention (hereinafter also the "Report") is submitted by the Ministry of the Environment ("MoE") as the body responsible for the implementation of the Aarhus Convention in the Czech Republic. [*The report was consulted with the public and stakeholders – the draft Report was published on the website of the Ministry of the Environment. The public had the opportunity to send written comments on the draft Report. At the same time, the public had the opportunity to comment as part of a publicly accessible online presentation of the draft Report.*].

The new information given in the Report compared to the previous interation of the Report for the period 2014–2016 is highlighted in gray throughout the document. In some parts of the Report, the text has been comprehensively amended in order to simplify and clarify the legal framework and related policy framework. In this case, the changes are struck through, with the new text highlighted. The comprehensive changes have been necessitated by changes in legislation which came into effect before 2017. Since then until the date of this Report, there have been no major legislative changes that would have a bearing on the implementation of the Aarhus Convention. The presented Report takes into account, in particular, shifts in case law opinions, and some judgments which have not been sufficiently noted in the previous period have been added.

II. Particular circumstances relevant for understanding the report

~~The Czech Republic is the successor state of Czechoslovakia, which was founded in 1918, after the end of the World War I and the collapse of the Austro-Hungarian Empire. After the period of the so-called the First Czechoslovak Republic (1918-1938) and the World War II the democratic development of Czechoslovakia was interrupted by the totalitarian regime in the years 1948-1989 and again restored after the so-called velvet revolution in November 1989. In 1992, Czechoslovakia was divided in the Czech Republic and Slovakia. Since 2004, the Czech Republic has been a Member State of the European Union.~~

The Czech Republic has been a party to the Aarhus Convention since its signing on 25 June 1998. After ratification on 6 July 2004, the **Convention was published in the Collection of International Treaties** under No. 124/2004 Coll.

The Aarhus Convention is part of a broader framework of environmental law, the main sponsor of which in the Czech Republic is the Ministry of the Environment. The concept of comprehensive and structured environmental protection has been under development in the Czech legal system since the early 1990s. The pillars covered by the Aarhus Convention, including access to environmental information, public participation in environmental processes and access to justice in environmental matters, are often intertwoven with the national law.

Access to environmental information is vested in Act No. 123/1998 Coll., On access to information on the environment. This legislation is used on a regular basis. In the relevant part of this Report, several reservations about the application practice will be mentioned, consisting mainly of poor awareness of this regulation as well as the low effectiveness of judicial protection.

The participation of environmental associations in environmental proceedings was already resolved in the first half of the 1990s, on the basis of Act No. 114/1992 Coll., On nature and landscape protection. This law allowed the participation of associations in all administrative proceedings in which the interests of nature and landscape protection may be affected. In these areas, this act also provided a

framework for the participation of environmental associations in making decisions concerning specific activities under the Aarhus Convention.

In connection with the amendment to Act No. 183/2006 Coll., On zoning and building regulations (Building Act), which was passed in 2017, the aforementioned standard was reduced in this part.

From 2018, environmental associations, which had the right to participate in all administrative proceedings in which the interests of nature and landscape protection could be affected, may participate on the basis of the provisions of Section 70 of the Nature and Landscape Protection Act only in a limited scope of proceedings (administrative proceedings in under the Nature and Landscape Protection Act). While this lowering of the standard did not have a direct impact on the implementation of the Aarhus Convention in terms of participation (these are not proceedings falling within the scope of the Aarhus Convention), the change in the scope of environmental associations' participation in nature and landscape protection proceedings introduces an unsystematic burden on the third pillar, which, moreover, operates in the Czech Republic exclusively on a cassation basis. This can in turn reduce the timely and effective protection of the environment. The above-mentioned change in legislation, which led to an interference with environmental rights, has since 2017been the subject of a review by the Constitutional Court, to which a group of senators submitted a complaint. Prior to the final finalization of this Report (in January 2021), the said change passed the constitutional test at the Constitutional Court, when the Constitutional Court reviewed and confirmed it (Judgment of the Constitutional Court of 26 January 2020, file No. Pl. ÚS 22/17).

The **participation requirement of the public concerned** in the permitting of specific activities addressed in the legislation of the Czech Republic in connection with the environmental impact assessment process, in the so-called follow-up procedures, and also separately in issuing integrated permits.

The legal regulation of the environmental impact assessment process [Act No. 100/2001 Coll., On environmental impact assessment and on amendments to certain related acts (Act on Environmental Impact Assessment), "EIA Act"] underwent significant changes in 2015, when the existing comprehensive framework for the participation of environmental associations has been codified in relation to the subsequent decision - making decisions on specific activities. The valid and effective regulation in the field of EIA thus forms the basis for fulfilling the requirements of the Convention in the matter of participation and, consequently, in the matter of judicial review. The legal regulation enables consultative participation of the public in proceedings following the EIA, in which approvals of projects are decided. Environmental associations are granted full participation in these follow-up proceedings and the right to appeal against the decision made in the follow-up proceedings. In judicial review, they are granted the right to challenge both procedural and substantive issues in the subsequent proceedings.

The participation of environmental associations in the processes under the Building Act is tied to projects subject to environmental impact assessment, specifically their approval in subsequent proceedings. Alternatively, full participation in permitting processes under the Building Act is tied to property rights and other rights *in rem*. In relation to assessing projects in the EIA process, the general public has a right to consultative participation in follow-up proceedings.

Projects not requiring EIA (where there are no follow-up permitting procedures), the participation of associations (but not all the public concerned) is specifically provided for in IPPC regulations, the Water Act and the Nature and Landscape Protection Act.

Judicial review in the Czech Republic is codified in connection with the infringement of rights as a result of a decision or measure of a general nature, as a result of misconduct or inaction on the part of an administrative body.

Judicial review has historically faced certain limitations, but these have been removed in recent years. The limitations in relation to the full implementation of the Convention were in the view of environmental associations as entities that were only guaranteed procedural rights, and therefore could not demand a substantive legal review. Another limitation was the scope of participation under the Building Act, linked to the ownership of the real estate in question.

As far as guaranteed access to justice, reference may be made in particular to the case law of the Supreme Courts and to the positive shift in the perception of the public concerned in relation to the protection of environmental interests. In 2014 and 2015, there was a fundamental shift in the view of associations and, in addition to procedural rights, they were also granted substantive rights. Therefore, on the basis of a direct and unmediated relationship with a certain territory, associations may claim a reduction in their rights by an unlawful decision of administrative bodies; they may challenge an administrative decision in an administrative action (see the judgment of the Supreme Administrative Court of 25 June 2015, No. 1 - 295, or of 30 September 2015, No. 6 As 73 / 2015-40, Judgment of the Constitutional Court of 30 May 2014, file number I. ÚS 59/14). According to the courts, associations can indirectly defend the rights of their members, including the right to favourable environment, because it is pointless for individuals to lose this opportunity if they join the association. At the same time, individuals and associations can promote the public interest by protecting their rights. The case law also confirms the possibility of judicial review without a direct link to participation in previous proceedings.

The above principles apply to the implementation of the requirements in the second and third pillars of the Aarhus Convention.

As regards **the possibility of the direct applicability** of the Aarhus Convention, the Czech courts exclude it, however, the Aarhus Convention and the rights defined by it are used as an important argument to take account of environmental interests (*"If it is possible to interpret national norms in several possible ways, the interpretation that meets the requirements of the Aarhus Convention takes precedence"*, see the judgment of the Constitutional Court of 30 May 2014, file No. I. ÚS 59/14).

With regard to the Czech Republic's membership in the EU, the obligations arising from EU law are also relevant, with regard to the requirement of **interpretation of national law *"in the light of the wording and purpose"* of EU law so as to achieve the goal intended by the law and its effectiveness, and the possible direct effect of Union directives.**

~~The responsibility for making decisions on the environment is held by the state power; considerable part of responsibility is delegated to local government authorities. Apart from them, a smaller part of the power in the area of the environment is exercised by local government units (municipalities and regions) as their independent power through the elected representatives of citizens. The judicial power is exercised in the Czech Republic by a system of general courts at the top of which is the Supreme Court acting in civil and criminal matters and the Supreme Administrative Court acting in administrative law matters. Separated from this system, there is the Constitutional Court. According to article 10 of the Constitution of the Czech Republic, the international treaties to the ratification of which the Parliament granted its consent (such as the Aarhus Convention) shall prevail over the law. If the law stipulates something different from an international treaty, the international treaty shall prevail.~~

~~In practice, the courts, including the Constitutional Court, are rather rejective to the direct application of the Convention, stating that its wording does not provide any specific rights and obligations1 and is therefore not "self-executing". In June 2015 the Czech Supreme Administrative Court published a breakthrough judgment, according to which the societies concerned with the protection of nature and landscape are actively legitimated to submit not only procedural but also substantive objections in the procedures before administrative courts. The Court argued with the wording of the Aarhus Convention, which, although it is not a directly applicable international treaty, provides such a right to associations2.~~

~~In 2015, a significant EIA Act amendment was adopted by the government; the Act sets the "Binding Statement on the EIA", whose content is binding for authorities issuing final administrative decisions; it is possible for the public concerned to bring a legal action to an administrative court against a "negative" conclusion to the fact-finding procedure; the possibility for environmental NGOs to take part in the whole range of proceedings subsequent to EIA procedure is guaranteed; moreover, it enables NGOs to appeal to higher administrative authorities against administrative decisions taken in these subsequent~~

[1]see particularly the resolution of the Constitutional Court, ref no. I ÚS 2660/08, and the judgment of the Supreme Administrative Court, ref no. 3 Ao 2/2007-42

[2] the judgment of the Supreme Administrative Court, ref no. 1 As of 13/2015 – 295.

~~administrative procedures regardless of their participation or non-participation in those administrative procedures; it enables NGOs to bring legal action to administrative courts against final decisions (permits, licences, authorizations…) of administrative authorities taken in procedures subsequent to the EIA procedure. The judicial review shall cover both substantive and procedural issues.~~

III. Legislative, regulatory and other measures that implement the main provisions of Article 3, paragraphs 2, 3, 4, 7 and 8

a) with respect to Article 3 paragraph 2

The basic legal framework **for the procedure of executive bodies, bodies of self-governing units and other bodies, or legal and natural persons, if they exercise powers in the field of public administration**, is regulated by Act No. 500/2004 Coll., The Administrative Procedure Code. The principles of the activity of administrative bodies include the principle of public administration as a service to the public regulated in Section 4 (1) of the Administrative Procedure Code. This principle is also linked to the obligation of officials to behave politely in the performance of their duties and, as far as possible, to accommodate the persons concerned. Furthermore, Section 4 (2) of the Administrative Procedure Code stipulates a general obligation to inform about the rights and obligations of the person concerned. This is then specified in relation to the individual actions of administrative bodies in the sense of instruction on legal consequences. Pursuant to the provisions of Section 4 (3) of the Administrative Procedure Code, the administrative body is obliged to inform the persons concerned of the act it intends to perform if such information is necessary for exercising their rights and if it does not jeopardize the purpose of the act. The administrative body is also obliged to enable the persons concerned to exercise their rights and legitimate interests. The administrative authorities are also obliged to ensure the coherence of all ongoing procedures concerning the same rights and obligations of the same person concerned.

According to the Civil Service Act No. 234/2014 Coll. the civil servant is obliged to comply with the code of conduct promulgated in Staff Regulations of the Deputy Minister of the Interior for Civil Service No. 13/2015, which stipulates, inter alia, that the civil servant acts towards the persons concerned so as not to mislead them about their rights and obligations and informs them clearly, accurately, completely, truthfully and intelligibly.

As part of their induction and subsequent training, officers receive training related to the field of their activity. The Ministry of the Environment provides new employees with induction training lasting 16 hours, the curriculum of which also includes the duties of civil servants with regard to the public (access to information); subsequent training in the form of e-learning deepens knowledge in the field of the legal system of the Czech Republic (and therefore also the obligations arising from the membership of the Czech Republic in the Convention).

The **duties of civil servants** employed by regions and municipalities are regulated by Act No. 312/2002 Coll., On officials of territorial self-governing units and on the amendment of certain acts. These include the obligation to provide information on their respective agency's activities to the extent provided for in other regulations. The law also defines the basic preconditions for the performance of the official function, which includes the duty of continuous deepening of qualifications. The legal regulation enshrines the obligation of initial and continuous education of officials. The induction training includes general principles of public administration and a code of conduct of a civil servant. In addition, special professional competence is required, which ensures the testing and deepening of knowledge of a specific professional section of public administration. The principles of the Aarhus Convention are also reflected in the relevant educational programs.

The **training of civil servants** falls under the Ministry of the Interior, specifically the Institute for Public Administration in Prague, which is an institution funded and established by the state. Other organizations also take part in it, such as the Association of Municipalities, which implements the ESO project focused on effective municipal administration.

The Ombudsman's office plays a special role in assisting the public in relation to public administration. The institute of the Ombudsman was established by Act No. 349/1999 Coll., On the Ombudsman. The Ombudsman acts to protect individuals from the actions of the authorities if they are unlawful, inconsistent with the principles of a democratic state governed by the rule of law and good governance, as well as to protect them from inaction. In this sense, the Ombudsman can also address suggestions in specific areas in the area of environmental protection submitted by members of the public. The Ombudsman also has a duty of information if the complaint submitted to the office is solvable by means of administrative law or constitutional complaint (Section 13 of the Act on the Ombudsman).

In general, eGovernment tools, such as the public administration portal (www.portal.gov.cz) established by the Ministry of the Interior, contribute to **effective communication and sharing of information** between authorities and the public. In 2006, the Ministry of the Interior included Local Agenda 21 among the official methods of improving quality in public administration. Through it, good governance of public affairs is being strengthened. Other communication tools are provided in the policy Client-Oriented Public Administration 2030, which sets out the development of public administration in the period 2021–2030, including plans for increasing client focus in public administration. One of the general goals of the policy in all areas of public administration is to improve information and facilitate citizen participation.

~~Act No. 312/2002 Coll., on Officials of Local Government Units regulates the obligations of regional and municipal officials, which include the obligation to provide information about the activities of the authority to the extent stipulated by other regulations, and the basic requirements for discharging the office of an official.~~

~~The provision of section 4, paragraph 1 of Act No. 500/2004 Coll., Administrative Procedure Code, stipulates the obligation of officials to act politely when exercising their powers and to be willing to help the concerned persons as far as possible. The same provision also stipulates the obligation of administrative authorities to provide reasonable guidance to the concerned persons about their rights and obligations.~~

~~Within the scope of their employment, Czech officials undergo trainings relating to the branch of their activities. If the branch of their activities relates to making decisions on the environment, they are likely to have been familiarized with the Convention requirements through such trainings. The MŽP provides new employees with a 16-hour initial training during which the new employees are familiarized, including without limitation, with obligations of officials to the public (right to information). Subsequent trainings in the form of e-learning deepen the acquired knowledge, particularly in the field of the system of law of the Czech Republic (and the obligations arising from the membership of the Czech Republic in the Convention).~~

~~The Czech law (Act No. 349/1999 Coll.) has established the institution of a Public Defender of Rights (ombudsman) whose authority also covers the area of environmental protection.~~

b) with respect to Article 3 paragraph 3

Regarding the implementation of Article 3, paragraph 3 of the Convention, the Czech Republic does not have a dedicated system of education which specially cover the principles and procedures under the Convention. However, the tools of active public participation in the environmental field are generally **taken into account within the system of environmental education and training (EVVO)**, which ensures that attention is consistently paid to these issues.

The history of environmental education in the Czech Republic dates back to the 1960s. In the years 1990–1994, the foundations of EVVO were created and the EVVO system developed dynamically in terms of legislation and in terms of inclusion in the agenda of public administration, self-government and non-governmental institutions. International cooperation has also developed and there has been a deeper elaboration of the thematic content and methods, which have also been embedded in the educational plan of the school system.

Of the legal regulations, one of the foundation laws is the Act No. 123/1998 Coll., On access to information on the environment, which in its Section 13 stipulates in general terms the obligation to support environmental education and awareness at the national and regional level. At the same time, it makes the Ministry of the Environment responsible for the development of a state-run EVVO program. The Ministry

of Education, Youth and Sports (MoEYS) is the main sponsor for the field of EVVO within the school system. The Ministry of the Environment is the sponsor of the EVVO program for the public, public administration, extracurricular activities for children and youth and the business sector. In the field of education, EVVO is listed among the general objectives of pre-school and school education; Act No. 561/2004 Coll., On pre-school, primary, secondary, higher vocational and other education (the Education Act) declares as a goal *"learning about the environment and its protection based on the principles of sustainable development and application of this knowledge"*. This is further reflected in the concept of environmental education in schools.

The current **national EVVO strategy of** is set out in the State Program of Environmental Education, Awareness and Environmental Consulting for the years 2016–2025 (SP EVVO and EC). The strategy is implemented on the basis of action plans. In addition to the EVVO strategy, the State Environmental Policy 2012–2020 states that raising public awareness of environmental issues is a basic precondition for its successful implementation. One of the tasks of the State Environmental Policy in the field of EVVO is to ensure the implementation and fulfillment of tasks arising for the Czech Republic from the Aarhus Convention.

The EVVO program in the Czech Republic is comprehensive and includes an understanding of ecological relationships and laws. **The development of competencies needed for environmentally responsible behaviour** is to be developed in the following five basic areas of competences: relationship to nature, relationship to a place, ecological processes and patterns, environmental problems and conflicts, and readiness to act in the interest of the environment. The last area points to knowledge and skills for active influencing of surroundings. While the EVVO program does not specifically focus on how to access information, how to participate in decisions and how to gain access to justice under the Aarhus Convention, these elements are part of the training programs. Apart from the structure of the national EVVO system, non-governmental organizations are involved in promoting the tools of active participation. In the Czech Republic, simulation games reflecting the state of society versus global (local) problems, or environmental processes, etc., are successfully used in practice.

The development and role of EVVO is also taken up by the academic sphere, which works closely with non-governmental non-profit organizations in this matter.

EVVO funding is systematically provided from national sources. In the years 2018–2020, specific activities supported by the National Programme Environment (NPE) have been defined within the limits of the so-called Framework of the National Programme Environment for the period 2018–2020. The choice of supported activities is based on the State Environmental Policy of the Czech Republic and at the same time responds to the current needs of cities and municipalities. EVVO is also one of the priority areas for support.

~~From 1990 to 1994 the foundations of environmental education and training have been created and the EEPA has been developed dynamically in terms of legislation (statutory integration, Government resolutions); it has been incorporated in the agenda of the State administration, local governments and non-state institutions; the international cooperation has developed; the thematic content and methods have been elaborated; the grant support of the ME and foreign foundations was established. In the period 1994-1998 these foundations were reviewed, sometimes even negated, the dynamic development has been slowed down, the support of EEPA was limited, which verified the viability of established structures and activities and strengthened the self-help activities. After 1998 new impulses arrive and the area gets a new dynamics -(Act No. 123/1998 Coll., section 13), the national network of EEPA, the support from the regions, the methodical guidance of the MEYS to EEPA, the incorporation of the "environmental education" as a compulsory transversal theme to RVP and SVP, the newly emerging investment aid (SEF), the starting support from the European structural funds, the concept of education for sustainable development is discussed and its relation to the ecological/environmental education and training.~~

~~The aim of EEPA in the CR is the development of competences necessary for environmentally responsible behaviour in the following five core areas of competence: the relationship to nature, the relationship to ecological issues and rules, environmental problems and conflicts, and the readiness to act for the benefit of the environment.~~

~~EEPA is funded both from national sources and from EU funds; support is provided to a network of eco-centres and eco-advice bureaus, kindergartens, schools, university lecturers, etc. that disseminate EEPA among broad target groups of population. However, recent economy measures resulted in reduction of public funds spent on EEPA.~~

c) with respect to Article 3 paragraph 4

The Charter of Fundamental Rights and Freedoms guarantees the right to freedom of assembly (Article 20). Detailed aspects of the operation of non-profit organizations are regulated by **the Civil Code** (Act No. 89/2012 Coll., effective from 1 January 2014). The Civil Code regulates the status of associations, foundations and endowment funds and institutes. In addition to these non-profit organizations, there are public benefit corporations in the Czech Republic established under the previous legislation, as well as registered ecclesiastical legal entities, the purpose of which, however, is primarily religious or charitable. Furthermore, the establishment and active operation of informal groups of persons is not excluded.

An association can be established by at least three persons with a common interest. The Civil Code also stipulates the principles of functioning of associations, the definition of their purpose or internal organization. Associations are registered in the public register of associations. However, in order to fully exercise participatory rights in the sense of the Aarhus Convention, an association must meet the criteria set out in this Report (operating for at least 3 years or supported by or more 200 people).

The position of non-governmental non-profit organizations (NGOs) and taking into account their needs falls under the auspices of the **Government Council for Non-Governmental Non-Profit Organizations** ("Council"), which is a permanent advisory, initiative and coordination body of the Czech government in this area. The Council was established in 1992; in 1998 it was transformed into its current form.

The role of the Council is mainly initiative. The Council initiates and assesses policy and implementation documents for government decisions concerning the support of NGOs, as well as legislative and policy measures concerning the framework of their activities. It also monitors the development of legal regulations in relation to NGOs and ensures the exchange of information between NGOs and government authorities. Representatives of environmental NGOs are also members of the committees of the Council.

In 2003, the **Government Council for Sustainable Development** was established as a permanent advisory, initiative and coordinating body of the Government of the Czech Republic in the area of sustainable development and strategic management. Its organizational classification has been constantly changing; in March 2018, the execution and coordination of the sustainable development agenda was transferred to the Ministry of the Environment.

The cooperation of the state with NGOs advocating environmental protection is generally enshrined in strategic documents such as the State Program of Environmental Education and Awareness and the Strategic Framework Czech Republic 2030.

On an informal basis, representatives of the Ministry of the Environment meet regularly with representatives of non-governmental non-profit organizations (especially Zelený kruh, the network of environmental centres Pavučina and the network of environmental consulting centres STEP).

In the last 20 years, a network of non-profit organizations has been established in the Czech Republic, which operates dozens of environmental education centres (e.g. the network of environmental centres Pavučina, z.s., www.pavucina-sev.cz), which offer short-term and residential programs mainly for pupils and students, but also for the general public, as well as a network of environmental consulting centres. The consulting centres deal with general issues of environmental protection as well as issues of ethical consumption. They help solve specific problems (environmental interventions, greenery protection, waste management, etc.).

The focus of environmental NGOs is thus very broad, from environmental education through consulting, nature and landscape protection to the conduct of thematic campaigns focused on consumers or environmental policy. Currently, NGOs are being set up in order to promote a specific environmental interest (e.g. the association Spolek Klimatická žaloba, z.s., www.klimazaloba.cz). The Ministry of the Environment has created an online resource for eco-centres (www.ekocentra.cz) and eco-consulting

centres (www.ekoporadny.cz), which offer an list of all consulting centres by location and by thematic focus.

Funding for non-governmental non-profit organizations operating in the field of environmental protection in the sense of supporting their activities is granted through operational programs, especially Operational Program Environment 2014–2020. The following are priority areas for the current programming period: improving water quality and reducing the risk of floods, improving air quality in human settlements, waste and material flows, environmental burdens and risks, protection and care of nature and landscape, energy efficiency. It is also possible to use support from the Operational Program Research, Development and Education, or regional operational programs. The NGO platform is also being developed using funds from the European Social Fund under the Operational Program Employment (http://platformanNo.weebly.com).

Further support is based on the National Programme Environment for the period 2018–2020 administered by the SEF and the NGO program of the Ministry of the Environment. NGO support is also implemented within the framework of regional and local self-government, in the form of regional and municipal subsidies.

~~The constitutional order of the Czech Republic includes the Charter of Fundamental Rights and Freedoms which stipulates the right to the freedom of association (article 20). In connection with such right several Acts regulate legal forms of non-profit legal entities: it is particularly Act No. 83/1990 Coll., on Associations of Citizens, Act No. 248/1995 Coll., on Public Benefit Societies and Act No. 227/1997 Coll., on Foundations and Endowment Funds. All those organizations are established independently of the will of the state.~~

~~In the Czech Republic there is a Government Council for non-state non-profit organisations as a permanent counselling, initiative and coordination body of the Government in the area of non-State non-profit organisations. The Council collects, discusses and presents to the Government materials related to the NGOS and to the creation of a suitable environment for their existence and activities. The Council committees are members and representatives of environmental NGOs.~~

~~On 1 January 2014 the new Civil Code (No. 89/2012 Coll.) entered into effect, repealing the above stated Acts and introducing a new regulation of non-profit organizations. It regulates numerous aspects of operation of those entities in much greater detail. Not only there is a formal change – return to the traditional designation "society" (spolek) but the new legal arrangement also brings a significant advancement in quality. The rules of operation of societies, their purpose and internal organization are set out more precisely. Data about societies shall be entered in a public register of societies. Another novelty is that any legal entity, including a society, may be granted the status of a public benefit entity. The currently existing public benefit companies will keep their legal form but no new public benefit companies will be founded. A new legal form in the non-profit sector will be institutions (ústavy).~~

~~Cooperation of the state with non-governmental non-profit organizations that promote environmental protection is stipulated particularly in the Strategy of Education for Sustainable Development and in the State Programme of Environmental Education and Enlightenment. Both these documents have been approved by the government.~~

~~Representatives of the MoE have regular meetings with representatives of non-governmental non-profit organizations (particularly Zelený kruh - Green Circle, Síť center ekologické výchovy Pavučina - Network of Environmental Education Centres Cobweb and Síť ekologických poraden STEP - Network of Environmental Advice Bureaus STEP).~~

~~The financial support of non-governmental non-profit organizations active in the area of environmental protection comes from several sources. It is sourced from operational programmes, particularly from the Environment Operational Programme, Education for Competitiveness Operational Programme, Regional Operational Programmes and the Czech-Swiss Cooperation Programme. The MŽP provides support to civic associations and public benefit companies (onwards it will support societies and public benefit companies) within the scope of subsidies for the implementation of projects that contribute to the achievement of the State Environmental Policy objectives specified in the main areas of the state subsidy policy aimed at non-governmental non-profit organizations, which are approved by the government on~~

~~a yearly basis. Non-governmental non-profit organizations also obtain subsidies from other subsidy programmes. For example, from the Environmental Education, Enlightenment and Consultancy Support Programme of the State Environmental Fund, from the Landscape Care Programme of the MoE and from regional and municipal programmes.~~

d) with respect to Article 3 paragraph 7

At present, there are no uniform binding rules governing the participation of NGO representatives in state delegations in international fora dealing with environmental issues. The Ministry of the Environment regularly informs about its international activities in the field of environmental management on the platform of the so-called extended ministerial steering group, in which representatives of the non-profit sector regularly participate. In formulating national positions for summit conferences, the Ministry of the Environment practically cooperates with NGO representatives (in the form of preparatory working groups) and seeks their active participation in delegations.

e) with respect to Article 3 paragraph 8

The Chater of Fundamental Rights and Freedoms enshrines the **right to freedom of expression, freedom of association, the right to petition, the right to a favourable environment, the right to timely and complete information about the environment, and the right to judicial protection against illegal decisions by public authorities**. All these constitutional rights are further specified in the other laws. From a legal point of view, penalties or harassment are out of the question. In practice, however, it is necessary to draw attention to how environmental associations are viewed by politicians, which tends to be rather pejorative. With regard to the requirements associated with, for example, the construction of transport infrastructure and with regard to the effort to speed up and simplify permitting processes, environmental interests are perceived as a nuisance.

However, in this respect it is necessary to point out the judgment of the Constitutional Court of 30 May 2014, file No. I. ÚS 59/14, in which the court stated that the ***designation of civic associations active in the area of nature and landscape protection as "environmental initiatives" "erroneously implies a mere activist and secondary role***, *which civic associations of this type would perhaps play in relation to court proceedings. However, civic associations, which are an equal subject under law, are also an important and extremely democratic element of the civil society."*

The possibility of abuse of rights is also an aspect which must be mentioned. While the case law provides for the possibility of refusing the protection of rights in the event of their abuse, it nevertheless understands abuse to be the constant repetition of meaningless acts with the aim of paralyzing the actions of public administration. The exercise of participatory rights in the field of environmental protection is considered a legitimate tool for the exercise of rights and allegations of abuse are assessed very restrictively. See in particular the judgment of 14 May 2013, No. 9 As 156 / 2012-30, in which the Supreme Administrative Court described as conduct that does not enjoy legal protection *"the efforts of certain entities consisting of repeated establishment of affiliated civic associations to thwart the course of a specific proceeding and to prolong the proceedings without a factual reason, in fact in order to prevent the implementation of the project, although there are no factual reasons for this from the point of view of nature and landscape protection interests."*

~~Persecuting and bullying any persons who claim such rights within the limits of the system of law is prohibited and, as far as it is known, is not practised by public authorities.~~

IV. Obstacles that prevent the implementation of Article 3

From the point of view of public administration, on the one hand, sectoral management by administrative bodies is applied (agendas relating to the environment, agriculture, building law are divided among several ministries: Ministry of the Environment, Ministry of Regional Development, Ministry of Agriculture, respectively); and on the other hand, this division of agendas is practically managed through coordination and publication of common methodological materials.

The methodical management of the bureaucratic apparatus is consistent; however, it is primarily aimed at ensuring the principles of good governance and improving communication with the participants in the proceedings. It is less focused at improving efforts with respect to public awareness of the possibility to exercise rights in keeping with the requirements of the Convention.

From the point of view of the policy of support and promotion of NGOs, a comprehensive organizational structure of regular cooperation on the basis of a partnership between NGOs and the state has not been established. In practice, however, the relevant ministries invite the NGOs concerned to cooperate; however, their involvement does not mandate any further steps.

The involvement of NGOs and targeted communication about the implementation of the principles of the Aarhus Convention requires long-term planning, which limits their use. It also requires the allocation of sufficient human resource at different levels of the government to this task.

V. Further information on the practical application the provisions of Article 3

Specific elements for fulfilling the general provisions of Article 3 of the Aarhus Convention need to be sought across the legal order and strategic concept papers.

The principles of the functions of public administration are codified in the Administrative Procedure Code and also in the laws regulating the functions of municipalities and regions as territorial self-governing units. Formally, therefore, good governance practices are guaranteed.

In terms of access to information, the basic tool is the application of **procedures under the "freedom of information laws"**, i.e. Act No. 123/1998 Coll., On access to information on the environment, and Act No. 106/1999 Coll., On free access to information. With regard to the development of information technologies, active access to information through professional information portals plays an important role.

The scope of NGO activities within the EVVO and the scope of NGO projects can be monitored in the statistical yearbooks of the Ministry of the Environment and in the Environmental Report of the Czech Republic, which is submitted annually by the Minister of the Environment for discussion and approval to the government.

VI. Website addresses relevant to the implementation of Article 3

www.mzp.cz/cz/statni_program_evvo_ep_2016_2025

www.cr2030.cz/strategie

www.ekocentra.cz

www.ekoporadny.cz

www.ochrance.cz

www.zelenykruh.cz/cz

http://platformanNo.weebly.com

www.pavucina-sev.cz

www.narodniprogramzp.cz/nabidka-dotaci

www.portal.gov.cz

www.cenia.cz/wp-content/uploads/2020/01/Statisticka_Rocenka_ZP_CR-2018.pdf

https://www.mzp.cz/cz/zpravy_o_stavu_zivotniho_prostredi_publikace

https://www.spolkovyrejstrik.cz/

VII. Legislative, regulatory and other measures that implement the provisions on access to environmental information in Article 4

The basis for the codification of the right of access to information is the Charter of Fundamental Rights and Freedoms. It guarantees the **right to information** in Article 17 (1) and further stipulates in paragraph 5 that state and local self-government bodies are obliged to provide information on their activities in an appropriate manner, the details of which are to be determined by law. Article 35 (2) of the Charter of Fundamental Rights and Freedoms enshrines the **right of everyone to timely and complete environmental information**. This right can be claimed only within the limits of the law.

The distinction between these two rights to information lies in the fact that Article 17 of the Charter lays down the basis for the control of state power, exercise of political rights and the control of the management of public funds. In the case of Article 35 (2) of the Charter, the main objective is the protection of the environment and environmental information. The law implementing this provision is thus essential for the implementation of the Convention.

At the level of laws, the right to information is regulated by two fundamental laws. First, Act No. 106/1999 Coll., On free access to information, and, as regards environmental information, Act No. 123/1998 Coll., On access to information on the environment. According to case law, the regulation in Act No. 123/1998 Coll. is special and at the same time comprehensive, so that Act No. 106/1999 Coll. does not apply in relation to it as a lex generalis. However, similar institutes codified in both laws should be interpreted in the same way (see, for example, the judgment of the Supreme Administrative Court of 1 December 2010, file No. 1 As 44 / 2010-103).

The access to statistical data pursuant to Act No. 89/1995 Coll., On the State Statistical Service, is also codified in a comprehensive manner.

Disclosure of environmental information is further set forth in a number of legal regulations focused on specific agendas and procedural processes (e.g. the Building Act, the EIA Act, the Administrative Procedure Code).

Obligated entities according to Act No. 123/1998 Coll. are as follows:

- administrative authorities and other organizational units of the state and bodies of territorial self-governing units;
- legal or natural persons who, on the basis of special legal regulations, perform activities in the field of public administration directly or indirectly related to the environment;
- gal persons established, set up, managed or mandated by the bodies referred to in the previous points, as well as natural persons mandated by those bodies which, by law or agreement with those bodies, provide services which influence the state of the environment and its elements.

These entities are obliged to make environmental information available in the so-called passive disclosure regime, i.e. on request, and also in the active disclosure regime, where they themselves actively process information related to their scope of authority and make it available to the public. Restrictions on access to information limited to statutory cases (see below).

The amendment to the Act on Access to Information on the Environment adopted in 2015 extended the disclosure of information to include the disclosure of spatial data and metadata to an unlimited number of entities through the National Geoportal INSPIRE administered by the Ministry of the Environment (Section 11a of Act No. 123/1998 Coll.).

The Act on Access to Information on the Environment governs the following:

a) conditions for exercising the right to timely and complete environmental information held by obligated entities pursuant to this Act or available to such entities;

b) public access to environmental information held by or available to obligated entities pursuant to this Act;

c) basic conditions and deadlines for making information available and the reasons for which obligated entities pursuant to this Act may refuse to make the information available;

d) actively making environmental information available and promoting the use of remote access facilities;

e) rules for the establishment of an infrastructure for spatial data for the purposes of environmental policies and policies or activities that may affect the environment and the making the spatial data available through network services on the INSPIRE National Geoportal ("Geoportal");

f) education, training and awareness in the field of environmental protection.

According to the Act on the Access to Information about the Environment, **environmental information** means information in any technically feasible form, which concerns in particular the following:

1. the state and development of the environment, the causes and consequences of this state;

2. planned and implemented activities and measures and agreements concluded that have or could have an impact on the state of the environment and its elements;

3. the state of the elements of the environment, including genetically modified organisms, and the interaction between them, substances, energy, noise, radiation, waste, including radioactive waste, and other emissions to the environment that affect or may affect its elements, and the consequences of such emissions;

4. the use of natural resources and its consequences for the environment, as well as the data necessary to evaluate the causes and consequences of such use and its effects on living organisms and society;

5. the effects of buildings, activities, technologies and products on the environment and public health and on environmental impact assessment;

6. administrative proceedings in environmental matters, environmental impact assessments, petitions and complaints in these matters and their settlement, as well as information contained in documents concerning specially protected parts of nature and other parts of the environment protected under special regulations;

7. economic and financial analyzes used in decision-making and other measures and procedures in environmental matters, if they were procured in whole or in part from public funds;

8. the state of public health, safety and human living conditions, in so far as they are or may be affected by the state of the environment, emissions or activities, measures and agreements referred to in point 2;

9. the state of cultural and architectural monuments, in so far as they are or may be affected by the state of the environment, emissions or activities, measures and agreements referred to in point 2;

10. reports on the implementation and enforcement of environmental legislation;

11. international, state, regional and local strategies and programs, action plans, etc., in which the Czech Republic participates, and reports on their implementation;

12. international obligations concerning the environment and the fulfillment of obligations arising from international agreements by which the Czech Republic is bound;

13. sources of information on the state of the environment and natural resources.

This list is illustrative, which means another type of information if it concerns the environment or its elements may also constitute environmental information.

~~The right to environmental information is ensured by Act No. 123/1998 Coll., on the Right to Environmental Information. At the time of its adoption the Act became the first stand-alone legislation not only in the area of access to environmental information, but also in the area of access to information at all. The general legislation governing the freedom of access to information, was adopted only in the following year and came into effect on January 1st, 2000 as the Act No. 106/1999 Coll., on free access to~~

~~information. The relationship of both regulations is modified in the introductory provisions of the Act No. 106/1999 Coll., which implies that the Act No. 123/1998 Coll. is in relation to Act No. 106/1999 Coll. a special legislation.~~

~~The adoption of the Act No. 123/1998 Coll., with the comprehensive amendment of the right to environmental information has also fulfilled and fleshed out the constitutional principle referred to in Article 35 para. 2 of the Charter of fundamental rights and freedoms, according to which everyone has the right to timely and complete information about the state of the environment and natural resources. While according to Article 35 para. 2 of the Charter, everyone has this right (i.e. every person, every natural person), and the applicant within the meaning of the Act can be also a legal person - the Act expanded the constitutional arrangements in this case. The Act further modified the terms of exercising the right to timely and complete information on the state of the environment and natural resources, possessed by the governing bodies of the State administration, territorial self-government authorities and legal entities established, controlled or authorised by them. It provides in detail the public access to information on the state of the environment and natural resources, available to these authorities, and sets out the basic conditions under which such information is made available.~~

~~The amendment to Act No. 123/1998 Coll., adopted in 2015 (83/2015 Coll.), extends the concept of the "information on the state of the environment and natural resources" by the metadata that is managed by MoE through the GeoPortal, and supports the disclosure of information electronically (so-called manner allowing remote access).~~

~~Making the information accessible will be refused, if it is excluded by the regulations on facts kept secret in the state interest, on the protection of personal data, intellectual property or trade secrets.~~

~~Definition~~

~~According to Act No 123/1998 Coll., information on the state of the environment means especially~~

~~- 1. the state and development of the environment, of the causes and consequences of this state,~~

~~- 2. activities in preparation which could lead to a change of the state of the environment and information about the measures taken by the authorities responsible for environmental protection or by other persons in preventing or remedying damage to the environment,~~

~~- 3. the state of water, the atmosphere, soil, living organisms and ecosystems, further, the information about the effects of activities on the environment, about any substances, noise and radiation emitted into the environment and about the consequences of such emissions,~~

~~- 4. the utilization of the natural resources and its consequences on the environment and also the data necessary for the evaluation of the causes and consequences of this utilization and its effects on living organisms and on society,~~

~~- 5. the effects of constructions, activities, technologies and products on the environment,~~

~~- 6. administrative proceedings in environmental matters, environmental impact assessments, petitions and complaints relating to these matters and attending to them and also the information included in written documents relating, especially, to the protected parts of nature and other parts of the environment protected according to special regulations,~~

~~- 7. economic and financial analyses used in decision making in matters relating to the environment, if they were provided from public means,~~

~~- 8. international, state, regional and local strategies and programs, plans of action, etc., in which the Czech Republic participates and reports on their fulfilment,~~

~~- 9. international obligations relating to the environment and the fulfilment of commitments ensuing from international treaties by which the Czech Republic is bound,~~

~~- 10. sources of information about the state of the environment and the natural resources;~~

a) with respect to Article 4 paragraph 1

The Act on Access to Information on the Environment makes it possible to request information without having to state the reason for such a request [Section 3 (1)) of Act No. 123/1998 Coll.].

Making information available is its provision in any technically feasible form, i.e. also in the form of obtaining extracts, transcripts or copies [§ 2 letter. c) of Act No. 123/1998 Coll.].

~~According to section 6 of the Act No. 123/1998 Coll., on the Right to Environmental Information, information shall be provided in the form required by the applicant. Under both the Acts, information may be provided in a form other than requested if the requested form constitutes an excessive load for the entities obliged to provide the information. Only Act No. 106/1999 Coll., on free access to information expressly states that reasons for such procedure have to be given.~~

Pursuant to Section 6 of the Act on Access to Information on the Environment, the applicant may propose in the application the form or method to be used in making the information available. If the form or method is not specified by the applicant, or if such forms or methods cannot be used for serious reasons, the obligated entity shall choose the method and form of disclosure of information with regard to meeting the purpose of the request for disclosure and its optimal use by the applicant. If the obligated entity makes the information available, even if only partially, in a form other than the one requested, it must justify its action.

In the case of a request for information already published, the obligated entity may communicate to the applicant data which allows for the already published information to be searched for and obtained. However, this does not apply if the applicant has stated that he does not have the opportunity to obtain the published information in another way, or if he insists on the direct provision of the published information (Section 5 of Act No. 123/1998 Coll.)

b) with respect to Article 4 paragraph 2

According to Section 7 of the Act on Access to Information on the Environment, obligated entities must make the information available without undue delay, no later than within 30 days of receiving the request. In exceptional circumstances which necessitate an extension of the time limit, the information may be made available within 60 days. The applicant must be notified of such circumstances and of the extension within 30 days.

~~According to section 7 of the Act No. 123/1998 Coll., on the Right to Environmental Information, the administrative authority shall provide information within 30 days from the delivery of the request. According to section 14, paragraph 5, subparagraph d) of the Act No. 106/1999 Coll., on free access to information, such time limit is 15 days. Both the Acts regulate extension of the time limit in cases when creating or providing the information is particularly difficult.~~

c) with respect to Article 4 paragraphs 3 and 4

Restrictions on access to environmental information are regulated by Section 8 of the Act on Access to Information on the Environment. Disclosure of information may be refused in accordance with the Convention:

- if it concerns data which has not yet been processed or has not been evaluated, or internal policies of the obligated entity, or the request is incomprehensible or too general;
- if the information was passed on to the obligated entity by a person who was not obligated by law and did not give prior written consent to the disclosure of this information;
- if disclosure of the information could adversely affect the protection of the environment in the locations to which the information relates;
- if the applicant seeks information collected within the framework of preparatory proceedings (investigations) in criminal matters, or if the information concerns pending proceedings and decisions on misdemeanours and other administrative offences which are not final and conclusive.

The national law does not explicitly take into account the grounds for refusing access to information in connection with international relations, national defence or public security.

The Act on Access to Information on the Environment further regulates areas where a potential disclosure of information would affect other interests protected by special laws. Disclosure of information will be refused if it is excluded by the protection of classified information, protection of personal or individual data or protection of personality, protection of intellectual property or protection of trade secrets. However, the protection of the interest in the protection of personality may be broken in favour of providing information on the perpetrator of an activity polluting or otherwise endangering or damaging the environment contained in a final and conclusive decision in a criminal case, misdemeanour or other administrative offence. Disclosure of the information may also not be denied in the case of information on emissions into the environment, or if the reason for the refusal should be the protection of personal or individual data or the protection of personality or trade secrets.

~~Both the above stated Acts contain a list of exemptions from the information duty that correspond to the admissible exemptions under article 4, paragraphs 3 and 4 of the Convention.~~

A public interest test is applied when assessing a request for access to information. In each individual case (request), the public interest served by disclosure must be weighed against the interest of non-disclosure. The requirement to perform a public interest test when deciding on the denial of information is not explicitly found in the Czech legislation, but it can be inferred from the case law (see, for example, judgments of the Supreme Administrative Court of 16 March 2010 No. 1 As 97 / 2009-119 and of 30 October 2020 No. 5 As 162 / 2018-51).

~~The Czech legal regulation does not provide for a requirement for carrying out a public interest test when deciding on refusal to provide information but with regard to the fact that both the Acts set out certain exemptions from the information duty as facultative ones (i.e. the office "may" refuse to provide information), it may be inferred that in such cases a public interest test is applied. Moreover, the court practice has been gradually tending to the opinion that the proportionality principle is a necessary part of the procedure taken by obliged entities under the information laws. At the same time it applies that an administrative decision has to be issued on the refusal to provide information and that the (unsuccessful) applicant for information may file an appeal against such decision with a superior administrative authority.~~

d) with respect to Article 4 paragraph 5

~~According to section 4 of the Act No. 123/1998 Coll., on the Right to Environmental Information, the obliged entity that does not have the requested information is obliged to notify the applicant of such fact. If such entity knows which obliged entity has such information, it is obliged to forward the application to it and notify the applicant of such fact. According to the Act No. 106/1999 Coll., on free access to information, in a situation when the requested information does not fall under the power of the obliged entity, such entity is obliged to notify the applicant of such fact within 7 days. The Act No. 106/1999 Coll., on free access to information does not regulate forwarding of requests to other obliged entities.~~

Pursuant to Section 4 of the Act on Access to Information on the Environment, if the request is submitted to an obligated entity that does not hold the information in question and at the same time is not obliged to have such information under special legal regulations, it shall notify the applicant without undue delay, within 15 days at the latest, from the receipt of the request that it cannot provide the requested information for this reason. If the petitioned obligated entity knows which obligated entity has the required information, it shall forward the application to it within the time limits set out in the previous sentence and inform the applicant accordingly.

e) with respect to Article 4 paragraph 6

~~The requirement to separate out and publish "residual information" is implemented in section 8, paragraph 6 of the Act No. 123/1998 Coll., on the Right to Environmental Information and in section 12 of the Act No. 106/1999 Coll., on free access to information.~~

Pursuant to Section 8 (6) of the Act on Access to Information on the Environment, the required information shall be made available, if possible, after excluding those facts which constitute a reason for denying access to the information. The applicant must always be informed of such an intervention and the reason for it when the information is made available.

f) with respect to Article 4 paragraph 7

~~According to both above stated Acts, a refusal to provide information shall have a form of an administrative decision for which the Administrative Procedure Code requires a written form. The time limit for issuing a decision on a refusal to provide information is 30 days according to the Act No. 123/1998 Coll., on the Right to Environmental Information and 15 days according to the Act No. 106/1999 Coll., on free access to information. As stated in subparagraph c), a remedy (appeal, remonstrance) may be filed against any administrative decision on a refusal to provide information.~~

If the obligated entity does not comply with the request for disclosure of information, even if only partially, it shall issue it within the period for disclosure of information, i.e. within 30 or 60 days of the submission of the request, whichever is applicable, a decision to deny access to the information. An appeal may be lodged against the decision; the appeal period is governed by the Administrative Procedure Code and is 15 days from the date of notification of the decision. Instructions on the possibility to appeal are attached to the decision.

The Act on Access to Information on the Environment regulates the "fiction of a negative decision" for the case where the obligated entity has not provided information nor issued a negative decision within the set time limit. It is possible to file an appeal against a fictitious decision, and the appeal period is extended with regard to the missing, or rather non-existent instruction to 90 days. The fiction of the decision also applies to cases where the information is made available only in part.

g) with respect to Article 4 paragraph 8

Pursuant to Section 10 (3) of the Act on Access to Information on the Environment, obligated entities are entitled to demand payment in connection with disclosing information. The charges may not exceed the costs of procuring copies, data carriers and sending information to the applicant. Obligated entities must have a publicly accessible tarrif of costs, which should also indicate the conditions under which charges are levied or under which they may be waived. Currently, it is not possible to charge for an extremely extensive search for environmental information. This situation should be changed by the forthcoming amendment to the Act on Access to Information on the Environment.

An example of a tariff is the MoE costs tariff (www.mzp.cz/cz/cenik_nakladu).

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

VIII. Obstacles that prevent the implementation of Article 4

There are no restrictive formal requirements for exercising the right of access to environmental information. In practice, however, the problem is the **existence of two separate regimes** of access to environmental information, while the general regime under the Act on Free Access to Information is much more frequently used. Obligated entities (public authorities) regularly place requests for information about the environment under the general regime and refuse to make information available for reasons which are not recognized in the Act on Access to Information on the Environment or which attract extensive search charges, which is not possible in the case of environmental information. This is

not a problem exclusively for lower-level administrations. The case law shows that even after two decades, even central public authorities find it difficult to determine the correct regime of providing information, e.g. the Ministry of the Environment (judgment of the Supreme Administrative Court of 20 January 2020, file No. 5 As 231 / 2018-77) or the Ministry of Foreign Affairs (judgment of the Supreme Administrative Court of 30 October 2020, No. 5 As 162 / 2018-51).

Obligated entities must also respond to requests for environmental information, where applicants request the provision of information related to the operation of business facilities. In these cases, obligated entities must increasingly assess whether the character of a trade secret is not met, which would justify a denial to disclose information. Determining the nature of the required information increases the complexity of the whole process and affects the time required to process the request.

~~The Czech legal regulation covering only a rather narrow issue of the provision of information is basically complying. Some application problems in practice arise from the coexistence of two legal instruments relating to the provision of information, for example the different time limits under both provisions, the reasons for the refusal of information or different conditions for the issue of an administrative decision in the event that the request is not granted. The Act No. 123/1998 Coll. constructs a legal fiction of issuing a decision on the refusal of the access to information in the event of the vain expiry of the period laid down by law for the settlement of the request.~~

~~The right to information about the activities of public administration in the Czech Republic is generally enforced with difficulties in cases when authorities do not want to provide the information they are obliged to provide. According to NGOs, there is extensive interpretation of exemptions from the information duty (particularly regarding business secrets) and charging unreasonably high extra costs under the Act No. 106/1999 Coll., on free access to information. On the other hand, according to the public authorities, applicants often draw up their applications for information in an obstructive manner (require enormous quantity of information) so the demand for payment (in an adequate amount) is the only way to face up to such conduct by certain entities.~~

~~Public authorities also point out that applicants often, with reference to the right to environmental information pursuant to Act No. 123/1998 Coll., request the provision of various information related to the operation of business facilities and the obliged entities must increasingly consider the facts contained in requested documents in terms of fulfilling the nature of trade secrets, which increases the complexity of the entire process and affects the length of time necessary for the settlement of the request. There is also an increasing number of requests for information relating to the staff of the obliged entity, for which it is necessary to carefully weigh the interest in disclosure of information and the interest in the protection of personal data, respectively the privacy of employees.~~

~~If an authority refuses to provide the requested information, the applicant may use certain legal remedies. A complaint may be filed against the procedure taken by the authority in attending to the application. The general legal regulation of filing and attending to complaints is contained in the Administrative Procedure Code, while the special legal regulation of the access to information is included in the Act No. 106/1999 Coll., on free access to information (section 16a) in the form of an info-complaint (infostížnost). In a situation when the authority decides not to provide the information and expresses such will in the form of a decision, the applicant may appeal against such decision with a superior authority. If the situation is not remedied even after interference of the superior authority, the only practicable way is a judicial review. However, a judicial review may be, in the opinion of NGOs, much too demanding for applicants, particularly when the applicant is an individual: it is subject to court fees, attorney fees and, if the case is lost, to the reimbursement of costs of the adverse party. It may last years and even if the case is won, it might not be factually relevant any longer. According to NGOs, the protection from inactivity of public authorities in this area is not sufficient.~~

A limiting factor in granting access to information is the difficult enforceability in cases where there is an unjustified denial of disclosure, given the lengthy defence mechanisms. These situations occur in cases where the authorities apply an extensive interpretation of the grounds for refusing information, and also in cases where the public administration does not have the information it should have at its disposal.

Conversely, in some cases, obligated entities are inundated with obstructive or generally formulated requests requiring extensive search. In this context, public authorities point out that they are forced to

deal with a relatively heavy workload related to the search for environmental information, while the Act on Access to Information on the Environment precludes them from charging extra for extraordinarily complex searches.

With regard to the length of the review in cases of non-disclosure, out of the remedies available, the appeal against a decision to refuse access to information, or against a fictitious decision to refuse access to information (note: the application of fiction is an unusual element in the Czech legal system; therefore its use requires knowledge of the applicable legislation) will be applied first.

If the case is returned to a court of first instance, a new, also unlawful decision may be made, and the appeal process can create a loop. If the superior authority confirms the unlawful first-instance decision, judicial review is the only way to seek redress. Especially for applicants who are individuals, this may prove to be too demanding, especially, with regard to court fees, the need for legal assistance and, in case of failure, the order to pay costs to the counterparty. In addition, the court ultimately assesses the legality of previous proceedings, but cannot order the surrender of the requested information. According to an amendment to the Act on Access to Information on the Environment, which is already prepared, a change is anticipated in this matter, i.e. it will possible for the court to order the disclosure of information. Given the length of the judicial review, the final disclosure may be irrelevant as it would no longer reflect the circumstances at the time the request was first made.

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

The Act on Access to Information on the Environment does not stipulate an obligation to keep records of received requests for access to environmental information or to collect statistical data in this area.

The State of the Environment Report provides some additional commentary on the use of access to information.

From a practical point of view, there has been a substantial dissemination of publicly available environmental information in recent years, which is also addressed in Article 5 of the Aarhus Convention (see commentary on Article 5).

~~There is no single statistics; according to Act No. 106/1999 Coll., on free access to information, each administrative authority is obliged to publish information it provided in a special section of its website.~~

X. Website addresses relevant to the implementation of Article 4

www.cenia.cz

www.zelenykruh.cz

www.mzp.cz

www.mzp.cz/cz/cenik_nakladu

~~www.mvcr.cz~~

~~www.otevrete.cz~~

XI. Legislative, regulatory and other measures that implement the provisions on access to environmental information in Article 5

a) with respect to Article 5 paragraph 1

The obligation of public administration bodies to collect environmental information in the areas falling within their competence is generally regulated in the Act on Access to Information on the Environment (Section 10a).

Obligated entities process information related to their scope of authority and create the necessary technical and other conditions for active disclosure of information. Obligated entities must, to the extent stipulated by the Act on Access to Information on the Environment, to keep and update electronic databases containing information related to their scope of authority; the database must be accessible from devices via remote means of communication.

Active access includes, in addition to online access to information, own editorial and publishing activities.

Obligated entities must actively make available **in particular** the following (the list is therefore not exhaustive)

a) environmental concepts, policies, strategies, plans and programs and any reports on their implementation;

b) reports on the state of the environment, if any;

c) summaries of data on the monitoring of activities that have or could have an impact on the state of the environment and its elements;

d) administrative decision in the event that its issuance is conditional on the issuance of an opinion on the assessment of the effects of the implementation of the project on the environment pursuant to a special legal regulation;

e) documents acquired during the environmental impact assessment pursuant to a special legal regulation;

f) environmental risk assessments, if any;

g) agreements on the provision of services pursuant to Section 2 (b) (3) of the Act.

The Ministry of the Environment also actively makes it accessible

a) a list of the information to be kept by obligated entities, indicating from which obligated entity the information can be obtained,

b) international treaties and agreements, European Union legislation, laws and regulations in the field of environmental protection and reports on their implementation and enforcement, if any.

Every year, the Ministry of the Environment prepares a **Report on the Environment in the Czech Republic**, which evaluates in detail the individual elements of the environment. The Report on the Environment in the Czech Republic is discussed and approved by the government of the Czech Republic, and is further discussed by the parliament.

The Statistical Yearbook of the Environment, which contains measured and collected data on the environment, forms the basis for the preparation of the Report on the Environment in the Czech Republic; it also serves as a general reference for evaluation. Based on these data, the Report on the Environment in the Czech Republic analyses the state of the environment and describes trends in the state of individual elements of the environment. The aim of the Report on the Environment in the Czech Republic is also to assess the progress of fulfilment of the State Environmental Policy.

In connection with the Report on the Environment in the Czech Republic, the Ministry of the Environment prepares individual regional reports on the state of the environment once a year. These reports must be published in electronic form within three months of the approval of the Report on the Environment in the Czech Republic.

~~and 14 Reports on the state of the environment for the individual regions of the CR with more detailed characteristic of the situation in the individual regions, including one separate report with a summarising comparison of the individual regions. The overall picture is enhanced by the Statistical Yearbook of the Environment, which contains the measured and collected data. The report on the basis of this data analyses the state of the environment and describes trends in the state of individual elements of~~

~~environment. Its aim is also to assess the fulfilment of the national environmental policy. The report is submitted annually to the Government, and subsequently published on the website of the MoE.~~

~~In addition, there is the Integrated Pollution Register (see the response below regarding article 5, paragraph 9) – one of the information systems run within the department (such as ISPOP, ISOH, IPPC, EIA/SEA, National Geoportal INSPIRE, ISVS Voda, ISKO and MA21). Other materials issued and published are lists of the largest polluters from the Integrated Pollution Register (IRZ) whose operation is regulated by Act No. 25/2008 Coll. Statistical information concerning relevant components of the environment is also regularly published by the Ministry of Agriculture, and the financial flows in the area of environmental protection are monitored by the Ministry of Finance.~~

In the area of active disclosure of information, an important partner for the public is CENIA, the Czech Environmental Information Agency (www.cenia.cz). CENIA is an organization funded by contribution from the budget of the Ministry of the Environment. Its mission is to collect, evaluate and interpret information on the environment and provide it to the professional and lay public.

CENIA manages ISPOP, an Integrated Environmental Reporting System, which ensures compliance with statutory environmental reporting obligations, and at the same time acts as a source of data for cross-sectional environmental information.

CENIA also manages the National Geoportal (INSPIRE), where in addition to data and services covered by the INSPIRE Directive, thematic data of several dozen entities can be found – from central public administration bodies, departmental organizations, regional authorities, municipalities, research institutions and private companies. The data covers a wide range of fields (https://geoportal.gov.cz/web/guest/home/ CENIA). CENIA provides a guide to other environmental systems:

Integrated Pollution Register (IRZ)

Hazardous Waste Shipment Registration System (SEPNO)

Evaluation of hazardous waste properties

EnviHELP environmental helpdesk

Statistics and reporting information system

EIA / SEA information system

MA 21 information system

VODA ČR information system (water)

Satellite data archive

Waste Management Information System (ISOH).

Statistical information concerning the relevant elements of the environment is also publicly available, including agriculture (Ministry of Agriculture) or financial flows in the area of environmental protection (Ministry of Finance).

Information is collected as part of a wide range of public administration activities, e.g. through the Czech Statistical Office, organizations in the department of the Ministry of the Environment, e.g. CENIA, Czech Hydrometeorological Institute (CHMI), Czech Environmental Inspectorate (CEI), State Environmental Fund (SEF), Nature Conservation Agency of the Czech Republic (AOPK), the Czech Geological Survey (CGS), the Research Institute of Water Management (VÚV), organizations in the department of the Ministries of Agriculture, Health, Interior, Transport, Industry and Trade and other central authorities such as the State Office for Nuclear Safety, State Institute of Public Health, etc.

Regarding the access to information in the event of emergencies, the Act on Access to Information on the Environment refers to warnings to the public under special legal regulations: Act. No. 239/2000 Coll., On the integrated rescue system and on the amendment of certain acts and Act No. 240/2000 Coll., the Crisis Management Act. For early warning of citizens, the public administration uses, for example, the means of SMS, regional electronic media and other methods.

b) with respect to Article 5 paragraph 2

Environmental information is available through its active disclosure. The obligation of active disclosure arises in particular from the Act on Access to Information on the Environment.

Furthermore, active disclosure is also embedded in the EIA (EIA Act), IPPC (Act No. 76/2002 Coll., On integrated pollution prevention and control) and spatial planning (Building Act) legislation. Environmental reports and other important data (EIA / SEA, IPPC, IRZ) are published on the MoE website, at other relevant addresses and on the CENIA website, in the Czech and in some cases also in the English version. Many authorities also have a website in a foreign language version.

With regard to the accessibility of information on the internet, the disclosure of environmental information can be considered effective and transparent.

Additionally, there is also a special law governing information systems of public administration (see Act No. 365/2000 Coll., On public administration information systems and on the amendment of some other acts), which provides for standardization in this area.

~~When searching for legislation, commercial or non-profit applications are often used for practical purposes. However, these versions are not binding by contrast to the Collection of Laws. The public administration publishes the wording of Acts in a far more accessible form on the Public Administration Portal but it is not an official source and the authenticity of the wordings is not guaranteed. Reports on the environment and other important data (EIA/SEA, IPPC, IRZ) are published on the website of the MŽP, on other relevant addresses and on the website of CENIA in Czech and English version. Numerous offices also have their websites in a foreign language version.~~

c) with respect to Article 5 paragraph 3

Some legal regulations stipulate the obligation to publish information in a way that enables remote access (e.g. drafts of zoning documentation and spatial development policy according to the Building Act). Some conceptual tools containing environmental information are approved in the form of publicly available legislation (e.g. waste management plans).

Draft laws are published on the public administration portal. Legislation in the field of environmental protection, both still in the legislative process and already in force, is published on the website of the Ministry of the Environment. The practice of publishing departmental or regional plans and policies varies and is not codified in any binding legal regulation.

The Czech Republic has implemented an information system called Database of Strategies (https://www.databaze-strategie.cz/), where strategic documents concerning environmental protection can also be found.

d) with respect to Article 5 paragraph 4

According to Section 12 of the Act on Access to Information on the Environment, the Report on the Environment in the Czech Republic is prepared on an annual basis and, after approval by the government, it is published on the websites of the Ministry of the Environment and CENIA. Together with the Report on the Environment in the Czech Republic, the Statistical Environmental Yearbook of the Czech Republic is also published annually.

e) with respect to Article 5 paragraph 5

Legal regulations and international treaties are generally available in a remote-accessible application of the Ministry of the Interior, the Collection of Laws and the Collection of International Treaties (https://aplikace.mvcr.cz/sbirka-zakonu/). A search in the official database of legislation does not allow you to work with consolidated versions of the documents. For the time being, this purpose is mainly served by the online resource www.zakonyprolidi.cz or various paid platforms for searching in legal regulations and case law (e.g. ASPI, BECK). A project of the Ministry of the Interior is currently underway, the aim of which is to create a transparent system for access to applicable law, including full texts and ongoing changes in regulations (eSbírka and eLegislativa). All valid regulations in the field of

environmental law are published on the website of the Ministry of the Environment and are continuously updated.

The Ministry of the Environment regularly informs the public and interest groups of the Czech Republic's priorities in the international environmental agenda and national legislation. The Ministry of the Environment also supports translations of relevant important documents into the Czech language.

There are no uniform rules for disseminating information on strategies, policies, programs and action plans. Selected strategies – policies fall within the framework of the SEA and on that basis, they are specifically made available to the public. The public also has access to spatial planning documentation and spatial development policy. The public also has access to the Strategy Database.

~~Neither the Czech system of law nor the administrative practice systematically differentiates between strategies, policies and action plans. The public is familiarized with those documents, if they relate to the environment, within the scope of the process of environmental impact assessment of policies (process SEA) regulated by Act No. 100/2001 Coll., on Environmental Impact Assessment (EIAZ), based on an EU Directive. A special position is held by town and country planning documentations and territorial development policies that are immediately binding and have a considerable impact on the life of population. These plans are discussed with public through a special extended procedure regulated in Act No. 183/2006 Coll., on Town and Country Planning and the Building Code (Building Act) (SZ). Legal regulations relating to the environmental law are published in the Collection of Laws or in the Collection of International Treaties and some of them also on the website of the MŽP.~~

f) with respect to Article 5 paragraph 6

Based on various regulations, polluters are obliged to report, for example, pollutants discharged into the environment (Act No. 25/2008, On the Integrated Pollution Register), or report their other operating data (waste records pursuant to Act No. 185/2001 Coll., On waste).

The reported information is also used by the public administration and, if necessary, is made available as part of active or passive access to environmental information.

Regarding the incentive of operators to directly inform the public about the impacts of their activities on the environment, the Ministry of the Environment, through CENIA, promotes the **introduction of voluntary environmental instruments.** The advantages of their use for businesses lie in improving the environmental reputation and profile of the company or organisation, which in turn represents an advantage in the market.

Voluntary environmental instruments fall outside the binding administrative instruments of environmental law. They lead to the reduction of the negative effects of production or operation on the environment and at the same time to the strengthening of the position of the company or organization on the market, to the increase of competitiveness and reputation.

Voluntary instruments include labelling (Eco-friendly product / service, EU Ecolabel, environmental labelling), management system (EMAS, environmental management and audit system), Cleaner Manufacturing (preventive strategies for the efficient use of resources), Eco-design, environmentally friendly public procurement, etc.

The Ministry of the Environment is also working to support green shopping (from 2021 it plans to introduce a financial bonus for selected products that contain a certain proportion of recycled plastics). The Ministry of the Environment also employs voluntary agreements with selected companies on the platform of the initiative "Dost bylo plastu" (Out with Plastics!).

~~There is the Integrated Pollution Register and the Information System for the Fulfilment of Reporting Duties (ISPOP) through which the polluters are legally obliged to report pollutants released to the environment (Act No. 25/2008, on the Integrated Pollution Register). Enterprises and companies that have products with a certificate authorizing them to use the label "environmentally friendly product" and that have applied an environmental management/audit system make use of comparative advantages and mostly inform the public about such activities through the available information sources.~~

g) with respect to Article 5 paragraph 7

~~There is no public administration component systematically designated to fulfil obligations arising from this section;~~ The obligations are met as part of activities aimed at making the above-described environmental information available.

h) with respect to Article 5 paragraph 8

Informing the public about more environmentally friendly product variants is linked, for example, to the obligation to label electrical appliances with energy labels introduced by Act No. 406/2000 Coll., On energy management in accordance with the requirements of EU law.

The public can actively search for products with the appropriate label, which represents environmentally friendly products. Furthermore, in the area of organic production [Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products in conjunction with Act No. 242/2000 Coll., On organic farming], the terms *organic product*, *organic food* and *other organic product* are used, which allow the public to choose between different product variants.

~~Under an EU Directive, the obligation to designate electrical appliances with energy labels has been implemented in Act No. 406/2000 Coll., on Energy Management. In addition, it is also possible to obtain the label "environmentally friendly product" both for the Czech Republic and the whole of the EU within the scope of voluntary environmental protection tools. In addition, Council Regulation (EC) No. 834/2007 on organic production and labelling of organic products is directly applicable in the Czech Republic, followed by Act No. 242/2000 Coll., on Organic Farming. These regulations regulate the use of designations "bio-product", "bio-food" and "other bio-product".~~

i) with respect to Article 5 paragraph 9

In the Czech Republic, the function of the publicly accessible pollution register is performed by the **Integrated Pollution Register** (IRZ). IRZ was established as a publicly accessible information system on emissions and transfers of pollutants. Since 2008, the functioning of the IRZ [following Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 establishing a European Pollutant Release and Transfer Register, E-PRTR] has been governed by a separate law, Act No. 25/2008 Coll., On on the Integrated Environmental Pollution Register and the integrated system of compliance with reporting duty in environmental areas, and on amendments to other acts, and Government Implementing Regulation No. 145/2008 Coll., laying down the list of pollutants and threshold values and data required for reporting to the Integrated Pollution Register.

IRZ is a functioning public system. However, it does not include comprehensive information according to Article 5 (9) of the Aarhus Convention (information on inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and offsite treatment and disposal sites). Some of the information provided includes reports of polluters in accordance with special regulations (e.g. in the field of air protection or waste management). Leakages and transmissions of selected pollutants and transmissions of waste are monitored in the IRZ.

In addition to IRZ, there are a number of obligations imposed on economic operators to provide the public administration with information on the impact of their activities on the environment. A wide range of information on environmental impacts is available to the public administration. In many cases, the Integrated Environmental Reporting System (ISPOP) is used to fulfil the reporting obligation. For the year 2020, data is reported via ISPOP pursuant to Act No. 25/2008 Coll., On the Integrated Pollution Register, Act No. 201/2012 Coll., On air protection, Act No. 73/2012 Coll., On substances that deplete the ozone layer and fluorinated greenhouse gases, Act No. 254/2001 Coll., On waters, Act No. 477/2001 Coll., On packaging - with the exception of obligated entities who are involved in collective packaging collection systems (EKO-KOM), Act No. 185/2001 Coll., On waste.

The Ministry of the Environment thus has a wide range of data at its disposal, which it uses to carry out control activities by administrative bodies and further processes it for information purposes.

~~The Integrated Pollution Register has been introduced in the Czech Republic under international (Protocol on PRTR), European and national legislation (Act No. 25/2008 Coll., on the Integrated Pollution Register and the Integrated System of Fulfilment of Reporting Duties in the Area of the Environment).~~

XII. Obstacles that prevent the implementation of Article 5

A certain fragmentation, i.e. the unavailability of data from one central location, e.g. within the Unified Environmental Information System, is an obstacle to the active dissemination of environmental information and data. At present, the Unified Environmental Information System is rather a formal umbrella for various independent information systems related to environmental issues. Although these subsystems are easily accessible to users and provide quality information (see answers above), they are operated as standalone information systems without direct integration into a common reference environment. There is also a lack of interconnection and sharing of information and data and its unified publication. The main reason is the very wide information base of the Ministry of the Environment and the different organization, collection and extraction of data from various sources.

~~As an attempt to unify the access to the departmental information may be regarded the project "Nationwide Information System for the Collection and Evaluation of Information about Environmental Pollution" which integrates the subsystems ISPOP – Integrated System of Fulfilment of Reporting Duties, Geoportal INSPIRE and Environmental helpdesk. Other important subsystems of the environmental department include, without limitation, HEIS – Hydroecological IS, IS VODA, database information systems EIA/SEA, IS IPPC (Integrated Pollution Prevention and Reduction), ISKO – Air Quality IS, ISOH – Waste Management IS, ISPOP ISOP – Information Portal of the Nature Protection System, IRZ – Integrated Pollution Register, and Geological IS.~~

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

For common inquiries from the public, obligated entities usually have a special address set up in the contacts section or on the official notice board. In addition, the Ministry of the Environment created the EnviHELP helpdesk (https://helpdesk.cenia.cz/hdPublic/helpdesk/) for information in the field of the environment.

Statistics of access to selected information systems, such as ISOH, IPPC, EIA / SEA, National Geoportal INSPIRE, ISVS Voda, ISKO, MA21, etc.) are available.

~~Regularly are published annual reports on activities in the area of providing information pursuant to Act No. 106/1999 Coll., on the basis of the provisions of section 18, paragraph 1, which provides that every obliged entity must publish an annual report on its activities in the provision of information always before March 1st for the previous calendar year. Furthermore statistics are available of access to selected IS or portals, for example ISPOP, WMIS, IPPC, EIA/SEA, national GeoPortal INSPIRE, PAIS water, ISKO, MA21, etc.).~~

XIV.Website addresses relevant to the implementation of Article 5

~~http://www.mzp.cz/cz/index~~

~~http://www1.cenia.cz/www/~~

~~http://www.mvcr.cz/clanek/sbirka-zakonu.aspx~~

~~http://www.mvcr.cz/clanek/stejnopisy-sbirky-mezinarodnich-smluv.aspx~~

~~http://www1.cenia.cz/www/ekoznaceni/ekologicky-setrne-vyrobky~~

~~http://cep.mdcr.cz/dok2/DokPub/dok.asp~~

www.mzp.cz

www.cenia.cz

http://portal.cenia.cz/eiasea/view/SEA100_koncepce

http://www.irz.cz/

https://www.cenia.cz/odpadove-a-obehove-hospodarstvi/isoh/

https://www.cenia.cz/projekty/ukoncene-projekty/cisazp/

https://geoportal.gov.cz/web/guest/home

https://www.ispop.cz/

https://hnvo.cz/

https://www.sepNo.cz/

https://helpdesk.cenia.cz/

https://heis.vuv.cz/

https://ma21.cenia.cz/

https://ekoznacka.cz/

https://voda.gov.cz/portal/

https://dpz.cenia.cz/archiv

http://www.geology.cz/extranet

https://www.vuv.cz/index.php/cz/

https://www.databaze-strategie.cz

https://helpdesk.cenia.cz/hdPublic/helpdesk/dalsi-oblasti/dobrovolne-nastroje/zakladni-informace-DN.html

https://aplikace.mvcr.cz/sbirka-zakonu

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

The Czech legal system regulates public participation in decisions on specific activities. However, the regulation is included in both general and special regulations. Therefore, the general regulation of participation contained in the Administrative Procedure Code often applies, as does partial regulation contained in in individual sectoral laws, which, as a lex specialis, modify the general regulation, in some cases even excluding it. If the circle of participants in the proceedings is not regulated in any way, in addition to the applicant, other persons concerned also become participants in the proceedings pursuant to Section 27 (2) of the Administrative Procedure Code, if they could be directly concerned by the decision in their rights or obligations. A typical example is the procedure for issuing a permit for the operation of a waste management facility, the participants of which are not defined by the Waste Act (except for municipalities). In such a case, the concerned natural person (usually a neighbour) as well as a legal entity (e.g. an environmental association) can also become a participant. In some cases, which are specified in the law, only the applicant is a participant.

Within the scope of Article 6 of the Aarhus Convention, Czech law allows the relevant public to participate in permitting procedures that follow the EIA process, which also carries out impact assessments on Natura 2000 sites, and in the integrated permit procedure (IPPC). In addition to the requirements of the Aarhus Convention, Czech law also involves the public concerned in certain proceedings in which the interests of nature and landscape protection may be affected, and in water law proceedings, which primarily concern water management and the protection of water resources. Special requirements are set for the participation of environmental associations in these proceedings.

Administrative proceedings following the EIA process are defined by the EIA Act in Section 3 (g) as: a zoning procedure, construction procedure, joint zoning and building procedure, repeated building procedure, procedure for an additional building permit, procedure for a mining activity permit, procedure for determination of mining area, procedure for a permit of activity performed by mining

method, proceedings on permits for the management of surface and groundwater, proceedings on the issuance of integrated permits, proceedings on the issuance of permits for the operation of a stationary source, proceedings on the issuance of a permit for the operation of facilities for the use, disposal, collection or purchase of waste. Furthermore, the follow-up procedure is another procedure in which the decision necessary for the implementation of the project is issued, if none of the above-mentioned proceedings nor the procedure for changing the decision is conducted.

If an EIA is performed (a binding opinion has been issued), according to Section 9c (3) (b) of the EIA Act environmental associations that were established at least 3 years ago, or are supported by the signatures of at least 200 persons can register in the procedures as participants. These associations can even lodge an appeal against a decision given in a follow-up procedure without having to take part in the proceedings at first instance. Persons concerned may participate in follow-up proceedings in accordance with the rules on participation set forth in individual laws. These usually do not define the circle of participants, so the general regulation in the Administrative Procedure Code (see above) applies, or the participants include the affected owners of neighbouring land (this applies to land and building procedure), or explicitly the municipality in whose territory the project is to be implemented (see, for example, the planning procedure or proceedings for the issuance of a permit to operate a waste collection or purchase facility; however, the municipality is not the public concerned in the sense of the Aarhus Convention). Tenants are not among the participants in the building and zoning procedures and will not become participants even according to the Administrative Procedure Code, because the comprehensive regulation of the participants in the Building Act in this respect excludes the application of the Administrative Procedure Code. Rather, in theory, it may be the case that even a neighbour – the owner concerned - will not be able to participate in the follow-up proceedings.

In addition to the participation of the public concerned in decisions, the EIA Act regulates the consultative participation of the general public in the EIA process and in follow-up proceedings. If an EIA is not carried out because, according to the conclusion of the screening procedure, the project does not have a significant impact on the environment, the environmental associations may appeal against the conclusion of the screening procedure, which is issued in the form of a decision. Persons concerned do not have this right.

Participation in the **procedure for issuing an integrated permit (IPPC)** allows a broad range of participants in this procedure, which is regulated in Section 7 of Act No. 76/2002 Coll., On integrated pollution prevention and control, on the Integrated Pollution Register and on amendments to certain acts (Integrated Prevention Act) .

According to this provision, the participants in the procedure for issuing an integrated permit may be civil associations or public benefit corporations, on the basis of an application. However, if the procedure for issuing an integrated permit precedes the EIA, this procedure will be conducted as a follow-up procedure. Consequently, the regulation in the EIA Act will apply, according to which environmental associations may participate in the follow-up procedure if the conditions under the EIA Act are met (3 years of activity or 200 signatures). The case law has not yet clarified whether and, if so, to what extent this special regulation in the EIA Act excludes the participation of other associations, the scope of which is defined more broadly in Act No. 76/2002 Coll. – i.e. whether only associations that meet the requirements of the EIA Act can participate. Disputes about the correct definition of the scope of participants have practically not come up to this date.

As regards the participation of persons concerned, a participant to the procedure for issuing an integrated permit can also the person who would be one according to special legal regulations – i.e. the participant to the procedure which the integrated permit replaces. The scope of participants in these proceedings is usually determined according to the general regulation in Section 27 (2) of the Administrative Procedure Code. An exception is, for example, the procedure for granting an exemption from noise limits pursuant to Section 31 of Act No. 258/2000 Coll., On the protection of public health, in which only the applicant is the participant. If the decision taken in these proceedings was the only act replaced by the integrated permit, the persons concerned would not be among the participants to the integrated permit procedure. The public concerned is not a participant to the permit procedure for a minor change to the integrated permit.

The participation of the public concerned in decision-making outside the scope of Article 6 focuses on proceedings under the **Nature and Landscape Protection Act**. The provision of Section 70 of this Act, which regulates the participation of environmental associations, has been the basis of effective public participation in environmental protection for almost thirty years. Until 2017, this provision allowed environmental associations, without requirements for a history or size, to apply for all proceedings conducted under various legal regulations in which the interests of nature and landscape protection may be affected. In particular, it was a procedure for the location or permission of a construction that did not require an EIA. The objections of the associations were limited to defending the interests of nature and landscape protection. They could not therefore challenge the general legality of the administrative authority's procedures or the decision issued. From 2018, this right applies exclusively to proceedings conducted in accordance with the Nature and Landscape Protection Act. Typically, this is a procedure for permitting the felling of trees growing outside the forest, unless the felling is carried out for construction purposes (then only a binding opinion is issued on procedure under the Building Act) or proceedings for an exemption from territorial or species protection when the occurrence of endangered animal or plant species are identified only after the commencement of proceedings under the Building Act (also only a binding opinion on the procedure under the Building Act is issued).

The regulation of the participation of environmental associations in Section 115 (4) of Act No. 254/2001 Coll., On waters and on the amendment of certain acts (**Water Act**), also does not exceed the scope of the Water Act and applies only to certain proceedings conducted under this Act, which all fall outside the scope of Article 6 of the Aarhus Convention. According to provision, environmental associations may, without requirements for history or size, participate in water law proceedings, which include, for example, proceedings for permitting water management or proceedings for permitting the collection of surface or ground water. However, they may not take part in proceedings for the siting or permitting of the construction of water works.

In addition to the participation of the public concerned within the meaning of the Aarhus Convention, the Czech law under which decisions are made in environmental matters also regulates the wide participation of municipalities. The municipalities concerned may become participants in the follow-up proceedings after the EIA; by law they are participants in zoning proceedings, proceedings for the issuance of an integrated permit, proceedings under the Nature and Landscape Protection Act or water law proceedings (see above).

~~A basic type of decision-making connected with the implementation of article 6 in the Czech Republic is an administrative procedure held under the Administrative Procedure Code, which is preceded by an EIA process concluded with an opinion used as an expert basis for issuing a decision under special regulations (typically a planning decision under the Building Act). General public including foreigners have a right of full participation in the EIA process: they have an opportunity to express their opinion either in the form of written comments or orally during public discussion. In the Czech Republic, participation in decision-making on particular activities (e.g. positioning and permitting intended structures, issuing integrated permits for certain industrial activities) may be divided into 2 types, the latter of which also includes an opportunity to appeal against a decision and challenge a decision at a court.~~

~~The so-called sui juris participation includes extensive procedural authorisations, which far exceed the requirements resulting from the Convention, and which are connected with the so-called sui juris participation in the procedures. The sui juris participation of the entities (individuals, communities, "unorganised public") is generally governed by section 27 of the code of administrative procedure; the participant is the person who submitted the request or if the procedures are instituted ex officio, those to whom the decision is to establish, amend or revoke a right or obligation, or to declare that they have a right or obligation, or who claim this, until proven otherwise. Furthermore, the Act defines that the participants are also other persons, if they may be directly affected by a decision in their rights or obligations. The participant of the procedures is also the one to whom this position is conferred by a special law (§ 27 para. 3 of the administrative code). This provision is important for NGOS, which become participants of the procedures, in particular, on the basis of special laws, for example on the basis of section 70 of the Act 114/1992 Coll., on nature and landscape protection or section 9c , paragraph 1. 3 the Act on EIA. In procedures pursuant to the Building Act (planning and building procedures often meet the definition of "environmental decision-making"), the administrative code does not apply for the terms~~

of participation. Sui juris participation implies but is not limited to the authorisation to be informed of the initiation of procedures; to request from a competent authority a reasonable instruction; to propose evidence in the procedures; to make proposals throughout the whole procedures; to express opinion; to ask for information about the procedures; to make an opinion before the resolution is made regarding its background materials; view the files; to take part in the oral procedures; to deliver documents into their own hands; to file an appeal; to file a claim against the resolution.

"Consultative" participation:

It applies without any further restriction to any natural persons and legal entities. The public is notified of the intent to perform a certain activity and is provided with relevant information at the same time. Anyone may submit comments to the proposed activity either in writing or orally (town and country planning including a planning procedure, EIA process, safety programmes and emergency plans, permits for various forms of GMO management), the competent authority has to attend to the comments and take them into account or give plausible reasons why a given comment cannot be accepted.

A typical application of the consultative participation of the public, which gives the possibility to consider the form of the intended project before starting the actual permitting procedure, is the EIA process and also the subsequent procedures. In the Czech Republic this process is separate; it is not integrated in processes, in which decisions are made about the approval of the intent, but precedes them.

The EIA process itself consists of several consecutive phases and all the documents, based on which a opinion will be issued in the end, are published. Anyone has the opportunity to comment on them within a specified period by sending a written representation; or during the participation at the public hearing. At the public hearing, the public can express their comments orally and in cases where it is needed, it could be an effective tool facilitating communication between investors, representatives of the administrative authority and the public. The settlement of the comments made by the public is one of the mandatory requirements of the opinion of the EIA. The result of the EIA process is the so-called binding opinion of the EIA containing the assessment of an environmental impact of the intent and conditions under which it is possible to permit the implementation of the intent in subsequent procedures. The public comments received in the EIA process must therefore be taken into account also by the administrative authority that is deciding in the subsequent procedures.

The EIA process is followed by one or more subsequent procedures. The subsequent procedures are then just those procedures, in which it is decided on the issues of the realisation of the intent, hence its location and implementation, and in which the opinion of the EIA is used as the basis for such decision-making. The requirement of the Convention that the outcome of public participation is duly taken into account, is fulfilled in two ways. The first of these is the right of the public to make comments on the intent in these procedures. The second way is the sui juris participation of associations in these procedures, which implies substantial rights, especially the right to make comments in the course of procedures, the right to propose evidence, the right to view files, and the right to file an appeal against the issued decision. The only condition of participation is that the association, which meets the conditions laid down by law (environmental associations that were established at least 3 years ago or that prove a signature document with at least 200 signatures), applied to the administrative authority, which holds the subsequent procedures, within 30 days of the publication of the information referred to in the preceding paragraph. For both these ways of public involvement it is necessary that all the necessary information is provided to it.

The law provides that the administrative authorities holding the subsequent procedures, have the obligation to publish information necessary for effective involvement of the public; the public has the right to apply comments in these procedures on the intent and societies can become a sui juris participants in these procedures.

Public, as defined by the Act on the assessment of environmental impacts, e.g. any natural or legal person may submit its comments to administrative authority. Comments must be submitted within 30 days from the publication of information on subsequent proceedings. The administrative authority is obliged to refer to the settlement of the comments from the public in the grounds of its decision.

~~At the stage of town and country planning which determines the future use of various plots of land – sets out e.g. possible locations of roads, residential houses, parks and other undeveloped areas, anyone may also submit their comments that have to be subsequently attended to by the owner of plan. The development plan is issued in the form of a measure of a general nature. It cannot be challenged by an appeal but does not exclude the use of another supervision instrument, namely assessment of compliance of the issued measure of a general nature in a review procedure (hereinafter referred to as "PŘ") under the Administrative Procedure Code. A petition for initiation of a PŘ may be filed basically by anyone. If there is any doubt about compliance of a measure of a general nature with legal regulations, a superior authority reviews it in a PŘ and may subsequently change or cancel the measure. A development plan may also be opposed by filing an action with an administrative court.~~

~~In the course of planning procedures – in the end of which a fundamental decision is issued in terms of environmental protection – the planning decision, in which a specific building/structure is placed in a specific territory.~~

~~In the course of a planning procedure, anyone may submit comments. On top of that, associations, societies and owners of adjacent real estates hold the position of participants in the procedure – they have a right to appeal against the decision or to contest the decision by filing an action with a court.~~

a) with respect to Article 6 paragraph 1

The scope of activities listed in Annex I to the Convention overlaps primarily with the scope of activities that, according to Czech legislation, are mandatory in the process of environmental impact assessment (**EIA process**). The EIA Act regulates the range of activities that require impact assessment by distinguishing between the category of projects that always require impact assessment and those that require an investigation procedure. Projects that correspond in nature to the defined categories but do not meet the limit values are not assessed, except for so-called sub-limit projects that reach at least 25% of the relevant limit value, are located in a specially protected area or a protection zone under the Nature and Landscape Protection Act, and the competent authority determines that they be subject to an investigation procedure. Protected areas include large (national parks, protected landscape areas) and small (nature reserves, natural monuments) areas.

Czech courts constantly emphasize the ban on the so-called piecemeal approach in order to avoid the exclusion of projects from the EIA process – and to avoid public participation in decision-making as a result (Supreme Administrative Court judgments of 6 August 2009, No. 9 As 88 / 2008-301 of18 September 2014, No. 2 As 119 / 2014-31, of 13 December 2018, No. 6 As 139 / 2017-73).

Projects for which a significant negative impact on a site in the **Natura 2000** system cannot be ruled out are also subject to the investigation procedure in the EIA process. These projects are not limited in any way by their nature or scope. Therefore, in accordance with the case law of the Court of Justice of the European Union, the Czech courts conclude that these can also be projects not listed in the Annex to the EIA Directive (2011/92 / EU). These are, for example, the marking of hiking trails (Supreme Administrative Court judgment of 18 December 2015, No. 2 As 49 / 2013-109) or the use of biocidal products (Supreme Administrative Court judgment of 13 August 2014, No. 3 As 75 / 2013-112). According to the Czech courts, an assessment in the Natura 2000 system is also required for projects that are located outside the affected sites. The assessment of the effects of project on a Natura 2000-protected site is carried out in the same way as the EIA, but with a narrower, more consistent focus on the site in question. The public concerned may thus dispute the specific conclusions of the assessment in follow-up proceedings.

The participation of the public concerned in decision-making in relation to the projects that were assessed in the EIA process (but not terminated in the investigation procedure) is ensured through the so-called follow-up procedures (see above in the introductory commentary to Article 6).

The definition of facilities that require an integrated permit (**IPPC**) in the annex to the Integrated Prevention Act also corresponds to the scope of activities listed in Annex I to the Convention. The issuance of an integrated permit is required for the operation of all installations that meet the limit values, and according to case law it is necessary to consider the nature of the operation, the potential of the installation and the sum of production of individual parts of the operation. An integrated permit can also

be issued voluntarily, but this option is practically not used in practice. An integrated permit is issued in administrative proceedings as a separate decision.

~~The parties are obliged to apply the provisions of article 6 with respect to the decisions on whether to permit proposed activities listed in annex I and also in relation to other decisions on proposed activities not listed in annex I, but with possible significant effects on the environment. The range of activities listed in annex I to the Convention overlaps with the field of activities, which are compulsory according to the Czech legislation within the process of the environmental impact assessment (EIA process). The EIA process itself cannot be regarded as sufficient to fulfil the provisions of the Convention, but it is just the legislative provision of the EIA process and the subsequent procedures (see above) that provide extensive rights in the Czech Republic to the public and to the public concerned, which may be applied not only in the framework of the EIA process, but in the procedures that follow after the EIA process, and in which it is decided on the location and implementation of intents assessed in the EIA process.~~

b) with respect to Article 6 paragraph 2

Follow-up proceedings (meaning follow-up proceedings following an environmental impact assessment) are considered by law to be proceedings with a large number of participants (these otherwise mean, according to the Administrative Procedure Code, proceedings with more than 30 participants). Participants in the proceedings with a large number of participants may be notified of the commencement of the proceedings by a public ordinance. Therefore, as a rule, the notice of initiation of proceedings, which falls within the scope of Article 6 of the Convention, is published on the official notice board of the administrative body. The situation is similar for the phase of the EIA process, about which information is also published on the website (publicly available portal https://portal.cenia.cz/eiasea/view/eia100_cr), based on the rules set for the EIA process.

The administrative body responsible for conducting **follow-up proceedings** also publish, together with the notice of initiation of proceedings

a) the application together with a notice that it is a project subject to environmental impact assessment, or a project subject to transboundary environmental impact assessment, together with information where the relevant documentation for follow-up proceedings can be examined;

b) information on the subject and nature of the decision to be issued in the follow-up proceedings;

c) information on where the documents obtained during the assessment that are published can be consulted;

d) information on the conditions of public participation in the proceedings pursuant to Section 9c (1) of the EIA Act and pursuant to special legal regulations, which means in particular information on the place and time of a public oral hearing, if applicable, the deadline for public comments on the project and possible consequences of default such time limits, information on whether and, if so, within what time period, the public may inspect the grounds for the decision, on the bodies concerned and information on the optios of the public concerned to participate in the follow-up proceedings pursuant to Section 9c (3) and (4) of the EIA Act. The information is deemed to have been published by posting it on the official notice board of the administrative body conducting the follow-up proceedings. The information must be posted for 30 days.

If the **integrated permit procedure** is not conducted as a follow-up procedure (the project does not require an EIA), the above requirements do not apply. For the purposes of the IPPC, a national public administration information system is maintained, which, among other things, serves to ensure obligations related to the publication of information and public access to information. However, information on administrative proceedings is published on the basis of the requirements of the Integrated Prevention Act. The administrative authority must, within 7 days from the date of finding the application complete, ensure the publication of a brief summary of the information (in particular the applicant, facility, technologies used, state of the territory and compliance with preventive measures) and when and where the application can be examined, and extracts, transcripts or copies obtained from it. The publication is made by means of the integrated prevention information system, on its official notice board and on the official notice board of the municipality on whose territory the facility is or is to be located. The administrative body and the municipality post this information on their official notice boards for a

period of 30 days. Within that period, any person may send their comments concerning the application to the authority.

With regard to the disclosure of information on proceedings instituted outside the scope of the Convention, environmental associations may request information on all intended interventions and initiated administrative proceedings in which the interests of nature and landscape protection may be affected. The request for information is valid for one year and must be materially and locally specified (Section 70 (2) of the Nature and Landscape Protection Act). In other cases, where it is not a permit procedure following the EIA (where the information is publicly available), it is possible to request access to information on administrative proceedings on the basis of the Act on Access to Information on the Environment, or with proof of legal interest or other serious reason to invoke the institute of inspection of the file according to Section 38 of the Administrative Procedure Code.

~~Information about the EIA process is published on the official notice board of the competent authority and on its website to the extent required by the Convention.~~

~~Participants in administrative procedures are informed about initiation of such procedures.~~

~~Moreover, NGOs may request to be kept informed about all intended actions and initiated administrative procedures in which nature and landscape protection interests may be affected. A request to be kept informed is valid for one year and must be specified in term of the matter and location (section 70, paragraph 2 of the Act on Nature and Landscape Protection). In addition, there are numerous specific regulations, e.g. as for a planning procedure, the public is informed through a public notice and the information is also available right at the place of the planned structure.~~

~~The procedures following the EIA process (e.g., planning/ building procedure), in relation to the public and the public concerned, are newly initiated only by posting on the official notice board. The request for information pursuant to section 70 of the Act on nature and landscape protection does not apply to these procedures.~~

c) with respect to Article 6 paragraph 3

In the **EIA process**, any person has the right to send their written statement on the published notice of the project to the competent authority (within 30 days from the date of publication of the notice of the project) and statement on the documentation (within 30 days from the date of publication of the information on the documentation). If the administrative body receives a reasoned dissenting opinion from the public on the documentation, it must order a public hearing. The ordered public hearing would take place no later than 30 days after the deadline for comments on the documentation and the notice of its holding must be published in advance.

In the **follow-up proceedings**, the public (any person) has the opportunity to submit comments within a period which may not be less than 30 days from the publication of the information together with the notice of initiation of the proceedings. Environmental associations become participants in the follow-up proceedings if they register within 30 days from the date of publication of information on the follow-up procedure. Persons concerned who are participants by law (typically neighbours - owners) do not have to register and therefore there is no time limit for their participation. The persons concerned, within the meaning of the Aarhus Convention, have only consultative participation in the follow-up proceedings, so it is not relevant to address the time-limit for their registration as participants in the proceedings.

In the case of building projects that are permitted in a joint zoning and building procedure with an environmental impact assessment or in a zoning procedure with an environmental impact assessment (which is at the choice of the investor), the general requirements for processing the application under the Building Act apply, not the provisions of the EIA Act.

The building authority **conducting the zoning procedure related to the environmental impact assessment or the joint zoning and building procedure with the impact assessment** may order a public oral hearing to discuss the project and, if appropriate, combine it with an on-site inspection. The public hearing shall be held with the participation of the competent authority. The participants in the proceedings and the public may submit comments on the project in terms of its impact on the

environment, and the authorities concerned may submit their binding opinions, or comments on the project, at the latest at a public oral hearing.

In the procedure for issuing an **integrated permit**, any person may send their opinion on the application within 30 days of the publication of the information (see above) (Section 8 (2) of Act No. 76/2002 Coll.). The participants in the proceedings may send their comments within 30 days of receiving the application (Section 9, Paragraph 3 of Act No. 76/2002 Coll.). The administrative authority will order an oral hearing whenever a participant so requests. A participant in the proceedings may request an oral hearing within the time limit for submission of a statement or, in the case of a request for an expert opinion, within the time limit for submission to the administrative body (30 days from the date on which the expert received the request).

In general, for all administrative proceedings, the parties may propose evidence and make other proposals while the proceedings are still in progress, until a decision is issued; the administrative body may, by resolution, state how long the participants have to make their proposals. Participants also have the right to express their views in the proceedings. If they so request, the administrative body shall provide them with information on the proceedings, unless otherwise provided by law. The administrative body must set a reasonable time limit for the participant to perform the act, unless required by law and if necessary. Special laws then regulate special deadlines for the submission of a statement (see above 30 days in the proceedings following the EIA or 30 days from the publication or receipt of the application in the IPPC department).

An **appeal against the decision** in the follow-up proceedings as well as against the decision to issue an integrated permit may be filed within a general period of 15 days from the date of notification of the decision. The notice of the decision must state whether and within what period the appeal may be lodged, from which date this period is calculated, which administrative body decides on the appeal and to which administrative body the appeal is lodged.

~~Time limits for the preparation for individual stages of decision-making are set out precisely in Acts and last less than ten weeks.~~

d) with respect to Article 6 paragraph 4

The EIA process is carried out at an early stage of project preparation, when all **options are still open**. In the investigation procedure and in other phases of the process, the competent authority takes into account the public's opinion and may, for example, return the file for revision or supplementation by the notifier. The issued EIA binding opinion must also be based on the binding statement. If the EIA is not carried out because, according to the conclusion of the screening procedure, the project does not have a significant impact on the environment, the environmental associations may appeal against the conclusion of the screening procedure, which is issued in the form of a decision.

The EIA Act then basically refers to follow-up proceedings as all proceedings in which permits are issued that are essential for the implementation of the project. The public concerned may thus raise objections and, where appropriate, oppose the decision at all stages of permitting of the project. Full participation in the follow-up proceedings, including the right to appeal, is granted only to environmental associations, or to persons concerned, who have become participants in the permitting procedure with regard to the affected property or other right in rem.

If no EIA is carried out and the project is evaluated only in the inquiry procedure, then the general rules for these proceedings (not the rules for follow-up proceedings) apply to participation in proceedings where activities are decided under the Annex to the Aarhus Convention.

The administrative body, in making decisions in the follow-up proceedings, also uses the documents of the EIA process (documentation, notifications, public comments, or the results of the public oral hearing, if held) as a resource for its decision.

Similarly, an integrated permit also includes the settlement of comments on the application contained in the submitted statements.

~~Public participation is ensured by the EIA process at an early stage of the intent preparation when all options are still open. This also consistently fulfils the principle of prevention.~~

e) with respect to Article 6 paragraph 5

Czech law does not know of any mandatory instruments of active action (and possibly mediation) in the direction of resolving conditions in situ before the commencement of mandatory environmental procedures. In particular, the institutes of prior information and preliminary hearing (before submitting the application) serve to stimulate the applicant and discussion with the public concerned, which enable the applicant to become acquainted with the conditions of the project and which allow the administrative body to draw the applicant's attention to the public's concerns. After submitting the application, a public hearing serves as a means of formalized discussion (see above).

The request for preliinary information is a general institute vested in the Administrative Procedure Code. Special regulations supplement it, for example, so that before the procedure for issuing an **integrated permit** is initiated, the administrative body provides information on the prescribed requirements of the application and on the definition of facilities in the application (Section 3a of Act No. 76/2002 Coll.). Pursuant to Section 9b (2) of the EIA Act, the administrative body responsible for conducting **follow-up proceedings** in cooperation with the authorities concerned shall provide, at the request of the applicant for a follow-up decision, preliminary information on data and documents required which the applicant must submit with his application for a decision.

Pursuant to Section 15 of the EIA Act (preliminary discussion), the administrative body, if the notifier so requests before submitting the notification, discusses the intended project with the notifier, including possible variants of the project, and recommends a preliminary discussion with other relevant administrative authorities, and possibly with other relevant entities.

~~The practical experience with the process of assessing the impacts of the intents on the environment and public health, clearly implies that the notifier of the intent plays one of the key roles.~~ In 2011, the Ministry of the Environment prepared the EIA-related guidance document The Notifier's Handbook, which highlights the key role of the notifier, draws attention to the purpose of public participation and lists various incorrect dialogue tactics on the part of the notifier, the administrative body and the public. The Ministry of the Environment also produces EIA-related guidance documents, that illuminate, for example, the definitions of specific activities subject to EIA.

f) with respect to Article 6 paragraph 6

As a participant in the proceedings, the public concerned has access to all resources for the decision. If the public concerned is not a participant in the proceedings, it has access to information published by the administrative body (see above) and may also examine the file pursuant to Section 38 of the Administrative Procedure Code, if the public concerned can prove a legal interest or other serious reason and this will not impinge on the right of any other participant, other persons concerned or a public interest. Other information available to the administrative body may be made available upon request in accordance with the procedure under the Act on Access to Information on the Environment (see above).

~~Access to information is given according to this paragraph in the EIA process and subsequently under the Building Act and Administrative Procedure Code.~~

g) with respect to Article 6 paragraph 7

Comments, objections and statements of the public concerned are generally submitted in writing. If a public hearing of the EIA process is ordered, the administrative body takes a record of it according to the EIA Act, containing in particular data on participation and conclusions from the hearing, and also makes an audio recording from it. Subsequently, the administrative body is obliged to send the minutes of the public hearing to the notifier, the administrative bodies concerned and the territorial self-governing units concerned and to publish them on the internet. If a public oral hearing is held in accordance with the Building Act, a protocol is drawn up from it, in which the public may state their comments and objections.

~~Submission of oral and written comments of the public, as required by this paragraph, is allowed within the scope of the EIA process and town and country planning including the planning procedure.~~

h-i) with respect to Article 6 paragraphs 8 and 9

As already noted, public opinion is essential already at the stage of the EIA process and may be a reason to return the file for revision or supplementation. It is also one of the resources for the binding EIA opinion. If the EIA binding opinion ignores the public opinion or does not sufficiently address the concerns, this constitutes a defect of the binding opinion - which may also be a defect of the decision issued in the follow-up proceedings. At the same time, Czech courts have ruled that the statements of the individuals concerned may relate to all aspects of assessing the effects of plans on the environment, including, for example, risks to public health (NSS judgment of 20 January 2017, No. 7 As 188 / 2016-75).

The administrative authority responsible for issuing a decision in a follow-up procedure or in an integrated permit procedure which is not conducted as a follow-up must already, in accordance with the general requirements laid down in the Administrative Procedure Code for the decision of the administrative body, state in the dealt with the proposals and objections of the **participants** and their comments on the basis of the decision. If they do not do so, the decision is illegal due to unreviewability.

With regard to the comments of the public, which is **not a participant in the proceedings**, § 9c paragraph 2 of the EIA Act stipulates that the administrative body shall state the settlement of the comments of the public in the justification of its decision. In addition, according to § 9b par. 5 of the EIA Act, the administrative body deciding in the follow-up proceedings also relies on the documents of the EIA process (including public opinion).

If the procedure for issuing an integrated permit is not conducted as a follow-up, the public applies comments pursuant to Section 8 (2) of the Integrated Prevention Act and these comments must be settled in the decision.

The decision issued in the subsequent proceedings is usually delivered on the official notice board, because it is the Act on Proceedings with a High Number of Participants (Section 144 of the Administrative Procedure Code). It is delivered in person only to the main participants according to § 27 par. 1 of the Administrative Procedure Code (ie especially to the applicant). The decision is not published on the internet., such as documents obtained during the assessment and information about them. The reasons for the decision must state the reasons and aspects on which the decision is based. Access to decisions suspended from the official notice board is possible on request in accordance with the procedure under the Act on the Right to Environmental Information (see above).

The decision on issuing an integrated permit or rejecting an application for an integrated permit shall be published by the administrative authority via the integrated prevention information system within 5 days from the date of entry into force and shall publish on its official notice board for 30 days information on when and where the decision can be examined. All changes to issued integrated permits (https://www.mzp.cz/ippc) are also published in the information system.

~~The SŘ, SZ, EIAZ and the Act on Public Health Protection (ZOVZ) set out that when making decisions, the output of the public participation has to be taken into account and the public shall be informed about decisions through the official notice board in a manner allowing remote access. Written notices are sent only to applicants and "full-right" participants. Decisions and other documents related to the procedure are available at request under the Acts regulating access to information. They are delivered to the participants in the administrative procedure by mail intended for the addressee only. If they cannot be delivered otherwise, they shall be delivered through the official notice board. Information about ongoing EIA processes is also published on the website of the MoE.~~

~~From the 1st April, 2015 there have been significant changes in some of the rules that have applied in the EIA process until now (see also the description of the implementation in introduction to article 6). Amendments to the Act provided that the final opinion of the EIA is mandatory. This means that in the subsequent procedures, the authorities will have to abide by this opinion in their decision-making. At the same time it is possible to ask for its review in the appeal procedure, the subject of which is the decision issued in any of the subsequent procedures.~~

j) with respect to Article 6 paragraph 10

A review o ran update of the operating conditions by the administrative body requires a change in the operating decision. The decision to change the decision is made in administrative proceedings, for which the same rules generally apply as for ordinary proceedings, unless the law provides otherwise. If the

scope of the change reaches the limit set by the EIA Act, it is necessary to perform a new impact assessment (or at least the investigation procedure), which in principle does not differ from the standard EIA process, including requirements for public participation and public information.

With regard to the change of an integrated permit, the legislation distinguishes between substantial and minor changes; however, it does not define them precisely. The provision of Section 2 (i) of Act No. 76/2002 Coll. stipulates under which conditions the change is always substantial, but the list is not exhaustive. In other cases, the administrative authorities are left room for discretion. After announcing the planned change in the operation of the facility, the authority will evaluate this change and determine whether, in its administrative discretion, the change is substantial or insignificant. In the case of a procedure for a substantial change, the procedure is similar to that in the procedure for issuing an integrated permit. The scope of participants in the procedure for a minor change is limited. It does not include environmental associations, but it still includes persons who would be participants in the proceedings under special regulations governing proceedings for integration (e.g. when permitting waste facilities that fall under IPPC capacity). These may be persons concerned, especially neighbours - owners.

~~In the Czech system of law this provision concerns particularly a change of an issued decision in a procedure; the former procedure participants may participate in such procedure with all rights as were their rights applicable to the former decision-making.~~

~~Newly the Act on EIA introduced the so-called verification of a binding opinion. This verification, or validation of the changes in the intent (the so-called coherence stamp), takes place in the subsequent procedures and the competent authority, which issued the opinion of the EIA, must check that there has been no change in the intent that could have a significant negative impact on the environment. If the authority finds that the potential change could have such a negative effect, this change would be the subject of the screening procedure, in which the competent authority would establish, whether this change requires the implementation of the EIA process. This verification opinion is issued whenever the subsequent procedures are the building procedures or procedures on the change of construction before its completion.~~

~~After 1st April 2015, when the amendment to the Act No. 100/2001 Coll., came into force, the compliance of the already issued EIA opinion with the legal regulations, which implement the EIA Directive (that is, the law on EIA), must also be verified. This verification is necessary for all the opinions of the EIA issued before 1st April 2015 to intents, where the EIA process has been completed, but the intents have not yet undergone all subsequent procedures. This verification can be connected with the verification described in the previous paragraph.~~

k) with respect to Article 6 paragraph 11

The Czech legislation **does not explicitly allow the public to become a participant in the procedure for permitting the release of GMOs into the environment**. Act No. 78//2004 Coll., On the handling of genetically modified organisms and genetic products, provides exclusively for consultative public participation, unlike the older regulation (Act No. 153/2000 Coll.), which allowed the full participation of environmental associations in decision-making. The scope of participants in the proceedings pursuant to Act No. 78//2004 Coll. it is not regulated, so the general regulation in the Administrative Procedure Code applies, according to which other persons whose rights are concerned can become participants in addition to the applicant. However, it is not clear whether they may be representatives of the public concerned.

Consultative participation in decision-making pursuant to Act No. 78//2004 Coll. consists of participating in a public hearing and making a statement. Following the submission of an application for a permit for contained use and for placing on the market, the Ministry of the Environment will publish information on the official notice board, on the internet and in at least one other appropriate manner in the municipality and region in whose territory the contained use or release takes place, or where such action is, given all circumstances, expected. The public (any person) may send their written statement to the Ministry within 30 days from the date of publication of the application. If the Ministry thus receives a dissenting statement with the release of the GMO into the environment, it will call a public hearing of the submitted application before deciding on the application. It will publish a notice of the public hearing at least five days in

advance in the same manner as above. The decision on the submitted application always includes a summary settlement of statements.

~~Act No. 78/2004 Coll., on the Management of Genetically Modified Organisms and Genetic Products makes it possible for the public to participate in decision-making on permits to release GMO into the environment.~~

XVI. Obstacles that prevent the implementation of Article 6

The implementation of Article 6 is hindered in particular by the **fragmentation of permitting procedures**, which makes it necessary for effective environmental protection to participate in several procedures and often to raise the same objections repeatedly. While the courts conclude that specific objections always fall within a certain permitting procedure, they add that some objections are of a reciprocal nature and are directed, for example, not only to building issues but also to the operation itself (judgment of the Municipal Court in Prague of 27 November 2014, No. 7 A 58 / 2010-53). The fragmentation of proceedings also means that individual permits may be at a stage that does not correspond to their chronological sequence (for example, as a result of the annulment of a decision on the situation of a building by a court). The public concerned thus participates in the proceedings, which may no longer have any outcome.

The **fragmented regulation of the conditions of public participation** in individual proceedings also poses problems. It is difficult for administrative authorities not only to define the scope of participants, but also to assess on the basis of which regulation and under what conditions individual members of the public concerned may participate in the proceedings and what objections they may raise. This is evidenced by the practice where courts annul administrative decisions in the field of environmental protection mostly due to procedural errors (due to the unreviewability of the decision and the non-settlement of the objections of the parties to the proceedings).

The **different determination of the conditions of participation for ecological associations and the persons concerned** is also problematic. While environmental associations may, for example, appeal against the conclusion of the inquiry procedure that the project will not be assessed in the EIA process, individuals do not have such a right. While environmental associations may appeal against a decision given in a subsequent procedure without participating in the proceedings at first instance, individuals again do not have such a right.

In addition, from among the persons concerned, only the owners concerned are considered to be participants in the proceedings (however, they are full participants, including the right to appeal against the decision) and not, for example, tenants. The **exclusion of some of the persons concerned** from the decision-making process is therefore problematic. This is typically an example of the legal regulation of the participants in zoning and building proceedings, as well as the procedure for defining participants in cases where the scope of participants is not defined by law and it is necessary to follow the general regulation in the Administrative Procedure Code (where persons other than property owners are omitted).

The political reluctance to address the current confusing situation, or even **efforts to limit public participation**, which are particularly evident in relation to traditional regulation that goes beyond the scope of the Convention, can also be seen as an obstacle to the implementation of Article 6. These efforts can also be seen as a form of price paid for the success of a strong civil society, which helped to establish environmental protection in the 1990s. However, the courts are increasingly confirming the view that public participation in environmental protection constitutes the implementation of legal guarantees in public administration. As they infer to the role of ecological associations, *"the meaning and purpose of their participation in building proceedings is not to block, delay and prolong the implementation of a building project through procedural obstructions, but to defend the (public) interests of nature and landscape protection in competition with other public interests and private interests"* (judgment of the Supreme Administrative Court of 4 May 2011, No. 7 As 2 / 2011-52).

~~On 25 April 2013, the European Commission instituted infringement procedure against the Czech Republic due to the incorrect transposition of the EIA Directive (Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment). The fifth session of the Meeting of the Parties (MOP 5, 30 June – 1. July 2014 in Maastricht, the Netherlands) adopted the Decision V/9f concerning the Czech Republic. MOP endorses findings concerning the Czech Republic and stated, that Czech Republic is not in compliance with articles 6, paragraph 3 and 8, 7 and 9 paragraph 2,3 and 4 of the Convention; Some of the concerns raised by the Aarhus Convention Compliance Committee to national legislation are essentially the same as the Commission's objections. Following a detailed analysis, it has been decided to make conceptual changes and in 2015, the EIA Act amendment was adopted by the government; all existing requirements of the European Commission, and thus the requirements/recommendation made by the Meeting of the Parties to the Aarhus Convention V/9f, were satisfied, as described in relevant parts of this report.~~

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

The main problems of practical application are listed above. They consist in the fragmentation of proceedings and also in the different position of the persons concerned in the various environmental proceedings.

XVIII. Website addresses relevant to the implementation of Article 6

https://www.casopis.ochranaprirody.cz/pravo-v-ochrane-prirody/ucast-verejnosti-na-rozhodovacich-procesech/

http://www.mzp.cz/cz/posuzovani_vlivu_zivotni_prostredi

http://portal.cenia.cz/eiasea/view/eia100_cr

~~http://www.mzp.cz/ippc~~

XIX. Practical and other measures for public participation concerning plans and programs relating to the environment according to Article 7

The public is involved in the preparation of various policy documents, primarily in a consultative form. Qualified forms of participation are less common.

If the policy is subject to an environmental impact assessment (**SEA**) process, the general public can be involved at this stage through submission of comments. The SEA opinion will be issued by the competent authority on the basis of a draft, the comments submitted to it and a public hearing. It becomes the basis for the approved policy. When approving a policy, the approving authority is obliged to take into account the requirements and conditions arising from the opinion on the draft policy (SEA opinion), which means that it may deviate from them if it sufficiently justifies its action.

Individual policies are issued in various legal forms, most often in the form of **measures of a general nature**, the issuance of which is governed by general regulations in the Administrative Procedure Code. The Administrative Procedure Code regulates the publication of a draft measure of a general nature during the administrative process, as well as the manner and form of public comment on this draft.

Policy documents often serve as a **basis for other policy tools, especially spatial planning documentation**. For example, the plan of the ecological stability system is the basis for the principles of spatial development or the zoning plan – and only their approval creates regional or supraregional

territorial systems of ecological stability (bio-corridors, bio-centres, interaction elements). The public can comment on the form of the ecological stability system plan or similar policies that address various aspects of spatial development during the discussion and adoption of spatial planning documentation.

For the approval of **spatial planning documentation**, a special regulation of public participation in the Building Act will apply (see below).

~~A special regime applies to town and country planning documentations and territorial development policies, in respect of which the Building Act stipulates a special procedure for public participation in their preparation. According to the amended Building Act, the public may submit comments as early as at the first stage of preparation of town and country planning documentation. From the public's point of view, the most important document is usually the development plan of the municipality that is binding for the issue of individual planning decisions in the given location. The development plan constitutes a conception that determines the future use of various plots of land in the municipality – it sets out e.g. possible locations of roads, residential houses, parks and other undeveloped areas. In the course of preparation or changes of the development plan, anyone may submit their comments that have to be subsequently attended to by the owner of the plan. An issued development plan cannot be challenged by an appeal but an action may be filed with a court together with a petition for a review of the plan.~~

~~In the Czech Republic the public does not always participate in the process of preparation of strategic plans but is allowed to enter in the process of assessment of the environmental impact of these plans and programs. In the Czech law, the requirement of the Convention is transposed into Act No. 100/2001 Coll., on Environmental Impact Assessment, in the regulation of the SEA process (transposition of Directive 2001/42/EC). The Act defines local government units concerned and administrative authorities concerned that are engaged in individual stages of the environmental impact assessment process. The SEA process may be participated by the general public, including foreign public and all important documents are published. The result of the SEA process is an opinion on the impact of the implementation of the concept on environment and public health (opinion of the EIA), which serves as the technical basis for the administrative authority which approves the concept.~~

XX. Opportunities for public participation in the preparation of policies relating to the environment according to Article 7

From the point of view of public participation in the preparation of policies related to the environment, it is important whether a specific policy can be described as a policy subject to the SEA process. It allows for public participation through comments (see below). The way in which the public is involved in the preparation of the policy itself, which may or may not be preceded by a SEA, differs mainly depending on the form in which the policy is approved.

In the **SEA** process, anyone can comment on the policy within 20 days of the publication of the concept notice on the internet and on the official notice board of the local and regional authorities concerned. A public part of the SEA process is a mandatory part of the process. It is organized by the submitter and must comply with the deadlines set by law. The submitter is obliged to publish information on the place and time of the public hearing of the draft policy. Minutes are taken of the public hearing itself and published on the internet. Within 5 days from the day of the public discussion of the draft policy, any person can still submit written comments. When assessing the effects of the spatial development policy, the principles of spatial development and the zoning plan on the environment, the procedure is in accordance with a special regulation in the Building Act, which, however, is similar to the general regulation.

If the policy is issued **in the form of a measure of a general nature according to the general regulation in the Administrative Procedure Code**, then according to Section 172 (4) and (5) of the Administrative Procedure Code, any person can **comment** on the draft measure of a general nature whose rights, obligations and interests may be directly concerned. The administrative authority is obliged to deal with the comments as a basis for measures of a general nature and to address them in its justification. **Objections** may be raised by property owners whose rights, obligations or interests related to the exercise of the right of ownership may be directly affected by the measure of general application

or, if the administrative authority so determines, other persons whose legitimate interests may be directly affected by the measure of general nature. The administrative authority that issues the measure of a general nature decides on the objections. If the settlement of the objection would lead to a solution which directly affects the legitimate interests of a person in a way other than the draft measure of a general nature, and if the change is clearly not in that person's favour, the administrative authority will find out the person's opinion. The decision on the objections, which states the reasons on which it is based, will appear as part of the statement of reasons for the measure of general application. An appeal or remonstrance cannot be lodged against the decision, but it can be challenged in an administrative court. Modification or revocation of a final decision on objections may be grounds for modification of a measure of a general nature.

However, in some cases, the process of preparation of policy documents **limits** public participation. For example, national river basin management plans and flood risk management plans pursuant to Act No. 254/2001 Coll., On waters and on amendments to certain acts (Water Act) are issued in the form of measures of a general nature, however, the Water Act in Section 115a (3) excludes the possibility of objections from the public concerned. Consequently, the public concern can only submit comments. Objections may be raised by the public concerned when the protection zones of a water source and a waterworks are considered for declaration. Participation in the approval of regional forest development plans or forest management plans and forest management guidelines is similarly limited.

As for the Building Act, it regulates the acquisition of spatial development policies. The **spatial development policy** (the national spatial policy) is compulsorily discussed in public. A time limit is introduced for the submission of comments, which may not be less than 60 days from the public hearing. The public may submit written comments to the Ministry of Regional Development. The Ministry submits the policy proposal to the government for approval; in addition to the proposal, it also submits a report that contains an evaluation of the public's comments. The public is involved in the **preparation of spatial planning documentation** (zoning plans at the regional and municipal level) primarily through comments or objections submitted by a public representative. While the administrative authority has to decide on objections and justify its decision, only comments are settled. The statement of reasons for zoning documentation includes the settlement of public comments and decisions on objections. Both contain a statement of reasons in which the administrative authority is obliged to disclose all documents, considerations and reasons that led to the decision on the objections or the settlement of comments. The settlement of comments is less extensive, and, above all, comments are not decided upon; the administrative authority will use them as a basis for the of zoning documentation. The decision on objections, which is part of the statement of reasons for a specific zoning instrument, cannot be appealed or remonstrated against; only a review procedure or a reopening of proceedings can be used, to which there is no entitlement. However, the decision on objections can be reviewed in an administrative court, while a representative of the public is also actively entitled to file an action for annulment of the decision on objections (judgment of the Supreme Administrative Court of 27 October 2010, file No. 2 Ao 5 / 2010-24.). It is also possible to seek judicial annulment of all or part of a measure of a general nature (see below).

~~The public has access to the preparation of policies within the scope of the environmental impact assessment process under Act No. 100/2001 Coll., on Environmental Impact Assessment. The Act requires publishing a notice of conception (policies of various sorts are examples of a typical conception) that contains information about the conception under assessment and about the expected environmental impacts. At the following stage of the process of assessment of the conception's environmental impact, a draft conception and its environmental impact assessment have to be published, according to the Act, on official notice boards of the self-government units concerned; these documents shall also be published in the Information System SEA at http://portal.cenia.cz/eiasea/view/SEA100_koncepce. The Act also stipulates the obligation to hold a public hearing that may be attended by anyone. The legal regulation does not prevent a proactive approach of the conception submitter and assessor.~~

XXI. Obstacles that prevent the implementation of Article 7

More effective public participation under Article 7 of the Convention is hindered, in particular, by the low awareness of the general public about the existence and relevance of various policies. In the case of the public, which has sufficient professional awareness and human resources, the disincentive is the low reflection of public comments in the final version of the document.

The diversity of policies is problematic. Unless the legislation mandates their exact title and content, policy documents are prepared under different names and with different levels of detail. The effective participation of the public is to some extent hindered by the division of policies into several levels. This is typical for spatial planning documentation, which consists of the principles of spatial development, zoning plans and in some cases also regulation plans. Substantial aspects of the location of projects of supra-local significance with a high impact on the environment are usually regulated by spatial planning documentation adopted at the regional level (spatial development principles). However, with a few exceptions, spatial development principles are given less attention by the public than the zoning plans of municipalities. Moreover, it is not always clear which projects meet the condition of supra-local significance. Frequent and unsystematic updates of spatial planning documentation at various levels are also a problem as it makes it difficult for the public to monitor, at least until the digitization of public building law is implemented to a satisfactory level.

~~NGOs point out that non-existence of a definition of the public concerned (within the meaning of article 2, paragraph 5 of the Convention) in the Czech system of law complicates direct addressing of the public concerned during preparation or assessment of conceptual documents (such as policies and development plans). Since the SEA process is open to general public, all public is addressed across the board instead of addressing only its particular segments (concerned).~~

~~According to the MŽP, general public, not only public concerned, may participate in the SEA process so the circle of participants is even broader that required; however, this may hardly be regarded as an obstacle or shortcoming.~~

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

The Government of the Czech Republic adopted a Concept of Support for Local Agenda 21 (MA21) Until 2020. Within the systemic approach to MA21, great emphasis is placed on public participation in planning and decision-making. The support is coordinated by the Ministry of the Environment, which works closely with associations of cities, municipalities and regions (Union of Towns and Municipalities of the Czech Republic, Association of Local Authorities, Association of Regions of the Czech Republic, Association of Secretaries of Municipalities). The interest of cities in the implementation of MA21 and its quality is increasing.

~~The public has been increasingly interested in the form of development plans these days – e.g. in the fourth largest Czech town a local referendum on its change was called in 2013, and it is not an isolated case.~~

XXIII. Website addresses relevant to the implementation of Article 7

http://portal.cenia.cz/eiasea/view/SEA100_koncepce

http://ma21.cenia.cz

https://www.participace21.cz

~~http://www.zdravamesta.cz~~

~~www.zelenykruh.cz~~

XXIV. Means of support of effective public participation during the preparation of executive regulations and rules that may have a significant effect on the environment according to Article 8

The adoption of legislation at the government level is **governed by the Legislative Rules of the Government**. The government, as the supreme body of executive power, manages the activities of ministries and other central state administration bodies and is responsible for the quality of draft laws, draft legal measures of the Senate and government regulations approved by it. Ministers and heads of other central state administration bodies are responsible to the government for the quality and timely preparation of executive regulations approved by them.

With regard to the application of the Aarhus Convention, it can be stated that the **same procedure is applied to regulations that may have a significant impact on the environment as that which applies to other proposals**. There are therefore no specific rules for public participation.

Draft legal regulations issued by the executive (white papers, draft laws, draft government regulations and draft decrees) must be published on the government portal - in the public library of the legislative process - according to the Legislative Rules of the Government.

Proposals are circulated for consultations to the so-called **mandatory consultation instances**. They also include organizations outside public administration, self-government, or courts, such as the Cooperative Association of the Czech Republic, if the white paper concerns cooperatives, the Czech Chamber of Commerce and the Agrarian Chamber of the Czech Republic, trade unions and employers' organizations, if the relevant proposal concerns them.

In addition to the mandatory consultation instances, draft regulations are also sent to **optional consultation instances** at the discretion of the authority that drafted the proposal. Legislative Rules of the Government in this matter explicitly allow proposals to be sent to other interest groups, such as professional associations, business or consumer interest groups, scientific and professional institutions, and also environmental organizations. The Ministry of the Environment uses this option for practically all draft legal regulations (it sends draft proposals to the association Zelený kruh, for example).

On the basis of making the proposal available in the public library of the legislative process, the public can communicate its comments on draft government legislation in electronic or paper form to the submitter, i.e. the author of the proposal. Comments must be worded clearly and concretely and must be duly substantiated. Comments can be marked as recommendatory or material, but if the public marks their comment as material, the submitter does not have to address these comments as he is obliged to do so in relation to mandatory consultative instances in the sense of the Legislative Rules of the Government. If the comments of the public have been submitted within the set deadline and the submitter does not incorporate them into the proposal, they must be generally addressed in the submission report, or the statement of reasons for the legislation.

The deadline for the communication of comments is 15 working days from the date of entering of the white paper into the electronic library (or 20 for draft laws), unless the body submitting the white paper allows for a longer deadline for comments.

The Ministry of the Environment also publishes its draft legislation at various stages of the legislative process on its website. Each proposal contains information on when the consultation procedure for this proposal ends, as well as the electronic address of MoE officer(s) to whom comments can be sent. The comments are then used to modify the text of the proposal, which occurs after the deadline for sending comments. The Ministry of the Environment also lists the regulations for which the consultation procedure has ended and for which the text is being amended on the basis of the comments received. Another group consists of draft regulations that have been sent to the government (draft laws and government regulations) or working committees of the Legislative Council of the Government (draft decrees) for discussion. Government bills that were approved by the government and subsequently sent to the Chamber of Deputies are also published here. Each government bill contains the number of the House or Senate prints, which makes it possible to find the regulation on the website of the Chamber of

Deputies (Senate) and thus monitor its discussion in parliament, including the adoption of any amendments.

In the event that bills are submitted as **private member's bills**, their discussion is governed by the Rules of Procedure of the Chamber of Deputies. Consequently, the bills are not collectively discussed at the government level and public comments are not incorporated.

Generally binding legal regulations issued by regions and municipalities are discussed at public council meetings which, however, guarantees only passive participation. The legislation does not regulate the obligation of competent authorities to take public comments into account.

XXV. Obstacles that prevent the implementation of Article 8

The obligation to consult draft legislation with the public is not stipulated by law, however, the Legislative Rules of the Government list a relatively broad range of entities to which proposals are sent on a mandatory basis, and at the same time, they explicitly allow proposals to be sent to other interest groups. In addition, the Ministry of the Environment publishes draft legislation on its website and allows comments from the public at the stage of legislative preparation.

~~Article 8 has not been implemented into the Czech system of law so far. As it follows from the response to the previous question, the law does not require discussing draft legal regulations with the public although the Legislative rules of the Government are binding for all public administration bodies. Public administration authorities sometimes voluntarily engage the public beyond the scope of the Legislative rules of the Government but are not obliged to do so.~~

If bills are submitted as parliamentary bills, the public can monitor the course of their discussion, also within the framework of participation in publicly accessible committees or meetings. This is a consultative participation.

Consequently, the legislation **does not contain specific binding mechanisms to ensure the effective participation of the public** in the official preparation of legally binding regulations that may have a significant impact on the environment. However, this obstacle is overcome by practical cooperation with the public.

Since 2007, the government of the Czech Republic has implemented **several pilot projects** to verify the methodology of public participation in the preparation of government documents, following the Guidelines for Public Participation in the Preparation of Strategic Documents (2006). The approved methodology aims to consolidate the procedure of state administration in the area of public participation in the preparation of government documents and to establish general principles for public participation following a set structure. The aim of involving the public is to obtain the widest possible range of opinions on the issue at hand. The methodology envisages the involvement of consulted entities, including non-governmental non-profit organizations, provided that the principle of partnership is respected. There are no publicly available summary reports on the application of the methodology outputs.

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

The legislative process is regulated both at the governmental level (Legislative Rules of the Government) and at the parliamentary level (Rules of Procedure of the Chamber of Deputies and the Senate; Act No. 90/1995 Coll., Act on the Rules of Procedure of the Chamber of Deputies, Act No. 107/1999 Coll., On the Rules of Procedure of the Senate), as well as at the level of self-government [municipalities and regions; Act No. 128/2000 Coll., On municipalities (local government), Act No. 129/2000 Coll., On regions (regional government)].

XXVII. Website addresses relevant to the implementation of Article 8

https://apps.odok.cz/veklep

https://www.vlada.cz/cz/ppov/lrv/dokumenty/legislativni-pravidla-vlady-91209/

https://ria.vlada.cz/wp-content/uploads/Metodika-pro-zapojovani-verejnosti-do-pripravy-vladnich-dokumentu-MV-2009.pdf

https://ria.vlada.cz/wp-content/uploads/Metodika-pro-zapojovani-verejnosti-do-pripravy-vladnich-dokumentu-MV

XXVIII. Legislative, regulatory and other measures that implement the main provisions on access to justice in Article 9

Access to justice in environmental matters means, in particular, the possibility of challenging administrative acts or omissions of administrative authorities before an independent and impartial body established by law, which, in the Czech Republic, means courts. Legal proceedings relating to the protection of the environment are not particularly different from other proceedings. The Czech Republic also does not have special environmental courts or specialized court chambers focused on this agenda. The area of access to justice in environmental matters is part of the general regulation of administrative justice regulated by Act No. 150/2002 Coll., the Administrative Procedure Code.

~~that also informs about a possibility of a court review of administrative decisions. The judicial review assumes either the harming of rights or infringement of procedural rights in the previous procedures, or where appropriate, the permission to seek a judicial review may stem from a special legislation (see below – the Act on EIA).~~

In general, in all these types of proceedings, specialized sections of regional courts, locally competent according to the seat of the administrative body deciding in the first instance, decide in single-instance proceedings (i.e. without the possibility of filing a proper appeal). The Regional Court in Ostrava is competent to decide on actions in the special regime of the Act on the Acceleration of Construction (Act No. 416/2009 Coll.). It is possible to lodge an extraordinary appeal against the substantive decision of the regional court in the form of a cassation complaint to the Supreme Administrative Court. Judicial review is based on the **principle of cassation**, so that the courts can only annul an unlawful act, with a few exceptions.

From the point of view of environmental protection against threats or damage, four types of proceedings according to the Administrative Procedure Code are relevant: (1) proceedings on an action against a decision of an administrative body (Sections 65–78 Administrative Procedure Code), (2) protection against inactivity of an administrative body (Sections 79–81 Administrative Procedure Code), (3) proceedings on protection against unlawful interference, instruction or coercion of an administrative body (Sections 82–87 Administrative Procedure Code), proceedings on revocation of a measure of a general nature or part thereof (Sections 101a - 101d Administrative Procedure Code).

In all the above cases, standing to bring a legal action (locus standi) is based on an interest in rights. In addition, an action against an administrative decision may be brought by persons who were participants in the proceedings for the contested decision.

According to already established case law, a person concerned who was not a party to administrative proceedings can bring an action against a decision of an administrative body (see, for example, the judgment of the Supreme Administrative Court of 31 January 2019, file No. 2 As 250 / 2018-68). This ensures, in particular, that the public concerned has access to justice under the regime of Article 9 paragraph 3 of the Convention. However, the condition for bringing an action against a decision of an administrative body is the **exhaustion of remedies**, which means that environmental associations, which do not have to take part in follow-up proceedings at first instance and can only lodge an appeal against a first-instance decision, must do so in order to meet the conditions of standing.

The law does not regulate a special standing of the public concerned for environmental protection. An exception is Section 9d (1) of the EIA Act, according to which environmental associations that have legally existed 3 years or are supported by at least 200 persons may bring an action for annulment of a decision issued in follow-up proceedings and challenge the substantive or procedural legality of this decision; in so doing, they are deemed to have rights which may be curtailed by the decision taken in follow-up proceedings. This regulation is based on the concept of the concern of environmental associations, which has long been held by Czech courts and according to which only their procedural rights could be affected. However, in its judgment of 30 May 2014, file No. I. ÚS 59/14, the Constitutional Court concluded that environmental associations enjoy also material rights, and they can object to these rights being affected. Their standing to bring an action for the annulment of the zoning plan (i.e. in the regime of Article 9 paragraph 3 of the Convention) was made conditional by the Constitutional Court mainly on the evidenced focus of the association, its history and its relationship to the location concerned. Subsequent case law has adopted the same approach – and in the case of an action brought by an environmental association, it usually assesses its relationship to the site in question (see below).

~~In the case of a decision about the intents assessed under the Act on EIA the access to legal protection is available to associations meeting the conditions laid down by the Act (environmental associations, which have been established at least 3 years ago or which present a signature list with at least 200 signatures). These may be participants to the procedures, in which the decision was taken, which was opposed by an action, and the access to judicial protection derives from the participation based on general legislation. The participation in the subsequent procedures is not, however, in the case of decisions made in the subsequent procedures, a condition for access to judicial protection. The only condition stipulated by the Act is that first an ordinary remedy that is an appeal, is brought against the decision, which is implied by the applied principle of subsidiarity of the administrative justice. This Act provides that the appeal may be submitted by the association "even if it was not a participant in the procedure at the first instance". The condition for filing an appeal for the admissibility of an action therefore does not limit access to judicial protection.~~

~~To claim evidence of associations in actions, as described above, the Act further provides that associations can sue to seek annulment of the decision issued by the subsequent procedure and attack the material or procedural legality of this decision and for the purposes of this procedure, it is considered that these associations have rights, which may be truncated by a decision issued in the subsequent procedures.~~

~~It is necessary to mention here also the situation when under the Act on EIA a notification of intent is presented, but in the subsequent screening procedure it is decided that this intent will not be assessed in the EIA process. Against such a decision, it is also possible to seek judicial protection. The Association has a right to file an appeal against this decision and consequently can claim also judicial review of this decision and to challenge its material and procedural legitimacy.~~

~~In the case of intents not assessed based on the Act on EIA, or in the case that judicial protection against the decision on the intents assessed under the Act on EIA is sought by other bodies than associations, the judicial protection is governed by the general arrangements of the administrative court rules (section 65). This provision provides that the judicial protection can be claim whoever claims that was truncated on their rights directly or as a result of infringement of their rights by the decision of the administrative authority, and also whoever was a participant to the procedures and claims that due to the procedure of the administrative authority was truncated on rights that belong to them in such a way that it could result in an unlawful decision.~~

~~A judicial protection under this provision may be sought by entities, which have been participant to the procedures, in which the challenged decision was taken, as well as by people who were not participants to the procedures, but their rights were truncated by the decision taken – it is apparent also from the case-law of the Supreme Administrative Court (4 As 157/2013).~~

~~The above-mentioned implies that the access to judicial review of administrative decisions is in principle accessible to anyone who argues that such a decision truncated their rights. Usually it will be persons~~

~~(natural and legal), which were participants to the administrative procedures, in which the decision was taken, but this is not a requirement3.~~

a) regarding Article 9 paragraph 1

If the disclosure of information is refused under the Act on the Right of Access to Information on the Environment, this refusal takes the form of a decision which can be appealed. The applicant may file an action against a negative decision on appeal or remonstrance within the general time limit (2 months). Judicial review takes place in the same way as for other decisions in accordance with Section 65 et seq. Administrative Procedure Code. If the court finds that the application has been decided unlawfully, it will annul the decision of the administrative authority. It cannot directly order the satisfaction of the request for information, as is the case with the general regulation of access to information (according to the Act on Free Access to Information). According to an upcoming amendment to the Act on Access to Information on the Environment, a court will be able to order that the request for information is satisfied.

~~(i) A judicial protection under this provision may be sought by entities, which have been participant to the procedures, in which the challenged decision was taken, as well as by people who were not participants to the procedures, but their rights were truncated by the decision taken – it is apparent also from the case-law of the Supreme Administrative Court (4 As 157/2013).~~

~~The above-mentioned implies that the access to judicial review of administrative decisions is in principle accessible to anyone who argues that such a decision truncated their rights. Usually it will be persons (natural and legal), which were participants to the administrative procedures, in which the decision was taken, but this is not a requirement4.~~

~~(ii) Pursuant to Act No. 106/1999 Coll., the applicant may file a complaint (section 16a), if the information was not provided or was provided only partially, or if the applicant does not agree with the method of settlement of requests for information. It is possible to appeal against non-provision of information according to both of the information Acts (No. 123/1998 Coll., No. 106/1999 Coll.), and possibly subsequently bring an action to the Court. A certain problem is the length of the judicial review.~~

~~(iii) One of the reasons for the duration of procedures is the fact that, before the applicant turns to court, they have to file an appeal against a refusal to provide information with the authority that is immediately superior to the authority that issued the decision. In the Czech Republic there is no institution like "information commissioner" attending, in an out-of-court manner, to the cases involving refusals to provide information.~~

~~(iv) The decision of the court and the superior authority are binding on the obliged entity and in practice they are respected.~~

~~According to section 16 of the Act No. 106/1999 Coll., on free access to information, if the court does not find reasons for a refusal to provide information, it shall order the obliged entity to provide the requested information. The Act No. 123/1998 Coll., on the Right to Environmental Information does not contain any analogous provision, which means that, under this Act, the court finding that there are no reasons for~~

~~3 Specialised literature, the comment to the administrative court rules, says on this issue that: "the plaintiffs will be natural or legal persons, usually the participants in the administrative procedure. However, the construction of paragraph 1 of the administrative code rules (unlike paragraph 2) does not necessarily require previous participation of the plaintiff in administrative procedures. From the perspective of locus standi to bring an action it is therefore not indicating whether the entity concerned has been treated as a participant in the administrative procedure or not, "Blažek, T., Jirásek, J., Molek, P., Pospíšil, P., Sochorová, V., Šebek, P.: *The administrative court rules - online comment.*~~

[4] Specialised literature, the comment to the administrative court rules, says on this issue that: "the plaintiffs will be natural or legal persons, usually the participants in the administrative procedure. However, the construction of paragraph 1 of the administrative code rules (unlike paragraph 2) does not necessarily require previous participation of the plaintiff in administrative procedures. From the perspective of locus standi to bring an action it is therefore not indicating whether the entity concerned has been treated as a participant in the administrative procedure or not, "Blažek, T., Jirásek, J., Molek, P., Pospíšil, P., Sochorová, V., Šebek, P.: *The administrative court rules - online comment.*

~~a refusal to provide information shall reverse the decision of the administrative authority and return the matter for a further procedure together with its binding legal opinion.~~

b) regarding Article 9 paragraph 2

~~The administrative court rules governs the institute of the so-called action against the decision of the administrative authority, which may be used in defence by whoever claims that the decision or process of the administrative authority truncated their rights or whoever has the so-called special action legitimation to protect the public interest.~~

According to the EIA Act, associations that meet the conditions stipulated by law (environmental associations that have existed for at least 3 years or that provide a signature document with at least 200 signatures) have access to justice in relation to decisions issued in so-called follow-up proceedings. These associations may bring an action for annulment of a decision issued in a follow-up procedure and challenge the substantive or procedural legality of that decision, and it is considered that these associations have rights to which they may be curtailed by a decision issued in a subsequent procedure.

Furthermore, in the case where, according to the EIA Act, a notification of a project is submitted, but within the subsequent screening procedure, it is decided that this plan will not be assessed in the EIA process, an association may file an appeal against the conclusion of the investigation procedure and against the decision on appeal also an action before the administrative court. This action may also be brought by other persons concerned if they fulfil the conditions of their rights concerned, even though they do not have the right to appeal against the decision.

The conditions of standing of persons concerned to bring an action against a decision issued in follow-up proceedings are assessed according to the general regulation in the Administrative Procedure Code. The same rule applies to the conditions of standing to bring an action against a decision given in **proceedings which are not follow-up proceedings**, but falls within the scope of Article 9 paragraph 2 of the Convention (decision to issue an integrated permit not preceded by an EIA), both for environmental associations and persons concerned.

~~In the case of intents not assessed based on the Act on EIA, or in the case that judicial protection against the decision on the intents assessed under the Act on EIA is sought by other bodies than associations, the action legitimation is governed by the general arrangements of the administrative procedure code. Societies and other bodies can then demand legal protection against the decision, if they prove that the release of such a decision had truncated their rights.~~

c) regarding Article 9 paragraph 3

The scope of Article 9 paragraph 3 of the Convention includes, in particular, proceedings for an action against a decision of an administrative body outside the regime of Article 9 paragraph 2 of the Convention (i.e. simply decisions other than those issued in follow-up proceedings) and proceedings for annulment of a measure of a general nature or part thereof, which typically concern proposals for the cancellation of a zoning plan or other spatial planning documentation.

Any person who could be curtailed on their rights has standing to bring an action. In the case of an action against a decision, these will typically be persons (legal and natural) who were participants in the administrative proceedings in which the contested decision was issued, but this participation is not a condition (see, for example, the judgment of the Supreme Administrative Court of 18 April 2014, No. 4 As 157 / 2013-33).[5]

[5] The Supreme Administrative Court in decision 4 As 157/2013 said that *"to bring an action against a decision of an administrative authority may exceptionally be authorised even the person that was not well in the participation in the administrative procedure and had no right to appeal against the decision of the administrative authority (article 81 paragraph 1 of the administrative procedure code of 2004). In this case it is not possible to condition the admissibility of the action by filing such (unacceptable) appeal pursuant to section 5 and section 68 (a) of the Administrative Procedure Code. "* The Supreme Administrative Court in this case referred to the Aarhus Convention and the need for interpretation of national law in the light of this Convention so as to achieve the objectives set out therein: *"' It must be stated that the provisions of Article 9, paragraph 3 of the Aarhus Convention do not contain any clear and precise obligation which could directly provide for the legal situation of individuals. Due to the fact that only "persons from the public, meeting the criteria, if any are laid down in national law", shall enjoy the rights set out in that Article 9, paragraph 3, the implementation and effects of this*

The courts therefore consider, in the case of applications for annulment of measures of a general nature, as well as actions brought by non-participants, against the decision of the administrative authority, the factual curtailment of rights. In general, they require a relatively close relationship of a natural person to possible damage to the environment already when assessing the conditions of active procedural legitimacy to bring an action. The Supreme Administrative Court, for example, in its judgment of 13 October 2010 No. 6 Ao 5 / 2010-43 stated (to the possible concern of the petitioner, natural persons living at a distance of about 30 km from the planned boating activities, which may affect the population of freshwater pearl mussels) that *"it is aware of the considerable variety of possible forms of interference with the right to the environment; typically it could be, for example, air, water or soil pollution, which would have an indisputable (adverse) impact on the environment even in the area outside the source of this pollution. However, the environmental impact in the present case is very specific; the occurrence of freshwater pearl mussels in the upper reaches of the Vltava does not directly affect the quality of life of the petitioner ad b) and it is difficult to imagine the actual impact of the reduction of the freshwater pearl mussel population in the section of the river on the petitioner's life."* The cited conclusions must be taken with some reserve due to the recapitulated shift in the case law of the Constitutional Court and the Supreme Administrative Court, according to which to meet the conditions of standing even conceivable and indirect impairment of the plaintiff's rights (see especially the resolution of the Extended Senate of the Supreme Administrative Court, No. 2 As 187 / 2017-264).

In the case of environmental associations, the courts derive the fulfilment of individual conditions of standing in particular from the claims of the association itself or from the statutes. At the same time, they import a rebuttable presumption that the association focuses on the entire area defined in its statutes, which may not always correspond to the name of the association. The courts also infer the association's history and relationship to the site from facts known to them *ex officio*, i.e. that a particular association participates in court and administrative proceedings in matters of environmental protection or that it submitted comments in proceedings on the issuance of the contested zoning plan. The relationship to the site can also be given by the activities of the members of the association themselves. A wider standing may be based on the significance of the challenged project at issue or the importance of the interests involved. For example, an association of a national purview may be affected in its substantive sphere by a decision concerning a project, if the operation of the project undoubtedly exceeds the borders of the region concerned, or it has an impact on the whole territory of the country or at least on a large territory. Similarly, an association established outside the territory concerned may defend the interests of the protection of a nationally or even transnationally unique site.

d) regarding Article 9 paragraph 4

~~The Aarhus Convention in Article 9, paragraph 4 leaves a certain degree of discretion to the parties on the issue of injunctive relief, their form and the conditions for their granting. It does not require that the injunctive relief is always granted automatically, regardless of the circumstances of the case. In the legislation of the Czech Republic there are mainly two instruments used for this purpose, which are provided for in Act No. 150/2002 Coll., the administrative court rules. These instruments are the provisional measure and the suspensory effect and their application is decided by independent courts.~~

As regards the requirement of effective judicial review, the court may, by way of **injunctive relief**, order the parties to do something, to refrain from doing something or to bear something, if there is a risk of serious harm, and that it is therefore necessary to adjust the parties' situation on a temporary basis. The court may also impose an obligation on a third party, by way of injunctive relief, if the third party can be reasonably asked to meet the obligation.

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provision depend on the issue of a later act. However, it should be noted that the objective of these provisions, even if they are formulated in general, is to provide effective protection of the environment. In the absence of EU legislation in this field, it is on the domestic legal system of each Member State to prescribe the detailed procedural rules intended to ensure the protection of the rights which derive from the law of the Union to the individuals, (...) It is therefore on the national court to interpret the procedural law applicable to the conditions that must be met for the purposes of filing an administrative appeal or action in a way that, to the greatest extent possible, takes into account the objectives of the Article 9, paragraph 3 of the Aarhus Convention, as well as the goal of effective judicial protection of the rights provided by the law of the Union (...) " This interpretative guides will must be respected even in the interpretation of Sec. 65 paragraph 1 and Sec. 46 para. 1 (c) of the Administrative Procedure Code in the present case now."

A court may, if petitioned, grant a stay of an action and if the enforcement or other legal consequences of the decision would be disproportionately more detrimental to the plaintiff or petitioner than that which the granting of the stay could be to other persons, if this is not be contrary to an important public interest. Granting a stay of an action suspends the effects of the contested decision until the court has reviewed it.

~~According to the Czech legislation an action does not automatically have a suspensive effect against the decision of the administrative body. It must be granted in each discussed case by the Court, which deals with whether the conditions laid down by law are met. The conditions for granting the suspensive effect of actions against the administrative decisions are provided by the Administrative Procedure Code and in case of an action against the decision issued in the corresponding proceedings pursuant to the Act on environmental impact assessment also by such Act.~~

~~The Administrative Procedure Code governs the conditions under which the Court may grant a suspensive effect. The Court will do so, "If the performance or other legal consequences of a decision mean for the plaintiff much higher harm than the harm that may be incurred to other people, and if it is not contradictory to an important public interest". The task of the court is, therefore, in this case, to take into account the particular circumstances and evaluate whether greater harm may result in the enforcement of the decision or granting of a suspensive effect. Additionally, it must take into account the public interest, which undoubtedly is also the interest in the protection of the environment.~~

In assessing whether the conditions for granting of a stay are met, administrative courts generally give priority to the public interest in environmental protection. However, it depends on the permitting phase of the project or activity that has been decided. The courts assume that if the decision on the merits would be made at a time when, for example, the contested building permit had already been implemented, judicial protection would lose its meaning (see, for example, the judgment of the Supreme Administrative Court of 14 June 2007, No. 1 As 39 / 2006-55).

If the action challenges a decision issued in follow-up proceedings under the EIA Act, the special provision of Section 9d (2) of the EIA Act will apply, according to which the court decides on the action to grant a stay or an injunctive relief according to the Administrative Procedure Code. A court will grant a stay of an action or order an injunctive relief if there is a risk that the implementation of the project would cause serious damage to the environment.

~~It somewhat differently modifies the condition for granting suspensive effect of the Act on EIA. This adjustment applies to cases of administrative actions against decisions made in the subsequent procedures, but does not exclude even the use of the provision contained in the Administrative Procedure Code. The Act on EIA says that: "Without any motion the Court shall decide to grant a suspensive effect of an action or for a provisional measure pursuant to the Administrative Procedure Code. The Court shall grant a suspensive effect to an action or order preliminary measures, if there is a danger that the realisation of the intent may cause serious damage to the environment."~~

~~Even in the case of modifications of the Act on EIA thus the Act gives the court the possibility, if it is necessary for the protection of the environment, to grant a suspensive effect to a decision, or to decide on a provisional measure6.~~

As regards the **requirement of timeliness**, actions in the field of environmental protection are not, by law, among the preferential ones heard, however, the court may decide on them preferentially for serious reasons. The requirement to expedite the case arises from special laws: In particular, pursuant to Section 9 (2) of the EIA Act on actions against decisions issued in **follow-up proceedings**, the court will decide within 90 days after the action has reached the court. And according to Section 2 (2) of the Act on Acceleration of Construction (Act No. 416/2009 Coll.), the deadlines for filing actions with courts to

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~~[6]The Supreme Administrative Court said on the question of granting of a suspensive effect that: "The Court adds to this that just on the basis of those provisions of the Community law the motions of prosecutors from the public concerned must be satisfied in granting a suspensive effect of administrative actions so that there cannot be situations, when at the time of deciding on an administrative action the intent has already been irreversibly implemented (typical a construction has been completed). If the motion for granting a suspensive effect of was not satisfied, it would be an infringement of Article9, paragraph 4 of the Aarhus Convention and article 10A of Directive 85/337/EEC, as the provided judicial protection would not have been timely and fair. " (the judgment of the Supreme Administrative Court No 1 As 39/2006-55 dated June 17, 2007)~~

review or replace administrative decisions issued in proceedings under this Act are halved. The court will then decide **within 90 days**. This time limit also applies to cassation appeal proceedings.

Compliance with the requirement of **reasonable costs of court proceedings** is ensured by the amount of court fees, which is generally low (with reservations below): the court fee for an action in administrative justice is CZK 3,000, in the case of a cassation complaint CZK 5,000. In addition, a participant who demonstrates that he does not have sufficient resources may be partially exempted from court fees at his own request. At the same time, if necessary in order to defend his rights, an attorney may be appointed.

Decisions of regional administrative courts and the Supreme Administrative Court are **publicly available** (www.nssoud.cz), as is the case law of the Constitutional Court (https://nalus.usoud.cz/).

e) regarding Article 9 paragraph 5

The provision of information to the public on access to judicial review is not codified in a uniform manner. The public can learn about the nature of individual court proceedings and the conditions of judicial protection, for example, from the websites of the Supreme Administrative Court and the Constitutional Court. Legal decisions and measures of a general nature issued by public administration bodies do not contain instructions on the possibility of judicial defence. The legal aid system for persons who, for financial reasons, cannot afford the services of attorneys, or for other reasons seek a different environment, focuses more on general civil law advice. The complexity of environmental processes usually requires standard legal services for a fee.

NGOs must pay court fees but may apply for an exemption. The level of court fees in the Czech Republic is not such as to prevent access to judicial protection; however, the fragmentation of permitting processes carries the need to demand justice repeatedly, which increases the overall cost of environmental litigation.

XXIX. Obstacles that prevent the implementation of Article 9

The implementation of Article 9 of the Convention is hindered by unclear conditions for standing to bring an action in them case law, as well as by the unclear continuity of decisions in matters of environmental protection and access to justice. While the courts infer the possibility that an action may also be brought by a person who was not a participant but whose rights the decision infringed, procedural rules do not correspond to this (e.g. the need to contest a decision given at first instance if no one appeals against it, the absence of clearly defined time limits for bringing an action in such a case, etc.). In addition, the burden of resolving objections is shifted to the courts in this way.

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

The Czech Republic has been criticized by the Committee for limited access to justice on the grounds of its restrictive assessment of the impact of actions against decisions and proposals for annulment of measures of a general nature (ACCC / C / 2010/50 and ACCC / C / 2012/70). It can be concluded that, according to the current interpretation of the conditions of standing to bring an action, access to justice has also been widened to include other persons, such as natural persons – non-owners, who claim in particular the violation of the right to a favourable environment. So far, such cases have not appeared in court. The argument of violation of a right to environment is consequently used more as ancillary to the interference with property rights.

XXXI. Website addresses relevant to the implementation of Article 9

www.nssoud.cz

www.usoud.cz

www.frankbold.org

www.zelenykruh.cz

XXXII. General comments on the objectives of the Convention

The objectives of the Convention intersect with a wide range of environmental processes. In the conditions of the Czech Republic, their fulfilment is also aimed at fulfilling the right to a favourable environment.

XXXIII. Legislative, regulatory and other measures that implement the provisions on genetically modified organisms according to Article 6 bis and Annex I bis

In the Czech Republic, the field of GMOs is governed by Act No. 78/2004 Coll., On the handling of genetically modified organisms and genetic products, as amended, and directly applicable EU regulations (Regulation No. 1829/2003 on genetically modified food and feed, and Regulation 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms).

GMOs and genetic products may be handled only on the basis of an authorization granted on the basis of Act No. 78/2004 Coll. The procedure for granting a permit for contained use, permit for release into the environment and for entry in the list for placing on the market is governed by Section 5 of the Act, which together with Section 10 sets out the manner and deadlines for publishing information at various stages of the decision-making.

The Czech legislation **does not explicitly allow the public to become a participant in the procedure** for permitting the release of GMOs into the environment. Only consultative public participation is allowed. The scope of participants in the proceedings pursuant to Act No. 78//2004 Coll. is not regulated, so the general regulation in the Administrative Procedure Code applies, according to which other persons whose rights are affected may become participants, in addition to the applicant.

Consultative participation in decision-making pursuant to Act No. 78//2004 Coll. consists in participating in a public hearing and making a statement. The public (any person) can send their written statement to the Ministry of the Environment within 30 days from the date of publication of the application. If the Ministry thus receives a dissenting statement on the release of the GMO into the environment, it will order a public hearing of the submitted application before deciding on the application. It will publish information on the public hearing at least five days in advance in the same manner as above. The decision on the submitted application always includes a summary settlement of statements.

The Ministry of the Environment maintains a register of permitted GMOs and a register of persons authorized to handle GMOs pursuant to Act No. 78/2004 Coll. and publishes these registers on its website (Section 22 of the Act).

The Ministry of the Environment also publishes a list of GMO cultivation sites on its website (Section 23 (2) of Act No. 78/2004 Coll.).

XXXIV. Obstacles that prevent the implementation of Article 6 bis and Annex I bis

The current legislation allows only for consultative participation of the public (apart from the general regulation of the Administrative Procedure Code).

XXXV. Further information on the practical application the provisions of Article 6 bis and Annex I bis

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

https://www.mzp.cz/cz/geneticky_modifikovane_organismy

XXXVII. Follow-up on procedure in the case of violation of the Convention

At the Meeting of the Parties in Maastricht (MOP5, 30 June 2014-1 July 2014), a decision was adopted concerning the Czech Republic V / 9f for the implementation of Article 2 (5), Article 3 (1), Article 6 (3) and (8), Article 7 and Article 9 (2), (3) and (4); In the same spirit, serious comments were made against the Czech Republic by the European Commission, which in January 2014 addressed to the Czech Republic a request for immediate and complete rectification of Czech legislation in all points where it does not meet the requirements of EIA Directive 2011/92 / EU.

During February and March 2014, the Ministry of the Environment prepared an extensive amendment to the EIA Act and the Building Act and a schedule of adoption with the aim of adopting the amendments within one year. In 2015, the government of the Czech Republic pushed the amendment to the EIA Act through the Chamber of Deputies of the Parliament of the Czech Republic, thus succeeding in rectifying some existing shortcomings specified by the European Commission and the Aarhus Convention Compliance Committee.

At the Meeting of the Parties in Budva (MOP6, 11–13 September 2017), a decision VI/8e was adopted on compliance by Czechia with its obligations under the Convention. Tree Progress reports were submitted to the Compliance Committee on the measures taken with regards to given recommendations.