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REPORT FROM THE COMMISSION
AARHUS CONVENTION IMPLEMENTATION REPORT



Brussels, 26.7.2017
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REPORT FROM THE COMMISSION

of 26.7.2017

AARHUS CONVENTION IMPLEMENTATION REPORT

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

The following report is submitted on behalf of the European Union
in accordance with ~~Decisions~~**decisions** I/8, II/10 and IV/4.

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~~Signature:~~

~~Date:~~ [14 July 2021]

Implementation report

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I. Process by which the report has been prepared

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

Answer:

The European Commission prepared this report ~~while keeping in cooperation with~~ other relevant EU institutions and bodies informed. It was made ~~available~~ available to the public for comments from ~~25 March-19 December 2016~~ to 5 May 2021. ~~28 February 2017. The comments were taken into account and replies sent to contributors, see~~ <http://www.acceptance.ec.europa.eu/environment/aarhus/reporting.htm>.

II. Particular circumstances relevant for understanding the report

Report any particular circumstances that are relevant for understanding the report, e.g., whether there is a federal and/or decentralised decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

This is the fifth^{4th} report to describe the legislative, regulatory and other measures by which the EU implements the Aarhus Convention. It updates previous reports from 2008, 2011, ~~and~~ 2014 and 2017 and includes developments until end 2020~~2016~~. The report's format and questions ~~of the report~~ are pre-defined. In order to give a comprehensive picture of implementation,; information already included in earlier versions partially needs to be repeated. The report will be uploaded on a database on the UNECE website for online consultation. Therefore, references are given, ~~for the first time in this 4th report,~~ via hyperlinks when a measure is first mentioned. Equally, legal instruments are referred to by their 'common'~~'common'~~ names rather than their more technical legal denominations which can be consulted via the hyperlinks. This corresponds to calls by civil society to make the report as user-friendly as possible.

Both the EU and its Member States are Parties to the Aarhus Convention. A particular circumstance for the EU report ~~is~~ therefore is that the Convention is implemented at two levels: by the EU institutions and bodies and by the Member States.¹ For the latter, several directives transpose the Convention and its three pillars on access to information, public participation and access to justice in environmental matters. They are indicated under the different sections, in parallel to the application measures for the EU institutions, without duplicating information given by Member States as individual Parties of the Convention or information that is published on the UNECE website, notably on compliance cases.

When indicating the EU legislative and other regulatory measures implementing the Aarhus Convention, reference has been made also to some provisions of primary law, such as the Treaty on the European Union, the Treaty on the Functioning of the European

¹ See in particular more details on the declaration of competences annexed to Council Decision 2005/370/EC of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, OJL 124, 17.5.2005, p1.

Union and the Charter of Fundamental Rights. In this regard, even though primary law ranks higher than the Aarhus Convention in the hierarchy of norms in the EU legal order,² some provisions of EU primary law have nevertheless similar content and effects to those of the provisions of the Aarhus Convention. It is then within this limited meaning that they can be considered as “implementing” the Aarhus Convention. The Report will be uploaded on the Aarhus Convention’s dedicated reporting site, where all previous versions are accessible and comparable with this version.

III. Legislative, regulatory and other measures implementing the general provisions in Article 3, paragraphs 2, 3, 4, 7 and 8 of the Aarhus Convention

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

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

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organisations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
 - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about Article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are ongoing;
 - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;
 - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organisation (NGO) members to participate in the Party’s delegation in international environmental negotiations, or involving NGOs in forming the Party’s official position for such negotiations), including the stages at which access to information was provided;
 - (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;

² Judgment in Case C-352/19 P, *Région de Bruxelles Capitale / Commission*, para. 25 and case law quoted in the judgment.

- (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalised, persecuted or harassed.

~~Answer:~~

Article 3, paragraph 2

~~Article 1(2) of the~~ The Aarhus Regulation (Regulation 1367/2006), which is the main instrument for ~~contributing to~~ implementing the Convention for the EU institutions and bodies, sets out. ~~Its Article 1(2) provides for assistance to the public~~ rights with regard to the three pillars of the Convention.

~~Furthermore,~~ Article 6(4) of the Access-to-documents Regulation (Regulation 1049/2001) also ~~requires~~ 1049/2001, which applies to requests for access to documents subject to specific provisions in the Aarhus Regulation for environmental information, ~~states~~ that the institutions shall assist citizens with access requests.

Concerning access to environmental information in Member States, Article 3(5) of the Environmental Information Directive (Directive 2003/4/EC) requires Member States to ensure that public authorities provide guidance on access to environmental information.

The Public Participation Directive (Directive 2003/35/EC) which applies to Member States ~~stipulates~~ foresees that the public has to be informed about its participation rights (Article 2(2)(a)) and about access to administrative and judicial review (Articles 3(7) and 4(4)).

The 'Energy Efficiency First Principle' has been established by the Governance of the Energy Union and Climate Action (Regulation (EU) 2018/1999) and the European Commission is working on guidance to support the EU Member States and stakeholders to be able implement to this principle.

Article 3, paragraph 3

Member States are primarily responsible for educational initiatives. The Commission promotes communication tools for young people like the Europa Diary or initiatives ~~in~~ within the Youth Policy Framework. It also supports non-governmental organisations (NGOs) active in environmental education; <http://ec.europa.eu/environment/life/funding/ngos/index.htm>.

The European Green Deal Communication adopted in 2019 committed to promote activities in support of education in climate and environmental matters. This was further supported by the EU strategy on the rights of the child adopted in 2021.

The Commission has many projects for raising environmental awareness, e.g. Green Week, European Green Capital Award, European Mobility Week, the EU Sustainable Energy Week, the campaign on resource efficiency Generation Awake and on biodiversity Biodiversity Is Us, or the INSPIRE Forum and Conferences. Under the

[LIFE+ Regulation](#), the Commission promotes information projects. The Commission also supports an open science policy and open access to research outputs on the environment under [Horizon 2020](#).

Since November 2017, the European Commission has been working closely with the European Environment Agency to develop and continuously improve the European Air Quality Index, which provides citizens with objective, reliable, and comparable up-to-date air quality information. Work is ongoing to translate this index into the format of a mobile application for smartphones.

Article 3, paragraph 4

The Commission involves environmental NGOs in its work and provides them with financial support under the LIFE+ Regulation. Consultation of stakeholders, including NGOs, is part of the ~~Commission's~~ [Commission's Better Regulation Policy](#). The EU has an online database of interest representatives, the [Transparency Register](#). To date, it has more than 9500 voluntary registrants, including representative bodies, NGOs and think-tanks. The Commission intends to propose ~~making to make~~ registration mandatory. The Commission ~~has~~ also has an [EU Citizenship Portal](#). The annual Green Week provides an opportunity for further information exchanges with NGOs.

Article 3, paragraph 7

In negotiations under multilateral environmental agreements, Commission representatives strive as far as possible to enable, as appropriate, the participation of a wide circle of interested parties.

Article 3, paragraph 8

The EU is based on the rule of law, ensuring as a complete functioning system the application of the principles of the Convention, including this Article. Any decision by EU institutions that would penalise, persecute or harass a person on the sole ground that (s)he has exercised rights under the Aarhus Convention would constitute a misuse of powers and be illegal. In addition, such acts would be subject to disciplinary proceedings.

IV. Obstacles encountered in the implementation of Article 3

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

Answer:

Legal provisions for granting access to environmental information, ensuring public participation and sectorial access to justice are in place at EU level. Developments in the third Aarhus pillar on access to justice are detailed below.

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

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

Answer:

In preparation for a Working Group or a Meeting of the Parties (MOP), the EU and its Member States regularly invite environmental NGOs to discuss the various agenda items. This practice has a positive bearing on the relationship with environmental NGOs and follows the spirit of the Aarhus Convention to include civil society in environmental decision-making.

VI. Website addresses relevant to the implementation of Article 3

Give relevant website addresses, if available:

Europa website

~~Europa website:~~ http://ec.europa.eu/index_en.htm

Multimedia environmental portal: http://ec.europa.eu/environment/index_en.htm

Aarhus Convention page: <http://ec.europa.eu/environment/aarhus/index.htm>

LIFE: <http://ec.europa.eu/environment/life/index.htm>

Cooperation with judges: <http://ec.europa.eu/environment/legal/law/judges.htm> European

Union Forum of Judges for the Environment: <http://www.eufje.org/>

Youth Framework: http://ec.europa.eu/youth/index_en.htm

Youth Opportunities Initiative: <http://ec.europa.eu/social/main.jsp?catId=1006&langId=en>

Youth Employment Package: http://europa.eu/rapid/press-release_IP-12-1311_en.htm and http://europa.eu/rapid/press-release_MEMO-13-464_en.htm

Cordis website on EU funded projects and activities:

http://cordis.europa.eu/home_en.html

NGO funding: http://ec.europa.eu/environment/ngos/index_en.htm

Green Week: <http://ec.europa.eu/environment/greenweek/>

Mobility Week: <http://www.mobilityweek.eu/>

EU Sustainable Energy Week: <https://eusew.eu/>

EU Clean Air Forum: https://ec.europa.eu/environment/air/clean_air/forum.htm

Resource Efficiency Campaign: <http://www.generationawake.eu/>

European Green Capital Award:

http://ec.europa.eu/environment/europeangreencapital/index_en.htm

European Transparency Portal: <http://ec.europa.eu/transparency/>

Civil Society Portal: http://ec.europa.eu/transparency/civil_society/

Openness and access to documents portal:

http://ec.europa.eu/transparency/access_documents/index_en.htm

Website of the Impact Assessment Board:

http://ec.europa.eu/governance/impact/index_en.htm

Europa Diary: <http://www.europadiary.eu>

INSPIRE: <http://inspire.jrc.ec.europa.eu/>

INSPIRE Public Forum: [http://inspire- forum.jrc.ec.europa.eu/](http://inspire-forum.jrc.ec.europa.eu/)

Digital Single Market: <https://ec.europa.eu/digital-single-market/en/open-access-scientific-information>

European Air Quality index: <https://airindex.eea.europa.eu/>

EU Better Regulation: Have your say <https://ec.europa.eu/info/law/better-regulation/have-your-say>

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

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

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

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

Answer:

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

Article 42 of the [Charter of Fundamental Rights of the European Union](#) (Charter) provides for a right of access to documents of the EU institutions. According to Article 52(1), any restriction of this right must follow very strict criteria.

Access to information held by EU institutions and bodies:

Article 2, paragraph 2

Article 2(1) of the Aarhus Regulation contains definitions for 'environmental information', ~~'Community environmental information'~~, ~~'Community institution or body'~~ and the 'public' ~~'public'~~.

Article 3, paragraph 9

Article 6 of the [Treaty on European Union](#) (TEU) recognises the rights, freedoms and principles set out in the Charter and gives it the same legal value as the EU Treaties. Article 21 of the Charter forbids any kind of discrimination. Article 18 of the [Treaty on the Functioning of the European Union](#) (TFEU) prohibits any discrimination on grounds of nationality. In addition, Article 3 of the Aarhus Regulation reaffirms the principle of non-discrimination.

Article 4, paragraph 1

Article 4, paragraph 1 (a)

Article 3 of the Aarhus Regulation stipulates the right of any person to have access to environmental information held by EU institutions and bodies. Article 3 refers to the Access-to-documents Regulation, which applies, subject to specific rules in the Aarhus Regulation, also applies to requests for environmental information.

An applicant is not obliged to state reasons for the application (Article 6(1) of the Access-to-documents Regulation). An [online form](#) is available for applications. See also the access to document request form available on ECHA's website Access to documents - web form – ECHA.

According to Article 6(2) of the Access-to-documents Regulation, EU institutions and bodies shall ask the applicant to clarify the application if needed, and assist the applicant in doing so.

When a fair solution under Article 6(3) of Regulation 1049/2001 is sought with an applicant in case of an application relating to a very long document or to a very large number of documents, such a fair solution relates to the content or the number of the documents and not to the deadlines. A fair solution is meant to enable the institution to respect the time -limits of Regulation 1049/2001.

Article 4, paragraph 1 (b)

Article 10 of the Access-to-documents Regulation sets out in which format documents are made available. The applicant can either consult them on the spot or receive a copy, including electronically. In practice, electronic copies are the prevailing form for giving access.

The Commission records requests on its internal database GESTDEM.

Article 4, paragraph 2

Articles 7 and 8 of the Access-to-documents Regulation specify the time limits for initial and confirmatory applications. The deadline for replies (15 working days) is shorter than the maximum allowed in the Aarhus Convention (1 month). Furthermore, there is a general obligation to handle applications promptly.

In exceptional cases, for example if applications concern a very large number of documents, the deadline may be extended for another 15 working days. Again, this deadline is shorter than the maximum additional deadline under the Convention (another month).

Article 4, paragraphs 3 and 4

The grounds for exceptions under which EU institutions may refuse the requested information are set out in Article 4 of the Access-to-documents Regulation and Article 6(2) of the Aarhus Regulation.

Article 4(1) of the Access-to-documents Regulation lists absolute exceptions to disclosure where access must be refused if disclosure would cause harm. Article 4(2) contains relative exceptions where an overriding public interest in disclosure, to be proved by the applicant, leads to disclosure. The 'public interest'~~'public interest'~~ has to be assessed on a case-by-case basis by balancing each argument in favour of and against disclosure. Furthermore, under Article 6(1) of the Aarhus Regulation, an overriding public interest in disclosure is presumed where the requested information relates to emissions into the environment.

Generally, the grounds for refusal have to be interpreted in a restrictive manner. The applicant is informed about these reasons.

As the CJEU has held (see e.g. Joined Cases C-514/11 P and C-605/11 P, LPN, para. 85), the Aarhus Regulation does not affect the examination which the Commission must carry out pursuant to Regulation 1049/2001 when a request for access concerns documents relating to an infringement procedure at the pre-litigation stage.

Article 4, paragraph 5

Article 7 of the Aarhus Regulation specifies the procedure when the EU institution or body does not hold the requested information.

Article 4, paragraph 6

Article 4(6) of the Access-to-documents Regulation concerns partial access.

Article 4, paragraph 7

Article 7 of the Access-to-documents Regulation specifies time limits and requirements for a refusal.

Article 4, paragraph 8

Article 10(1) of the Access-to-documents Regulation governs charges. Institutions may only charge the costs of producing and sending copies. Less than 20 pages are free. Further copies may cost EUR€ 0.10 per page plus sending costs. However, the EU institutions do not currently have a practice of charging for access to documents.

Access to information held by Member States' authorities~~States' authorities~~:

Article 2, paragraph 2

Article 2 of the Environmental Information Directive contains definitions of the terms 'environmental information' and 'public authority'~~'environmental information' and 'public authority'~~.

Article 3, paragraph 9

Article 18 TFEU and Article 21 of the Charter set out the general principle of non-discrimination that applies in EU law. Member States are bound by it when they

implement EU law. It forbids not only open discrimination but also all indirect forms. Article 6 TEU indicates that fundamental rights, as guaranteed by the European Court of Human Rights and as they result from the constitutional traditions common to the Member States, are general principles of EU law.

Article 4, paragraph 1

Article 4, paragraph 1 (a)

Article 3(1) of the Environmental Information Directive grants any person access to environmental information without having to state an interest.

Article 4, paragraph 1 (b)

Article 3(4), first subparagraph, of the Environmental Information Directive asks public authorities to provide environmental information in the form requested by the applicant.

Article 4, paragraph 2

Article 3(2) of the Environmental Information Directive specifies the time limits for replies, namely as soon as possible and at the latest within ~~one~~ month after receipt of the request (or ~~two~~ months for large and complex requests, in which case the applicant must be told as soon as possible). Failure to respond on time entitles the applicant to initiate an administrative review or court proceedings.

Article 4, paragraphs 3 and 4

Article 4 of the Environmental Information Directive sets out the exceptions on the grounds of which public authorities may refuse to provide the requested information. Every refusal must be motivated.

The grounds for refusal must be interpreted in a restrictive way, taking into account the public interest served by disclosure. In every case, the public interest in disclosure is weighed against the interest served by refusal. This ~~'public'~~~~public~~ interest ~~test'~~~~test~~ is contained in Article 4(2), second subparagraph, of the Environmental Information Directive.

Article 4, paragraph 5

Article 4(1)(a) of the Environmental Information Directive specifies the procedure to be followed when the public authority does not hold the requested information.

Article 4, paragraph 6

Article 4(4) of the Environmental Information Directive addresses partial access.

Article 4, paragraph 7

Article 4(5) of the Environmental Information Directive specifies time limits and requirements regarding refusals.

Article 4, paragraph 8

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

The Court of Justice of the European Union (CJEU) further clarified the notion of charges pursuant to the Environmental Information Directive in its judgment of

6 October 2015 in [Case C-71/14](#), *East Sussex Council v Information Commissioner*. A charge for supplying a particular type of environmental information must not include any part of the cost of maintaining a database used for that purpose by the public authority.

VIII. Obstacles encountered in the implementation of Article 4

Describe any obstacles encountered in the implementation of any of the paragraphs of Article 4.

Answer:

As to implementation in the EU Member States, reference is made to the [Report on the implementation of the Environmental Information Directive](#). It mentions certain challenges when applying exceptions to the right of access to environmental information and when interpreting certain definitions mentioned in the Directive, for instance ~~'environmental information'~~ ~~'environmental information'~~. The report also refers to relevant case-law.

After the adoption of the report end 2012, additional case-law further clarified certain exceptions to disclosure under the Directive. Notably, by Order of 8 May 2014 in [Case C-329/13](#), *Stefan*, the CJEU confirmed that Article 4(2) of the Environmental Information Directive authorises Member States to provide for an exception to the obligation to disclose environmental information in order to allow them to respect the right to a fair trial laid down in Article 47 of the Charter.

The notion of ~~'emissions'~~ ~~'emissions'~~ into the ~~'environment'~~ ~~'environment'~~ was clarified by the CJEU in relation to the Environmental Information Directive in [Case C-442/14](#), *Bayer Crop Science and De Bijenstichting*, and in relation to the Aarhus Regulation in [Case C-673/13 P](#), *European Commission v Stichting Greenpeace Nederland*. Where the sought information relates to emissions into the environment, the confidentiality of commercial and industrial information may not be invoked.

The notion of 'emissions into the environment' was clarified by the CJEU in relation to the Environmental Information Directive in Case C-442/14, Bayer Crop Science and De Bijenstichting, and in relation to the Aarhus Regulation in Case C-673/13 P, European Commission v Stichting Greenpeace Nederland and in Case T-644/16, Rogesa v Commission. Where the sought information relates to emissions into the environment, the confidentiality of commercial and industrial information may not be invoked.

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

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

Answer:

As to application by the EU institutions, the Commission already adopted several reports on the application of the Access-to-documents Regulation. They also contain detailed statistical data. ~~The most recent is the 2015 Report. It mentions that "the inflow of access to documents requests at the initial stage increased by more than 8%~~

~~(6,752 applications in 2015 compared to 6,227 in 2014)." With regard to the breakdown by area, environment policies accounted for more than 5% of all requests. The number of confirmatory applications slightly decreased (284 new confirmatory applications in 2015 against 300 in 2014).~~

The 2016 Report mentions that ‘the requested documents were fully or partially disclosed in 81.3% of cases at the initial stage, and wider or even full access was granted in 52% of cases reviewed at the confirmatory stage.’ With regard to the breakdown by area, environment policies accounted for 4% or less of all initial applications. The number of confirmatory applications increased by 4% (295 in 2016 in comparison to 284 in 2015).

The report also contains information about complaints to the European Ombudsman ~~about in the area of~~ access to documents, as well as case-law relating to the Access-to-documents Regulation where the Commission was party to the proceedings.

For instance, as mentioned in the report, in judgments T-424/14 and T-425/14 of 13 November 2015, *ClientEarth v Commission*, the General Court stated that impact assessments intended to guide the Commission in drawing up its proposals for legislative acts are not, in principle, to be accessible to the public before a decision in that regard has been made. ~~An appeal under The Commission is entitled to presume that the disclosure of those documents would seriously undermine its decision-making process for developing a policy proposal. An appeal, Case C-57/16 P was introduced. The ruling was delivered by the CJEU on 4 September 2018. Consequently, the Commission’s decision not to grant access to the document was annulled, clarifying that impact assessments and related opinions of the Regulatory Scrutiny Board should be made accessible to the public., is pending.~~

Furthermore, as equally noted in the report, in its judgment of 16 July 2015 in [Case C-612/13 P](#), the CJEU confirmed that conformity studies which had already led to the opening of the pre-litigation stage of infringement proceedings under Article 258 TFEU, are covered by a general presumption of non-disclosure. For other studies, a case-by-case analysis is required to assess whether they could be disclosed.

[Case T-51/15](#), *PAN Europe v Commission*, mentioned in the report as pending, has in the meantime been decided. By judgment of 20 September 2016, the General Court found that detailed, concrete evidence of a disruption of the internal decision-making process is needed for the Commission to rely on the exemption of Article 4(3), first subparagraph, of the Access-to-documents Regulation.

In addition, in its judgment of 23 September 2015 in [Case T-245/11](#), *ClientEarth v ECHA*, the General Court ruled that the refusal of the European Chemicals Agency to grant access to the precise tonnage of a substance being placed on the market was justified, based on the presumption under the [REACH Regulation](#) 1907/2006 that disclosure of the information undermines the protection of the commercial interests of concerned persons.

The most recent is the report of 2019 on the application in 2018 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The Council and the European Parliament (EP) have their own Council report and EP Report~~Council report and EP Report~~ on access to documents.

For pesticides and biocides, the Commission proactively publishes all documents that have been subject to an access to document request under Regulation 1049/2001.
<https://webgate.ec.europa.eu/dyna/extdoc/index.cfm>

X. Website addresses relevant to the implementation of Article 4

Give relevant website addresses, if available:

Fundamental rights: http://ec.europa.eu/justice/fundamental-rights/index_en.htm

Access to documents: http://ec.europa.eu/transparency/access_documents/
<https://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/access-to-documents>

European Ombudsman: <http://www.ombudsman.europa.eu/start.faces>

CJEU: <http://curia.europa.eu/>

EU Open Data Portal: <https://data.europa.eu/euodp/en/data>/~~<http://open-data.europa.eu/>~~
Health and Food Safety Department's transparency commitment:
<https://webgate.ec.europa.eu/dyna/extdoc/index.cfm>

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

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators

whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

Article 5, paragraph 1

Article 5, paragraphs 1 (a) and (b)

Reference is made to the previous implementation reports, with the following update:

- Data dissemination on the implementation of the [Urban Waste Water Treatment Directive](#) 91/271/EEC has been further improved. The European Environment Agency (EEA) has a viewer to facilitate data access, <http://www.eea.europa.eu/data-and-maps/uwwtd>. Eurostat provides statistics and geographical information, <http://epp.eurostat.ec.europa.eu/portal/page/portal/sdi/indicators/theme8>). The Commission and the EEA carried out a pilot project to develop a Structured Implementation and Information Framework (SIIF) to facilitate active dissemination, exchange and assessment of data on the implementation of the Directive. ~~In By spring~~ 2017, the Commission ~~gave will give~~ access to the data reported by the Member States about the implementation of the Urban Waste Water Treatment Directive through 28 websites in a user-friendly way. ~~These They will~~ provide information about agglomerations, urban waste water treatment plants, discharge points, sensitive areas and national statistics. ~~These They will~~ allow users to cross different layers to better understand the environmental situation related to pollution from urban waste water.
- The earlier IPPC Directive 2008/1/EC was repealed by the [Industrial Emissions Directive](#) 2010/75/EU (IED). According to Article 14(1)(d)(i), Member States must ensure that the permit for ~~operating the operation of~~ an installation obliges the operator to inform the competent authority regularly, and at least annually, on emissions monitoring. Pursuant to Article 20(1), the operator has to inform the competent authority of any planned change to the installation that may have environmental consequences. Article 22 establishes that, where the activity involves hazardous substances, the operator must provide information on the state of soil and groundwater contamination. Moreover, pursuant to Article 23(1), operators must assist the competent authorities to carry out site visits, to take samples and to gather any information necessary for the purposes of the IED. According to Article 23(6), following each site visit, the competent authority prepares a report on the findings and conclusions on whether any further action is necessary. This report must be made public. Article 24 states that the public concerned must have access to information and be given early and effective opportunities to participate in the permit procedure.
- ~~Data dissemination on the implementation of the Ambient Air Quality (AAQ) Directives 2008/50/EC and 2004/107/EC is facilitated through the Central Data Repository, also made accessible through the European Air Quality Portal. The public has access to the data free of charge, as guaranteed by Article 3(4) of Decision 2011/850/EU on implementing provisions on reporting. The data dissemination covers all data that is reported pursuant to the AAQ Directives: Member States send validated~~

- data on air quality across their territory to the Commission once a year, and continuously transmit up-to-date (near real-time) air quality data, as well as detailed information on how air quality is assessed and what measures are taken to improve it where warranted.
- Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants came into force on 31 December 2016 repealing the National Emission Ceilings Directive (Directive 2001/81/EC). According to Article 14(1) of that Directive, Member States are obliged to actively and systematically disseminate information on national air pollution control programmes, national emission inventories and projections, and accompanying reports, including on ecosystem monitoring. Member States also have to report this data to the Commission and the European Environmental Agency and upload it in the Eionet Central Data Repository <https://cdr.eionet.europa.eu/>. In accordance with Article 14(2) and (3) of that Directive, the Commission publishes Union-wide information on emissions, the underlying assumptions for the determination of the national emission reduction potential, a list of relevant Union source-based air pollution control legislation and the results of the assessment of the national air pollution control programmes. Furthermore, the Commission publishes on a regular basis a Clean Air Outlook which presents the prospects for reducing air pollution in Europe up to 2030 and beyond (<https://ec.europa.eu/environment/air/clean-air/outlook.htm>).
 - The [Copernicus Regulation](#) was adopted in 2014. Its objective is to collect data from ~~Earth~~^{earth} observation satellites and *in situ* sensors and to deliver services for monitoring the state of the earth. Copernicus aims ~~to provide~~^{at providing} the EU and its Member States with a continuous, independent and reliable access to space observation data and derived information on the state of the environment and any changes in climate. It addresses the need of users in charge of policymaking, implementation, monitoring and reporting. Copernicus supports the objectives of the [7th Environment Action Programme](#) (7th EAP) for better implementation and an improved knowledge base.
 - There are 10 Environmental Data Centres providing environmental data and information under the Joint Research Centre (Soils, Forests), Eurostat (Waste, Natural Resources, Products) and the EEA (Water, Biodiversity, Climate Change, Land Use, Air). Environmental information is also available from the Emission Trading Scheme (ETS) Information Systems, the Common Emergency Communication and Information System (CECIS) and the Ozone-Depleting Substances (ODS) database. These systems are part of the Commission-wide project INSPIRE@EC.
 - Article 15 of the [INSPIRE Directive](#) 2007/2/EC lays down the obligation to establish a geo-portal, see <http://inspire-geoportal.ec.europa.eu/>. Member States and EEA/EFTA countries are to provide access to spatial information through discovery, view, download and transformation services. Most countries, including several candidate countries for EU accession, also provide access through their own portals.
 - The Natura 2000 web viewer, which contains the most relevant information for each Natura 2000 site, was upgraded: <http://natura2000.eea.europa.eu/>.
 - The [Offshore Safety Directive](#) 2013/30/EU also contains provisions on transparency and ~~the~~^{the} sharing of information. On 13 October 2014, the Commission adopted [Implementing Regulation 1112/2014](#) determining a common format for

sharing information on major hazard indicators by the operators and owners of offshore oil and gas installations.

Article 5, paragraph 1 (c)

In 2013, the European Parliament and ~~of~~ the Council adopted [Decision 1082/2013/EU](#) on serious cross-border threats to health.

In November 2020, the European Commission adopted the Communication on a European Health Union putting forward a set of proposals to strengthen the EU's health security framework, and to reinforce the crisis preparedness and response role of key EU agencies.

The [SEVESO III Directive](#) 2012/18/EU requires ~~that~~ certain information to be made available in electronic form. Access to information held by the competent authorities is granted in accordance with the Environmental Information Directive.

Article 7 of the IED provides that *‘~~[“in]~~ the event of any incident or accident significantly affecting the environment, Member States shall take the necessary measures to ensure that the operator informs the competent authority immediately.’*In. ~~In~~ addition, Article 8(2)(a) requires Member States to ensure that the operator immediately informs the competent authority of any breach of the permit conditions.

Similarly, Article 30 of the Offshore Safety Directive provides that *‘~~“~~Member States shall ensure that the operator or, if appropriate, the owner notifies without delay the relevant authorities of a major accident or of a situation where there is an immediate risk of a major accident’*~~accident~~ and that in the course of the emergency response, the Member State shall collect the information necessary for thorough investigation. Moreover, in accordance with Article 26, a non-confidential version of the findings of that investigation shall be made publicly available.

Ambient Air Quality (AAQ) Directive 2008/50/EC prescribes the obligation to take action in case of acute elevated levels of air pollution. Pursuant to Articles 19 and 24 of the AAQ Directive, when an alert threshold (a levels beyond which there is a risk to human health from brief exposure for the population as a whole) is exceeded for sulphur dioxide, nitrogen dioxide, and ozone, Member States take the necessary steps to inform the public by means of radio, television, newspapers or the Internet, and draw up action plans indicating the measures to be taken in the short term in order to reduce the risk or duration of such an exceedance. And for ozone, when the information threshold set at a level lower than the alert threshold beyond which there is a risk for particularly sensitive persons, Member States are required to inform the public appropriately. In addition, the European Air Quality Index has an embedded forecast function, which indicates the predicted development of air quality in locations in Europe 24 hours ahead.

Article 5, paragraph 2

Article 3(5) of the Environmental Information Directive, Article 1(2) of the Aarhus Regulation and Article 11 of the Access-to-documents Regulation provide for the setting-up of an electronically accessible public register of documents held by the

European Parliament~~EP~~, the Council and the Commission: http://ec.europa.eu/transparency/index_en.htm. (~~http://ec.europa.eu/transparency/index_en.htm~~).

The Commission~~services~~ and other EU institutions and bodies, including the EEA, are invited to gradually and pro-actively publish information comprising 'raw data'~~'raw data'~~ through the EU Open Data Portal.

Article 38(1) of the Food Safety Regulation 178/2002 requires the European Food Safety Authority (EFSA) to operate with a high level of transparency, making public without delay scientific opinions, agendas and minutes of meetings and other key documents (<http://www.efsa.europa.eu/en/scdocs.htm>).

Through the implementation of the REACH Regulation 1907/2006, and in particular of the provisions referred to in its Articles 77(2)(e), 118 and 119, ECHA contributes to the achievement of the dissemination objective stemming from the Aarhus Regulation.

The Agency provides free and easy access to the information held in its database concerning, among other things, the physicochemical properties of substances, pathways, and environmental fate and their classification (<https://echa.europa.eu/information-on-chemicals>). Similarly, on the basis of Article 67 of the Biocidal Products Regulation 528/2012, ECHA provides electronic public access to information on approved biocidal active substances and authorised biocidal products:

<https://echa.europa.eu/information-on-chemicals/biocidal-active-substances>.

The minutes, key documents, opinions and decisions of ECHA's governing body and scientific committees are also published on the ECHA website.

The European Chemicals Agency (ECHA) actively publishes the large data sets from REACH registration dossiers on the Dissemination Portal, as prescribed in Regulation (EC) No 1907/2006 (REACH Regulation): <https://echa.europa.eu/information-on-chemicals>. The same is true under the Waste Framework Directive 2008/98 for the data on substance of very high concern in articles and products: <https://echa.europa.eu/scip>. Finally, ECHA provides an online service that enables companies to find out how their substances are being regulated in the EU and what legal obligations they have, via the EU Chemicals Legislation Finder (EUCLEF): <https://echa.europa.eu/information-on-chemicals/euclef>.

As regards disseminating the quantity (tonnage bands) of chemicals manufactured/used per individual registrant, ECHA intends to look at the feasibility of this item in the long-term as part of the redesign and policy discussions surrounding the means and tools that make the data available. As regards information on exposure scenarios (contained in the chemical safety reports (CSR) attached to the registration dossier), ECHA has considered it more impactful to invest in the verification of exposure scenarios with the aim of improving the information for risk management in companies that are the main recipients of exposure scenario information.

As regards information on the presence of substances of very high concern in articles and the control of registrations, ECHA expects to make the first version of the public

SCIP³ database available in September 2021. The disseminated data is expected to provide greater transparency on the presence of hazardous substances in products to waste operators and consumers. The SCIP database was open for submission in October 2020 and companies supplying articles containing substances of very high concern (SVHCs) on the candidate list in a concentration above 0.1% weight by weight (w/w) on the EU market have had to submit information on these articles to ECHA since 5 January 2021.

As regards the authorisation process, ECHA disseminates information that is not claimed as confidential, and justified as such, by the applicant. Further transparency has been created through the publication of the registry of notifications from downstream users.

Pursuant to Article 17 of the revised Drinking Water Directive 2020/2184⁴, Member States have to ensure that adequate, up-to-date information on water intended for human consumption is available in accordance with its Annex IV, while complying with applicable data protection rules. Member States have to ensure that all persons supplied with water intended for human consumption receive the information indicated in its Article 17(2) regularly and at least once a year, without having to request it, and in the most appropriate and easily accessible form, for example on invoices or by digital means such as smart applications.

Pursuant to Article 12(1) of the Bathing Water Directive, Member States have to ensure that information related to the classification of bathing waters, prohibitions or advice against bathing, etc. is actively disseminated and promptly made available during the bathing season in an easily accessible place in the near vicinity of each bathing water site. Moreover, according to Article 12(2), Member States have to use appropriate media and technologies, including the Internet, to disseminate actively and promptly this information on bathing waters.

The European Investment Bank (EIB) applies the Aarhus Regulation, since the Regulation provides for the application of the provisions of the Aarhus Convention to EU institutions and bodies. ~~In 2007 the~~The EIB ~~has accordingly~~ adapted its public disclosure policy accordingly, translating~~Public Disclosure Policy in 2007 that translated~~ this regulatory framework into practice for the EIB's~~EIB's~~ rules and procedures. ~~In 2020~~~~In the latest update of the Policy, now called the Transparency Policy, on 6 March 2015,~~ the EIB Group (EIB and European Investment Fund) made the latest update of the policy, now called the Transparency Policy, adopting~~has adopted~~ revised rules that govern its approach to transparency, access to information and stakeholder engagement in line with EU transparency requirements and international best practice~~which maintains the high level of transparency provided for in the previous version and extends its guiding principles to the whole EIB Group.~~

The new policy is user-friendly and aligned with applicable EU legislation, as interpreted by CJEU case-law on~~regarding~~ transparency and access to information. It

³ SCIP is the database for information on Substances of Concern In articles as such or in complex objects (Products) established under the revised Waste Framework Directive (WFD).

⁴ Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast).

commits the EIB to a high level of pro-active dissemination of information via tools such as the EIB website, the [EIB public register of environmental documents](#) and the publication of data and information on its operations outside the EU based on the reporting standard of the International Aid Transparency Initiative (IATI). ~~To ease public access to environmental information held by the EIB, a note on access to environmental information held by the Bank has been posted on the EIB website.~~

Article 5, paragraph 3

Article 7(1) and (2) of the Environmental Information Directive and Article 4 of the Aarhus Regulation deal with electronic databases and the environmental information ~~which to be made available and disseminated by~~ Member ~~State~~States' authorities and EU institutions and bodies ~~are to make available and disseminate;~~ respectively.

~~The public database on plant protection products managed by the Commission has been considerably revamped and provides public information on the status of active substances in plant protection products and on emergency authorisations by Member States under Article 53 of Regulation 1107/2009. See link: https://ec.europa.eu/food/plant/pesticides/eu-pesticides-db_en~~

~~The Commission proactively publishes the emergency authorisation granted under Article 51 of Regulation 528/2012: <https://circabc.europa.eu/w/browse/47c6e2b3-27a1-4137-83e4-9605a64e2de7>~~

~~In June 2017, the Commission published a report on four Actions to Streamline Environmental Reporting (2017 Report - COM(2017)312). This action plan aims to: (i) ensure that EU environmental law is delivering its intended effects on the ground; (ii) better inform the European public about these achievements; and (iii) at the same time simplify the reporting burden for national administrations and businesses.~~

~~This Report was based on the conclusions of the 'Fitness Check of Reporting and Monitoring of EU Environment Policy' (Reporting Fitness Check - SWD(2017) 230) and a supporting study carried out under the 2015 Better Regulation package. The evaluation examined 58 pieces of environmental legislation and it looked at the reporting obligations in them as well as the related regulatory monitoring at EU level. Building on the evaluation findings, the 2017 Commission Report identified 10 actions:~~

- ~~1. Make legislative amendments to reporting obligations defined in selected pieces of legislation.~~
- ~~2. Assess and change reporting obligations in more detail as part of a rolling programme.~~
- ~~3. Modernise eReporting including through a more advanced Reportnet and by making best use of the existing infrastructure.~~
- ~~4. Develop and test tools for data harvesting at EU level.~~
- ~~5. Develop guidance and promote best practices for European and national environmental information systems, including better access to data in easy-to-understand ways.~~
- ~~6. Promote the full implementation of the INSPIRE Directive with priority for datasets most relevant for the implementation and reporting of EU environmental legislation.~~
- ~~7. Make better use of data generated through the Copernicus programme.~~

8. Promote the wider use of citizen science to complement environmental reporting.
9. Improve cooperation in the sharing and use of data gathered in other areas for the benefit of the environment.
10. Strengthen cooperation with relevant international organisations with the in order to streamline reporting and information management between the EU level and the international level.

Further information made on the relevant progress under the 10 actions is available on the European Commission website.

The Water Framework Directive 2000/60/EC requires Member States to establish and publish river basin management plans every 6 years. Draft plans are subject to public consultation. The plans include detailed information on the current status of all water bodies in the EU, including references to monitoring networks and maps, and an overview of all measures taken/planned to achieve good status at the latest by 2027. The information is made publicly available on Eionet, which is The European Environment Information and Observation Network (Eionet), a partnership network of the European Environment Agency (EEA) and its 38 member and cooperating countries. Furthermore, the reported data are assessed and translated into interactive maps, data viewers, European datasets and indicators, published in the WISE database, which is a partnership between the European Commission (DG Environment, Joint Research Centre and Eurostat) and the European Environment Agency.

Regulation (EU) 2020/741 on minimum requirements for water reuse also include provisions on transparency, whereby key information about any water reuse project is made available to the public.

The State of Nature in the EU⁵ (2013-2018) provides comprehensive information on the conservation status and trends of EU-protected species and habitats, as well as the pressures and threats they face, based on the reports submitted by Member States. The European Environment Agency has also developed tools to facilitate the use of such information. This report and on-line tools help to ensure that public authorities possess and update environmental information which is relevant to their functions, on the implementation of the Birds and Habitats Directives⁶.

Article 5, paragraph 4

Article 7(3) of the Environmental Information Directive and Article 4(4) of the Aarhus Regulation concern reports on the state of the environment ~~that to be published by Member States~~ authorities and EU institutions and bodies have to publish. ; ~~respectively.~~

There are regular reports produced under environmental legislation (see in particular the report published in 2019 on Progress on Actions to Streamline Environmental Reporting).

Regular implementation reports are prepared in the context of the Environmental Implementation Review (EIR). The EIR is a tool to improve information on

⁵ https://ec.europa.eu/environment/nature/knowledge/rep_habitats/index_en.htm#heading2013/18

⁶ Directive 2009/147/EC on the conservation of wild birds (OJ L 20 of 26.01.2010. p. 7) and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (OJ L 206 of 22.7.1992. p. 7).

implementation of EU environmental law and legislation:
http://ec.europa.eu/environment/eir/country-reports/index_en.htm.

Article 5, paragraph 5

Article 7(2) of the Environmental Information Directive and Article 4 of the Aarhus Regulation deal with the environmental information to be disseminated by Member ~~States'~~~~States'~~ authorities and EU institutions and bodies, respectively. The Europa website, which is constantly updated and improved, contains information on policies, legislation and the work of the various departments and services. DG ENV has its own [ENV Portal](#).

Article 11 of the INSPIRE Directive requires that services for environmental information in Member States such as view, download, transformation and discovery ~~shall~~ be easy to use, available to the public and accessible notably via the ~~internet~~~~Internet~~. This is further reiterated in Article 14, ~~by~~ requiring Member States to make view and download services available free of charge, without prejudice to further requirements.

Furthermore, the [Public Sector Information Directive](#) 2013/37/EU (PSI-Directive) lays down a clear obligation for Member States to make all documents re-usable, subject to certain exceptions. The PSI-Directive lowers access barriers and sets priorities on dataset categories: geospatial data (postcodes, national and local maps), earth observation and environmental data (weather, land and water quality, energy consumption, emission levels), transport data (public transport timetables, road works and traffic information), statistical data (covering GDP, age, health, unemployment, income and education) and selected company data (company and business registers). The Commission encourages the data owner to ensure availability, quality, usability and interoperability of the PSI.

The [EU Open Data Portal](#) is the single point of access to a growing range of data from the EU institutions and bodies. Data are free for use and re-use for commercial and non-commercial purposes. By providing easy and free access to data, the ~~portal~~~~Portal~~ aims to promote their innovative use and unleash their economic potential. It also aims to help foster the transparency and ~~the~~ accountability of the EU institutions and bodies.

The [EU eGovernment Action Plan 2016-2020](#) refers to actions to ~~speed up~~~~accelerate~~ the deployment and take-up of the environmental information infrastructure.

- ~~___~~ The ~~Commission's~~~~Commission's~~ agenda for a [Digital Single Market](#) showed how building a data economy, improving interoperability and promoting e-government services can boost competitiveness, growth and innovation ~~while~~~~whilst~~ making society more inclusive through transparent and accountable governance. ~~Environmental~~~~Environment~~ policy has always been at the forefront of this development by promoting active dissemination of data, as set out by Article 7 of the Access to Information Directive and providing for an Infrastructure for Spatial Information in Europe through the INSPIRE Directive. Implementing these obligations has a direct impact on the availability of information and data at national level and reduces the need for collecting some of these data through reporting, in line with the objectives of the 7th EAP.

~~- As a follow-up to the staff working document 'Under its Better Regulation Communication (COM(2015)215), the Commission will launch a broad review of reporting requirements to see how burdens can be alleviated.~~

~~In 2016, the Commission published its Staff Working Document "Towards a Fitness Check of EU environmental monitoring and reporting", reporting"; to proceed with the evaluation of the environmental reporting acquis, the following main actions were taken to improve reporting and monitoring:~~

~~- Since the 2017 Report (COM(2017) 312) several amendments to EU environmental legislation were planned and or were adopted to streamline and improve provisions on reporting. As of May 2019:~~

~~- A Commission proposal for the alignment of reporting obligations in the field of the environment was adopted in May 2018 (COM(2018) 381) to amend 10 EU environmental laws (sewage sludge, noise, environmental liability, INSPIRE, birds, animal testing, ePRTR-industrial emissions, timber/FLEGT, CITES) that would improve transparency, simplify or eliminate reporting, simplify EU- wide overviews clarify roles of EU institutions and prepare future evaluations. The amendments concern some of the legislation listed in Annex 6 of the Fitness Check but also other pieces of legislation where specific evaluation demonstrated the need for alignment. The co-legislator negotiated the Regulation on the alignment of 10 environmental laws and adopted it on 21 May 2019.~~

~~- The recast Drinking Water Directive entered into force on 12 January 2021. The reporting requirements were simplified. Rather than requiring Member States to submit a report, they will have to establish data sets with their monitoring results only where they exceed the parameters in the Directive. They will also have to provide additional information such as risk assessments. Drinking water-relevant data will be gathered under this Directive in compliance with the INSPIRE Directive.~~

~~- A Commission proposal was adopted for the Recast of the Persistent Organic Pollutants (POPs) Regulation in March 2018 (COM(2018) 144). The reporting requirements will be updated with more effective provisions which simplify monitoring. Member States are to put in place a data set gathering relevant data under this Regulation, in particular Annex III. Collected spatial data sets will have to comply with the INSPIRE Directive.~~

~~- In addition, the Commission proposed two new pieces of legislation (on the reduction of the impact of certain plastic products on the environment and on water reuse – see Annex III) which were not covered by the Fitness Check but which took its findings into account in drafting the monitoring and reporting provisions. They have been added to the rolling work programme (action 2).~~

~~- Decision (EU) 2018/853 amends the procedural rules for environmental reporting in five EU legal texts and repeals the Standardised Reporting Directive 91/692/EEC.~~

~~- The Commission also explored the topic of citizen science as one of the action points under the Reporting Action Plan, and most recently published the Activity Report on Citizen Science with the support of the Joint Research Centre (JRC).~~

- Reportnet is the EU's main infrastructure for handling and improving EU-level data and information flows. The European Environment Agency (EEA) initiated a project called 'Reportnet 3.0' to modernise the existing system. Progress has been made in identifying how to modernise the platform for e-Reporting. The functionalities and architecture of the new Reportnet 3.0 platform have been designed on a higher level and will become concrete during the first steps of the executing phase. Pilot data flows for which the platform will provide operational support have been jointly identified. In 2019, a prototype will be developed and the platform is supposed to be fully operational in 2021.

- Together with the European Green Deal, the Commission launched its ambitious European strategy for data (COM(2020) 66 final) to also help deliver on Europe's goals for sustainability set out in the European Green Deal.). It announces a 'GreenData4All' initiative that includes as the starting point the assessment of the interaction between the INSPIRE Directive and the Directive on public access to environmental information. The overall objective of the 'GreenData4all' is to (see description in the Roadmap published):

- o modernise both Directives to align them with the contemporary state of technology,
- o promote active dissemination and sharing of government -and private-held public data in support of EU environmental legislation and the Green Deal objectives, and;
- o define and implement interoperable building stones for sharing public data in the Green Deal data space.

- The Biodiversity Strategy was adopted in May 2020. It is a very significant initiative which has a section devoted to enforcement – among other things, recognising the role of the European networks of environmental compliance assurance professionals and highlighting the need on access to information.

- The Chemicals Strategy for Sustainability was adopted in October 2020, envisaged improving information availability on chemicals.

- Under Action 1 of the Action plan for nature, people and the economy⁷, the Commission developed, updated and translated and summarised several guidance documents in several official languages and it is still working on providing translation for the remaining ones⁸. For example, to support Member States, the

⁷ COM(2017) 198 final,

http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/communication_en.pdf and
SWD(2017) 139 final,

http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/factsheets_en.pdf.

⁸ Translations of all guidance documents are available here:

https://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm and here

https://ec.europa.eu/environment/nature/natura2000/management/best_practice_en.htm; Summaries of the following guidelines have been published in all EU languages: "Guidance on aquaculture and Natura 2000",

"Inland waterway transport and Natura 2000", "The Implementation of the Birds and Habitats Directive in estuaries

Commission updated the guidance document on ‘Managing Natura 2000 sites: The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC’⁹, which clarifies the legal framework based on the jurisprudence of the CJEU. Dissemination events were organised to promote the guidance documents on wind energy developments and EU nature legislation and the methodological guidance for Article 6(3) and 6(4) in several Member States¹⁰.

- Under Action 14 of the Action plan for nature, people and the economy, several activities took place to support awareness-raising of the Birds and Habitats Directives and, recognition of good management of Natura 2000 sites and to strengthen links between natural and cultural heritage.

o The Natura 2000 Award¹¹ was further developed and moved to a cycle of being every 2 years. It is dedicated to rewarding excellence in the management and promotion of the network and to raising awareness about Natura 2000 and its benefits to European citizens. Any entity involved in activities related to Natura 2000 can apply - local and national authorities, businesses, land owners, NGOs, educational institutions and individuals from all EU Member States.

The Commission, together with the Council Presidency, the European Parliament and the Committee of the Regions, established 21 May as the EU Natura 2000 Day, when celebrations and networking activities involving the local public and stakeholders take place across the EU. These range from festivals and photography exhibitions to guided walks and cycling tours, open days and numerous activities for children to discover nature.

o Furthermore, to develop and test the feasibility of systems aimed at recognising positive management of Natura 2000 sites, a LIFE preparatory action grants project specifically dedicated to the development of a method for the "Green listing" of Natura 2000 sites was funded. The project adapted an existing global methodology for Green listing of protected areas to the specificities of Natura 2000 and tested the feasibility of the approach with a number of sites throughout the EU¹³.

o A series of case studies showing links between Natura 2000 and cultural sites was published along with a brochure based on it¹⁴. The document highlights good practices and options for an integrated management of natural and cultural assets and associated socio-economic benefits. As a follow up, the spatial overlaps between Natura 2000 and cultural heritage areas (focusing on UNESCO/World Heritage Sites) were mapped. On that basis, a comprehensive report was prepared¹⁵. The report explores the spatial overlaps between natural and cultural sites, discusses the threats and challenges they both face, looks at the opportunities available under different EU funds

and coastal zones”, “Non-energy mineral extraction and Natura 2000”.

⁹ https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/EN_art_6_guide_jun_2019.pdf

¹⁰ LV (19.9.2019), LT (20.9.2019), EE (17.10.2019), SE (6.11.2019), SV (7.11.2019), ES (20.11.2019), CY (15.1.2020), HR (23.1.2020), BE (24.1.2020 and 25.6.2020), FI (12.5.2020), DK (29.5.2020), LU+BE (25.6.2020), EL (26.6.2020).

¹¹ http://ec.europa.eu/environment/nature/natura2000/awards/how-to-apply/index_en.htm.

¹² http://ec.europa.eu/environment/nature/natura2000/EUnatura2000day/index_en.htm

¹³ <https://www.iucn.org/regions/europe/our-work/biodiversity-conservation/natura-2000-europes-protected-areas-network/iucn-green-list/life-green-list-natura-2000>

¹⁴ http://ec.europa.eu/environment/nature/natura2000/management/links_natural_cultural_heritage_en.htm

¹⁵ http://ec.europa.eu/environment/nature/natura2000/management/links_natural_cultural_heritage_en.htm

to kick start joint nature and culture initiatives and sets out a series of recommendations on how the challenges can be overcome and how to promote integrated management and associated socio-economic benefits. Furthermore, in the context of the European Year of Cultural Heritage 2018¹⁶, activities and initiatives were held all over Europe, to encourage citizens to understand and reflect on the place that cultural heritage occupies in our lives, and to protect its unique value, including in relation to natural heritage.

Under Action 10 of the action plan for nature, people and the economy, work was carried out to increase awareness of cohesion policy funding opportunities for nature and biodiversity and improve synergies. For example, a ‘data story’ on cohesion policy support for biodiversity was developed¹⁷, offering also the possibility to explore cohesion policy investments/indicators per year, per Member State, etc. Furthermore, regional actors were provided with targeted information on nature under the Interreg Europe policy-learning platform on environmental protection¹⁸, and all along 2020, the Interreg community celebrated 30 years of Interreg cooperation¹⁹, with a green and climate resilient environment (“Green Connections”) as one of the core themes²⁰. Several events²¹ took place to promote awareness among managing authorities.

Article 5, paragraph 6

The EU adopted regulatory acts on voluntary eco-labelling and eco-auditing schemes: the [EU Ecolabel Regulation](#) 66/2010 and the [EMAS Regulation](#) 1221/2009. The EU Ecolabel Regulation provides for the consultation of stakeholders when establishing [EU Ecolabel](#) criteria for product groups (see in particular Article 7 of the Regulation). Information on products (goods and services) awarded with the EU Ecolabel is available in the EU Ecolabel Catalogue (ECAT). Public data on such products is available on the EU Open Data Portal.

Article 5, paragraph 7

¹⁶ <https://europa.eu/cultural-heritage/>

¹⁷ <https://cohesiondata.ec.europa.eu/stories/s/gznm-sv2i>

¹⁸ <https://www.interregeurope.eu/policylearning/knowledge-hub>; For example, please see the policy briefs:

https://www.interregeurope.eu/fileadmin/user_upload/2018-09-24_Policy_Brief_Heritage_in_coastal_and_fluvial_regions.pdf;

https://www.interregeurope.eu/fileadmin/user_upload/plp_uploads/policy_briefs/TO6_April_2018_Policy_brief_on_cultural_heritage_and_sustainable_tourism.pdf;

https://www.interregeurope.eu/fileadmin/user_upload/plp_uploads/policy_briefs/2017016_TO6_PB_Biodiversity.pdf;

https://www.interregeurope.eu/fileadmin/user_upload/plp_uploads/policy_briefs/Policybrief_TO6_Ecosystem_services.pdf

¹⁹ https://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/interreg30years/

²⁰ <https://interreg.eu/interreg-30-years-together/>; https://europa.eu/regions-and-cities/programme/sessions/1088_en

²¹ [Meeting of the European Network of Environmental Authorities-Managing Authorities for Cohesion Policy \(25 October 2017, Budapest\)](#); [Meeting of the European Network of Environmental Authorities-Managing Authorities for Cohesion Policy \(4 October 2018, Prague\)](#) - http://ec.europa.eu/environment/integration/enea-plenary_meetings_en.htm; [Workshop - Biodiversity proofing Cohesion policy funds - DG ENV together with IEEP, 12 October/2017.](#)

The Commission publishes ~~roadmaps~~Roadmaps and ~~impact assessments~~Impact Assessments which ~~assess~~contain the assessment of the significant economic, environmental and social impacts of potential policy options, alongside proposals for policies and legislation (~~—see~~ http://ec.europa.eu/smart-regulation/roadmaps/index_en.htm).:-

An example for information on the performance of public functions in the area of the Convention are the annual reports on monitoring the application of EU law, which include comments on how EU environmental law is being applied by the Member States and enforced by the Commission (~~—see~~ http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/annual-reports/index_en.htm).:-

The Commission also publishes an annual report on the Application of the EU Charter: http://ec.europa.eu/justice/fundamental-rights/charter/application/index_en.htm.

Article 5, paragraph 8

In September 2020 the Commission published the Inception Impact Assessment on a Sustainable Product Initiative. The Initiative will focus on widening the scope of the Ecodesign Directive beyond energy related products; it will also address (among other things) the availability of information on sustainability along value chains related to products placed on the EU market with a view to enhance the ability of consumers to choose products with the lowest environmental footprint.

The EU adopted several legislative acts to ensure that producers make available to consumers information ~~about~~concerning the energy efficiency and energy performance of their products: the [Energy Labelling Directive](#) 2010/30/EU, the [Ecodesign Directive](#) 2009/125/EC whose Article 14 deals with consumer information, the [EU Tyre Labelling Regulation](#) 1222/2009 and the [Car Labelling Directive](#) 1999/94/EC.

Both the Energy Labelling Directive and the Ecodesign Directive provide for the adoption of delegated acts on the eco-design and energy labelling of energy related products: see http://ec.europa.eu/energy/efficiency/labelling/household_en.htm. ~~http://ec.europa.eu/energy/efficiency/labelling/household_en.htm.~~ Before such acts are adopted, ~~stakeholders are consulted via~~ the Ecodesign Consultation Forum ~~consults~~ stakeholders (~~—see~~ http://ec.europa.eu/energy/efficiency/ecodesign/forum_en.htm).:-

Pursuant to article 12 of the Energy labelling Regulation (eu) 2017/1369, the Commission has implemented a database where any model of products to be placed on the Union market has to be registered (prior to placing on the market). The European Product Registry for Energy Labelling (EPREL) provides to national Market Surveillance Authorities a tool to streamline their compliance control activity, by making most if not all technical documentation to perform their duties ready-made on line. The system provides, moreover, additional information on top of what visible

in the energy label, on all products in the scope of the Energy Labelling Regulation and of the Tyre Labelling Regulation 2020/740²², available on-line²³.

Pursuant to the Energy Performance of Buildings Directive, all EU Member States have established energy performance certificates for buildings. Such energy performance certificates include information about the energy performance of the buildings and recommendations how to improve it. They are obligatory for new buildings, buildings which are sold or rented and for certain large public buildings.

~~Reference is also made to the European Energy Star Programme, a voluntary energy-labelling programme for office equipment. The Energy Star logo helps consumers identify office equipment products that better protect the environment by saving energy, see the EU Energy Star Regulation 106/2008.~~

The European Business Awards for the Environment, which are presented every two years, recognise and reward European companies that set an example by successfully bringing together innovation, economic viability and environmental concerns (; see <http://ec.europa.eu/environment/awards/index.html>).

Article 5, paragraph 9

The EU has ratified the UNECE Protocol on Pollutant Release and Transfer Registers. It has been implemented through the [E-PRTR Regulation](#) 166/2006. In 2017, the European Commission completed an evaluation²⁴ of the Regulation to check whether it was ‘fit for purpose’. The evaluation was also instrumental in informing the Commission’s second report to the European Parliament and the Council on progress in implementing the E-PRTR Regulation (COM(2017) 810)²⁵. The EU also submitted its Protocol implementation report for the 2021 reporting cycle²⁶, pursuant to Article 17(2) of the Protocol, covering developments which have occurred since 2017.

The EU reports air pollutant inventories under the Convention on Long-Range Transboundary Air Pollution.

Under Directive (EU) 2016/2284, the EU gathers air pollutant emission inventories from Member States.

XII. Obstacles encountered in the implementation of Article 5

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

Answer:

²² about 30 products groups in total, over 600 000 registered products in May 2021

²³ E.g. by scanning the QR code on the label, the citizen gets access to the full public information on the products as required by the specific Delegated Act. On-line stores as well have direct access to the EPREL labels and product fiches via specific application programming interfaces (API).

²⁴ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52017SC0710>

²⁵ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52017DC0810>

²⁶ [https://prtr.unece.org/national-](https://prtr.unece.org/national-reports/reports?field_nr_report_language_aux_2_value=en&field_nr_report_language_aux_value=en&field_nr_report_year_target_id_verf%5B%5D=276&field_nr_party_target_id_verf%5B%5D=175&combine)

[reports/reports?field_nr_report_language_aux_2_value=en&field_nr_report_language_aux_value=en&field_nr_report_year_target_id_verf%5B%5D=276&field_nr_party_target_id_verf%5B%5D=175&combine](https://prtr.unece.org/national-reports/reports?field_nr_report_language_aux_2_value=en&field_nr_report_language_aux_value=en&field_nr_report_year_target_id_verf%5B%5D=276&field_nr_party_target_id_verf%5B%5D=175&combine)

The implementation of Article 5 on the collection and dissemination of environmental information is steadily being continually improved. The Commission's [Implementation Communication](#) and the 7th EAP aim, among other things, to provide greater *inter alia* at strengthening access to information, in particular through active disclosure. The ~~Commission's~~ Commission's objectives include setting up information networks and making more information on the state of the environment available online. The Implementation Communication aims to explore possibilities to strengthen the Environmental Information Directive and ~~to~~ develop SIIFs for all key EU environment laws. The aim is to provide citizens with information and to ensure an up-to-date knowledge base to feed into decision-making processes.

The recently adopted 8th Environment Action Programme reiterates the importance of transparency, by committing to 'effectively applying high standards for transparency, public participation and access to justice in accordance with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention)'.

Public authorities in Member States still face problems related to finding data and information managed by other public authorities. Information and data meeting their needs are not always available or affordable (where public-to-public charging practices apply) while access and use conditions raise additional obstacles.

In the context of its Regulatory Fitness (REFIT) programme, the European Commission published its report under Article 23 of the INSPIRE Directive. Together with this report, it presented a detailed evaluation ([Commission Report \(COM\(2016\)478\)](#) that was also accompanied by a ~~staff working document~~ Staff Working Document on the REFIT evaluation of the INSPIRE Directive. This evaluation demonstrated that the INSPIRE Directive is still largely fit-for-purpose, but that further efforts are needed at EU and Member State level to close the significant implementation gaps and to harvest the benefits of the Directive. Moreover, specific issues needing attention concern the data policy provisions in the Directive (Article 17) and requirements and use of some of the technical specifications in the implementing rules (including streamlining of reporting). The Commission issued recommendations and actions to implement in close collaboration with the Member States under the [Maintenance and Implementation Work Programme 2016-2020](#).

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

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

Answer:

Reference is made to the Europa website, which is constantly updated and extended.

XIV. Website addresses relevant to the implementation of Article 5

Give relevant website addresses, if available:

Shared Environmental Information System:

<http://ec.europa.eu/environment/seis/index.htm>

INSPIRE: <http://inspire.ec.europa.eu/>;

INSPIRE geo-portal: <http://www.inspire-geoportal.eu/index.cfm>

Implementation of EU environmental law:

http://ec.europa.eu/environment/legal/implementation_en.htm

DG ENV portal on Europa: http://ec.europa.eu/environment/index_en.htm

Water Information System for Europe: <http://water.europa.eu>

Transparency Portal: http://ec.europa.eu/transparency/index_en.htm

[European Chemicals Agency transparency portal: https://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/transparency](https://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/transparency)

[Chemicals Dissemination Portal: https://echa.europa.eu/information-on-chemicals](https://echa.europa.eu/information-on-chemicals)

[EU Chemicals Legislation Finder \(EUCLEF\): https://echa.europa.eu/information-on-chemicals/EUCLEF](https://echa.europa.eu/information-on-chemicals/EUCLEF)

European Food Safety Authority: <http://www.efsa.europa.eu/en/scdocs.htm>

Natura 2000: <http://natura2000.eea.europa.eu/#;>

<http://www.eea.europa.eu/data-and-maps/data/natura-2000>

Europa: http://ec.europa.eu/index_en.htm

Legislation and policy impact assessment:

http://ec.europa.eu/governance/impact/index_en.htm

DG ENV public consultations: http://ec.europa.eu/environment/consultations_en.htm

Commission wide consultations portal: http://ec.europa.eu/yourvoice/index_en.htm

Access to Commission documents portal:

http://ec.europa.eu/transparency/access_documents/index_en.htm

Annual reports on better law-making: ~~http://ec.europa.eu/smart-regulation/better_regulation/reports_en.htm~~ http://ec.europa.eu/smart-regulation/better_regulation/reports_en.htm

EU environmental law indicators:

http://ec.europa.eu/environment/indicators/index_en.htm

Annual environment policy review:

<http://ec.europa.eu/environment/policyreview.htm>

~~Energy Star: http://www.eu-energystar.org/~~

European Pollutant Release and Transfer Register: <http://prtr.ec.europa.eu/>

Major Accident Hazards portal: <http://ipsc.jrc.ec.europa.eu/index.php/At-a-glance/487/0/>

Electronic Major Accident Reporting System: <http://emars.jrc.ec.europa.eu/>

European Forest Data Centre: <http://efdac.jrc.ec.europa.eu/>

European Soil Data Centre: <http://esdac.jrc.ec.europa.eu/>

[EU Ecolabel: https://ec.europa.eu/environment/ecolabel/](https://ec.europa.eu/environment/ecolabel/); <http://ec.europa.eu/ecat/>

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

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of Article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of Article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
 - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in Article 6 that is available at the time of the public participation procedure;
 - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

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

Answer:

As ~~the~~ EU institutions and bodies do not adopt decisions to permit the proposed activities listed in Annex I to the Aarhus Convention, implementation of Article 6 is focused on the Member States.

The relevant definitions of Article 2 of the Aarhus Convention are to be found in Article 3(1) and 4(1)(b) of the Public Participation Directive 2003/35/EC.

Article 6, paragraph 1

Article 6 of the Aarhus Convention is implemented notably by the Industrial Emissions Directive (IED)~~IED~~ and the (revised) Environmental Impact Assessment Directive 2011/92/EU as amended by 2014/52/EU (EIA-Directive).

For the Aarhus-related parts, the~~The~~ revised EIA Directive introduced certain changes:~~compared to its predecessor with regard to Aarhus-related parts:~~

Article 6 sets a minimum time-frame of 30 days for consulting the public on the EIA report. Local and regional authorities can participate in the EIA consultation. Relevant information shall be electronically accessible to the public, through a central portal or easily accessible access points, at the appropriate administrative level.

Member States shall provide for reasonable time-frames for information and participation in decision-making.

The results of consultations must be duly taken into account in the development consent procedure. The decision to grant development consent must incorporate the reasoned conclusion of the competent authorities on the significant effects of the project, any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures. A decision to refuse development consent shall indicate the main reasons for the refusal.

The public and the environmental, regional and local authorities shall be promptly informed on the decision to grant or refuse development consent; information shall be available to the public and these authorities. A summary of the results of consultations and how they have been addressed, in particular comments from the affected Member State for trans-boundary projects, shall also be made available.

The Nuclear Safety Directive 2014/87/Euratom amending Directive 2009/71/Euratom, sets more specific requirements as to the type of information to be provided to the general public as well as to the opportunities to participate in the relevant phases of the decision-making process related to nuclear installations.

The Spent Fuel and Radioactive Waste Management Directive 2011/70/EURATOM regulates both public participation and access to information (Article 10).

The Offshore Safety Directive includes procedural obligations on public consultation for those cases where the Strategic Environmental Assessment (SEA) or EIA/EA Directives do not apply, whenever "it is planned to allow" allow exploration operations.

The Regulation on guidelines for trans-European energy infrastructure 347/2013 contains provisions on public participation in permit granting and in the implementation of projects of common interest.

Article 14 of the Water Framework Directive 2000/60/EC obliges Member States to publish their draft river basin management plans (adopted every 6 years) 1 year before adoption and to give the public a six- months period to comment in writing.

Article 11 of the Bathing Water Directive states that Member States must encourage public participation in this Directive's ~~Workshops on~~ implementation and ensure that the public is given opportunities to be involved, in particular, in the establishment, review and updating of lists of bathing waters in accordance with Article 3(1). Competent authorities have to take due account of any information obtained.

Workshops on implementating the ~~of the~~ Aarhus Convention in the nuclear field to ensure aiming at ensuring a better knowledge-base were held with the participation of ANCCLI (Association Nationale des Comités et Commissions Locales d'Information d'Information).

Under Action 5 of the action plan for nature, people and the economy²⁷, the Commission committed to holding dedicated bilateral meetings with Member States, involving national and regional authorities responsible for implementing the Nature Directives, as well as stakeholders. Nature dialogues took place with 24 Member States. Follow-up dialogues took place as well and are still taking place to monitor the implementation of the agreed roadmaps. In each of these meetings, among other issues, the Commission has raised awareness and discussed access to justice and public participation in the field of nature protection and conservation in light of judgement C-243/15.

Article 6, paragraph 2

The 'public concerned' ~~'public concerned'~~ is defined in Article 3(1) of the Public Participation Directive as the public "affected or likely to be affected, or having an interest in the environmental decision-making procedures" ~~'procedures'~~. An NGO promoting environmental protection is expressly deemed to have such an interest.

²⁷ COM(2017) 198 final.

http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/communication_en.pdf and [SWD\(2017\) 139 final.](http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/factsheets_en.pdf)

[http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/factsheets_en.pdf.](http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/factsheets_en.pdf)

Article 6, paragraph 3

Article 3(4) of the Public Participation Directive sets reasonable time-frames for effective public participation. The public is informed early in the environmental decision-making and, at the latest, as soon as information can reasonably be provided.

Article 6, paragraphs 4 to 10

Those provisions of the Aarhus Convention are implemented in Article 3(4) to (6) of the Public Participation Directive and the EIA Directive. Further details are given in the earlier EU Implementation Reports.

Article 6, paragraph 11

The amendment to the Aarhus Convention on genetically modified organisms (GMOs) was adopted in May 2005. It specifies the obligations of Parties with regard to public participation in decision-making processes concerning GMOs. Any Party whose regulatory framework is consistent with the GMO amendment is also in line with Article 6, paragraph 11, of the Convention. Reference is thus made to part XXXIII and following of the present report.

XVI. Obstacles encountered in the implementation of Article 6

Describe any obstacles encountered in the implementation of any of the paragraphs of Article 6.

Answer:

A pending compliance case against the EU concerning Article 6, ACCC/C/2014/121, ~~has been~~^{is} published on the ~~UNECE website, see~~ [UNECE website](https://www.unece.org/env/pp/ce/com.html)~~https://www.unece.org/env/pp/ce/com.html~~.

In relation to case ACCC/C/2014/121, as part of the European Green Deal, the Commission is reviewing EU measures to address pollution from industrial installations, including in particular Directive 2010/75/EU on industrial emissions²⁸ (IED). The review will look at the sectoral scope of the legislation and at how to make it fully consistent with the European Green Deal commitments, in order to progress towards the EU's zero pollution ambition for a toxic-free environment and to support climate, energy and circular economy policies. The Commission will carefully take into account concerns about public participation, also with a view to make it easier, for concerned parties, to seek judicial review where appropriate.

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

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

Answer:

²⁸ <https://ec.europa.eu/environment/industry/stationary/ied/evaluation.htm>

~~For data on the application of the EIA Directive, including the studies and the impact assessment report prepared prior to the Commission's proposal for a revised Directive, see: http://ec.europa.eu/environment/eia/index_en.htm.~~

XVIII. Website addresses relevant to the implementation of Article 6

Give relevant website addresses, if available:

~~https://ec.europa.eu/environment/eia/index_en.htm. See the link above, under Section XVII.~~

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

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

Answer:

Public participation concerning plans and programmes relating to the environment by Member States' authorities is ensured through the following legislation:

- the Public Participation Directive, see Article 2 in conjunction with Annex I;
- the [Strategic Environmental Assessment Directive](#) 2001/42/EC (~~“(“SEA-Directive”); Directive”~~);
- The [Water Framework Directive](#) 2000/60/EC;
- The [Flood Risk Management Directive](#) 2007/60/EC, which foresees public involvement in Article 9 and requires, in Article 10, that relevant assessments, maps and plans are made available to the public;
- The SEVESO III Directive, which obliges operators to provide sufficient information on risks for the purpose of land-use planning. Detailed procedural requirements for public participation are provided and a reference is included to Article 2 of the Public Participation Directive for public participation ~~in preparing~~ general plans and programmes. Public participation on external emergency plans is also addressed;
- The [Marine Strategy Framework Directive](#) 2008/56/EC, which foresees in Article 19 public consultation on Member States' marine strategies and participation of interested parties in the implementation of the Directive.

- The Governance Regulation on the Governance of the Energy Union and Climate Action, which provides inPublic participation concerning plans and programmes relating to the environment by EU institutions and bodies is ensured through Article 10 for Member States' to ensure that the public is given early and effective opportunities to participate in the preparation of the draft integrated national energy and climate plan — as regards the plans for the 2021 to 2030 period, in the preparation of the final plan well before its adoption — as well as of the long-term strategies referred to in Article 15. Each Member State shall set reasonable timeframes allowing sufficient time for the public to be informed, to participate and express its views.

Article 9 of the Aarhus Regulation, combined with the definitions in Article 2, ensure public participation in the preparation of environmental-related plans and programmes by EU institutions and bodies.- The Aarhus Regulation requires EU institutions and bodies to provide early and effective opportunities for the public to participate in during the preparation, modification or review of environmental-related plans or programmes ~~relating to the environment~~ when all options are still open.

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

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

Answer:

A number of recent environmental instruments include requirements for public participation in drawing up environmental plans.

Whenever 'it is planned to allow' exploration operations, the Offshore Safety Directive 2013/30/EU~~The Offshore Safety Directive 2013/30/EU~~ includes procedural obligations on public consultation and participation on its own merits andfor those cases where public participation has~~the SEA or IEA Directives do not been undertaken pursuant to Article 5 (1) of the Directive. apply, whenever "it is planned to allow" exploration operations.-~~

The Framework Directive for Maritime Spatial Planning 2014/89/EU aims to ensureat ensuring effective implementation of maritime spatial planning in EU waters and integrated coastal management in the coastal areas of Member States. ~~There are references to Aarhus related participation requirements in paragraph 22 of the Preamble.~~ Article 2 of the Public Participation Directive is highlighted in recital 21 as a good example of a public consultation provision. Consultation is addressed in Article 9.

Partnership is one of the key principles that govern Cohesion policy. For the 2014-2020 programming period

~~The Commission introduced~~ the "partnership principle" was reinforced by entering it in the legal basis of European Structural and Investment Funds (ESIF), under Article 5 of Regulation 1303/2013. Under this principle, the programming (partnership agreementsof legal documents (Partnership Agreements and programmesProgrammes)) and their implementation are subject to a collective process

involving authorities discussed at Member State, regional and local level, social partners and organisations from civil society with a wide range of stakeholders, including environmental NGOs. The respect of the partnership principle remains a legal requirement in the new Common Provisions Regulation for the programming period 2021-2027. The new Article establishes the possibility for Member States to allocate an appropriate percentage of resources coming from the Funds for the administrative capacity building of civil society organisations, which may include environmental NGOs.

The Commission also established the 'European Network of Environmental Authorities - Managing Authorities for the Cohesion Policy' (ENEA-MA) which brings together experts from environmental administrations, authorities managing cohesion policy and other organisations (e.g., Regional Environmental Centre, Bankwatch). It contributes to the integration of environment and sustainable development in the cohesion policy programmes and projects, (see http://ec.europa.eu/environment/integration/cohesion_policy_en.htm).

The Commission has set up a 'structured dialogue' with partners working in the field of the ESIF. It is a mutual trust-building mechanism in order to bring the ESIF closer to civil society, assist the Commission in the development of this policy in the different areas of expertise and to discuss ESIF implementation, see http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners/.

Together with the Member States and stakeholders, the Commission has set up a 'common implementation strategy' for implementing the Water Framework Directive 2000/60/EC. In this framework, technical guidance documents are developed, in close cooperation with all relevant stakeholders, including representatives from civil society. All documentation is made publicly available on the relevant circabc website.

The recovery and resilience plans that set out a coherent package of reforms and investment initiatives to be implemented up to 2026 to be supported by the RRF (Recovery and Resilience Plan). The Commission provided Member States with clear guidance to support them in the preparation of the recovery and resilience plans in September 2020. It updated this guidance in January 2021 to assist Member States in preparing plans in line with the political agreement of the co-legislators on the regulation. Plans should also include a summary of the consultation process at national level as well as a presentation of the controls and audit system put in place to ensure that the financial interests of the Union are protected.

XXI. Obstacles encountered in the implementation of Article 7

Describe any obstacles encountered in the implementation of Article 7.

Answer:

Pending compliance cases against the EU in the ambit of Article 7 are published on the UNECE website.

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

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

Answer:

The [2010 Report](#) on the application of Article 2 of the Public Participation Directive takes into account information gained by Member States and the Commission. It concluded that *“Article 2 of the Directive has had the effect of firmly establishing the right of the public to participate in the decision-making process on plans and programmes uniformly in the legislation of Member States.”*

~~Furthermore, In 2017 the Commission adopted~~~~prepares~~ the second implementation report on the application and effectiveness of the SEA Directive²⁹. The ~~which is expected to be adopted in 2017 (to recall, this report shows that the Member States did not raise major implementation concerns. The report concluded that all Member States should pursue their implementation efforts to ensure compliance with the SEA Directive, covers developments until end 2016).~~

Also, in cooperation with the Member States the Commission services prepared national summaries providing basic information on the legal, administrative and policy context regarding the SEA system in the Member States³⁰. These summaries describe the legal and administrative framework supporting the implementation of the SEA Directive, including the organisational arrangements as well as the procedural obligations in place.

In 2019 the Commission completed the evaluation of the SEA Directive and issued the **Commission Staff Working Document Evaluation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes**³¹.

This evaluation examined the extent to which the SEA Directive is fit for purpose by looking into what works and what can be improved, the extent to which the Directive’s objectives have been achieved and why some elements or features are successful or not.

The evaluation was carried out using the five standard evaluation criteria (effectiveness, efficiency, relevance, coherence and EU added value) and the following findings were established.

The evaluation concluded that the SEA Directive is a major piece of EU environmental legislation and remains relevant for attaining the objectives that it has set³². The evaluation has shown that the SEA Directive brings multiple benefits to the EU, contributing to wider goals on attaining the sustainable development goals (SDGs) and environmental protection, by integrating environmental concerns into the appropriate plans and programmes. The benefits it provides do not cause disproportionate costs for the national administrations. The Directive’s effectiveness

²⁹ COM (2017) 234, 15.05.2017.

³⁰ http://ec.europa.eu/environment/eia/member_states_summaries.htm

³¹ **SWD (2019) 413-22.11.2019**

³² More information about the SEA REFIT process and associated documents is available here: <https://ec.europa.eu/environment/eia/sea-refit.htm>

differs between sectors and the types of plans and programmes to which it is applied, but depends significantly on how it is transposed into national law and further implemented in each Member State. The central issue for the future is the scope and purpose of the SEA Directive. The Directive is coherent with other EU legislation prescribing environmental assessments.

In 2020 the Commission published the fourth edition of the EIA and SEA Directive booklet gathering excerpts from rulings of the Court of Justice of the European Union related to the provisions of the EIA Directive and SEA Directive³³.

XXIII. Website addresses relevant to the implementation of Article 7

Give relevant website addresses, if available:

Your Voice in Europe: http://ec.europa.eu/yourvoice/index_en.htm.

Commission transparency portal: <http://ec.europa.eu/transparency/>

European Network of Environmental Authorities: http://ec.europa.eu/environment/integration/enea-ma_plenary_meetings_en.htm

Structured Dialogue with the ESIF expert group: http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners

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

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

Answer:

Reference is made to the previous EU implementation reports and, insofar as Article 8 of the Convention would cover the preparation of EU legislative acts, to the explanations on the ~~Commission's~~ Commission's impact assessment and Better Regulation schemes under Section XI.

XXV. Obstacles encountered in the implementation of Article 8

Describe any obstacles encountered in the implementation of Article 8.

Answer:

No indications.

³³ https://ec.europa.eu/environment/eia/pdf/EIA_rulings_web.pdf

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

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

Answer:

Further measures regarding proactive transparency early on in the risk assessment process in the area of food safety were introduced by the Transparency Regulation (EU) No 2019/1381, amending Regulation (EC) No 178/2002 on general food law as well as eight other sectoral acts, which [will be]/[are] applicable as of 27 March 2021. In that respect, it is noted that Article 41(1) of Regulation (EC) No 178/2002 as amended by the Transparency Regulation, provides among others that, where environmental information is concerned, Regulation (EC) No 1367/2006 of the European Parliament and of the Council would also apply. Directive 2003/4/EC of the European Parliament and of the Council on the other hand would apply to environmental information held by Member States, notwithstanding the rules on confidentiality provided in Regulation (EC) No 178/2002. In addition, the Management Board of the European Food Safety Authority was empowered to adopt practical arrangements for implementing Regulation (EC) No 1049/2001 and Articles 6 and 7 of Regulation (EC) No 1367/2006 by 27 March 2020, ensuring as wide access as possible to the documents in its possession. These practical arrangements have been adopted and are to be found at: <https://www.efsa.europa.eu/sites/default/files/documents/wp200327-a2.pdf>

This also involves the area of plant protection products. Studies supporting an application are to be notified and will be proactively made public; a public consultation will take place on the submitted studies.

There were more studies available on and greater involvement in the procedure on the renewal of active substance approvals for pesticides under Commission Implementing Regulation (EU) 2020/1740 of 20 November 2020. This Implementing Regulation sets out the provisions for implementing the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and repealing Commission Implementing Regulation (EU) No 844/2012.

Notifications on studies intended to be conducted to support a renewal application are to be submitted, and a public consultation must take place following such notification. Submitted studies must be notified and made public, and a public consultation on these studies must also take place.

All **draft** acts and review reports concerning decisions on active substances in plant protection products are also made available via the Comitology Register.

A large participatory process involving a wide range of stakeholders to define specific protection goals (SPGs) for non-target organisms for the environmental risk assessment was launched in 2018. For the provisions in Regulation (EC) No 1107/2009 of ensuring ‘no unacceptable effects on the environment and on biodiversity’, the objective is to translate these provisions into SPGs i.e. what, when and how long to protect if pesticides are used. The initiative builds on a method

developed by EFSA in 2010/2016³⁴ and takes into consideration relevant and recently available scientific knowledge.

~~There are no observations under this Section.~~

XXVII. Website addresses relevant to the implementation of Article 8

Give relevant website addresses, if available:

See the links provided in Section XI.

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

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

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

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

³⁴ [EFSA Panel on Plant Protection Products and their Residues \(PPR\); Scientific Opinion on the development of specific protection goal options for environmental risk assessment of pesticides, in particular in relation to the revision of the Guidance Documents on Aquatic and Terrestrial Ecotoxicology \(SANCO/3268/2001 and SANCO/10329/2002\). EFSA Journal 2010;8\(10\): 1821. \[55 pp.\]](#)

[EFSA Scientific Committee, 2016. Guidance to develop specific protection goals options for environmental risk assessment at EFSA, in relation to biodiversity and ecosystem services. EFSA Journal 2016; 14\(6\):4499. 50 pp](#)

- (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
- (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

As far as access to justice with respect to an action or omission of EU institutions and bodies is concerned:

The Treaty of Lisbon replaced Article 230 of the Treaty establishing the European Community with Article 263 TFEU. The rules of admissibility for natural or legal persons are now broader. Direct actions were widened so that natural or legal persons ~~could not~~ only challenge acts addressed to them or which ~~were~~ of direct and individual concern to them, but also a regulatory act which ~~was~~ of direct concern to them and ~~did~~ not entail implementing measures. For everyone whose rights and freedoms guaranteed by EU law are violated, Article 47 of the Charter provides for a right to an effective remedy and to a fair trial.

~~for everyone whose rights and freedoms guaranteed by EU law are violated.~~ Furthermore, Article 267 TFEU provides a means whereby national courts can put questions to the CJEU on the validity of EU legislation and acts. Accordingly, for measures that cannot be challenged directly before the EU Courts, it is possible to challenge the implementing measure, adopted at national level, and then raise an issue of legality of the underlying EU measure, which ~~has to be referred to by the national courts are obliged to refer~~ to the European Court of Justice, in case they would consider the EU measure to be invalid.

Definitions

Article 2 (1) of the Aarhus Regulation contains relevant definitions.

Article 3, paragraph 9

See the comments on the implementation of the non-discrimination principle in the context of Article 4 of the Convention.

Article 9, paragraph 1

Article 3 of the Aarhus Regulation refers to the Access-to-documents Regulation under which the following review procedure is available: According to Article 8, in case of a total or partial refusal of the requested documents, the applicant may make a confirmatory application asking the EU institution to reconsider its position. Failure by the institution to reply within the prescribed time-limit is considered a negative reply and entitles the applicant to institute court proceedings and/or to make a complaint to the European Ombudsman, under the terms of the Treaty. There are two pending cases that can be reported: joined cases T-554/20 and T-371/20 (Pollinis v Commission).

Article 9, paragraph 2

Article 9, paragraph 2, is not applicable ~~with regard~~ to EU institutions or bodies, since Article 6 of the Convention is not relevant in the absence of any permitting decision

taken by an EU institution or body with respect of the activities listed in Annex I to the Convention.

Article 9, paragraph 3

Title IV of the Aarhus Regulation (Articles 10 to 12) sets out the conditions under which an EU institution or body is required to review certain ~~of its~~ actions it has adopted (an 'administrative act'~~'administrative act'~~ under 'environmental law'~~'environmental law'~~), or to review its~~an~~ inaction.

~~A~~An NGO which meets the criteria set out in Article 11 of the Aarhus Regulation is entitled to make a request for internal review to the EU institution or body which adopted the administrative act.

According to Article 12 of the Aarhus Regulation, an NGO whose request for review was unsuccessful may institute proceedings before the EU courts in accordance with the relevant Treaty provisions.

The General Court, in its judgments of 14 June 2012 in Cases T-338/08, *Stichting Natuur en Milieu v Commission*, and T 396/09, *Vereniging Milieudefensie v Commission*, found that the right to administrative review by the EU institutions should also cover regulatory acts of a general nature rather than only of an individual scope (legislation is however exempt). In its appeal judgments of 13 January 2015 in Joined Cases C-401/12 P to C-403/12 P and Joined Cases C-404/12 P and C-405/12 P, the CJEU set aside the earlier judgments. The CJEU found that Article 9(3) of the Aarhus Convention lacks the clarity and precision for that provision to be relied on before the EU judicature for the purposes of assessing the legality of the Aarhus Regulation. The CJEU further stated that the obligations deriving from Article 9(3) of the Convention, as EU law currently stands, fall primarily within the scope of Member States.

Judgment of the Court (First Chamber) of 3 September 2020 – Mellifera v Commission (Case C-784/18 P) was delivered on the application of Regulation (EC) No 1367/2006.

In its judgment of 12 September 2019 in ~~A court case in appeal~~, Case C-82/17 P, TestBioTech e.a. v Commission (an appeal against the General Court judgment, ~~is pending~~ in Case 177/13 concerning ~~relation to~~ a request for review of a decision granting a market authorisation for products containing, consisting of, or produced from genetically modified soybeans), the CJEU upheld the General Court's dismissal of the action for annulment. The Court ruled that requests for internal review of an administrative act under the Aarhus Regulation must put forward facts or legal arguments of sufficient substance to give rise to serious doubts as to the assessment made in that act by the EU institution or body, and that the effects connected with the use of pesticides do not need to be examined as part of the procedure for authorising genetically modified food and feed under Regulation 1829/2003 which will further clarify judicial review.

Ruling was delivered in case C-281/16, Vereniging Hoekschewaards Landschap, judgment of 19 October 2017 Preliminary reference on validity of a Commission Implementing Decision pursuant to the Habitats Directive.

The judgment of 4 April 2019 in case T-108/17 (ClientEarth v COM) dismisses ClientEarth's application for annulment of Commission Decision C(2016) 8454 final

of 7 December 2016 rejecting ClientEarth's internal review request concerning Commission Implementing Decision C(2016) 3549 final. The judgment is under appeal, (see case C-458/19P). The matter concerns an authorisation for uses of bis(2-ethylhexyl) phthalate (DEHP) under Regulation No 1907/2006.

Two court cases are pending: Case C-458/19P, *Client Earth v Commission*, and Case T-436/17, *Client Earth and others v Commission*. These cases concern requests for internal review of two Commission decisions granting an authorisation for the use of certain substances under Regulation (EC) 1907/2006.

C-352/19 P (Région Bruxelles-Capitale vs. Commission): Judgment of 3 December 2020. The appeal brought by the Region against the judgment of the General Court, who had dismissed the application for annulment of a Commission Implementing Regulation renewing the approval of the active substance glyphosate under Regulation 1107/2009 as inadmissible, was dismissed.

Pending case (in 2020): T-496/20 – CRII-GEN and Others v Commission.

The Compliance Committee under the Convention previously found the EU to be in non-compliance with the Convention's access to justice provisions in case ACCC/C/32.

In September 2017, at the most recent Meeting of the Parties to the Convention, the EU declared that it will 'continue to explore ways and means to comply with the Aarhus Convention in a way that is compatible with the fundamental principles of the Union legal order and with its system of judicial review, taking into account concerns expressed within the Convention' (the Budva Declaration). The case will be discussed again at the next Meeting of the Parties to the Convention in October 2021.

In 2018, in its Decision (EU) 2018/881, the Council requested that the Commission submit the following, based on Article 241 of the Treaty on the Functioning of the European Union (TFEU): (i) a study on the EU's options for addressing the findings, by 30 September 2019; and (ii) a proposal to amend the Regulation (or to inform the Council of other measures), by 30 September 2020. On 10 October 2019, the Commission published a detailed external study on the functioning of access to justice in environmental matters in relation to acts and omissions of EU institutions and bodies, as well as the options for improving the current situation. This included a detailed examination of the administrative reviews carried out by the Commission under the Regulation. Based on this study, the Commission services published a report on the EU's implementation of the Convention in the area of access to justice in environmental matters.

Both the study and the report took account of the Committee's findings but were broader in scope; both addressed the findings in the context of the fundamental principles of the EU legal order and its system of judicial review, in line with the Budva Declaration, and in the context of the rights enshrined in the Charter of Fundamental Rights of the European Union (the Charter). In the Communication on the European Green Deal, which followed on 11 December 2019, the Commission committed to 'consider revising the Aarhus Regulation to improve access to administrative and judicial review at EU level for citizens and NGOs who have concerns about the legality of decisions with effects on the environment' and to 'take action to improve their access to justice before national courts in all Member States'. The European Parliament, in its resolution of 15 January 2020 (2019/2956(RSP)) on the European Green Deal, reiterated that 'it is essential to guarantee EU citizens the

genuine access to justice and documents enshrined in the Aarhus Convention’; called on the Commission to ‘ensure that the EU is complying with the Convention’ and welcomed the Commission’s consideration of revising the Regulation.

On 14 October 2020, the Commission adopted the Aarhus package consisting of the Commission Proposal to amend the Aarhus Regulation and the Communication on Access to Justice in response to the Aarhus Convention Compliance Committee findings and the call by the Council (in its Decision (EU) 2018/881).

The proposal’s aim is to revise the mechanism created in 2006 enabling NGOs to request an administrative review of administrative acts and omissions of EU institutions and bodies. The proposal therefore seeks to improve the implementation of the Aarhus Convention following the adoption of the Lisbon Treaty and to address the concerns expressed by the Aarhus Convention Compliance Committee (the Committee) regarding the EU’s compliance with its international obligations under the Convention. This is to be done in a way that is compatible with the fundamental principles of the EU legal order and with its system of judicial review and would lead to the following changes:

- Acts of general application could be challenged; currently only individual decisions can be challenged.
- The scope will be broader as it will cover decisions and omissions that contravene environmental law.
- NGOs would have longer deadlines to raise a case and the Commission would have longer deadlines to reply.

The Environmental Council adopted the General Approach on 17 December 2020. The objective is to present the results of the legislative process the next Meeting of the Parties to the Convention in October 2021.

Article 9, paragraph 4

Reference is made to the earlier EU implementation reports, where the procedural guarantees are outlined.

Article 9, paragraph 5

Article 1(2) of the Aarhus Regulation provides that EU institutions and bodies shall endeavour to assist the public with regard to access to justice in environmental matters.

As far as access to justice with respect to an action or omission of Member States’ authorities is concerned:

For relevant definitions, see Article 2 of the Environmental Information Directive, Article 1(2)(e) of the EIA Directive, Article 1(1)(17) of the Industrial Emissions Directive and Article 3(18) of the SEVESO III Directive.

Article 3, paragraph 9

See the comments made ~~on with respect to~~ the implementation of Article 3, paragraph 9 in the context of Article 4 of the Convention.

Article 9, paragraph 1

Article 6 of the Environmental Information Directive provides for access to justice concerning requests for information. There is equally a right to administrative and

judicial review of acts or omissions in relation to requests for information under the SEVESO III Directive.

Article 9, paragraph 2

Article 11 of the EIA Directive, Article 25 of the Industrial Emissions Directive and Article 23 of the SEVESO III Directive ~~contains/foresee~~ provisions on access to justice ~~forrelating to~~ projects.

The case law developed further during the reference period. The following cases can be mentioned in particular:

All the rulings delivered by the Court of Justice of the EU are summarised in the Notice on access to justice.

Rulings in 2017

Case C-664/15, Protect Natur, judgment of 20 December 2017, a preliminary reference touching on the Water Framework Directive (WFD) and addressing the legal standing of NGOs.

Rulings in 2018

Case C-470/16, North East Pylon, judgment of 15 March 2018, a preliminary reference addressing effective remedies and the concept of not prohibitively expensive procedures.

Case-167/17 Klohn, judgment of 17 October 2018, a preliminary reference in the context of the assessment of the effects of certain projects on the environment addressing the requirement for a procedure which is not prohibitively expensive.

Rulings in 2019

Case C-723/17 Craeynest and others, judgment of 26 June 2019, a preliminary reference in relation to Directive 2008/50/EC and assessment of air quality addressing judicial review: intensity of the review.

Case C- 197/18 Prandl and others, judgment of 3 October 2019, a preliminary reference in relation to Directive 91/676/EEC, protection of waters against pollution caused by nitrates from agricultural sources addressing rights of individuals to have such a programme amended and locus standi before the national authorities and courts.

Case C- 280/18 Flausch and others, judgment of 7 November 2019, a preliminary reference in the context of assessment of the effects of certain projects on the environment addressing public participation in decision-making and access to justice.

Case C- 752/18 Deutsche Umwelthilfe eV, judgment of 19 December 2019 (Grand Chamber), a preliminary reference under Directive 2008/50/EC and air quality planning addressing appropriate remedies by authorities and the judiciary.

Rulings in 2020

Case C-105 to C-113/18 a judgment of 7 November 2019 in a reference for a preliminary ruling for interpretation of the Polluter pays principle set out in Directive 2000/60/EC

Case C-535/18 Judgment of 28 May 2020 in a request for a preliminary ruling from the Bundesverwaltungsgericht Others v Land Nordrhein-Westfalen). This case concerns interpretation of the Aarhus Convention, Directive 2011/92/EU, namely in relation to public participation in the decision-making process and access to justice before the national courts.

Article 9, paragraph 3

There are several EU instruments that facilitate access to justice in general and which also apply in the environmental field, such as the [Mediation Directive](#) 2008/52/EC in civil and commercial matters.

The [Brussels I Regulation](#) 1215/2012 (recast) entered into force on 10 January 2015. It provides for international jurisdiction of EU courts in civil and commercial cases, such as civil liability actions that may be covered by Article 9 of the Convention. The new Regulation abolishes exequatur (for getting judgments recognised in other Member States) and thus facilitates the recognition and enforcement of judgments in civil and commercial, including environmental matters, in other Member States.

The [Commission Recommendation on Collective Redress](#) 2013/396/EU recommends Member States to put in place injunctive and compensatory collective redress mechanisms. The aim is to facilitate access to justice, stop illegal practices and enable injured parties to obtain compensation in mass harm situations caused by violations of rights granted under Union law, including in the environmental field.

Provisions on access to justice are also contained in sectorial legislation, as in Article 13 of the [Environmental Liability Directive](#) 2004/35/EC (ELD Directive), Article 23 of the SEVESO III Directive and in the [Ship Recycling Regulation](#) 1257/2013 (Recital 18 and Article 23).

The ELD ~~Directive~~ aims at preventing and remedying environmental damage based on the polluter-pays principle. Natural and legal persons affected or likely to be affected by environmental damage or having a sufficient interest as NGOs promoting environmental protection and meeting any requirements under national law are entitled to request the competent authority to take action in case of environmental damage or imminent threat of such damage. These parties ~~have~~ also have access to a court or independent and impartial public body to review the procedural and substantive legality of the ~~aforementioned~~ decision, act or failure to act of the competent authority in observed instances of environmental damage. The ELD Directive has recently been subject to REFIT evaluation. The Commission published the [ELD Report](#) 2016, with the annexed [ELD REFIT Evaluation](#).

On 16 December 2020, the European Parliament formally adopted the revised Drinking Water Directive. The Directive entered into force on 12 January 2021. It makes a reference to effective access to justice and the Aarhus Convention.

Rulings in 2017

Case-529/15 Folk, judgment of 1 June 2017 on a request for a preliminary ruling under the Environmental Liability Directive (ELD) and touching upon access to justice and legal standing of individuals.

Rulings in 2020

Bundesverband der Landwirte v. Land Nordrhein-Westfalen in the context of Directive 2000/60/EC. EU action in the field of water policy on the right of individuals to take measures in order to prevent pollution.

Article 9, paragraph 4

Article 6(1), last sentence, of the Environmental Information Directive concerns administrative review procedures on access to information.

Article 11 of the EIA Directive, Article 25 of the Industrial Emissions Directive and Article 23 of the SEVESO III Directive equally include procedural guarantees such as standing rights or requirements for timely and not prohibitively expensive procedures.

Article 19(1) TEU incorporates the principle of effective judicial protection into the Treaty: *“Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by EU law.”*

Article 9, paragraph 5

Article 4(5) of the Environmental Information Directive, Article 11 of the EIA Directive, Article 25 of the Industrial Emissions Directive and Article 23 of the SEVESO III Directive stipulate that foresee practical information is to be made available to the public on review procedures.

The European e-Justice Portal, launched in 2010, is an electronic ‘one-one-stop shop’ for information on European justice and access to European judicial procedures. It provides a single entry point for all justice-related questions and online procedures on criminal, civil or administrative law. It is targeted at different groups of users such as citizens, lawyers, judges, national authorities and businesses. Member States’ States’ provisions on access to justice for environmental matters are incorporated in the site.

The ‘Cooperation’ Cooperation with judges programme’ programme’, is a forum for discussion with Member States’ States’ judges on the application of EU legislation, including access to justice rules in environmental matters, in the national legal orders. The programme is ongoing; to date, several seminars and events have been organised. The material produced and delivered during the seminars can be freely used by national training centres to disseminate information for Member States’ States’ judges.

The European Commission adopted a Notice on access to justice in environmental matters in 2017 (2017/C 275/01). It is Planned initiatives:

The European Commission is planning to adopt an Interpretative Communication on access to justice in environmental matters in 2017 (to recall, this report covers developments until end 2016). It would be based on existing provisions of EU secondary law, international obligations stemming from the Aarhus Convention and case-law of the CJEU. Member States which do not as yet fulfil the existing obligations will be helped to make changes in their national legislation. A guidance

document ~~aims will aim~~ at providing a clear idea of what the Commission expects at national level based on the current rules. Updates are provided to the Notice in relation to developments in the case law of the Court between 2017-2020 covering the main relevant CJEU rulings.

In its Communication on Access to Justice in environmental matters, the Commission announced four priority areas to safeguard the rights of individuals and NGOs: (i) Member States are to improve transposition of EU law; (ii) co-legislators are to include provisions on access to justice in EU legislative proposals; (iii) Member States are to remove obstacles barring access to justice in national legal systems; and (iv) national courts are to guarantee the rights of individuals and NGOs to an effective remedy under EU law.

The Communication also highlighted the need to improve the monitoring of rules on access to justice in Member States. To facilitate this, an update process was launched to cover all access to justice rules in Member States on the Commission's eJustice-portal likely to be concluded in 2021.

XXIX. Obstacles encountered in the implementation of Article 9

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

Answer:

Pending compliance cases against the EU in the ambit of Article 9 are published on the UNECE website.

As regards the implementation of Article 9(2) and (4) from the perspective of transposition and implementation of EU law, the Commission examined Member States' systems, in particular on standing, costs and scope of review. As a result, the Commission brought infringement actions, based on Article 258 TFEU, against some Member States. Assessment of implementation of Article 9(3) by Member States is ongoing.

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

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

Answer:

Access to justice issues are covered by the country reports prepared in the context of the Environmental Implementation Review (EIR). The EIR is a tool to improve implementation of EU environmental law and legislation (,—see http://ec.europa.eu/environment/eir/country-reports/index_en.htm).:-

As for EU courts and further detailed already in earlier EU implementation reports, proceedings before the General Court and the CJEU are in principle free of charge.

The unsuccessful party may be ordered to pay the costs if they have been applied for in the successful party's pleadings. Legal aid is available.

As ~~forte~~ case-law of the CJEU related to Article 9 of the Aarhus Convention, reference is made to the earlier EU implementation reports ~~and, with the above relevant sections following update:~~

- ~~• Remedies: Case C 404/13, ClientEarth. The Supreme Court of the UK has asked the CJEU what remedies a national court must provide (if any) in the event of non-compliance with the Air Quality Directive. The CJEU held that national courts must "take any necessary measure, such as an order in the appropriate terms, so that the appropriate authority reaches compliance (in this case to establish the plan required by the Air Quality Directive) to ensure, in particular, that the period during which the breach (i.e. limit values are exceeded) is as short as possible".~~
- ~~• Standing rights of individuals: Case C 570/13, Gruber. The case concerns a neighbour's right to challenge an administrative decision not to carry out an EIA (negative screening decision). The CJEU first examined the standing of a 'neighbour': The Court held that Member States' discretion to determine what constitutes 'sufficient interest' or 'impairment of rights' of an individual to bring a legal action against a decision, act or omission brought within the scope of the EIA Directive, cannot be interpreted restrictively. It concluded that 'neighbours' may be part of the 'public concerned'. The Court then examined whether the 'public concerned' has a right to challenge a negative screening decision. The CJEU found that restricting the 'public concerned' from challenging negative screening decisions is incompatible with Article 11 of the EIA Directive. Based on the ruling, Member States have the choice to allow a court action launched by an individual and an environmental NGO against the negative screening decision itself, or against a subsequent development consent decision.~~
- ~~• Standing rights of NGOs: In Case C 243/15, Lesoochránárske zoskupenie VLK, the CJEU dealt with a request for a preliminary ruling by the Slovak Supreme Court related to access to justice and public participation in the context of the Habitats Directive 92/43/EEC. An environmental NGO requested to be admitted as a party to the administrative procedure for the approval of a project within a Natura 2000 site. According to the applicable national law, the status of a party is a precondition for asking for review. The NGO challenged the refusal to participate in the procedure as party before the national court. The CJEU found that the national procedural law does not meet the requirements of a fair and effective trial as required by Article 9 of the Aarhus Convention. Thereby, the CJEU opened up the scope of Article 9(2) of the Aarhus Convention for cases related to Article 6(3) of the Habitats Directive.~~
- ~~• Scope of review, standing: Case 137/14, Commission v. Germany. The ruling concerns an infringement action by the Commission, raising several complaints against national administrative procedure rules restricting the access to justice rights vested in the EIA Directive and the Industrial Emissions Directive.~~

~~On the scope of review, the CJEU found that the rule according to which a national court will annul an unlawful administrative act only in so far as 'as a consequence' a claimant's 'rights have been infringed' is a derivative of the Member State's discretion to limit the access to a review procedure to individual 'maintaining the~~

~~impairment of a right' and is therefore not infringing Article 11 of the EIA Directive and Article 25 of the IED.~~

~~The CJEU further held that it is against Article 11 of the EIA Directive to limit the annulment of decisions only to situations where there is a total absence of mandatory EIA or screening, excluding review of procedures where EIA or screening was carried out but suffers from procedural defects. The CJEU further found that the annulment of decisions is unlawfully limited by a national rule placing a burden of proof on the applicant that there is a causal link between the procedural defect and the outcome of the administrative decision.~~

~~As to the question of whether objections not raised in administrative procedures can be excluded in subsequent legal procedures, the CJEU found that such a national rule is restrictive and cannot be justified by the reasons of legal certainty and procedural efficiency.~~

~~Finally, the CJEU found that national laws, adopted in order to rectify an infringement of the EU legislation, but limited in their temporal scope only to procedures initiated after their entry into force, and not referring to all procedures initiated after entry into application of Article 11 of the EIA Directive and Article 25 of the IED, cannot be justified by the concept of *res judicata*. The CJEU found that it is contrary to Article 11 of the EIA Directive and Article 25 of the IED to exclude from the scope of review administrative procedures initiated before entry into application of these provisions but in which the development consent was granted after that date.~~

~~Costs: Case C 543/14, *Ordre des barreaux*. In the context of this case, the CJEU held that paragraphs 4 and 5 of Article 9 of the Aarhus Convention, by their nature, cannot be relied on for the purposes of assessing the validity of secondary EU legislation (see notably paragraphs 53 and 56).~~

~~Furthermore, in Case T 177/13, under appeal in the above mentioned Case C 82/17P, the General Court confirmed earlier case law on the evaluation whether proceedings are prohibitively expensive within the meaning of Article 9(4) of the Aarhus Convention. The General Court held that the cost of proceedings must neither exceed the financial resources of the person concerned nor appear to be objectively unreasonable.~~

XXXI. Website addresses relevant to the implementation of Article 9

Give relevant website addresses, if available:

http://curia.europa.eu/jcms/jcms/Jo1_6308

<https://e-justice.europa.eu/home.do?action=home>

<http://ec.europa.eu/environment/aarhus/consultations.htm>

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

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

Answer:

The implementation of the Aarhus Convention helps in ~~contributes to the~~ further developing~~development~~ of EU environmental legislation relating to the three pillars of the Convention, as indicated in the ~~above~~ sections above.

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

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

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

(vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organised pursuant to paragraph 1 of annex I bis;

(viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

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

Answer:

The EU ratified the Amendment to the Convention related to GMOs on 18 December 2006, by [Council Decision 2006/957/EC](#).

The relevant EU legislation governing GMOs consists in particular of Directive 2001/18/EC on the deliberate release into the environment of GMOs ([GMO Directive](#)) and [Regulation 1829/2003 on genetically modified food and feed](#). Their provisions on access to information and public participation in decision-making on GMOs are consistent with the amendment to the Convention.

In cases of notifications for the placing on the market of GMOs, Article 24 of the GMO Directive provides that the Commission shall make available to the public the summary dossier that accompanies those notifications. It also requires the Commission to make available to the public the assessment report issued by the competent Authority of the Member State that received the notification. The public may make comments on the summary dossier and on the assessment reports to the Commission within 30 days. The Commission shall immediately forward the comments to the competent Authorities. Finally, the assessment reports and the opinions of EFSA for all GMOs which have received written consent for placing on the market or whose placing on the market was rejected shall be made available to the public.

Article 9 of the GMO Directive provides that Member States are to consult the public on the proposed deliberate release of GMOs into the environment for any other purpose than for placing on the market. In doing so, Member States must lay down arrangements for this consultation, including a reasonable time period, to give the public the opportunity to express an opinion. Member States are to make available to the public information on all intentional releases of GMOs into the environment in their territory; the Commission is to make available to the public the information contained in the system of exchange of information established in the EU.

In accordance with Article 31(2) of the GMO Directive, information on genetic modifications in authorised GMOs is listed in a public register available on the website of the Joint Research Centre.

Article 25 of the GMO Directive specifies certain information in notifications which may not be considered as confidential.

According to the Regulation on genetically modified food and feed, EFSA is to make available to the public a summary of the application for authorisation of placing on the market of GM food (Article 5(2)(b)(ii)). Similarly, when delivering its opinion,

the Authority must make it public, after deletion of any information identified as confidential (Article 6(7)). The public may make comments to the Commission within 30 days of such publication. A similar procedure applies in case of modification, suspension and revocation of authorisations (Article 10(1)). Similar provisions also exist with regard to the authorisation of GM feed (Articles 17(2)(b)(ii), 18(7) and 22(1)). Authorised genetically modified food and feed is entered into a public register. Article 30 of the Regulation specifies which information may or may not be considered ~~as~~ confidential (Article 28).

Article 30 of the Regulation specifies certain information in applications which may not be considered ~~as~~ confidential.

~~On As regards~~ the right for public access to documents, Article 29 of the Regulation provides that the application for authorisation, supplementary information from the applicant, opinions from the competent Authorities, monitoring reports and information from the authorisation holder are to be made accessible to the public in accordance with the principles of the Access-to-documents Regulation.

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

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

Answer:

No information is presented under this heading.

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

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

Answer:

No further information is indicated in addition to the above comments.

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

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

Answer:

http://ec.europa.eu/food/index_en.htm

http://ec.europa.eu/food/plant/gmo/authorisation/authorisation_applications_1829-2003_en.htm

<http://www.efsa.europa.eu/en/faqs/faqgmo.htm>

<http://www.efsa.europa.eu/en/panels/gmo.htm>

<http://gmoinfo.jrc.ec.europa.eu/>

http://ec.europa.eu/food/dyna/gm_register/index_en.cfm

XXXVII. Follow-up on issues of compliance

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

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

Answer:

~~By In June 2014 in Maastricht, by~~ Decision V/9g, the Meeting of the Parties (MOP) in Maastricht in June 2014 endorsed the findings of the Aarhus Convention Compliance Committee (ACCC) that the EU had failed to comply with the Convention with regard to Communication ACCC/C/2010/54 in relation to the National Renewable Energy Action Plan (NREAP) in Ireland, ~~that the EU has failed to comply with the Convention.~~ The EU was recommended to “adopt a proper regulatory framework and/or clear instructions for implementing ~~Article~~ article 7 of the Convention with respect to the adoption of NREAPs.”

In a follow-up to MOP Decision V/9g, the EU submitted ~~three~~³ progress reports in December 2014, October 2015 and October 2016, ~~outlining where it outlined~~ its measures to adopt clear instructions for implementing Article 7 of the Convention in relation to NREAPs in the Member States. The Commission formally reminded Member States of their obligations under the Aarhus Convention and secured the possibility to properly monitor the implementation of these requirements, through the assessment of the NREAPs. The ~~Commission's~~^{Commission's} Communication on a Framework Strategy for the Energy Union, adopted on 25 February 2015 (COM(2015)80), stipulates foresees that the Energy Union needs an integrated governance and monitoring process to streamline planning and reporting requirements in order to ensure full compliance with the Aarhus Convention requirements.

Updates on ACCC/C/2017/3 are provided in the above relevant sections.

At the 6th MoP, which took place in Budva, Montenegro, from 11 to 14 September 2017, the Commission reaffirmed its earlier commitment to implement Decision V/9g. Following the 6th MoP, the EU reported on the evolution of the measures taken to address the recommendations in V/9g as regards communication ACCC/C/2010/54 in October 2018, 2019 and 2020.

In particular, the Commission informed the Committee about the entering into force of Article 10 of the Governance Regulation³⁵ relating to public involvement in the preparation by Member States of National Integrated Energy and Climate Plans (NECPs) and about its work in assisting Member States in respecting their obligations under the Aarhus Convention in the context of such provision.

³⁵ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action.

Indeed, in 2019 the Commission provided guidance and advice to Member States on how to adhere to their obligations for public participation at the dedicated website of the Commission for the NECPs, highlighting the advice provided by the ACCC on 28 May 2019 and the importance of effective arrangements for public participation in relation to the NECPs.

Moreover, the Commission incorporated in its assessment of the 27 Member States's NECPs, how they had involved the public in the preparation of NECPs in order to ensure traceability and visibility to how Member States have addressed their obligations under the Aarhus Convention.

The EU's implementation ~~by the EU~~ of Decision V/9g is publicly available, with all relevant supporting documents, ~~onis publicly available at~~ the UNECE website (-see [EU Decision V/9g](#)).