

**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 Federal
Authority, the Brussels-Capital Region, the Walloon Region and
the Flemish Region of the Kingdom of Belgium in accordance
with decisions I/8, II/10 and IV/4.**

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submitting the national report:

Joseph van der Stegen

Signature:

Date: XX December 2016

Implementation report

Please provide the following details on the origin of this 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: In Belgium the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is a “joint” convention, meaning that several authorities are responsible for implementing it : the federal authority and the three federal entities (Walloon Region, Brussels-Capital Region and Flemish Community). Each authority therefore replied internally to this report on matters within its own remit.

This document is a synthesis of all four Belgian reports. Belgium considers it not as its official report but only as a document reflecting the major new points emerging in the fourth reporting cycle reports.

This fourth national report was coordinated by the Aarhus network which decided to hold two types of consultation: firstly, a coordinated national consultation of the four major federations active in the field of environment in Belgium (which therefore covers all the Belgian reports) and, secondly, a public consultation by each authority on its own report.

- A letter was sent by the federal authority to the NGO’s informing them about the national public consultation (the federal + the 3 regional ones).
- The public consultation was organised separately by each authority but also on the national portal by the Federal authority (national node) www.aarhus.be.

Results of the public consultation:

1. Federal authority: summary of the comments received by the four federations of NGOs for environmental protection as well as by Greenpeace Belgium.

The 4 Belgian federations of associations active in the field of environment protection¹ (IEW, BBLv, IEB and Bral) submitted joint comments on the federal draft implementation report. NGO’s reaction are largely based on previous comments communicated for past reports and remain in general valid. The focus is thus on new comments made or on those reiterated but of major importance with regard to this new implementation report.

Greenpeace Belgium submitted comments on the implementation of the access to information pillar:

- The Federal Appeal Commission was unable to work for several months in 2016 due to the lack of renewal in time of the mandate of its members. This situation is extremely harmful for the functioning of the right to access to information as appeals from Greenpeace and other citizens could not been dealt in time.
- Greenpeace deeply regrets and challenges the restrictive interpretation made by

¹ Opinion of the four regional environmental protection federations on the federal draft report on the implementation of the Aarhus Convention – 9 November 2010.

the federal authority when considering access to information relating to the EUTR Regulation (timber).

No other comments from the public were received.

The complete comments are available on line on www.aarhus.be. Here is a sum-up of the main points of the 4 federations:

Structure and method of reporting

Unchanged comments compared to the previous report

General provisions

- NGO's deeply regret that in 2016 the federal financial support decreased by 10%. Stable and appropriate financial support is indeed the prerequisite for active involvement of NGO's in the various consultative processes in environment happening in Belgium.
- As far as awareness and communication campaigns are concerned, the different initiatives taken at federal level continue to show a real involvement of the public authority to better communicate to the public on their environmental rights and the environment;
- There has been improvement in making the raw information available to the public, like for pesticides. Still, some important information is not yet made actively public by the authority (cf. figures related to the numbers of products placed on the market, reports of the 'Acceptance' Committee).
- The updating of the web portal of the FPS Health and Environment is very much appreciated.

Pertaining to access to information

- Opacity remains on access to information in certain fields of activity like in the nuclear sector.
- There is a real improvement in making public on the website some studies commissioned by the public (cf. biocides, nanomaterials). However there is still room for improvement as publication is not made automatically for all studies. The fact that the new federal website provides space for such studies is commendable.
- The federations would support would support to create one single law on access to information at federal level. To establish a unique regime would allow the same legal protection to all kind of information, notwithstanding they are or not environmental information, and would overcome the difficulty that it is sometimes hard to differentiate between environmental information and non-environmental information.

Pertaining to public participation

- Low mobilisation rate of the public during federal public consultation is still remarkable and raises a number of questions, especially, on the manner these consultations are publicised among citizens. Measures must be taken to stimulate participation of citizens in decision-making, at the federal, regional as well as local levels.

Pertaining to access to Justice

- The third pillar concerning access to justice is still considered to be a field where significant improvement must be made. NGO's continue to deeply regret the fact that despite several legislative initiatives, none of them have succeeded yet.
- In case ACC/C/2014/111 currently before the Compliance Committee, NGO's would like to underline the following :

- Legal fees are high (they are submitted to a 21% VTA since 1/1/2014) and have an impact on the budget of NGO's;
- Legal costs in general make access to justice difficult to NGO's while their role in contributing to the protection of the healthy environment has been recognized by the Constitutional Court as very important.
- Legal statistics must be precise and complete: not only the number of cases introduced must be made known, but also information regarding the outcomes of various cases must be available.

2. Walloon Region: Summary of the comments made by the Walloon federation of NGOs for environmental protection (Inter-Environnement Wallonie - IEW)

IEW welcomes the public consultation on the report even though it regrets its rigid format. It is of the opinion that the Walloon legislation on access to information and public participation is of good quality but that improvements in terms of implementation are possible.

Article 3 of the Convention: IEW expresses some concerns as regards funding of environmental NGOs. It supports the on-going reform of the consultative process in the Walloon Region although it thinks that it could be more ambitious to better take into account environmental issues.

Access to information: IEW points out that the practical modalities for accessing to environmental information could be improved. It calls for more awareness-raising on the legislation, in particular for local authorities.

Public participation: IEW thinks that, in certain cases, the public should have his say on the decision or not to organize a public consultation and that the relation between the authority and the citizen could be improved.

Access to justice: IEW calls for more coherence of the legislation as regards appeal procedures regarding permits.

3. Flemish Region:

No remarks were received.

4.Brussels-Capital Region:

Three documents were sent by the public: one from an individual, one from an NGO and a common one from 15 citizens. Specific points raised were mainly as follows:

General provisions

The NGO raises the importance of predictable funding in the long term, allowing them more political independence.

Access to information

Call for more systematic :

- Timely communication of documents;
- More systematic electronic access to documents;
- Accurate justification for access denial (implying systematic answer from the authority);
- Reporting about access to documents statistics from all authorities (not only the administration of environment);
- Publication of the decisions from the regional commission for document access;

- Transparency, disclosure of all documents forming a file.
- Circulation of studies.

Public participation

The following should be reviewed:

- Too short consultation period ;
- Clearer field display when opening of a public participation procedure;
- Communication to the public for a better understanding of matters subject to consultation (i.a. through trainings and public education to relevant material to allow participation of a more diverse audience);
- Presentation of projects (more oral presentations, including from developers, for a better accessibility);
- Taking into account of the results of the public participation in the final decision;
- Surveys should be systematically carried out by professional experts;
- Tendency to split a project in several sub-projects;
- Necessity to consult two files in case of a mixed project (building and environment permit);
- Proactive continuous information for people who took part in the public consultation;
- It is also noted that the consultative environment organ that issues opinions on draft legislations, is not exclusively composed of environmental sector representatives but also other affected sectors. Its non-binding advices are therefore the result of a compromise.

Access to justice

For the third pillar, it is referred to the observations made in the federal report.

The full text of IEB comments is available on the website www.aarhus.be

II. Particular circumstances relevant for understanding the report

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

Answer: § unchanged in comparison with previous reports

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

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

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

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

Answer:

Federal authority:

a)

A new law relating to public access to information on environmental matters came into existence on 5th August 2006. Within its framework, a special information desk for the public was set up and is still working but as second-line since the general Contact Center of the FPS became first-line service for the public since 2012. Specific helpdesks for firms have also been set up in 2011 in order to respond to particular requests they might have in relation with their activities.

b)

New awareness campaigns and educational aids on various subjects that come under the Federal State's environmental remit have been developed since 2013.

c)

Financial support to NGO's decreased slightly in 2016 (10%).

In accordance with the Aarhus Convention, environmental protection associations have legally the right to participate as members of the public during the decision-making process with relation to plans and programmes.

d)

Unchanged § in comparison with previous reports.

e)

Unchanged § in comparison with previous reports.

Walloon Region:

a)

The Civil Service Code (Book I, Title 1, Art. 2) stipulates that the officials from Public Service of Wallonia are required to observe the laws and regulations that are in effect as well as the Charter of Good Administrative Behaviour.

One of the main tools of this policy is the website, which provides the public with a full range of information related to the environment in Wallonia.

b)

The Environment Code (Book I, Part III, Title II) made it possible to set up a string of Regional Environmental Initiation Centres (CRIEs) for the purpose of promoting general knowledge of the environment in the public at large.

The DGARNE and minister in charge of environmental affairs often conduct various environmental awareness-raising campaigns. In addition, they provide financial, technical and/or logistic support (e.g., housing websites) to various activities carried out by NGOs or the public authorities to raise environmental awareness.

c)

Several advisory boards have been set up by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development (CWEDD), water policy (Water advisory Commission), etc.. If the public authority does not heed these opinions, it must give in some cases the reasons for this. These commissions are composed of representatives of the region's business federations, trade unions, associations, and NGOs.

Several framework agreements link the DGARNE to various bodies representing civil society.

The minister in charge of environmental affairs and DGARNE subsidize a series of

NGOs each year via the budget act.

d)

Belgium has promoted for a long time stakeholders participation in important multilateral events.

As a rule, the Foreign Ministry or a representative of one of the federal or regional authority heads the Belgian delegation.

In matters that come under the region's jurisdiction, Wallonia strives to ensure that NGOs are informed and participate through prior internal coordinating activities

e)

Labour laws and the principles of the Constitution (freedom of expression) are federal powers. See the Federal Government's report (<http://www.belgium.be>)

Brussels Capital-Region:

a)

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- **The Info-environment service** centralises all information requests, either by telephone or e-mail.
 - **Reception of the public for consultation of certain documents (permits, incident studies, etc.)** is organised **directly in certain departments.**
 - **Training in communications for civil servants who deal with the public, i.e. park wardens, provides information to the public concerning the parks or the environment in general.**
 - **Consultation of the public via representative organizations on the Brussels Environment Council, that issues opinions on draft legislation as well as on draft plans and programmes adopted by the Brussels government.**
 - **Information on the right of appeal accompanies all administrative decisions according to article 10 Ordinance of 18 March 2004 on access to environmental information**

b)

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- **General awareness tools: a free monthly newspaper** (via subscription or Web site), **a very complete Web site** (information for the public or businesses), many free **publications** for the public at large or on scientific topics (often free-of-charge), the annual organization of the **Environment Festival** (an event open to the public, with many environmental professionals in attendance. Counting more than 100 info stands and more than 20,000 visitors each year).
 - Raising awareness in school: information for teachers and school managers through training, a newspaper, a mailing list information, and the website of Brussels Environment - part of which is devoted entirely to educational information made available to schools. Creation and provision of educational tools ready to use (books for teachers, parents and students ...). Activities in primary schools, secondary schools and colleges.
 - Awareness Tools Business: a quarterly journal of information and a

monthly electronic newsletter for professionals are available free by subscription or on the website – part of which is entirely devoted to information for professionals. Specialists (energy, green building, etc..) called “Faciliators” are also made available to the public. Brussels Environment also awards the “Eco-dynamic company” label to businesses that get involved in a voluntary environmental management plan.

- **Seminars, workshops and training sessions**, either for the public or a group of specialists or companies are regularly organised by Brussels Environment.

c)

- **The Environment Council of the Brussels Capital Region (ECBCR)**, on the initiative of the regional government or the Brussels environment Minister, has the task of issuing a reasoned opinion on any regional topic dealing with the environment (Decree of 15 March 1990).
- **Subsidies are granted to association active in environmental matters** for information missions relating to energy, social economy and in order to organize activities focusing on nature education.

d) No particular measures were taken by the region.

e) The constitutional guarantees are being observed.

Flemish Region

(a) The principle of customer-friendly service and assistance is incorporated in the code of professional conduct.

(b) Every public authority has to inform the public about the rights on access to information. Within the Environmental Administration, a specific service continues working on citizen’s responsibility regarding nature and environmental issues.

(c) The recognition and subsidisation of environmental associations is regulated by law.

(d) The international environmental policy is coordinated at the Flemish and the Belgian level by permanent bodies.

(e) See Articles 19 and 23 of the Constitution.

IV. Obstacles encountered in the implementation of article 3

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

Answer:

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

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

Answer:

Federal authority:

The federal web portal (now: www.environment.belgium.be) has been deeply updated. The national Aarhus node www.aarhus.be launched in 2006 offers general information relating to the Aarhus Convention and its implementation in the European Union and Belgium. In March 2007, this website was voted “Best National Node (2007) of the Aarhus Clearinghouse Mechanism”.

In 2016, www.aarhus.be has been renewed

A specific website exists for what concerns the Federal Appeal Commission on access to environmental information: www.documentsadministratifs.be.

Brussels Capital-Region:

There is a pre-existing legal framework in light of: (1) ordinances on access to information, disclosure of administrative acts, regular publication of the state of the environment, etc. (2) www.brusselsenvironment.be, (3) the organization of public surveys on draft environmental plans and impact studies (4) consultation on the granting of certain environment permits issued jointly with building permits.

Flemish Region :

The principles of the Convention were explained in great detail during various info sessions.

Walloon Region :

The Walloon Region organizes public events to raise awareness on environmental issues when appropriate (a.o. event on the new Air, Climate, and Energy Plan in 2016).

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

- www.environment.belgium.be
- <http://www.aarhus.be>
- www.belgium.be
- <http://environnement.wallonie.be/>
- Décret du 23 janvier 2014 relatif à la reconnaissance et au subventionnement des associations environnementales : <http://environnement.wallonie.be/legis/general/partpublic003.htm>
- Etat de l'environnement wallon : <http://etat.environnement.wallonie.be/>

- <http://www.reachinbelgium.be>
- www.info-abeilles.be
- www.biocides.be
- www.lne.be/themas/regelgeving/aarhus
- www.brusselsenvironment.be

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:

Federal authority:

a) Paragraph unchanged.

b) Paragraph unchanged.

c) Paragraph unchanged.

d) Paragraph unchanged.

e) Paragraph unchanged.

f) Paragraph unchanged.

g) Paragraph unchanged.

Walloon Region:

Access to environmental information in Wallonia is governed by decree since 1991 and has been recently reinforced by the decree of 16 March 2006 and the decree of 31 May 2007 amending the Environment Code. This decree fully transposes European Directive 2003/4/EC of 28 January 2003 on public access to environmental information into regional law.

The terms “public authority” and “environmental information” are defined therein in compliance with the Convention.

a) Access to information shall be given, as the applicant prefers but subject to the conditions set in Art.4.1.b of the Convention, via on-site consultation, free of charge, or either the delivery of copies or by email, the actual cost of which being borne by the applicant.

Information held by public authorities must be easily accessible by telecommunications networks or other electronic means.

b) The information shall be made available to the applicant as soon as possible and within one month from the date on which the request was received or no later than two months if importance or complexity of such information requires to do so. In any case, the applicant will be informed within one month if the time limit must be extended or if the request needs further clarification from the applicant.

c) d) Request may be refused under conditions set in Art.4.3 of the Convention.

Grounds for refusal are interpreted in a restrictive way, taking into account the public interest served by disclosure. A public authority that is not in possession of the information, points the requester towards the appropriate public authority that holds the information and transfers the request to it.

Public authority sees to establish registers indicating where environmental information accessible to the public is available. Access to those registers is free of charge.

e) Request may be refused under conditions set in Art.4.4 of the Convention except for information related to emissions for which items a, d, f, g and h are not valid. Grounds for refusal are interpreted in a restrictive way, taking into account the public interest served by disclosure.

When it is possible to separate information covered by the scope of the derogations from the rest of the information that is requested, the public authority makes part of the information that has been requested available to the applicant.

f) All refusals to communicate part of the requested information are duly explained and made in writing.

A written answer spelling out the reasons for refusing a request for information must be accompanied by the possible courses of action that are open to the applicant.

Since 1991, an Appeals Commission has been appointed by the Walloon government

This commission is tasked with handling complaints concerning access to information held by Wallonia's public authorities and if necessary revising the positions taken by these authorities. This Appeals Commission is an administrative independent authority. Its decisions override those of the authority originally empowered to take the decision.

All decisions taken by the Appeal Commission are available on the website [Jurisprudence Commission de recours \(CRAIE\)](#).

g) Consultation can be on-site or online (free of charge). For the delivery of copies, the actual cost can be borne by the applicant.

Brussels Capital-Region:

Ordinance of 18 March 2004 on access to environmental information. (published in the Moniteur Belge of 30 March 2004).

Definitions in art.2: see Ord , Art.3

Art.3 §9: Ord, art.4: no discrimination

- (a) §1: see Ord, art.4
- (b) §2: see Ord. art.8
- (c) §3 and 4: see Ord. art.11,§1 to 3
- (d) §5: see Ord. art.12
- (e) §6: see Ord. art.11,§5
- (f) §7: see Ord. art.13
- (g) §8: see Ord. art.5.

Flemish Region:

Non-discrimination principle: Art. 11 Constitution.

Decree 26/3/2004 on open government (DOB)

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

(a)
The applicant is under no obligation to prove an interest. He can ask for inspection, explanation or a copy. The document must be provided in the form requested if available or reasonably available (Art. 17 § 2, 7 and 20 § 1 DOB).

(b) Time limits: reply: fifteen days; implementation: thirty days. A fifteen days extension is possible. The applicant can propose a shorter term; when this period is exceeded, it must be justified (Art. 20 § 2 and § 3, 17 § 1 and 20 § 1).

(c)
In comparison with the Convention, the grounds for refusal are more restricted (Articles 10, 11 and 15). Balance of interests: Art.10 and 15 § 1.

(d)
The application has to be forwarded as soon as possible to the competent authority; the applicant will be informed immediately (Art. 17, § 3).

(e)
See Art. 9 DOB

(f)
Time limits: see (b).

Each application rejection must explicitly be stated (Law 29 July 1991).

(g)

The right to inspection of and explanation on administrative documents is free of charge. On the basis of a reasonable cost price, payment may be charged for the provision of a copy (Art. 20, § 3).

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:

Federal authority:

Within the framework of the practical application of the provisions relating to access to information (also see the following question), it appears that it is not always easy to determine whether a question must be considered or not as a "request for environmental information" in the sense of the Convention (and if the procedure described must or not be applied).

The Federal appeal Commission on access to environmental information highlights the fact that it is not always easy to distinguish between the federal *lex specialis* on access to environmental information and the *lex generalis* law on access to documents of public authorities in order to know under which law a specific request for information shall fall.

Walloon Region

The implementation of the right of access to information raises questions related to other rights, such as the right to privacy protection and the right to intellectual property protection.

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:

Federal authority:

Due to the fact that the general Contact Centre of the FPS became first-line service in 2012, the Environment information desk now works as second-line and is accessible by usual means as prescribed in the Aarhus provisions and directive 2003/4/CE (see previous paragraph which is unchanged). It has been supplemented

by specific helpdesks to better help firms on specific environmental issues in relation with their activities.

All the requests received and the answers given are recorded in an electronic database. Statistics concerning the quantity and type of requests are collected on a monthly basis. On average, the information desk receives around 250 requests a month, except in 2016 where 416 requests were received but this is due to the new regulation on biocides. Requests mainly come from firms at first and then citizens. A quarter of the requests concerns matters that fall under the scope of other environmental authorities (the majority concerns the Regions). The themes that are most often the subject of a request are chemical products (especially biocides, from firms), "asbestos" and "mobile phones and radio waves". The average time to obtain an answer is currently less than 15 days (in 90% of cases).

Between 2013-2016, 11 requests for information have been rejected by the Federal Environment Authority (6 on tropical timber and 5 relating to biocides).

Brussels Capital-Region:

2015 statistics from the Info-environment Department: 28.236 calls, most of which relate to energy. The calls are constantly increasing from one year to another. 16.957 e-mails were received, mainly asking for general information or ordering brochures. 1.102 visitors showed up directly to the information center (that opened in march 2015).

98 requests were more specifically answered by the Inspection Department. 5 were answered negatively and 2 led to a procedure before the regional commission for document access. All these requests were timely addressed. 288 requests related to soil were all positively answered, 80 % of which were timely addressed (the other 20% encountered delays because of payment procedures).

The Web site is also a widely used source of information and its visitors number increases constantly.

Flemish Region:

The application of the rules on access to information was thoroughly evaluated in 2010.

The decisions of the appeal body can currently be consulted in a register that is based on the articles from the DOB. A new search engine is to be installed, by which all decisions can be consulted on a full text basis.

Walloon Region

The provisions related to the Appeals Commission are spelled out in the Book I of the Environment Code. The statistics and the decisions of the Appeals Commission are available online.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

Federal authority:

www.health.belgium.be/infoarhus: Environment Information Desk page, including

an electronic form and explanations on the procedure, in accordance with the law of 5 August 2006.

Flemish Region:

www.vlaanderen.be/openbaarheid

Walloon Region:

<http://environnement.wallonie.be>

Statistics of the Appeals Commission (CRAIE):

http://environnement.wallonie.be/cgi/dgrne/aerw/pe/droitinfo/li_difiche.idc

Brussels Region:

www.brusselenvironment.be

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:

Federal authority:

a)

i) see article 12 of the new law of 5/8/2006. The federal portal web site has been deeply updated (2013-2016) . Information is available in French, Dutch, German and English in order to best allow clear communication to the public.

ii) At federal level, the information relating to the environment can be found essentially in two documents : (1)in the Federal Plan for Sustainable Development and (2) in the federal report on the environment that has been published for the second time in 2015 covering the period 2009-2013.

Besides these public reports, environmental data are collected and processed further within the framework of compulsory and voluntary reports aimed at international authorities.

Concerning the dismantling of nuclear power plants a specific Commission has been set up in 2003. Article 8 of the Law of 11 April 2003 regulates its reporting obligations.

iii) In emergencies, appropriate information is disseminated immediately and without delay

paragraph unchanged

b) see article 12 of the new law of 5/8/2006. The restructured federal website contains a specific section on publications and research.

c) see article 14, § 1 of the new law of 5/8/2006

d) The second federal report (2009-2013) on the status of the federal environmental policy as well as the status of the marine environment in marine areas under the jurisdiction of Belgium has been published in 2015 and transmitted to the Parliament by the Minister competent for the Environment. This report completes the three regional reports that already exist on the status of the environment.

e) paragraph unchanged

f) paragraph unchanged

g) Since 2016 the federal environment authority does not attend exhibitions and

fairs anymore. It now goes out and meets directly the public through the use of ‘the Federal Truck’ which is a truck specifically dedicated to raising awareness among the public on a specific topic.

h) paragraph unchanged

i) This matter is not federal but regional in its remit.

Walloon Region:

The Environment Code (Book I, Part V) stipulates that an assessment of the environmental plans and programmes subject to public inquiries be done in the course of developing a plan or programme and before it is adopted or submitted for legislative approval, depending on the case.

The decree of 21 April 1994 on environmental planning within the framework of sustainable development and which has been integrated into the environment code (Book I, Part IV), provides for the drafting of an annual report on the state of the Walloon environment, called The Environmental Scoreboard, to be put on line on the DGARNE’s website. This reference puts special emphasis on the constant assessment of the policies that are being implemented as well as public information, awareness-raising, and participation.

When it comes to environmental monitoring, Wallonia has also set up various monitoring networks. The public authority is responsible for keeping the data up to date.

The decree of 11 mars 1999 on environmental permits and its implementing orders regulate the procedure for issuing operating permits for activities that are likely to have an environmental impact.

Under this decree it is required to assess the impact on the environment of any permit application; either an impact assessment study or an impact assessment note depending on the type of project concerned; ; The local authorities (communes) and the environment administration keep a register with all the authorizations granted.

The permits that are granted must include environmental impact surveillance obligations.

For emergencies, Wallonia has set up an environmental incident watch and intervention service within the Environmental Police and Control Division called “SOS Pollutions” that is accessible to everyone around the clock.

Environment code stipulates also that the following information must be made available to the public a.o. by electronic means and where relevant:

- international treaties, conventions and agreements as well as national, regional and local legislation and policies, plans and programmes related to environment;
- implementation reports on those items when hold by authorities on electronic form;
- environmental scoreboards;
- data (or a summary) collected within the framework of activities having an impact on environment;
- permits for activities having an impact on environment and impact assesment sudies concerning state of the environment or an indication

where the information can be accessible;

(b)

Creation of the DGARNE website <http://environnement.wallonie.be> and the website <http://environnement.wallonie.be/emissions-industrielles/> on industrial emissions.

Decree of 16/03/06 amending Book I of the the Environment code on public access to environmental information (see also the answer concerning Art. 4).

One of the objectives of DGARNE's operational plan for 2009-2013 is to improve by 2013 the availability through electronic databases of documents and decision in relation to environmental permits.

Another objective is to establish one stop shops for the industry, local authorities and the public.

(c) - (d) - (e) - (g)

Creation of the DGARNE website: <http://environnement.wallonie.be>

(f)

Roll-out of annual environmental reporting to the public authority via the Walloon Government's draft.

The Environment Code (Book I, Part V on environmental impact assessment), the Decree of 11 mars 1999 and the CWATUP (*Code wallon de l'Aménagement du Territoire, de l'Urbanisme et du Patrimoine*) deal with the procedure for granting permits to installations having an impact on the environment. Under those legislations, an impact assessment is systematically required for all projects listed in Annex I of the Aarhus Convention.

In addition, a decree of 22nd November 2007 amending the decree of 11 mars 1999 on environmental permits, adopted in 2007, has established a mandatory annual reporting on environmental data for the installations concerned by the PRTR Protocol.

(g) See under a) for the plans and programmes and for the annual report on the state of the Walloon environment.

(h) The Walloon Region supports a non-profit organization gathering association of consumer defence and environmental protection associations ("Ecoconso") to set up an "ecological consumption network" to raise consumer awareness and inform and help consumers to make more environmentally friendly and healthier consumption choices.

(i)

Implementation of the Regulation 166/2006 implementing PRTRs in the EU and the PRTR protocol: In Belgium this is done by the Regions and the information is made available through the E-PRTR website of the EEA, the websites of each regional authority and the national node Aarhus.be. The Walloon Parliament has ratified the PRTR Protocol on 30/05/07 and transposition through the decree of 11 March 1999 concerning the environment permit.

Implementation and streamlining of reporting for the industry through an integrated form called Referential Environment: Integrated Management of Enterprises (REGINE): <http://bilan.environnement.wallonie.be>

In addition, a decree of 22nd November 2007 amending the decree of 11 mars 1999 on environmental permits, adopted in 2007, has established a mandatory reporting on environmental data, on an annual basis for the installations concerned by the PRTR Protocol and Regulation.

Brussels Capital-Region:

See Ordinance of 18 March 2004 on access to environmental information (published in the Moniteur Belge of 20 March 2004).

Paragraph 1:

(i)

- see Ord. art.16,§1
- The environmental observatory has the task of collecting, analyzing and disseminating all information that may be useful in understanding the state of the environment and promoting good management by the responsible authorities.

(ii) see Ord. art.16,§2

(iii)

- see Ord. art.18
- Alerts are sent out to the public via the mass media if certain air pollution thresholds are exceeded.
- A “pollumeter” (air quality indicator in Brussels) is available 24/7 on www.brusselenvironment.be and via a telephone answering machine.
- The population is informed of events that may generate pollution, e.g. risks of a fire at a former industrial site, via the Brussels Environment-IBGE website, press releases and social networks (Twitter, Facebook).
- .

Paragraph 2: see Ord. art.10

Paragraph 3:

- see Ord. art.16, §1 al.1 and 3
- see Ord. art.16,§2
- Practically speaking, this means:
 - Publication on www.brusselenvironment.be of plans and programmes (also published in printed form), reports on the results of public surveys and progress reports on plans and programmes, data on the state of the environment (regularly updated) and many reports on studies;
 - Legal texts on www.moniteur.be and www.brucodex.be provide lists of environmental legislation.

Paragraph 4: see Ord. art.17

Paragraph 5: see Ord. art.16 § 2

Paragraph 6: see Ord. art.16 § 2

Paragraph 7: see Ord. art.10 and 16

paragraph 8:

- see Law of 21 December 1998 (published in Moniteur Belge of 11 February 1999) on product standards designed to promote sustainable production means, environmental protection and public health, art.5, §1, 6°.
- Practically speaking, this means: awareness of the public of the need to behave in such a way and buy products that damage to the environment is kept to a minimum (see above).

Paragraph 9: v.Ord. art.16, §2, e

Flemish Region:

(a)

(i)

Art. 30 DOB: The environmental information must be categorised, accurately, comparably and up to date.

(ii)

The “environmental management information system” aims at a step by step development of a general and integrated environmental information system in which all available and relevant environmental data of all public environmental authorities can be consulted on the Internet.

Environmental information from companies are retrieved by the ‘Integrated Annual Environmental Report’.

With the new regulations on environmental licence from March 2017, it is the ambition to provide full digital support for the entire procedure and to capture and publish relevant data.

(iii)

Several authorities are involved, with regulations on:

- exchange of information about projects with cross-regional environmental effects
- controlling the hazards of major accidents which involve dangerous substances
- civil protection
- reporting and warning obligation in accidental emissions and breakdowns.

Up-to-date information about flooding danger and air quality is available on the Internet.

(b)

- The Flemish government must develop a common database, containing signposting information and first line information, which is free of access (Art. 29, § 1 DOB).
- Officials must support anyone in seeking access to information (Art. 7 DOB).
- The right to inspection of environmental information in lists, registers or files is free of charge (Art. 20, § 3 DOB).

(c) A lot of environmental information is available via electronic web databases, as required by the Order of 28.10.2005.

(d)

Decree of 05.04.1995 on the general provisions regarding environmental policy (DABM): drawing up an environmental report, with a description of:

- the state of the environment
- the environmental policy
- the expected environmental development.

The report is available on line (www.milieurapport.be).

Decree on nature conservation: drawing up of a two-yearly nature report, available on the web site (<http://www.nara.be>) and in book form.

Indicators on the state of the environment and nature:

<http://indicatoren.milieuinfo.be> and <http://www.vlaanderen.be/aps>

(e)

Since 2016 government decisions are actively disclosed.

New legislation: publication in the Belgian Official Gazette (B.S.). Flemish co-ordinated environmental legislation: available through the Flemish Environmental Legislation Navigator. Policy documents: www.vlaanderen.be

Every authority is under the obligation to inform the population in a systematic, correct, balanced, timely and understandable manner on its policies, regulations and service (art. 28, § 1 DOB).

The regional environmental policy plan is announced in the B.S. and is available for public inspection at the provinces and municipalities (art. 2.1.10 DABM).

(f)

European Regulation 1221/2009 (EMAS): companies must supply information on the environmental impact of their activities.

For certain categories of plants, an environmental audit and integrated annual environmental report is obliged according to the “Internal Corporate environmental care”.

(g)

Information on access to environmental information, public participation and access to justice is published in the annual reports of the environmental authorities, the Flemish Ombudsman, ...

Information relating to public services: see the preliminary Acts of the environmental authorities and their web sites.

Registration and monitoring environmental complaints: see environmental complaints database.

(i)

The integrated environmental report of the companies contains information on emissions, waste, water pollution and groundwater extraction and forms the basis for a PRTR. By the 6 July 2007, the Flemish Parliament Act adopted the PRTR-Protocol.

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:

Federal authority:

The main obstacles encountered are inherent in the very nature of administrations. The implementation of the concrete measures in the Aarhus Convention regarding access to environmental information demands significant funding, which must be mobilized every year.

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:

Federal authority:

Many brochures edited by the Federal Environment Authority continue to be used by the public (especially by a well-informed public like teachers, trainers and professionals in the case of chemical products).

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

DGARNE website: <http://environnement.wallonie.be>

State of the environment: <http://etat.environnement.wallonie.be>

Collection of environmental data via an integrated questionnaire: <http://bilan.environnement.wallonie.be>

Permits for activities concerned by the Directive 2010/75/UE:

<http://environnement.wallonie.be/emissions-industrielles/>

Walloon PRTR website: <http://prtr.environnement.wallonie.be>

Ecoconso website: <http://www.ecoconso.be/fr/content/lasbl>

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:

Federal authority:

No changes to previous report.

Walloon Region:

a)

The decree of 11 March 1999 on the environment permit and the CWATUP (*Code wallon de l'Aménagement du Territoire, de l'Urbanisme et du Patrimoine*) cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. To be noted that the Walloon Parliament voted on 26 July 2016 a decree that will replace the CWATUP by the CoDT (*Code du Développement Territorial*). The Environment Code (Book I, Part V) requires the implementation of impact assessments of certain projects on the environment before granting permits. In accordance with these texts, prior impact assessments are required for a series of activities that are liable to have significant environmental impacts. For the other activities the applicant must append an environmental impact assessment sheet (notice) to their permit applications.

These texts regulate the public information and participation procedures in these areas, including the matter of deadlines.

The public is defined in these decrees as follows: one or more natural or legal persons, as well as their associations, organizations, and groups.

The Environment Code (Book I, Part V) also provides for public participation when it comes to the environmental plans and programmes that are developed by the public authority.

The decree of 31 May 2007 concerning public participation fully transposes the Directive 2003/35, in compliance with the Convention.

This decree reorganise public participation for elaboration of certain plans and programmes relating to environment by harmonising and making uniform rules and procedures applying to public enquiries.

This ensures simplifications and results in better regulation, simplification and transparency.

(b)

When an impact assessment is required information meetings at the start of the process of conducting the impact assessment and a public inquiry as part of the environmental permit investigation are planned. Both the information meeting and the public enquiry must be announced in due time to the public.

(c)

Fifteen-day deadline for submitting remarks after the information meeting that is part of the impact assessment.

Thirty-day deadline for projects submitted to an Environmental Impact Assessment and fifteen-day deadline for other projects for submitting remarks after the request

for a public inquiry has been submitted under the environmental permit procedure.

(d)

See paragraphs (b) and (c).

(e)

In the case of carrying out an impact assessment, the applicant must publish an announcement specifying the nature of the project at least fifteen days before the information meeting.

(f)

Under the public inquiry the local administration that is in charge of issuing the permit must inform the residents and post an announcement that spells out the project consultation procedures.

(g)

See c).

(h)

The decree of 11 March 1999 concerning the environmental permit includes an obligation to take into consideration the outcome of the public participation. The CWATUP organizes an administrative appeal procedure against permits granted or refused.

Likewise, the Environment Code as amended by the Decree of 31.05.2007 provides that the outcome of a public participation process should duly be taken into account.

(i)

The Book I of the Environment Code specifies the measures to take to publicize the decisions that are taken by the authority responsible for granting the permits.

(j)

The same procedures apply for granting a new permit

(k)

See Federal report (<http://www.health.fgov.be>).

Brussels Capital-Region:

Paragraph 1:

- AGRBC of 9 April, 2004 adopting the Brussels land use code, title IV, chap III, section III, art 149 to 152 (published in Moniteur Belge of 26 May 2004).
- Ord. of 22 April 1999 setting the list of installations classed as 1A (published in the Moniteur Belge of 5 August 1999).
- AGRBC of 4 March 1999 setting the list of installations classed as 1B, 2 and 3 (published in the Moniteur Belge of 7 August 1999).

Paragraphs 2, 3, 4, 5, 7, 8, 9, 10:

- AGRBC of 9 April 2004 adopting the Brussels land-use code, title IV, chap III, section III, art 149 to 152 (published in Moniteur Belge of 26 May 2004).

Paragraphs 2, 3, 4, 9:

- Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004)

Flemish Region:

(a)

An environmental licence is required to operate or hazardous installations listed in Vlare I, which contains more activities than Annex I of the Convention.

A town planning licence is required for various activities (construction, deforestation, cutting down trees, relief modifications, ...)

(b)+ (g)

The information requirement within the participation procedure is regulated in the "public inquiry" procedures.

The application is available for public inspection and is announced by posters. For some plants, all inhabitants living within a radius of hundred metres are informed and the public inquiry is announced in the press. When an environmental impact report or a safety report is required, an information meeting is organised.

Content of the publication: subject of the application, short description of the plant, the municipal authority services, the possibility to submit objections and remarks, place and time of the information meeting.

A similar public consultation will be organised on certain applications for a town planning licence.

(c)

The public consultation runs up to thirty days. During this period the information is available for inspections and objections can be formulated.

(d)

After the declaration of completion and admissibility of the environmental application, the public consultation starts within ten days.

(e)

Currently, the Flemish environmental legislation does not contain an overall regulation regarding the contact between potential applicants and the public concerned.

The notification phase of the environmental impact reporting process gives the initiator the chance to clarify the project objectives at an early stage.

(f)

When an environmental impact report is required, it contains: a detailed description of the project, the main characteristics of the production processes, the probably significant environmental effects for man and environment and in another country, the intended measures to avoid, restrict and possibly remedy major environmental effects, a prognosis of the expected emissions and residues, a draft of the main alternatives, a description of the knowledge gaps, a report regarding employment, investments, the goods to be produced and a non-technical summary.

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(h)

There is a general obligation to state reasons (Act of 29.07.81). Apart from this Act, specific obligations to state reasons exist.

(i)

Within ten days, the decision on environmental licence and the service where the decision is open to public inspection, are made known through posting. The applicant of an urban development licence must post the decision immediately.

(j)

Reasons for a modification or addition to the environmental licensing conditions, must be justified (Art. 21 Decree on Environmental licences, Art. 45 Vlarem I).

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:

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:

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

Federal authority:

New websites referred to in the report :

- <http://www.actionradon.be> (information to the public on the risk of radon in Belgium);

- <http://www.cpnpc.be>. (the 'Comité du Programme national de gestion du combustible' has been set up in 2014 and is responsible for establishing a program for radioactive waste and spent fuel. It has been charged to actively communicate on its work to the public.)

<http://www.mumm.ac.be>

<http://fanc.fgov.be>

Walloon Region:

<http://environnement.wallonie.be>

Flemish Region:

<https://www.lne.be/milieuvergunningen><http://navigator.emis.vito.be/>

Brussels Region:

www.brusselsenvironment.be

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

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

Answer:

Federal authority:

Four public participations on programs related to the environment (for ex. on the marine environment and on climate adaptation) have been organized in the period 2014-2016.

Public participation have also been conducted on programs submitted to strategic environmental assessment, like in the Energy sector.

Walloon Region:

The Environment Code (Book I, Part V) provides for public participation when it comes to plans and programmes that are developed by the public authority and affect the environment.

The definition of “public” in this code is the one given in the Aarhus Convention.

Article 54 of the Code sets up criteria regarding the impacts on the environment.

If a plan is likely to have significant impacts on the environment, its author must append thereto an impact report. A public inquiry is organized and the author is required to issue an environmental statement summing up how the environmental considerations and opinions submitted were integrated into the plan.

See also answer under Art. 6.a (box XV).

The CWATUP (“Code wallon de l’Aménagement du Territoire, de l’Urbanisme et du Patrimoine”) also provides for an impact assessment and public participation when it comes to plans and programmes related to that legislation.

Book VIII of the CoDT (“Code du Développement Territorial”) addresses “public participation and impact assessment of plans and programs” for the new tools set up by this code.

Brussels Capital-Region:

- See Ord. of 18 March 2004 on evaluating the impact of certain plans and

programmes (published in Moniteur Belge of 30 March 2004), art. 11 and 13.

- See Ord. of 7 March 1991 on the prevention and management of waste (art 5) and Ord. of 17 July 1997 on noise abatement in urban settings (art 5 §§ 2 to 8), which provides explicitly for the obligation to organize a public survey on draft waste plans and noise abatement plans.

Public inquiries are held during the preparation of each plan and program directed by Brussels Environment.

Flemish Region:

In accordance with DABM, an 'Environmental Policy Plan' is laid down every five year, linked with an 'Annual Environmental Programme', which is submitted for advice to SERV (Flanders' Socio-Economic Council) and the Mina-Council (Environment and Nature Council of Flanders).

Next to this, there are more detailed plans at sectoral, compartmental or thematic level containing detailed provisions on participation.

The draft environmental policy plan is made available for public inspection in the municipalities for sixty days. During this period everyone can submit remarks. One information and participation meeting is organised per province. This procedure is announced in the press, on the radio and television (Art. 2.1.9 DABM).

A 'consideration document' explains how the remarks were taken into account.

The plan is published both on paper and electronically and is announced by extract in the B.S.

The spatial structure planning and spatial implementation planning involve similar forms of participation as the environmental planning, whereby the draft spatial plan is subjected to public consultation before it is established to final effect.

For the determination of the provincial and municipal environmental planning and spatial plans, participation opportunities are the same as for the regional plans.

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:

Federal authority :& Flemish Region:

The term "policy" is covered, at federal level, in the concept of plans and programmes (see above).

Walloon Region:

Several advisory bodies have been created by decree in order to give the public authorities their opinions prior to the adoption of legislation and regulations in such areas as sustainable development, water policy and landuse. In some cases, the authorities must motivate why they diverge from their recommendations.

XXI. Obstacles encountered in the implementation of article 7

*Describe any **obstacles encountered** in the implementation of article 7.*

Answer:

Federal authority:

Given the distribution of competences in particular, the plans and programmes are most often elaborated at federal level from a “meta-strategic” point of view, and therefore with contents whose immediate impact on the daily lives of citizens is difficult to assess and express. This could be one explanation why the percentage of the public who participates is very low. It should indeed be stressed that the percentage of public participation is higher for plans with a more direct impact on citizens like marine environment planning or climate change.

Walloon Region:

One of the main challenges is to provide the public with the keys to understand the debate and participate efficiently.

There remain legal difficulties as regards Art. 7 of the Convention: 1) compatibility between the Walloon legislation (art. 57 §3 of Book I of the Environment Code) and the Strategic Environmental Assessment Directive (Directive 2001/42/EC), 2) interpretation of what is meant by plans and programs.

Brussels-Capital Region:

Disparity of the legal texts (Ord. and implementing regulations for each public inquiry) makes the implementation of public inquiries more cumbersome and costly. This does not however constitute a real obstacle in the implementation of the article (for the public).

Flemish Region:

The description “relating to the environment” does not ensure a sufficient or sound definition of the type of “plans and programmes” to which the Convention apply.

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:

Walloon-Region:

The Walloon Agency organised a public enquiry in 2014 on the Air-Climate-Energy Plan. The Plan was adapted to take into account the outcome of the public enquiry.

The Walloon Region organized a public enquiry in 2012 and 2013 before designating the Natura 2000 sites under the Birds Directive and the Habitats Directive (Directives 2009/147/EC and 92/48/EEC). A large amount of comments were received and treated.

On the opposite, a public enquiry in the field of waste did not give rise to any comment, probably because of the complexity of the international conventions concerned.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

Federal authority:

<http://www.aarhus.be> which features the public consultations on plans or programmes that are organised at federal and/or regional level. It is also possible to find former consultations that were organised.

Flemish Region:

www.milieubeleidsplan.bewww.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen

Walloon Region:

<http://environnement.wallonie.be>

For biodiversity: <http://biodiversite.wallonie.be>

For air quality and climate: <http://airclimat.wallonie.be>

Brussels-Capital Region :

www.brusselsenvironment.be

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

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

Answer:

Federal authority:

§ unchanged in comparison with previous reporting except the number of advice given by Federal Council for Sustainable Development with 245 advices given since he started its work in 1994 (with 13 advices in 2013, 10 in 2014, 7 in 2015 and 4 in 2016)..

Walloon Region:

See answer Art 7 and Art 6.a. A public consultation was organized prior to the adoption of the 2nd Walloon Sustainable Development Strategy. Such a consultation for a plan or program not related to the environment but likely to have an impact on it was a novelty.

Brussels Capital-Region:

Public participation is guaranteed by representative organizations brought together in the Brussels Environment Council. See Brussels Decree of 15 March 1990 regulating the creation, functions and composition of the Environment Council for the Brussels Capital Region (published in the Moniteur Belge of 6 July 1990).

Flemish Region:

Draft regulations are submitted for advice to the MINA-council, the SERV and the Strategic Advisory Council Spatial Planning, mainly composed of social groups and experts.

There is a similar regulation at provincial and municipal level.

XXV. Obstacles encountered in the implementation of article 8

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

Answer: /

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

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

Answer:

Brussels-Capital Region:

The opinions of the Environment Council are not binding on the public authorities, who must nevertheless justify any decision running counter to the Council's opinions. These opinions are available on www.cerbc.be in addition to the schedule and agendas of the Council's meetings.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

Federal authority:

<http://www.belspo.be/frdocfdd>: web site of the Federal Council for Sustainable Development

<http://www.info-durable.be>: all the latest Belgian news on sustainable development

Brussels-Capital Region :

www.cerbc.be

Walloon Region

Site DGARNE: <http://environnement.wallonie.be>

Site relatif à la stratégie wallonne de développement durable :
[développement durable](#)

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

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

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

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

Answer:

Federal authority:

a)

(i) The law of 5/8/2006 created a Federal Appeal Committee for access to environmental information. It exercises its mission independently and neutrally. Since 2008, 82 appeals have been brought in before the Federal Appeal Court for various environmental issues like nuclear, biocides, timber, etc... In the period 2014 - 2016, 49 appeals have been considered. Four advices have been issued by the Commission on the implementation of the 2006 law on access to environmental information.

(ii) § unchanged in comparison with previous reporting

(iii) unchanged in comparison with previous reporting

b)

§ unchanged in comparison with previous reporting

c)

§ unchanged in comparison with previous reporting

d)

§ unchanged in comparison with previous reporting

f)

§ unchanged in comparison with previous reporting

Walloon Region:

As regards §1: see the answer under Art. 4 (Box VII) regarding the Appeal Commission for access to information

Besides this body, the petitioner can take his claim to exercise his rights to the various courts and jurisdictions of the judicial system.

(b) – (e)

See the federal government's report www.belgium.be concerning appeals to the Court of Arbitration and Conseil d'Etat (Council of State – highest administrative authority, functions as the administrative tribunal of last resort).

Brussels–Capital Region:

(a)

(i) Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in the Moniteur Belge of 30 March 2004) .

(ii) Ord. of 30 March 1995 on disclosure by the administration (published in the Moniteur Belge of 23 June 1995).

(b)-(e): See federal Authority Report

Flemish Region:

(a)

An appeal, free of charge, with an independent administrative appeal body is possible, against any decision, after the expiry of the decision period, or in the event of the decision being carried out reluctantly. Higher appeal with the Council of State.

The decisions are binding: the authority has to implement the decision as soon as

possible and at the latest within forty calendar days (Art. 20, 22, 24, § 3 and 26 DOB).

(b)

An administrative and judicial appeal is possible for the environmental and town planning licence.

(c)

Challenging acts and omissions by private persons and public authorities which contravene environmental law, is possible via various administrative and judicial appeal procedures when the above-mentioned administrative appeal procedures are exhausted.

(d)

If the appeal body complies with the appeal, publication is granted. If the public authority does not implement the decision, the appeal body will carry out the decision itself as soon as possible.

The appeal body informs the applicant of its decision in writing, by fax or by e-mail within a period of thirty days. Decisions of the appeal body are public.

(e)

In principle, each decision mentions the possibilities of appeal, otherwise the submission term of an appeal shall commence four months after notification of the decision, whereas the regular period for lodging an appeal is 30 calendar days (Art. 35 DOB).

Decisions on licences mention the possibilities of appeal. Similar provisions were also included in other sectoral environmental legislation.

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:

Federal authority:

a) *Concerning the federal appeal Commission*

Three remarks should be made :

- 1) Some public authorities still refuse to transmit to the Federal appeal Commission relevant challenged information when an appeal is made against one of their decision. Therefore the Commission cannot proceed its work and is obliged to take intermediary decisions which means that the Commission is not able to take decision within the timeframe as set out in the 2006 law. It should be underlined that compared to the previous report this situation is aggravated.
- 2) A better coherence between the different regional and federal legislation on access to environmental information is required since, with the complexity of the environmental competence division, it is not always clear for the public to which Commission it should appeal rightly. Therefore it might be the case that some delay to introduce an appeal cannot be respected by some members of the public because they wrongfully introduced their first appeal.
- 3) Some public authorities refuse to execute decisions of the Appeal Committee while those decisions are to be considered to be directly executed as administrative decision.
- 4) Appeal before the Council of State is sometimes not very effective as the Council of State can only annul an administrative decision and is not allowed to rule on the substance. This means that in the case of an annulment, the administrative procedure should start again which can take time before the environmental information is made public.
- 4)

b) *Concerning 9.2 and 9.3*

Despite several attempts to move forward on access to justice, none of the legislative proposals succeeded.

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:

The Federal Public Justice Service draws up annual statistics of courts and tribunals, including for environmental dossiers: the number of environmental cases registered by the office of the civil court, the number of environmental cases referred to examining magistrates, and so on.

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

<http://www.just.fgov.be>

www.vlaanderen.be/openbaarheid

http://environnement.wallonie.be/cgi/dgrne/aerw/pe/droitinfo/li_difiche.idc

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:

Federal authority:

§ unchanged in comparison with previous reporting

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

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

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

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

Answer:

unchanged compared to the previous report

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

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

Answer: See Federal report

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:

See <http://www.ogm-ggo.be>

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

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

Answer: /

XXXVII. Follow-up on issues of compliance

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

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

Answer: