
**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.**

Name of officer responsible for
submitting the national report:

Marc Smaers

Signature:

Date: 22 Januari 2021

Implementation report

Please provide the following details on the origin of this report

Party: The Kingdom of Belgium

National Focal Point:

Full name of the institution:

Department of Environment and Spatial
Development
Strategy, International Policy and Animal
Welfare Division

Name and title of officer:

Wendy Altobello, Legal Policy Advisor
International Policy

Postal address:

Koning Albert II-laan 20 box 8,
B- 1000 BRUSSELS
Belgium

Telephone:

0032-499 54 17 96

E-mail: wendy.altobello@vlaanderen.be

Contact officer for national report (if different):

Full name of the institution:

Department of Environment and Spatial
Development

Strategy, International Policy and Animal
Welfare Division

Name and title of officer:
Marc Smaers, Legal Policy Advisor
International Policy

Postal address:
Koning Albert II-laan 20 box 8,
B- 1000 BRUSSELS
Belgium

Telephone:
T + 32 2 553 81 26, M + 32 478 56 20 19

Fax:
E-mail: marc.smaers@vlaanderen.be

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 “mixed” 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 sixth reporting cycle reports.

This sixth 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 former national focal point 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 from Inter-Environnement Bruxelles (IEB) and Inter-Environnement Wallonie (IEW), both federations of environmental associations.

General remarks

- IEW deplores that recommendations made by the Federal Council for Sustainable Development are insufficiently taken into account by governmental and administrative entities.
- IEW deplores that the new legal framework for financial support to umbrella organisations for environmental associations has not been applied during the past two years ; more generally, IEW deplores the lack of financial and human resources available to environmental associations due to the capping of governmental support.

Pertaining to access to information

- IEW welcomes the initiatives taken and campaigns organised by the FPS Public Health, Safety of the Food Chain and Environment to raise public awareness regarding the right of access to environmental information;

Pertaining to access to Justice

- IEB welcomes the new case law of the Council of State which recognises the right of environmental protection associations to initiate legal proceedings against decisions based on article 6, para 1 of the Aarhus Convention.
- Both IEB and IEW deplore the high cost associated with initiating legal proceedings, in particular those related to barristers' fees, which hamper citizens' and associations' access to justice.
- IEB furthermore deplores the long duration of proceedings before the Council of State, which can take several years. As a consequence of this long duration, it is often difficult to change the outcome of projects through legal proceedings.

2. Walloon Region: The comments from the Inter-Environment Federation Wallonia (IEW), and from a few private individuals regarding the application of the Aarhus Convention in Wallonia can be summarised as follows:

1/ IEW wishes it to be specified that in addition to this brief summary, the various opinions received remain available in full to the United Nations.

2/ The Federation highlights an important step forward since the last report in 2016, namely the integration of the environmental pillar within the Economic, Social and Environmental Council of Wallonia, now called the Economic, Social and Environmental Council of Wallonia, but regrets the low representation of environmental associations (1 seat out of 19).

3/ IEW regrets the delay in the implementation of the legal framework supposed to ensure the sustainability of the financial means that the environmental voluntary sector can benefit from to carry out its missions of general interest.

4/ As for the **public information** pillar:

A. IEW underlines the opportunity to request an external consultancy in order to examine the different levers of action to encourage more public interest in terms of participation (such as: popularised documents possibly adapted to the targeted public, forms allowing new proposals/alternatives to emerge, communication modes/relays beyond the Administration's site (relying on other structures).

B. The Federation stresses the quality of Walloon legislation on access to information, even if, in practice, access to information concerning certain data is not always easy. As to the grounds for refusing or limiting access to information: IEW regrets that they are justified on the grounds that the interest served by the refusal to disclose information outweighs the public interest in disclosing it.

C. IEW supports an increase in the resources dedicated to the Commission de recours pour le droit d'accès à l'information en matière d'environnement (CRAIE), in order to ensure several follow-ups (publication of statistics, ...) and a better visibility of its case law, thus allowing a better interpretation of the provisions relating to the right of access to environmental information.

D. In view of the large number of actors who can be contacted in case of emergency or environmental offence (municipality, fire brigade, Region,...), and even if coordination exists, IEW proposes the establishment of an organisation chart presenting the services and their respective competences, in order to make it easier for the public to understand.

E. In order to facilitate the consultation of issued permits, IEW argues that they should be accessible to citizens via the Internet. Finally, IEW deplors the fact that access to environmental information is hampered by the confidentiality of individual company data.

5/ As for the **public participation** pillar :

A. According to IEW, it is important, that participants in a public consultation can be kept informed of the follow-up of the file (e.g.: next steps in the adoption or implementation of a plan or programme in terms of environmental protection): the public should not feel that its intervention is punctual but that it is part of a process in which it is invited to participate.

B. In the context of consultations prior to impact studies, IEW raises the point that the appointment of a mediator would be an opportunity to provide adequate conditions for dialogue and to avoid heated debates.

C. With regard to prior information meetings (RIPs), IEW would like to see oral comments taken into account by the consultancy firm.

D. Furthermore, IEW would like to see the possibility for municipalities to publish the notice of public enquiry or the announcement of a project on their website (for those municipalities that have it) transformed into an obligation.

6/ With regard to the **access to justice** pillar, the Federation regrets the absence of rights of recourse for third parties with regard to town planning permits. IEW believes that third party recourse should be introduced in the legislation, even if it should be limited to urbanisation permits and planning permits with significant impacts on the neighbourhood.

7/ Concerning the **participation of Walloon citizens**: the web page planned for the public consultation was seen 178 times by 147 different visitors. The contribution of private individuals aimed to underline the fact that: even if the recent implementation of the Wallex portal offers a better visibility to Walloon environmental legislation, the information was already available for a long time and regularly updated on the environnement.wallonie.be portal.

3. Flemish Region:

No remarks were received.

4. Brussels-Capital Region:

Brussels-Capital Region received 6 interventions, from individuals and associates. Summary of the comments (the full text of the public's contribution's is available on www.aarhus.be):

General provisions

- Call for predictable funding of associations in the long term (at least 5 years)
- Call to expand access to information and public participation to more diverse socio-economic profiles; importance of the role of neighborhood committees and associations.

Access to information

Call for more systematic :

- Training of agents at the local level about Aarhus obligations;
- Electronic access to documents;
- Reporting about access to documents statistics from all authorities (and not only the administration of environment);
- Disclosure of all documents forming a file (especially for permit under investigation);
- Circulation of studies.

Recognition of the progress made in terms of accessibility of land use planning and regulations – Willingness, however, to harmonize access at the local level.

Public participation

Recognition of the progress made in terms of timeliness.

Welcoming of the online platform for permit applications files accessibility – though the tool might be improved.

The following should be reviewed:

- More oral presentation of projects, preferably after working hours, for a better accessibility;
- Longer deadlines would allow better participation;
- Avoid several public consultations at the same time;
- More substantial consideration of the results of the public participation in the final decision;
- Surveys are of variable quality;
- Proactive continuous information for people who took part in the public consultation;
- Particular attention to land use planning where public participation should be conducted as early as possible;
- Ensure that all plans that should be subject to environmental assessment and public participation are properly identified.
- The consultative environment organ is not representative enough of environmental considerations. It doesn't allow direct participation of the public.

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)

Unchanged § in comparison with previous reports.

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)

A new legal framework was developed for financial support to umbrella organisations of environmental associations in 2019.

In accordance with the Aarhus Convention, environmental protection associations have 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. It benefits from increased visibility since 2019 through the new Wallex portal.

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 to various activities carried out by NGOs or the public authorities to raise environmental awareness. For concrete and up to date examples, see full report

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 the environment (Environment Pole of the Economic, Social and Environmental Council of Wallonia), ... 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

Moreover, in March 2020, Wallonia published its second progress report on the implementation of the sustainable development objectives (SDOs) developed by the United Nations in 2015.

Finally, the annual report on the state of the Walloon environment is widely distributed and available on the Walloon environment portal. This report contains a critical assessment of the various components of the environment and the pressures exerted by human activities. It analyses the environmental management carried out by the public authorities, companies and associations. It also reports on the transposition of European environmental directives. The new website (2018) allows the indicators developed in batches to be updated (last updated June 2020), while offering an interactive tool with improved content (interactive graphics, data files,)

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>)
However, it should be mentioned that Belgium is currently working on the transposition of the European Directive 2019/1937 on the protection of persons who report violations of Union law

Brussels Capital-Region:

a) A new regional legislation relating to publicity of the administration was adopted on 16/05/2019. It notably provides for:

- an obligation to give explanation about any environmental information;
- the creation of a specific internet page centralising all the useful links and contacts available to the public for help and advice, depending on the topics concerned;
- an obligation to give all contact information relating to the specific case handler, and all information relating to remedies and procedures.

Some specific initiatives were also taken (e.g. to develop land planning internet sites or neighbourhood projects, with all the necessary information provided by the administration).

The other measures reported in previous reports are also still implemented.

b) The general tools reported in previous reports were completed with more specific tools, notably to inform about environment infractions, sustainable construction and renovation or about "good food" initiatives.

c) All associations active in the environmental field in Brussels can apply to receive a five-year subsidy to support their missions (energy, social economy, nature education). <https://environnement.brussels/subvention-pour-mission-de-base>.

d) The International and Legal Department of Brussels administration for environment notably ensures the coordination of supra-regional activities. It uses

continuously updates tools to ensure that BE agents are informed about international activities (mailing lists, designation of SPOC's, networks etc.).

e) Unchanged since last report.

Flemish Region

(a) The principle of customer-friendly service and assistance is incorporated in the code of professional conduct. In the new Governance Decree of 07/12/2018 a provision is included in which an explicit duty of assistance is created for all staff members of the Flemish government.

(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:

Paragraph unchanged in comparison with previous report.

Brussels Capital-Region:

See examples given in answer III.

Walloon Region:

The Walloon Region organizes public events to raise awareness on environmental issues when appropriate. Various projects have recently been set up: le plan ENVIES (Walloon plan Environment-Health 2019-2023), European week of waste reduction, ...

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/>
- <http://etat.environnement.wallonie.be/>
- <https://walstat.iweps.be/walstat-accueil.php>
- <http://environnement.sante.wallonie.be/home/expert/plan-envies.html>
- 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.brusselsenvironment.be
- <https://environnement.brussels/guichet/accompagnements>
- <https://urban.brussels/>
- <https://perspective.brussels/fr>

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:

The answer to all paragraphs is 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. If the public authority deemed to be in default does not comply with the decision issued by the Commission, the applicant will then have to apply to the Courts & Tribunals for judicial enforcement of the decision issued. It should be noted that the applicant may also ask the judge to order the public authority to pay a fine for failure to implement the CRAIE's decision and, if necessary, to impose a penalty payment.

g) Consultation can be on-site or online (free of charge).

Brussels Capital-Region:

Adoption of a new regional law relating to publicity of the administration (16/05/2019):

(a) Art. 4,11°-12: definitions of applicant and public, with no interest to demonstrate

Art. 17 §1 and 19 §5: availability of copies

- Art. 21: under the requested form
- (b) Art. 20: deadlines
- (c) Art. 19: grounds for refusal
- (d) Art. 18 §3: forward of the application
- (e) Art. 19 §5: dissociation of information
- (f) Art. 21: notification of refusal
- (g) Art. 17 §2: costs

Flemish Region:

Non-discrimination principle: Art. 11 Constitution.

Governance Decree of 07/12/2018 (BD)

<https://navigator.emis.vito.be/mijn-navigator?woId=78291>

(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. II.40, paragraph 3 and II.45, first paragraph BD).

(b)
Time limits: twenty calendar days for reply and implementation. A twenty calendar days extension is possible. The applicant can propose a shorter term; when this period is exceeded, it must be justified (Art. II.40, §4 and II.45 §3).

(c)
In comparison with the Convention, the grounds for refusal are more restricted (Art. II.33 and II.36 to II.39). There is a specific regime for documents older than 20, 50 or 120 years and for applications for scientific purposes. Balance of interests: Art. II.33 and II.36, §1, second paragraph.

(d)
The application has to be forwarded as soon as possible to the competent authority; the applicant will be informed immediately (Art. II.40, §1, second paragraph).

(e)
See Art. II.45, §2.

(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. II.31, 2nd paragraph).

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 should be applied or not).

The Federal Appeals Commission for 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 open government and disclosure of public documents in order to know under which law a specific request for information falls.

Walloon Region:

The implementation of the right of access to information raises questions related to other rights, (privacy protection and 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:

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. Between 2017 and 2020, about 4000 requests for information are received annually by the Contact Center of the FPS Public Health. Requests mainly come from firms first (about 60%) and then citizens. The themes that are most often the subject of a request are electromagnetic waves, sound, heating appliances and stoves, air and CITES.

Between 2017 and 2020 no requests for information were completely rejected. However, 5 requests received a partially positive response (2 relating to biocides, 1 relating to nuclear waste, 1 relating to nanomaterials and 1 relating to pesticides). All five decisions were appealed before the Federal Appeals Commission, which overruled the decisions relating to nuclear waste and pesticides.

Brussels Capital-Region:

2019 statistics from the Info-environment Department: 27.066 calls and 20.536 emails, about very diverse subjects but most of which relate to energy and to the implementation of the low emissions zone. 1.417 visitors showed up directly to the information center.

400 requests were more specifically answered by the Inspection Department. 5 were answered negatively and 2 were partially granted. None led to a recourse procedure. All these requests were timely addressed.

The same year of 2019, 1.615 requests of consultation of environmental permits and at least 107 of land planning permits were also treated.

The Web site is also a widely used source of information and its visitors number increases constantly (1.409.650 visitors in 2019, and 4 442.451 consulted pages).

Flemish Region:

The decisions of the appeal body can currently be consulted on the website on a full text basis via a search engine.

Walloon Region:

The provisions related to the Appeals Commission are spelled out in the Book I of the Environment Code.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

Federal authority:

www.health.belgium.be/infoaarhus: Environment Information Desk page, including an electronic form and explanations on the procedure, in accordance with the law of 5 August 2006.

Flemish Region:

<https://www.vlaanderen.be/openbaarheid-van-bestuur>

<https://overheid.vlaanderen.be/organisatie/informatiemanagement/openbaarheid-van-bestuur>

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.brusselsenvironment.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) Paragraph unchanged in comparison with previous report.

ii) At federal level, the information relating to the environment can essentially be found in two documents: (1) the Federal Plan for Sustainable Development and (2) the federal report on the environment that has been published for the third time in 2020 covering the period 2014-2018.

Besides these public reports, environmental data are collected and processed further within the framework of compulsory and voluntary reports aimed at international authorities. Specific reporting obligations exist with regard to the dismantling of nuclear power plants and the management of fissile materials.

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

This procedure has been activated in March 2020 in the framework of the crisis management related to the corona crisis.

b) Paragraph unchanged in comparison with the previous report.

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

d) The third federal report (2014-2018) on the status of federal environmental policy as well as the status of the marine environment in marine areas under the jurisdiction of Belgium has been published in 2020 and transmitted to the Parliament by the Minister competent for the Environment. This report constitutes a complement to 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. Between 2016 and 2018, the federal environment authority took its

message directly to 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:

(a)

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 service called SOS Environnement-Nature, which is accessible to all citizens at all times. If intervention is necessary and in collaboration with the traditional rescue services (Federal Police, local police, fire brigade,...), the guard officer investigates the causes of the pollution on site (interviewing witnesses, taking samples, etc.) and proposes measures to limit the damaging consequences of the phenomenon as much as possible. It also has a policing role since it can draw up reports and set penalties in the event of non-compliance.

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 assessment studies 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 <http://environnement.wallonie.be/emissions-industrielles/> on industrial emissions.

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

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

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

The Walloon Geoportal: is the common and unique access point for geographical data in Wallonia (Walloon geomatics decree transposing the INSPIRE directive). It enables users (public services, citizens, ...) to access this reference geographic data, their metadata (knowing that it exists, who manages it, what it contains, etc.), but also to be able to view and overlay it in the form of dynamic maps (WalOnMap tool), and to download it. Environmental geographic data constitutes a significant part of the geographic information disseminated by the Walloon Geoportal.

(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 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. In addition, Wallonia participates in the Ecolabel Committee, (european label indicating to citizens "environment-friendly" products or services .).

(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:

Paragraph 1:

(i) The Reporting and Environmental Impact Department of the Brussels administration for environment (Brussels Environment) has the task of collecting, analysing and disseminating all information that may be useful in understanding the state of the environment and promoting good management by the responsible authorities. That information is translated into different publications.

(ii) The International and Legal Department of Brussels Environment makes sure that the information is adequately transmitted.

(iii)

- Art. 15 of the new regional legislation relating to the publicity of the administration provides that a specific page must be created on internet administrations sites concerning emergencies.
- The population is also informed of events that may generate pollution, e.g. risks of a fire at a former industrial site, via press, social networks (Twitter, Facebook, Instagram), newsletters, text messages or postal/e-mail ..
- 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.brusselsenvironment.be and via a telephone answering machine.

Paragraph 2: The new regional legislation relating to the publicity of the administration provides for a specific “transparency” internet page on all internet site of the regional administrations, notably with environmental information, easily accessible and allowing the public to access rapidly to the information, see art. 6,10-16.

Paragraph 3:

- See art. 2 of the Regional legislation of 16/05/2019 relating to the publicity of the administration.
- Since 2017, a lot of information and data are published on an “open data” regional platform. Brussels Environment is the main information provider of that platform (e.g. information about noise, water, subsidies): <https://datastore.brussels/>
- Other specific platforms are available:
- - cartographic platform with interactive maps: <https://geodata.environnement.brussels/>

- - digital platform for sustainable buildings: <https://guidebatimentdurable.brussels/fr>
- - digital platform about problem resolution: <https://catalogue.be.brussels/>
- - digital platform for geographic and spatial data: <https://geobru.irisnet.be/fr/>
- Publication on www.brusselsenvironment.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 provide lists of environmental legislation.

Paragraph 4: see art. 16 of the Regional legislation of 16/05/2019 relating to the publicity of the administration

Paragraph 5: see art. 10-11 of the Regional legislation of 16/05/2019 relating to the publicity of the administration

Paragraph 6: specific measures are implemented for Seveso activities and EMAS companies. Obligations are also requested through the permits system. Different newsletters are circulated.

Paragraph 7: Brussels Environment website is a very complete source of information. Specific pages are presented by subject. Each legislative file is also accompanied by a precise description of the context, stakes, goals and means of the concerned future legislation. It is published on the Brussels Parliament website. A specific page on the Brussels Environment website addresses access to information (procedure, legal aspects, useful contacts, forms and useful links: <https://environnement.brussels/bruxelles-environnement/acces-linformation-environnementale/acceder-linformation-environnementale>). The functioning of Brussels Environment is also clearly described on its website: <https://environnement.brussels/bruxelles-environnement>.

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).
- Information about dangerous products are more specifically available: <https://environment.brussels/le-permis-denvironnement/les-conditions-specifiques-dexploitation/produits-dangereux-stocks>. Also in relation with air quality (<https://environnement.brussels/thematiques/air-interieur/les-produits-dangereux>) and security/health. (<https://environnement.brussels/thematiques/sante-securite>).
- A specific legislation also provides measures for pesticides (Ordinance of 20/06/2013 relating to a sustainable use of pesticides in the Brussels Capital Region).

Paragraph 9:

Different tools are available:

- Air: <https://qualitedelair.brussels/>
- Noise: webnoise: <https://app.bruxellesenvironnement.be/WebNoise/Home?langtype=2060>

- Water: a databank is under construction.

Flemish Region:

(a)

(i)

Art. II.3, first paragraph: The environmental information must be categorised, accurately, comparably and up to date.

(ii)

The “environmental information group” 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’.

Since 2018 the so-called single permit is fully digitally supported.

(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 one or more joint data sources with basis information from the Flemish government, local authorities, institutions with a public service mission and environmental authorities (Art. II.5).
- Officials must support anyone in seeking access to information (Art. II.6°, second paragraph).
- The right to inspection of environmental information in lists, registers or files is free of charge (Art. II.31, second paragraph).

(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.vmm.be/milieurapport).

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.

The first Spatial Report was published in 2018 (<https://omgeving.vlaanderen.be/het-ruimterapport>).

Indicators on the state of the environment and nature: <http://indicatoren.milieuinfo.be>, www.statistiekvlaanderen.be and <https://omgeving.vlaanderen.be/cijfers-en-kaarten>.

(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. II.2 BD).

(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 an 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 to ensure and support access to environmental information as provided for by the Aarhus Convention demands significant funding, which must be mobilized every year.

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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:

<http://environnement.wallonie.be> and <http://etat.environnement.wallonie.be>
<http://bilan.environnement.wallonie.be>
<http://environnement.wallonie.be/emissions-industrielles/>
<http://prtr.environnement.wallonie.be>
<http://www.ecoconso.be/fr/content/lasbl>
www.ecolabel.be/fr
https://www.parlement.brussels/dossiers-legislatifs/?dos_type=ord
<https://environnement.brussels/bruxelles-environment>
<https://sualitedelair.brussels/>

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:

The legislation with regard to authorisations for activities in the North Sea, including the list of exceptions, is currently under revision.

Walloon Region:

(a)

The decree of 11 March 1999 on the environment permit and the decree of 20 July 2016 on the Territorial Development Code (CoDT) which has replaced the former Code (called CWATUP) cover the procedure of granting permits to establishments that are engaged in activities that have environmental impacts. 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.

In addition, at the local level, municipal authorities have the possibility of setting up a Municipal Advisory Committee for Spatial Planning and Mobility (CCATM), which enables the inhabitants to be involved in the decisions of the municipality in matters of town / country planning. It issues opinions on the dossiers submitted to it by the council and the Municipal Council. It can also give opinions on initiatives on subjects it considers relevant. The CCATM's opinion is mandatory in a series of cases and procedures provided for by the CODT (e.g. the preparation of environmental impact reports and studies).

(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:

- Brussels Town Planning Code (CoBAT) of 09/04/2004, art. 175/1 to 175/21
- 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:

- Brussels Town Planning Code (CoBAT) of 09/04/2004, art. 175/1 to 175/21.
- AGR of 25 April 2019 relating to public consultation in matter of town planning and environment.

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).
- AGR of 25 April 2019 regulating the form and the procedures for information and provision of decisions taken in urban planning permits by the college of mayors, the delegated official and the Government.

Flemish Region:

(a)

Since 2018 there is one single licensing system that regroups various former licensing systems: the building permit, the environmental licence, the retail trade permit, and the permit to change vegetation. An environmental licence is required to operate or change hazardous installations, which list is more extensive than in Annex I of the Convention.

(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 property owners 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.

(c)

The public consultation shall last at least 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 will be held shortly (5 to 10 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, and a non-technical summary.

(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)

Articles 55 to 64 of the Order of 27/11/2015 regulate in detail the publication of decisions on applications for environmental licences.

(j)

The procedure for an amendment or addition to the licence conditions is the same as for the initial application.

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:

Brussels Capital Region:

Brussels Environment is developing several projects in parks in which the inhabitants are directly and mainly involved. For example, initiatives for the co-management and co-development of parks with non-profit organisations, citizens, ... (<https://environnement.brussels/thematiques/espaces-verts-et-biodiversite/les-parcs-et-jardins/des-parks-made-for-their-0>) or temporary occupation of parks focused on promoting neighborhood social cohesion (<https://toestand.be/fr/projets/alleedukaai>).

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:

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

<http://www.omgevingsloket.be>

Brussels Capital-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:

Thirteen public participations on programs related to the environment (e.g. on an integrated national climate and energy plan or persistent organic pollutants) have been organized in the period 2016-2020.

Public consultations have also been organised with regard to programs submitted to strategic environmental assessment, e.g. with regard to the management of nuclear waste.

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 CoDT contains a Book VIII entitled "public participation and assessment of the impact of plans and programmes" (art. DVIII.1 and following).

Brussels Capital-Region:

- General legislation: see Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes (published in Moniteur Belge of 30 March 2004), art. 10 to 14.
- Thematic legislation: see o.a. Ord. of 14 June 2012 on waste, Ord. of 17 July 1997 on noise abatement in urban settings, Ord. of 1 March 2012 on nature conservation, Ord. of 20 June 2013 on use of pesticides, etc.

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

Plans and programs adopted in Brussels Capital Region as well as relevant documents from the environmental evaluation are available on Brussels Environmental website: <https://environnement.brussels/guichet/plans-et-programmes>.

Flemish Region:

The Flemish environmental policy contains a wide range of plans and programmes relating to the environment at sectoral, compartmental or thematic level containing detailed provisions on participation.

The spatial policy planning and the spatial implementation planning involve similar forms of participation, whereby the early participation takes place and information provided and the subject of the spatial plan is subject to public consultation before final adoption.

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 land use. These councils have been integrated into the Environment Department of the Economic, Social and Environmental Council of Wallonia (CESEW). These bodies are made up of representatives of business federations, trade unions, associations and NGOs.

Brussels Capital Region:

See Ord. of 18 March 2004 on evaluating the impact of certain plans and programmes, Art. 11 and 13.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

Federal authority:

The number of reactions to any public consultation varies greatly. Given the division of competences, federal plans and programmes are generally elaborated from a “meta-strategic” viewpoint. The direct impact on the daily life of citizens is hard to estimate and difficult to express making it difficult to engage people. However, certain plans do receive a large amount of reactions, which is sometimes due to mobilisation by stakeholders.

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:

Several recent examples of public participation can be mentioned : The Walloon Plan of Waste- Resources (may-june2017), The National Energy Climate Plan (march-april 2017 and February-march 2018), public enquiry in relation with operation and acoustics of wind turbines (February-mai 2020), or with river basin management plans (2018), prelude to the PARIS ("Action Programs on Rivers through an Integrated and Sector-based approach ") whose public enquiry will take place in 2021, etc.

Brussels Capital Region:

Brussels Capital region organised a public inquiry for the modification of the Regional Town Planning Regulation from 14 March to 13 April 2019.

Flemish Region:

A project creates a portal containing all information on public participation periods at regional level within the Environment policy area.

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.be

www.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> and <https://energie.wallonie.be/fr/la-contribution-wallonne-au-plan-national-energie-climat-2030.html?IDC=6238&IDD=127763>

For wind turbines operation plan: <http://environnement.wallonie.be/plan-exploitation-eoliennes/>

Brussels-Capital Region:

www.brusselsenvironment.be

<https://environnement.brussels/guichet/plans-et-programmes>

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: the Federal Council for Sustainable Development has published about 300 recommendations/advice.

Walloon Region:

See Frame XX.

The Environment Code (Book I, Part V) provides for public participation in plans and programmes drawn up by the public authority (cf. wind turbine operating and

acoustic plan) that have an impact on the environment. The same applies, in the CoDT, to plans and programmes adopted in the field of land use planning and which are likely to have an impact on the environment. Art D.VIII.29 and following of the Code.

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).

Decisions and agenda of the Brussels Government are made public on the Government's website.

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.

A consultation portal is now under construction. If the Flemish Government wishes to ensure public participation in the preparation, implementation, or evaluation of its policy, it shall inform the public at least via the consultation portal on the central website of the Government of Flanders.

A public consultation period of 30 days is provided for the proposed adaptation of general and sectoral environmental conditions.

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:

Walloon Region:

Public participation varies according to the citizen's interest in the subject under discussion, despite its technical nature.

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. It has been deeply reorganised in 2020.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

Federal authority:

<http://www.frdo-cfdd.be>: website of the Federal Council for Sustainable Development

www.developpementdurable.be/nl/icdo: website of the Interdepartmental Commission for Sustainable Development, which houses representatives from the federal and regional administrations responsible for sustainable development policy.

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 August 2006 created a Federal Appeals Commission for access to environmental information. It exercises its mission independently and neutrally.

(ii) § unchanged in comparison with previous reporting.

(iii) Since 2008, 123 appeals have been brought before the Federal Appeals Commission Court regarding potential infringements upon the right to access to environmental information. In the period between 2017 and September 2020, 38

appeals have been considered. Furthermore, during the same period, the Federal Appeals Commission has published four opinions on the implementation of the 2006 law on access to environmental information.

b)

§ unchanged in comparison with previous reporting.

c)

The Court of Cassation has confirmed in a judgment on 11 June 2013 that article 9, para 3 of the Aarhus Convention has direct effect in the Belgian internal legal order and that it expressly permits environmental protection associations to institute legal proceedings in the public interest.

This case law from the Court of Cassation has been codified into the Belgian Judicial Code by a law adopted on 21 December 2018 which broadens the right to institute legal proceedings in the public interest to any legal person which aims to protect the human rights or the fundamental rights recognised by the Constitution or international instruments. As the right to the protection of a healthy environment is recognised as a human right by the Constitution, this right extends to environmental protection associations which aim to protect this right. The specific conditions for the exercise of this right are now set out in article 17 of the Judicial Code.

d)

§ unchanged in comparison with previous reporting.

e)

§ 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. The decisions of the Appeals Commission in matters of access to information relating to the environment are subject to appeal before the Council of State (appeal before an administrative court).

(b) – (e)

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

Brussels Capital-Region :

(a)

Here are the possible recourses:

- Independent and impartial body established by law (Brussels Mediator or Regional Commission on administrative documents access). That recourse guarantees:
 - A fast procedure (60 days) that can be reduced in case of emergency (10 days);
 - A procedure established by law;
 - A free procedure;

- A review of the decision that is subject to appeal in front of a judicial body (Council of State);
- A final decision that replaces the previous one from the administrative body.

(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 fifteen calendar days after receiving the decision (Art. II.48, §1, first paragraph and II.50 §3 BD).

(b)

An administrative and judicial appeal is possible for the environmental 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 allows the appeal, it also allows that the information is made public. 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 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. II.21, 48 and 69).

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***

Four remarks should be made :

- 1) Some public authorities still refuse to transmit to the Federal Appeals Commission information subject to an access to information request when an appeal is introduced against one of their decisions. This hinders the Commission in its work and forces it to adopt intermediary decisions. Consequently, it becomes impossible to take decisions within the deadline set out by the law of 5 August 2006.
- 2) Improved coherence between the regional and federal legislation on access to environmental information is required since, due to the complexity of the environmental competence division, it is not always clear for the public to which Commission it should appeal. This might cause members of the public to introduce an appeal first before the wrong body and might consequently cause them to not be able to submit their appeal to the correct body within the correct delay.
- 3) Some public authorities refuse to execute decisions of the Federal Appeals Commission even though those decisions should be executed immediately as administrative decisions.
- 4) Introducing an appeal before the Council of State is sometimes ineffective 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 of deciding whether access to certain information is granted should recommence. Accordingly, this can cause serious delays before certain information can be obtained.

b) ***Concerning 9.2 and 9.3***

See answer to question XXVIII, c).

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 Service Justice 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>
https://www.vlaanderen.be/publicaties?type=beslissing%20Beroepsinstantie%20Openbaarheid%20van%20Bestuur&order_publicationdate=desc
<https://www.dbric.be/rechtspraak>
http://environnement.wallonie.be/cgi/dgrne/aerw/pe/droitinfo/li_difiche.idc
<https://environnement.brussels/qui-sommes-nous/access-linformation-environnementale/acceder-la-justice-en-matiere-denvironnement>
<https://be.brussels/a-propos-de-la-region/commission-dacces-aux-documents-administratifs>

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:

Federal authority:

The most important obstacle in the implementation of these provisions is the lack of human and financial resources in an unstable and unpredictable context.

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: