
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 Iceland in accordance with decisions I/8, II/10 and IV/4.

Name of officer responsible for submitting the national report:

Mr. Kjartan Ingvarsson

Signature:

Date: 24 May 2014

Implementation report

Please provide the following details on the origin of this report

Party: Iceland

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I. Process by which the report has been prepared

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

Answer:

The Ministry for the Environment and Natural Resources announced on its web site 20 November 2013 that the preparation of the report was underway and welcomed any early comments the public or stakeholders might have and wanted to put forward. It also informed that the draft report would be put on the web site for comments at a later stage. The same day the Ministry sent a letter to environmental NGOs with the same information where the NGOs were invited to put forward early comments if they had any. The letter also informed that once the draft report would be ready it would be sent out to the NGOs for comments and a meeting would also be called to discuss the draft. On 14 March the draft report was published on the Ministry's web site and asked for comments before 28 March. A meeting with the environmental NGOs was called on 21 March. Representatives of 3 NGOs attended the meeting where the draft report was discussed and the NGOs comments noted. The NGOs announced that they intended to submit a shadow report to the Convention. However they put forward some comments which are reflected at the relevant place in the report. Five Comments from the public were received and they are also reflected at the relevant place in the report.

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:

No particular circumstances to report.

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:

(a)

It is a fundamental general principle in Icelandic legislation that the public authorities are to assist and guide the public. An individual or an organisation does therefore not need to prove any legal interests in order to seek assistance from the relevant public authority.

The Administrative Procedure Act No 37/1993 (<http://eng.forsaetisraduneyti.is/acts-of-law/nr/17>) contains several provisions on how the public administration is to assist the public, for example the rule on *duty of guidance* set out in Art 7:

Article 7

Duty of guidance

An authority shall provide those who apply to it with the necessary assistance and guidance in cases that fall within its competence. If an authority receives a written application concerning a matter outside its competence it shall forward the application to the proper authority as soon as possible.

The Information Act No 140/2012 requires public authorities to guide members of the public on how to put forward their request for information (see Art 15 <http://www.althingi.is/lagas/nuna/2012140.html>).

Act No 23/2006 on Access to Information on Environmental Matters (<http://www.althingi.is/lagas/nuna/2006023.html>) stipulates the same duty to guide members of the public as well as outlining the details of the right to access to environmental information.

(b)

The Ministry for the Environment and Natural Resources is constantly working to ensure the public's access to and awareness of environmental matters. This is for example done via the Ministry's web site and social media where the Ministry publishes news and information on current environmental affairs and the work that is ongoing in the Ministry and its agencies, as well as providing platform for an open discussion on these issues. In addition to this the Ministry hosts regular meetings with the Icelandic Environmental NGOs where information is given about the ongoing work in the Ministry and the NGOs are invited to discuss current matters with the Minister and the Ministry's specialists. Furthermore the Ministry as a rule invites a large group of interested parties to participate in

its legal work by sending draft bills and draft regulations out to a group of identified stakeholders, including environmental NGOs, as well as publishing them on its web site for consultation.

The Ministry's agencies also constantly work towards increased access to and awareness of the environmental matters they are responsible for. This is both done via the agencies' web sites and via other means such as information meetings, printed material etc. Furthermore the agencies are in many cases obliged according to law to take the initiative to inform the public about certain matters, such as GMOs, air pollution and more.

The Ministry hosts a conference on the Environment (Umhverfisþing) every other year, in accordance with Act No 44/1999 on Nature Conservation. According to the act the Assembly shall discuss environment and nature protection and sustainable development. Members of Parliament, representatives of government agencies and municipalities, representatives from the private sector and environmental NGOs shall be invited to the assembly. The first assembly was held in 1999 and has been held every other year since. The assembly has always been open to the public and is a great opportunity to raise awareness of environmental issues in general as well as the current topics each time. It also brings together different stakeholders for a discussion on environmental issues. Each assembly has a theme and the last one held in 2013 focused on Sustainable Land Use and Marine and Coastal Planning.

The Day of the Environment is celebrated every year on 25 April. The day is used to raise awareness of environmental issues for example with a seminar on a specific issue. On this day the Minister hands out two prizes. One to companies that have been doing well in the environmental field and one to school children who have excelled in a competition on environmental projects.

The Day of Icelandic Nature is celebrated on 16 September and the Ministry uses the day to reach out and involve as many as possible, including municipalities, schools, Environmental NGOs, other stakeholders and the public in celebrating Icelandic nature and raising awareness of the importance of nature.

Countryside Rangers/Nature Guides work in National Parks and other protected areas and have the role to educate the visiting public on the natural history of the area, nature conservation and environmental matters in a larger context. This is done via information centers, printed material, guided walks, children hours and other interaction with the public.

The Eco-Schools Programme is an international project (www.eco-schools.org) funded by the government and managed in Iceland by the NGO Landvernd (The Icelandic Environment Association). Eco-Schools are a program for environmental management and certification which aims at enhancing environmental education and to strengthen environmental policy in schools as well as encouraging children and students to take an active role in how their school can be run for the benefit of the environment. Schools that fulfil the necessary criteria are awarded the Green Flag for their work, which they keep for two years. School participation in the program in Iceland has increased steadily since the work began in 2001. In 2013, 210 schools at all school levels participated in the program, reaching over 45% of all children at the pre-school level, 55% of all children at the compulsory (elementary) school level and 35% of all students at the upper secondary level and the number is steadily rising.

Every year the Ministry allocates financial grants, in accordance with the state budget, in order to facilitate progress in environmental matters. Two types of grants are allocated, operational grants to environmental NGOs and grants for individual environmental projects undertaken by organisations or individuals. For the year 2014 the Ministry allocated 39,1 Million ISK to environmental projects and 13,4 Million ISK for operational grants.

(c)

The freedom of association is a fundamental right in Iceland, ensured in the Icelandic Constitution. Non-Governmental Organisations (NGOs) in Iceland play an important role in public discussions and decision making. The Ministry hosts a forum for discussion with environmental NGOs (see point (b) above).

Financial support is given to the NGOs in the form of grants that are handed out annually (see point (b) above). The overall amount of the grants is decided on by the Parliament and the Ministry is responsible for the allocation of grants in its field. The grants can be both for the operation of the NGOs in question and for special projects the NGOs or some members of the public take on. Projects such as monitoring the water quality and ecology in Lake Þingvallavatn, environmental training of young scout leaders and informing the public of the outcome of Rio +20 are among those that were financially supported in 2013, to name some examples.

Environmental NGOs are consulted on draft bills and draft regulations, both by the Ministry and the Parliament.

(d)

Environmental NGOs have on occasion been members of the Icelandic delegation to the UNFCCC COP meetings.

As a general rule associations that have sufficient legal interests can appeal administrative decisions to a higher authority (Ministry or a board of appeal). In the case of decisions on environmental matters environmental administrative decisions can be appealed to a special ruling committee, *Environmental and Natural Resources Board of Appeal* (<http://uua.is/>). In those cases environmental NGOs are considered to always have sufficient legal interests.

Furthermore the Ministry has regular consultation with the environmental NGOs on the work of the Ministry and they are invited to participate in events organized by the Ministry.

(e) The Constitution of the republic of Iceland has a special chapter, Chapter VII., on human rights. Art 73 of that chapter provides every citizen with the right to freedom of opinion and belief as well as the right to freedom of expression. Art 74 of the Constitution provides every citizen the right to form associations. Furthermore the European Convention of Human Rights (ECHR) has been incorporated into Icelandic legislation by Act No 62/1994 on the European Convention of Human rights and it is an established rule of legal interpretation of Icelandic law that the human rights chapter of the Constitution shall be interpreted in line with the ECHR.

As regards financial grants to NGOs it has been pointed out by NGOs that they think the grants are too low. NGOs pointed out that they will never be able to finance themselves on member fees only due to few inhabitants and therefore is official support of some kind very important. The NGOs referred to a report made for the Ministry in 2009 where this was pointed out. In the report NGOs also point out possible solutions and ways to finance them. Disconnecting the financial grants from the political power would in the view of the NGOs be a good thing but if any changes will be made they must be such that they ensure longtime financing.

As previous stated the Ministry allocates financial grants to NGOs in accordance with the state budget every year.

As regards Article 3, paragraph 8, two comments received claimed that the paragraph is not sufficiently implemented in Iceland. The comments refer to a recent case where protesters were arrested and charged after refusing to leave a construction site where a road was about to be built. The court case against the protesters is pending.

In the view of the relevant authorities the road building in question had all the necessary permits required and the protesters had not followed the police's instructions to leave.

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:

In general there are no particular obstacles encountered. Points 2 and 3 on guidance to the public and environmental education call for continued work in order to ensure implementation. The Ministry for the Environment and Natural Resources as well as its

agencies is constantly working on improving guidance and information to the public on environmental matters.

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:

No further information.

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

www.umhverfisraduneyti.is , www.environment.is , www.ust.is, www.gatt.lmi.is, www.ni.is,
www.skipulag.is,

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:

In 2003 the EU implemented article 4 of the Aarhus Convention by Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The Directive was incorporated into the EEA Agreement, which Iceland is a party to, by the EEA Joint Committee Decision No 123/2003. The Directive was transposed in Iceland by Act No 23/2006 on Access to information on environmental matters (lög um upplýsingarétt um umhverfismál). The act ensures the public a right to access to information on the environment without discrimination. Main definitions in the Icelandic act are the same as in the directive.

Definitions:

Public authorities, that is authorities that fall within the scope of the act =

1. All public authorities that fall within the scope of act No 140/2012 on access to information
2. Legal persons that have been entrusted with a public role or provide public service to the public on the basis of law, regulatory act (secondary legislation) or an agreement with authorities according to paragraph 1.
3. Legal persons that have a public role or provide public service that regards the environment and are governed by authorities according to paragraph 1. Legal person is considered to be governed by an authority when authorities according to paragraph 1 nominate more than half of the board of the legal person or have by

other means an active control over it.

4. Only information that has been acquired because of the public role or service as is stated in paragraph 2 and 3 falls within the scope of the act.
5. The Parliament, the Parliamentary Ombudsman, the Icelandic National Audit Office and the courts fall outside the scope of the act.

Environmental information (art 3):

Environmental information means any information in written, visual, aural, electronic or any other material form on:

1. The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural heritage including wetland, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction between these elements.
2. Factors, such as substances, energy, noise, radiation or waste, including radio active waste and the release of any types of substances and factors into the environment that have effect on or are likely to have effect on the elements in the environment that are listed in point 1.
3. Administrative measures in relation to policy making, legislation, plans and programmes and agreements in the field of the environment that have or are likely to have an effect on the elements and factors listed in points 1 and 2, in addition to cost benefit analyses and other kind of benefit analysis that is used in relation to decision makin on such measures.
4. The state of human health and safety, including pollution in the food chain, peoples lifing conditions, cultural sites and built structures, in as much as they are or maybe affected by the state of the elements of the environment that are listed in point 1 or the factors that are listed in point 2.

(a) (i) According to Act No 23/2006 on Access to information on environmental matters any person has the right to access to information without having to state an interest.

(ii) According to art 13 of Act No 23/2006 on Access to information on environmental matters a public authority shall give access to information in the actual format of the information unless it is already open to the public. When the information is in electronic format the public can choose between receiving it in the format or printed on paper. If the information requested contains many files or the authority is not in a situation to photocopy files, the authority can ask someone else to the photocopying. In these cases the person can be requested to pay the cost for photocopying.

(b) According to art 12 of Act No 23/2006 on Access to information on environmental matters a public authority shall process a request for information as soon as possible. If a request has not been processed within 15 working days the delay must be explained to the person/legal person who requested the information and it must also be stated when the decision on making the information available will be made. If the request has not been processed within 60 days the delay in processing the request can be taken to the ruling committee on access to information which will rule on the right to access to information in the case in question.

(c) (i) The public's right to access to environmental information does not take to the following:

- information that is exempted according to article 4 to 6 in Act No 140/2012 on access to information
- Work in progress and incomplete files or data, but in that case the applicant must be informed on when the data will be ready
- Information which has been decided by law that shall be kept confidential

(ii) Despite (i) the public always has the right to access to information on polluting emissions into the environment. Furthermore, public authorities are always obliged to by their own initiative provide information if there is a reason to believe that emissions of polluting substances into the environment may lead to dangerous effects on the health of people or animals.

(d) According to Act No 37/1993 on public administration public authorities that receive a request that they are not the right authority to deal with, shall forward the request to the correct authority as well as informing the person who made request thereof.

(e) If only a part of the file or data in question is exempted access shall be given to the rest of the file/data given that it is possible to separate the two.

(f) A decision to refuse access or partly refuse access must be in writing and reasons given for the refusal, according to art 14 of Act No 23/2006 on Access to information on environmental matters.

(g) According to Act No 23/2006 on Access to information on environmental matters a fee can be charged for printing, photocopying and other costs that may derive from making the requested information available, such as staff costs. The Minister for the Environment and Natural Resources must decide these fees by regulation.

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:

No particular obstacles have been encountered.

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:

There is no available statistics on the number of requests made, the number of refusals or the reason for such refusals.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

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

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

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

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

- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;
- (h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;
- (i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

Article 5 is implemented via several different acts of legislation. The public administration Act No 37/1993 requires public authorities to establish a complete, factual and legal foundation for every administrative decision made, this includes, in the case of decisions regarding the environment, ensuring that all the relevant environmental information has been collected. Public authorities in Iceland are also obliged to file all case documents.

Iceland has through the EEA Agreement implemented directive 85/337/EEC (now directive 2011/92/EU) on Environmental Impact Assessment (EIA) by Act No 106/2000 on Environmental Impact Assessment. According to the act all projects listed in Annex I of the Directive are subject to an EIA and all projects listed in Annex II of the Directive must be screened in order to determine whether they should be subject to an EIA. Furthermore the Ministry has put forward a bill in the Parliament proposing that smaller projects that until now have not been subject to a screening process will become subject to screening as well. When a project is submitted for screening the necessary environmental information must be submitted in order for the National Planning Agency to be able to determine whether the project should be subject to an EIA or not. When a project is subject to an EIA detailed environmental information needs to be gathered and presented via the assessment report.

Gathering and presenting of environmental information is also required when permits (development consent, building permit and operation permit) are applied for and issued.

The operation permit of polluting industry establishes requirements for monitoring and reporting on the operation and its environmental effects.

According to Act No 23/2006 on Access to information on environmental matters public authorities are always obliged to, by their own initiative, provide information if there is a reason to believe that emissions of polluting substances into the environment may lead to dangerous effects on the health of people or animals.

The Ministry's agencies all have their own web sites where extensive amount of environmental information is published. Public meetings are held when deemed necessary to inform the public on particular issues. For example local meetings on the outcome of environmental monitoring and report of a polluting activity in accordance with its operation permit. Written material is also published and distributed. Furthermore the agencies' staff is always ready to assist the public in finding the information that is required.

Iceland has through the EEA Agreement transposed the INSPIRE Directive 2007/2/EC and the implementation, lead by the National Land Survey, is ongoing. A National Geoportal has been opened, where metadata for digital spatial data will be accessible, including information on where to access the data and if there are any requirements for using the data or any costs included. The Inspire directive covers all digital spatial data, possessed by public institutions and municipalities as well as spatial data owned by others that can be included, regarding the environment. The aim of the INSPIRE directive and the transposing legislation is twofold, that is to enable the public to access environmental information and to increase the flow of environmental information between public institutions.

Iceland has implemented the SEA Directive 2001/42/EC via the EEA Agreement by Act No 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes. All international Conventions in the field of the environment that Iceland is party to are listed on the Ministry's website with summary and a link to the convention (note that the

web site is currently under revision).

According to regulation 851/2002 on green accounts all activity that has an operation permit must keep green accounts which are audited by independent bodies. The green accounts provide information on the use of raw material and substances and polluting emissions from the activity in question and are published on the Environment Agency's web site.

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:

No particular obstacles have been encountered in the implementation of article 5.

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:

No further information.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

<http://gatt.lmi.is/geoportal122/catalog/main/home.page>, www.ust.is,

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:

- (a) (i) and (ii) Iceland has implemented Directive 2011/97/EU on Environmental Impact Assessment (EIA) through the EEA Agreement, by Act No 106/2000 on Environmental Impact Assessment (EIA act). According to the act all projects listed in Annex I to the Convention are either subject to an EIA or must be screened in order to determine whether they might have severe effects on the environment and should therefore be subject to an EIA. The EIA act ensures the public and environmental NGOs a right to participate in the EIA process.
- (b) According to the EIA act the developer of a project that is subject to an EIA shall draft an Assessment Plan, which must be presented to the public. The developer is therefore required to inform the public of the project and the plan for the EIA work at an early stage. This gives the public a timely notification of the assessment report which is produced later in the process and introduced to the public and stakeholders for comments.
- (c) According to the EIA act the public is given 6 weeks to comment on the assessment report. Where the National Planning Agency finds that a project shall not be subject to an EIA its decision can be appealed to the Environmental and Natural Resources Board of Appeal within one month.
- (d) See above (b)
- (e) See above (b)
- (f) (i) When the National Planning Agency decides after a screening process that a project shall not be subject to EIA the agency must inform the public about its decision and reasons for it. This includes making available all the relevant information. The same is true in the case of a public authority making a decision on issuing permits (operation permit, building permit or development consent). If the authority decides against the opinion of the National Planning Agency on the EIA it must be explained and all relevant information must be made available. (ii) All the information listed in paragraph 6 shall be available to the public according to Act 23/2006 on Access to information on environmental unless some of the exemptions apply.
- (g) See above (b)
- (h) The deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process. This fundamental principle of public participation, that is that all comments are duly considered before a decision is made, has been reaffirmed in legal rulings on appealed decisions.
- (i) According to Act 37/1993 on public administration an administrative decision must be announced to all parties to the decision. According to the EIA act a decision on whether a project shall be subject to EIA or not shall be presented to the public and according to the same act the National Planning Agency's Opinion on the EIA of a project shall be presented to the project developer, permit authorities, parties and everyone that participated in the decision making process by sending in comments or other information. The Opinion shall be made easily accessible to the public and the National Planning Agency must for that purpose advertise in a national newspaper when the Opinion is finalised and available. In practice all decisions and opinions of the National Planning Agency are published on the agency's web site. Operation Permits are issued in accordance with Act 7/1998 on Hygiene and Pollution Control and regulation 785/1999 based on that act. The issuer of Operation Permits must make sure that applications for permits are accessible for the public. As soon as a permit has been drafted the draft must be made available for the public for comments, giving 4 or 8 weeks to comment depending on the size of the project in question. Once a decision has been made to

issue a permit the permit shall be advertised in the Icelandic Official Journal. In the case of a development consent a decision to issue consent as well as the Opinion of the National Planning Authority, if the project was subject to an EIA, shall be published in the Icelandic Official Journal as well as in a national newspaper within two weeks from the decision of the issuer. The advertisement shall include information on the right to and deadlines for appeal of the decision. Some projects that must undergo an EIA are subject to a building permit. Building permits are issued by the local authorities (municipalities) or the Iceland Construction Authority.

- (j) This paragraph is implemented in Icelandic legislation by several acts of law. The general rule is that when operating conditions are reconsidered, same rules on public participation apply as when a new permit is issued.
- (k) Act No 18/1996 on Genetically Modified Organisms (GMOs) implements EU *Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms*. The Act sets out the administrative process for issuing permits for placing on the market and other deliberate release of GMOs. According to the act the public must be consulted before a permit to place GMO on the market is issued. The Environment Agency, which issues GMO permits, shall draft a summary of the application that shall be introduced to the public. The Environment Agency's Assessment Report shall also be made available to the public. Furthermore the Environment Agency shall hold public meetings or in other way consult the public, as is necessary, before a permit is issued. The public has 30 days from the publishing of the summary to submit its comments.

The Ministry received a comment from a citizen which claimed that in most cases deadlines to submit comments are too tight, despite Article 6, paragraph 3. It also claimed that Article 6, paragraph 4, is insufficiently implemented in Iceland. The comment referred to the decision making process of the Icelandic Grid Operator, Landsnet, in particular a decision on electrical lines in 2009. The comment criticised that the public and its organisations are only invited to participate in the decision making process once the development in question undergoes an EIA. In the comment it is stated that before that the grid operator has chosen between different options and even made an agreement with the municipalities where the power line in question will cross. The public or NGOs are not invited to participate at this stage and therefore, according the comment, the public does not get to participate early "*when all options are open and effective public participation can take place*". In the same comment it is pointed out that according to Article 6, paragraph 8, due account must be taken of the outcome of the public participation. However it can be difficult for the public to know whether that has been done or not as the authorities usually do not explain exactly what account has been taken to the public consultation.

As is said in (h) above, the deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process and this has been confirmed in administrative rulings. Public consultation is extremely important in decisions making regarding the environment, not only to ensure the public's right to express their views, but also to ensure that all relevant information has been gathered before a final decision is made. Public authorities are in many cases bound by deadlines described by law when making decisions but in other cases the authorities decide in each case what is a sufficient time for the public to be able to participate. In many cases extra time is given if requested. It is also up to public authorities to follow the law and take due account of the public consultation, but the general rule is that administrative decisions can be appealed and reviewed if necessary.

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:

No particular obstacles have been encountered in the implementation of article 6

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:

No further information.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

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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:

Iceland has implemented the SEA Directive 2001/42/EC through the EEA Agreement by Act No 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes. In the Act the public is defined as one or more persons, legal persons, organisations or groups. The Act applies to environmental impact assessment of plans and programmes, as well as any modification to them, that set out a framework for future development regarding issuing or consent of permits for projects listed in the EIA Act.

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:

According to the Act No 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes a proposal for a public plan or programme and an environmental impact assessment thereof shall be introduced to the public. The public must be given 6 weeks to look into the proposal and the assessment and submit its comments before the plan or programme is adopted. Introduction to the public must as a minimum consist of announcements in the Official Journal and one national newspaper as well as on the internet. The proposal and the assessment shall be made available in printed versions and in addition the data the plan/programme is based on must be made available on the Planning Agency's web site or the developer's web site. Due consideration must be given to the environmental assessment as well as all comments submitted during the participation period.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

No particular obstacles have been encountered in the implementation of Article 7.

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:

No further information.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

www.skipulag.is

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:

When legal bills and regulations (secondary legislation) is being prepared in the Ministry consulting with the public and other stakeholders is a rule. Draft bills are published on the Ministry's web site for comments and the same is true for most draft regulations. In some cases Environmental NGOs are asked to appoint a representative in a group/committee that is preparing the legislation in question. The Parliament then has a separate consultation with the public, NGOs and other stakeholders during the processing of legal bills in the Parliamentary committees.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

No particular obstacles have been encountered in the implementation of Article 8.

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:

No further information.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

www.althingi.is, www.umhverfisraduneyti.is



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:

Article 9(1) is implemented by Act 23/2006 on Access to Environmental Information. Articles 9(2), 9(3) and 9(4) are implemented by Act. No 130/2011 on Environmental and Natural Resources Board of Appeal. Article 9(5) is implemented by Act No. 37/1993 on Public Administration.

- (a) (i), (ii), (iii) According to Act 23/2006 on Access to Environmental Information, public authority's decision to refuse access to environmental information can be appealed to the Ruling Committee on Access to Information. The same goes for public authority's refusal to provide photocopies or copies of data on other format.
- (b) A special ruling committee, Environmental and Natural Resources Board of Appeal, was established by Act 130/2011. The aim of the Act was to ensure that members of the public with sufficient interest would have access to an review procedure before an 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 of the Aarhus Convention. According to the Act those who have legal interests regarding the environmental decision in question can appeal to the Board of Appeal. Environmental NGOs, outdoor organisation and other interest organisations, that fulfil a certain criteria, are considered to have sufficient legal interests in the cases of (1) the Planning Authority's decisions on whether projects subject to screening shall be subject to EIA, whether two or more related projects shall undergo a joint EIA and on review of EIA assessment report, (2) Decisions on issuing permits (operation permit, development consent, building permit) for projects that fall within the scope of the Act No. 106/2000 on Environmental Impact Assessment and (3) decisions on issuing permits according to Act 18/1996 on Genetically Modified Organisms. The requirements the organisations must fulfil in this regard is that the organisation must have at least 30 members and it must be in line with the aim of the organisation to appeal the decision in question (art. 4).

- (c) In addition to what is said in (b) the public can take matters to the police if a criminal offence regarding the environment has been committed and in the case of administrative decisions or procedures where it is not possible to appeal the public can file a complaint with the Parliamentary Ombudsman. The Ombudsman's competence covers the public administration as a whole and the ombudsman has substantive powers to access information and other material that may be relevant to his investigation. The ombudsman can adopt Opinion and request public authorities to improve their procedures if necessary. Although the Ombudsman's Opinions do not have the effect of law it is common practice to follow his Opinions and requests.
- (d) Appealing to the Environmental and Natural Resources Board of Appeal is free of charge. The board of appeal does for the time being have a backlog of cases which means that the processing of new cases can take up to 12 months beyond the deadline stated by law. The Ministry in cooperation with the board of appeal is currently looking into how and when this backlog can be erased.
- (e) This article is implemented by Act on Public Administration No. 37/1993 and several more acts.

Several of the comments received regarded the implementation of Article 9.

NGOs pointed out that the backlog of the Environment and Natural Resources Board of Appeal is too long for the board to serve its function. The Confederation of Icelandic Employers also complained over the backlog and pointed out that the legal uncertainty when a ruling is awaited is not good for the developers. Environmental NGOs are of the opinion that the implementation of the Aarhus Convention is not functioning well enough as they are not granted standing in all environmental cases. The NGOs are of the opinion that they should, as a main rule, be given standing in all environmental cases and that the current legislation defines too narrowly which cases NGOs can have standing in. Also the NGOs point out that the cases that can be appealed to the Environment and Natural Resources Board of Appeal only covers decisions and therefore does not cover omissions as is required by the Convention.

Comments were made regarding a particular recent case where environmental NGO tried to get a ban on road construction through a previously unspoiled lava field in Iceland. It was stated in the comments that the NGO was denied a standing in the case as it was not considered to have legal interests. In the comments received it was stated that this constitutes an insufficient implementation of Article 9.4.

As is explained above the third pillar of the Aarhus Convention was legally implemented in Iceland by Act 130/2011 establishing the Environmental and Natural Resources Board of Appeal. The Act states that environmental NGOs shall be considered to always have legal interests, that is the right to stand, in cases regarding

- a. The National Planning Authority's decisions on whether projects shall be subject to an environmental impact assessment, on whether interrelated projects shall be subject to a joint environmental impact assessment and on reviewing of the

assessment report according to Act No 106/2000 on Environmental Impact Assessment.

- b. Decisions on permits for projects that are subject to environmental impact assessment.
- c. Decisions on permits according to Act 18/1996 on genetically modified organisms.

It is the opinion of the Ministry that this satisfies the requirements of Article 9 of the Aarhus Convention.

As regards comments regarding the backlog of the Environment and Natural Resources Board of Appeal the Ministry, in cooperation with the board of appeal, is currently looking into how this can be solved in order to ensure that the board of appeal can fulfill its role.

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:

The Environmental and Natural Resources Board of Appeal has received more appeals than was foreseen when the board was established. This has led to a backlog of cases which means that processing of cases often goes beyond the deadline given by law.

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:

No further information.

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

www.uua.is, www.umhverfisraduneyti.is

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:

No general comments.

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:

Iceland has not signed or ratified the GMO amendment. However Iceland has through the EEA Agreement implemented Directive 2001/18/EC on GMO.

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

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

Answer:

See above (XXXIII)

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 above (XXXIII)

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:

See above (XXXIII)

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:

N/A
