

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 Republic of Croatia in accordance with decisions I/8, II/10 and IV/4.

Name of officer responsible for submitting the national report:

Branka Pivčević Novak, Ministry of Environment and Energy of the Republic of Croatia

Signature:

Date: 16 December 2016

Implementation report

Please provide the following details on the origin of this report

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I. Process by which the report has been prepared

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

Answer:

The 4th National Report on the Implementation of the Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (hereinafter referred to as: Aarhus Convention) covers the period since the previous report (2014 – 2016)¹. The preparation of the report was coordinated by the Ministry of Environment and Energy (hereinafter referred to as: MEE) in cooperation with the Ministry of Justice and other public authorities relevant for the implementation of the Aarhus Convention. *Zeleni Forum* (Green Forum), a network of organisations active in the field of environmental protection, appointed its representative from *Zelena Istra* (Green Istria), a non-governmental organisation (NGO), as a member of the Working Group for the Preparation of a Draft Report. The draft report was published on the national website e-savjetovanje (e-Consultations) for a period of 30 days. Certain comments were included in the Report, while a written statement was issued with respect to the remaining comments and published on the e-Consultations website. In accordance with the recommendation of

the Aarhus Convention Secretariat, the final version of the Report was shortened and translated into English. The 4th National Report is available on MEE's website, while the relevant bodies and organisations have been notified of the publication of the Report.

¹ Three National Aarhus Convention Implementation Reports were prepared prior to this Report (for 2009, 2010 and 2014). <http://www.mzoip.hr/default.aspx?id=10190>

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: /

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.

Answer:

A number of Croatian laws and subordinate regulations are applicable in connection with the implementation of the general provisions of Article 3, as already mentioned in the previous National Reports. However, since the completion of the 3rd Report, certain laws related to the environment and some other laws relevant for the implementation of the Convention have been amended. The Environmental Protection Act (hereinafter referred to as: EPA; OG No.² 80/13, 78/15), Nature Protection Act (OG No. 80/13, 47/14), Air Protection Act (OG No. 130/11, 47/14; hereinafter referred to as: APA), Act on the Right of Access to Information (OG No. 25/13, 85/15; hereinafter referred to as: ARAI), and the Water Act (OG No. 153/09, 63/11, 130/11, 56/13 and 14/14; hereinafter referred to as: WA) have been amended.

All the provisions relevant for the implementation of the Convention have been transposed from the old into the new versions of the mentioned acts, while the new ARAI establishes an improved standard of proactive disclosure of information and documents held by public authorities for the purpose of consultation with the interested public (Article 11).

The following new regulations are also relevant in this context: Ordinance on the Reciprocal Exchange of Information and Reporting on Ambient Air Quality and Obligations for Implementation of Commission Decision 2011/850/EU (OG No. 3/16), Ordinance on Air Quality Monitoring (OG No. 3/13), Regulation on designation of zones and agglomerations according to levels of air pollution in the territory of the Republic of Croatia (OG No. 1/14), Regulation on the establishment of a list of measurement sites for monitoring concentrations of certain pollutants in the air and locations for measurement stations in the national air quality monitoring network (OG No. 65/16), Regulation on levels of pollutants in ambient air (OG No. 117/12, 90/14), Regulation on limit values for volatile organic compound content of certain paints and varnishes used in construction and vehicle refinishing products (OG No. 69/13), Regulation on limit values for pollutant emissions from stationary sources into the air (OG 117/12), Regulation on the quality of petroleum-derived liquid fuels (OG No. 113/13, 76/14, 56/15), Regulation on technical standards of environmental protection from VOC emissions by storage of petrol and its distribution (OG No. 135/06), Regulation on environmental technical standards for reduction of volatile organic compound emissions from refuelling of motor vehicles with petrol at service stations (OG No. 44/16), Ordinance on Monitoring, Reporting and Verification of Reports on Greenhouse Gas Emissions from Installations and Aircraft in the Period from 1 January 2013 (OG No. 77/13), Ordinance on Greenhouse Gas Emission Monitoring in the Republic of Croatia (OG No. 134/12), Act on the Ratification of the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in

Environmental Matters (OG-IT No. 4/08), Regulation on the prevention of major accidents involving dangerous substances (OG No. 44/14), Ordinance on registry of installations containing hazardous substances and register of reported major accidents (OG No. 139/14), Regulation on environmental permit (OG No. 8/14).

New regulations in the field of water management are as follows: Regulation on bathing water quality (OG No. 51/14), Regulation on service areas (OG No. 67/14), Ordinance on the Calculation and Collection of the Water Contribution Fee (OG No. 107/14), Ordinance on the Manner of Public Consultation and Information regarding the Draft Water Management Strategy and River Basin Management Plan (OG No. 48/14).

After the Government of the Republic of Croatia had adopted the *Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts* (OG 140/09; hereinafter referred to as: Code), the Government Office for Cooperation with NGOs prepared the *Guidelines* for the implementation of the Code and *A Guide to Consultation with the Interested Public*. The *Guide* serves as a simple and easy to understand tool which explains particular parts of the *Guidelines* in more detail and provides relevant examples and samples of forms, thus ensuring easier practical application. A complete educational and training programme for *consultation coordinators* (appointed in state administration bodies and Croatian Government offices) was defined under the project and the state administration bodies were provided with continuous technical assistance in the process of building the capacities for efficient consultations. The technical assistance is continued to be provided after the completion of the project as well.

An important step in the improvement of the normative framework for public consultation was made through the adoption of the new ARAI (OG No. 25/13, 85/15), by which the establishment of the institution of the Information Commissioner was ensured that promotes and guarantees the right to access to information. The Act defines the obligation of public authorities to conduct consultations with the interested public in the duration of a minimum of 30 days through the central state web portal for public consultations – e-Consultations. The portal e-Consultations ensures public access to all open state authorities' consultations in one place, simple submission of comments and proposals for improvement of draft laws, other regulations and acts, that is, participation in the processes of shaping public policies. The Office for Cooperation with NGOs carries out regular monthly education of civil servants with regard to the use of the e-Consultations application. In the first year and a half of the e-Consultations portal being operational 812 consultations were carried out at which the interested public submitted 12,580 comments.

According to the Rules of Procedure of the Government of the Republic of Croatia central state administration bodies have to, along with the draft laws, other regulations and acts, when submitting into the procedure of the Government of the Republic of Croatia, enclose associated reports on conducted consultation. Furthermore, in Article 174 of the Rules of Procedure of the Croatian Parliament (OG No. 81/13) the obligation is set for the body proposing the act to submit enclosed to every proposal of an act the report on the conducted consultations with the interested public.

In cooperation with the State School of Public Administration, the Government Office for Cooperation with NGOs still carries out a systematic educational programme for *consultation coordinators* responsible for the process of consultation with the interested public in procedures of adopting new laws, other regulations and acts. The seminars are also intended for other state and local civil servants responsible for information, legal matters and cooperation with associations, civil society organisations and interest groups.

The Government Office for Cooperation with NGOs prepares annual reports on the implementation of the *Code*, which show progress in the application of the consultation standard. A trend was recorded of an increase in the number of consultations from year to year, as well as in the number of comments. In 2015, state authorities conducted consultations for 608 laws, other regulations and acts, which amounts to a 12% increase compared to 2014 and to even 62% compared to 2013. In 2015, 5,863 legal and natural persons took part in consultations, out of which 4,116 individuals. Also, the reports show that a part of the received comments is also adopted (27% in 2015). All the reports published to date are available at: <https://udruga.gov.hr/pristup-informacijama/savjetovanje-sa-zainteresiranom-javnoscu/provedba-kodeksa-savjetovanja/276>

² Official Gazette

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;

Answer:

The basic rules of procedure of state administration bodies and other state bodies, the bodies of local and regional self-government units and legal entities vested with public authority are regulated under the General Administrative Procedure Act (OG No. 47/09, hereinafter referred to as: GAPA). When administrative matters concerning the rights, obligations or legal interests of citizens, i.e. legal persons or other parties, are being resolved through direct implementation of the regulations, this act also applies to procedures related to the requests for access to information.

Pursuant to the ARAI, all public authorities shall appoint an *Information Officer* responsible for ensuring the proper exercise of the right to access information (carries out tasks of regular disclosure of information, as well as the tasks of resolving individual requests for access to and re-use of information, and improves the manner of processing, classification, safe-keeping and disclosing of information contained in official documents regarding the work of public authorities, the Information Officer also provides the necessary assistance to applicants in regard to the exercise of the rights to access information). The obligation to provide information and clarifications concerning administrative matters is also regulated under the Civil Servants Act (OG No. 49/12 – consolidated text, 37/13, 38/13).

MEE's Directorate for Inspectional Affairs at the national and local level maintains a daily phone service through which environmental inspectors provide information as well as an e-mail address through which it is possible to submit reports/queries.

Croatian Agency for Environment and Nature which keeps the national Environmental and Nature Information Systems provides information to the public through the Information Officer.

(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;

Public authorities responsible for specific environmental components and sustainable development conduct environmental awareness raising campaigns, each in accordance with its financial possibilities. Environmental education has a very important place in the Croatian National Curriculum. Numerous activities aimed at promoting environmental education and awareness are being conducted in kindergartens and elementary and secondary schools. In cooperation with other state administration bodies, the Ministry responsible for education ensures distribution of promotional materials on environmental topics. As part of the national campaign called *Zdrav za 5* (In Excellent Health) intended for school children in the academic year 2012/2013, which was coordinated by the ministries responsible for internal affairs, health and environment, the children were in an informal manner taught about the importance of preserving health and the environment as well as adopting healthy lifestyles (drugs, alcohol and gambling prevention, waste in the environment) (<http://www.zdravza5.com/>).

Since 2012, on the occasion of the Ozone Layer Protection Day (16 September), MEE has coordinated a series of activities, lectures, the development of educational/promotional materials and similar intended for school children (<http://ozonko.mzoip.hr/>).

The Environmental Protection and Energy Efficiency Fund (hereinafter referred to as: EPEEF) has a special role in the Republic of Croatia in promoting environmental awareness and carries out educational and promotional programmes related to environmental protection, promotion of energy efficiency and use of renewable energy sources. It also co-finances various conferences and meetings related to the environment, energy and corporate social responsibility.

The Croatian Institute for Toxicology and Anti-doping maintains a special-purpose web page for the public aimed at educating them with regard to protection against and hazards of dangerous chemicals (<http://www.otrovno.com/>).

The new Croatian Agency for Environment and Nature (hereinafter referred to as: CAEN) was established and issues educational and promotional materials for the purpose of sensitizing and informing the public about protection of the environment and nature and organises events for the public and the media to mark the dates relevant for nature protection (<http://www.azo.hr>, <http://www.dzrp.hr/>). Besides regular publication of all

relevant information and data on the indicated web sites, a new web site has also been created for the purpose of informing the public about invasive species and large carnivores in Croatia (<http://www.invazivnevrste.hr/>, <http://www.life-vuk.hr/vuk/>). A Facebook profile has also been activated at SINP's website (<https://hr-hr.facebook.com/Drzavni-Zavod-za-Zastitu-Prirode-118004114905844/>)

A number of activities have also been initiated for the purpose of promoting education and raising awareness of the importance of protected areas included in the Natura 2000 ecological network, and a related portal has been created (<http://www.natura2000.hr/>).

As part of the project called National Biodiversity Planning to Support the Implementation of the CBD 2011-2020 Strategic Plan, concluding in May 2014, a survey of the informedness and public attitude towards nature protection was carried out for the purpose of developing the Report on the State of Nature of the Republic of Croatia for the period 2008-2012 (<http://www.dzpp.hr/publikacije/ostale-publikacije/rezultati-istrazivanja-javnog-mnjenja-o-stavovima-vezanim-uz-zastitu-prirode-1341.html>).

CAEN promotes environmental awareness among the public primarily through educational and promotional materials, campaigns carried out on dates relevant for environmental protection, as well as lectures held in schools and through its website (<http://www.azo.hr>). From 2010 to 2015 there was in Zagreb a *Public Information Centre* that provided all the necessary information and publications concerning the environment and nature to the public (opening hours were Mon-Fri from 11 a.m. to 2 p.m.).

In 2016 the project Strengthening the Role of Croatian Agency for Environment and Nature in Informing and Raising Public Awareness in the Field of Environment, Climate Change, Nature and Biodiversity Protection in the value of EUR 300,000 was approved to CAEN, to be launched in early 2017. The aim of the project is to raise the level of education and information in target groups (the entire society, primarily in pre-school and school children) and contribute to lifelong learning related to acquiring knowledge, skills and values necessary for improving the quality of life and building of society based on knowledge of various aspects of environment and nature and their protection.

In June 2016 CAEN launched the project „Plan for development of waste prevention system and information and exchange of good practices“. The aim of the project is to contribute to the realisation of waste prevention goals in the Republic of Croatia, and one of the results will be the web portal as a central on-line location containing information on the possibilities, methods, measures and activities in the field of waste prevention.

Croatian Waters (hereinafter referred to as: CW), issue an informative/professional monthly bulletin called *Hrvatska vodoprivreda* (Water Management in Croatia) and a scientific/professional magazine called *Hrvatske vode* (Croatian Waters) through which the general public is informed about water management issues (<http://www.voda.hr/>). With the aim of raising awareness concerning the importance of waters and the water environment, CW also organises events to mark the International Water Day (22 March), the Danube Day (28 June) and the Day of CW (7 September), on which occasion Croatian Waters annual awards are presented for the best bachelor's theses from the field of hydrotechnology and other water management related fields, doctoral dissertations as well as best works (published scientific books, university textbooks, etc.) on topics related to water management. CW is also the patron of scientific and professional gatherings and regularly co-finances projects by NGOs, as well as publication of scientific and expert books and publications related to water management.

CW recognised the need for corporate social responsibility (CSR) towards the community and has therefore launched the project *Lijepa naša Sava* (Our Beautiful Sava River), focusing on education, on stimulating scientific and educational institutions and individuals, on cooperation with NGOs and other actors, with the aim of developing joint care for the protection and conservation of waters.

Focusing on the youngest members of society (pre-school and the first four years of primary school) it launched the project of Educational picture books and *Najmlađi za vode Hrvatske* (The youngest for waters of Croatia).

Through the Swiss-Croatian Cooperation Programme, the Government Office for Cooperation with NGOs will act as the Intermediate Body and the Implementing Agency for projects the aim of which is to promote civil society contribution to economic and social cohesion, through a donation in the value of CHF 4.8 million. Within the framework of this donation activities will be financed that will contribute to acquisition of skills and knowledge by children and youth from primary and secondary schools and the members of their families related to sustainable development.

The City of Zagreb, home to almost a quarter of entire population of Croatia, has a special web site through which it informs the public about tenders, educational programmes and other activities carried out in the field of environment, climate, energy efficiency and sustainable development (<http://www.eko.zagreb.hr/>).

(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;

Several mechanisms exist in Croatia to provide support to associations and organisations promoting environmental and nature protection and all the data at the national level is consolidated and published in *Annual Reports on Financing of Civil Society Organisations' Projects and Programmes* coordinated by the Government Office for Cooperation with NGOs. These annual reports contain data on financial and non-financial support allocated from the state, county, town and municipal budgets. Some of the mentioned funds are allocated from the revenue generated from games of chance, fees imposed on polluters and budget reserves. In this way, the Government of the Republic of Croatia regularly monitors the dynamics of funding and provides recommendations for improving the system of financial support allocation to projects and programmes of civil society organisations (hereinafter referred to as: CSOs) in Croatia (<https://udruga.gov.hr/financiranje-programa-i-projekata-udruga-iz-javnih-izvora/2772>).

In addition, projects carried out by CSOs in the field of environmental and nature protection are also funded by EPEEF and CW (<http://www.voda.hr/hr/javni-natjecaji>) as well as local and regional self-government units, and various companies (banks, shops, etc.) have "green tenders" intended for CSOs.

MEE awarded national prizes and certificates for best CSO projects which provided contribution to environmental protection and sustainable development in 2016, as well as to teachers in primary schools for their contribution to environmental protection and sustainable development in the educational process.

(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;

Answer:

The principle of nationwide cooperation in the implementation of environmental protection as well as cooperation with and informing of other states of trans-boundary environmental impacts and the exchange of environmental information are prescribed under the EPA. Pursuant to the APA, the MEE is required to initiate activities in cooperation with the competent authority from another state for the purpose of adopting common plans and programmes for reducing air pollution by implementing appropriate measures in the event of significant trans-boundary air pollution. Croatia promotes the principles of the Convention on Environmental Impact Assessment in a Trans-boundary Context (ESPOO Convention), among other, by participating in bilateral and multilateral bodies/international

treaties as either a member/party.

MEE regularly informs the public about the outcomes of its international and cross-sectoral cooperation through its web site and press releases. It is uncommon for CSO representatives to participate in the meetings of the parties of international conventions that Croatia is a signatory to.

The national delegation for the Climate Change Conference held in Paris in 2015 included a CSO representative, however, this is a rarity and CSOs are not involved in the preparation of an official position of the Republic of Croatia in negotiations.

The River Basin Management Plan (OG No. 66/16) was adopted on 6 July 2016 by the Government of the Republic of Croatia. In 2015, CW presented the draft document at meetings of bilateral intergovernmental water management commissions with the neighbouring countries the Republic of Slovenia, Hungary, Bosnia and Herzegovina and the Republic of Montenegro. The document was presented to the representatives of the Republic of Serbia at the meeting of the committee for the preparation of the bilateral intergovernmental water management agreement. Within the procedure of strategic environmental assessment, the procedure of transboundary consultations in line with the ESPOO Convention were carried out as well with all neighbouring countries.

(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:

This right is ensured pursuant to the principle of legality referred to in Art. 16 of the Croatian Constitution (OG No. 56/90, 135/97, 8/98 – consolidated text, 113/00, 124/00 – consolidated text, 28/01, 41/01 – consolidated text, 55/01 – corrigendum, 76/10, OG No. 85/10-consolidated text and 5/14, hereinafter referred to as: Constitution) and the right to appeal referred to in Art. 18 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:

CSO representatives deem that Article 171 of EPA is contrary to Article 3, para. 8 of the Aarhus Convention since such legal provision bring persons who do not wish to exercise their guaranteed right of access to justice in a precarious and unequal position. They also believe that Article 253 of EPA is contrary to Article 9, para. 3 and 4 of the Aarhus Convention with regard to the costs of procedures that have to be fair, equitable and not prohibitively expensive.

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: /

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

/ <http://aarhus.zelena-istra.hr/>

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;

The EPA, ARAI and the Regulation on information and participation of the public and the public concerned in environmental matters (OG No. 64/08, hereinafter referred to as: RIPPCEM) are the core regulations governing implementation of Article 4. Certain measures are additionally integrated into other regulations related to particular environmental areas. It is important to note that Directive 2003/4/EC of the European Parliament and of the Council on Public Access to Environmental Information has been fully transposed into the national legislation. Definitions from Art. 2 of the Aarhus Convention have been transposed into the EPA and the ARAI.

The provisions of Art. 3, para. 9 of the Aarhus Convention are regulated under the constitutional principle of equality of citizens and under the provisions of the ARAI. Furthermore, the EPA and the ARAI prescribe that all persons have the right of access to information without having to state their particular interest, as well as the manner in which the data and information can be accessed. The right of access to information is exercised by submitting a request. Article 18 of the ARAI prescribes that the request can be submitted to the competent authority verbally or in writing, and if the request has been made through electronic communication (e-mail, fax, etc.) it shall be considered a written request. A written request has to contain the name and address of the public authority to which the request is submitted, data relevant for recognising the requested information, name, surname and address of the natural person submitting the request, company name, i.e. name of the legal entity and its address. In order to facilitate submission of the request for access to information to the person exercising the right to access to information, he/she may optionally complete the Request for access to information form, which is an integral part of the Ordinance on the structure, contents and manner of keeping the official register on exercising the right of access to information (OG No. 83/14). The user may in the request for access to information specify the appropriate way of receiving information (direct provision of information, provision of information in writing, access to the document and photocopying the document that contains the requested information, delivery of the copies the document that contains the requested information, any other appropriate manner), and if it is not specified the information will be delivered in the manner in which the request was submitted, i.e. the most economical way. With regard to the ARAI provisions, the deadlines for exercising the right of access to information in line with the EPA is not determined, that is, it is prescribed that public authorities which hold environmental information, or which environmental information concerns, allow access to information in the shortest possible time. In accordance with the ARAI, pursuant to the request for access to information the public authority shall issue its decision within 15 days from the date of submission of an orderly request, and in certain cases prescribed by law this deadline may be extended by additional 15 days.

- (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;

Answer:

if the public authority rejects the request to provide environmental information it has to do so by means of a decision, however, the grounds for rejecting the request according to the EPA (Art. 158) somewhat differ from the rejection grounds according to the ARAI (Art. 15), which lists in more detail and more elaborately the possible grounds for rejecting to

provide the requested information. In the EPA (Art. 158, para. 6) it is explicitly prescribed that the Information officer is the appeal body in cases of rejection of requests to provide environmental information, while Article 5, paragraph 1 of the same Act prescribes that the provisions of the regulation governing the right of access to information shall apply to information access matters in procedures which are carried out pursuant to this Act but are not regulated under this Act and its implementing regulations. That the bodies the scope of which covers nature protection, environment and energy rely on the general regime regulated by the ARAI is observable also on their websites at which mainly information is published related to the realisation of rights in accordance with the ARAI.

Pursuant to the EPA (Art. 158), a public authority which holds environmental information shall not be able to reject a request for information if that request is related to releases or other emissions into the environment. Furthermore, in the process of deciding whether to approve or reject a request, the public authority which holds environmental information shall assess whether the protection of public interest is of greater significance than the interest which would be realised by disclosing the requested information. Thus, in Art. 16 the ARAI prescribes that the public authority in charge of acting upon a request for access to information shall, prior to reaching a decision, conduct the proportionality and public interest tests. When the public authority determines that there exists a restriction referred to in Article 15, para. 2, 3 and 4 of the ARAI (e.g. personal information, trade or professional secret, etc.) with regard to the requested information or part of information, which means that the public authority established the existence of a protected interest, it is necessary to ascertain whether public interest exists for the requested information (for example, discussions in the media related to the requested information, a wider circle of people is interested in the requested information, information is related to health, environment, exposure of corruption, national security, etc.). The public authority then evaluates the two conflicting interests in order to assess which interest prevails, the protected interest or the public interest. Also, the restrictions on the right of access to information, as well as the exemptions from the same, are prescribed under Art. 15 of the ARAI and Art. 26 of the Ordinance of Water Management Documentation (OG No. 13/06). In the procedure for exercising the right of access to information, appropriate provisions of the GAPA are also 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;

Answer:

Art. 21 of the ARAI is applied with respect to paragraph 5. Pursuant to the same, if a public authority does not possess the information, but is aware of public authority body that does possess the respective information, it shall, without delay, but no later than eight days from the date of receipt of the request, transfer the request to the respective body and notify the submitter thereof. If the public authority body receives a request for access to international information, it shall, without delay, but no later than eight days from the date of receipt of the request, transfer the request to the information holder, and notify the submitter thereof. Exceptionally, the public authority shall act upon the request for access to international information, if it is evident that information was intended for direct publication. Furthermore, in the procedure for exercising the right of access to information in an appropriate manner, the provisions of the GAPA are applied as well.

(e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;

Answer:

These measures are implemented pursuant to Art. 15, para. 5 of the ARAI. More precisely, if a part of the requested information is subject to restriction (e.g. represents a trade, professional or tax-related secret), the remaining parts of the information will be made available.

(f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;

Answer:

The public authority body shall issue a decision on rejecting the request (Art. 23, para. 5 of the ARAI) if the requested information relates to any procedures carried out by the competent authorities in preliminary and criminal procedures for the duration of such

procedures, and in cases when information is requested that is classified by a degree of secrecy, the public authority may reject the request in accordance with the previously obtained opinion from the Office of the National Security Council. In the specified situations the public authority may restrict access to information after having conducted the Proportionality Test and the Public Interest Test (e.g. information is a trade or professional secret, protected personal information, intellectual property, in cases when information is restricted pursuant to international treaties, if the information is in the process of development or arises in the procedures of alignment or in the exchange of positions and opinions in the adoption of regulations and other acts, or if the disclosure of the information would prevent the efficient, independent and unbiased unfolding of court, administrative or other legally regulated proceedings). The public authority may also reject the request if it establishes that there are no grounds for amendment or correction of the provided information, or if the requested information is not considered information in accordance with the definition under the ARAI.

The deadline for approving or rejecting a request for access to information is 15 days. This deadline may be extended by additional 15 days (Art. 22 of the ARAI) in situations prescribed by law on the basis of a written notification and clarification delivered to the requesting party no later than 8 days from the date of receipt of an orderly request.

(g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

Art. 19 of the ARAI is applied, which prescribes that access to information in procedures before the public authorities does not require the payment of administrative and court fees. On the basis of the indicated ARAI Article, the Information Officer adopted the Criteria for setting the amount of fees and the manner of covering the actual material expenses incurred by providing information (OG No. 12/14 and 15/14). The Criteria are the fundamental regulation for all public authorities in the procedures of exercising the right of access to information and the right to re-use the information when collecting the fee for the actual material expenses and the expenses of delivery of the requested information.

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:

The most common forms of violation are delays with regard to the deadline for provision of information prescribed by law, provision of incomplete information, reference to exemptions from the right of access to information without having carried out the Proportionality Test and the Public Interest Test, invitation to inspect the information instead of delivery of information in the requested format, etc.

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:

Pursuant to Art. 60 of the ARAI, public authorities are obliged to submit to the Information Officer a report on the implementation of the ARAI for the previous year no later than by 31 January of the current year. The Information Officer submits the report on the implementation of the ARAI to the Croatian Parliament no later than by 31 March of the current year for the previous year.

From the Officer's report on the implementation of the ARAI for 2014 it is observable that although the legal regime regulated by the ARAI is more favourable for the users of the right of access to information than the regime under the EPA (for example, with regard to the covered bodies, grounds for restrictions, etc.), the users usually refer to ARAI provisions in their complaints. The persons submitting complaints related to the decisions or administrative silence with regard to requests for access to environmental

information are usually NGOs. Out of 114 complaints submitted during 2014 by CSOs, 28 referred to complaints related to environmental information. Those 28 complaints mostly concerned administrative silence (19 complaints) with regard to requests for environmental information. Complaints were submitted by 9 CSOs. All 19 complaints related to administrative silence have been resolved, and an additional complaint to a decision on the rejection of the request was also resolved. Most often environmental information was requested from EPEEF, MEE, Ministry of Economy, HEP d.o.o. and Croatian Waters.

From the Officer's report on the implementation of the ARAI for 2015 it is observable that 29 complaints were submitted with regard to access to environmental information, out of which 21 complaint concerned administrative silence. Complaints were in most cases submitted by CSOs (16 or 55.17%), followed by natural persons (11 or 37.93%). Complaints mostly concern proceeding by public authorities in the field of environmental protection, energy and energy efficiency, agriculture and natural resources, health, utility services, i.e. activities by ministries, agencies, funds and institutes, companies and local and regional self-government units. During 2015 a total of 19 complains were resolved, while 10 complaints are still in the process of resolution. At the same time, nine applications were received mostly submitted by CSOs (five), specifically concerning proceeding by ministries, cities, companies and state administration offices, and due to infringement of regulations on consultations with the interested public and proactive publication of information and failure to proceed in accordance with legal provisions when resolving requests for access to information.

It was concluded that the total level of transparency and openness still remains unsatisfactory. Significant deviations were in particular observed at the level of local and regional self-government units, a part of legal persons with public authorities and state-owned companies.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

<http://www.pristupinfo.hr/dokumenti-i-publikacije/>

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.

Answer:

There is a number of legal and regulatory measures ensuring implementation of the provisions of Article 5 in the Republic of Croatia which have been mentioned in the previous National Reports.

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9, are mentioned in answers related to Articles 4 and 9. However, the new EPA includes a definition of the "public concerned" which is better aligned with the provisions of the Aarhus Convention in the sense that the public concerned is defined as the public which is affected or likely to be affected by environmental decision-making or which has an interest in environmental decision-making (regardless of the place of work or residence). This also refers to CSOs active in the field of environmental protection.

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;

Answer:

A number of laws and subordinate regulations, documents and implementing regulations have been prepared prescribing in detail the content, form and manner of keeping records on specific environmental components and information flows, as mentioned in the previous National Reports. Thus, the EPA requires that public authorities, within the scope of their competence, regularly publish environmental information using the available electronic databases or other appropriate information methods. The following regulations are also relevant in this context: Regulation on information and participation of the public and the public concerned, Ordinance on the Environmental Pollution Register (OG No. 87/15) and the Regulation on the Environmental Information System (OG No. 68/08, hereinafter referred to as: Regulation on the EIS).

The Croatian Environmental Information System (hereinafter referred to as: CEIS) is maintained by CAEN in cooperation with other ministries, state and county administrative bodies as well as scientific and professional institutions. The structure, content, form and manner of keeping and maintaining CEIS, as well as the deadlines for the submission of data and reports are prescribed under the Regulation on the EIS.

The EPA prescribes that the environmental inspection shall in particular supervise the delivery of the prescribed data and reports for CEIS purposes as well as the keeping of a register on the state of the environment and delivery of data for the EPR. In case of violation of these provisions, inspectional measures shall be initiated. Pursuant to the new EPA (Art. 227, OG No. 80/13, 87/15), MEE publishes on its website the Annual Work Plan of the Environmental Inspection. MEE also informs the public of specific inspectional supervisions and activities of the Environmental Inspection, as well as prepares and publishes a quarterly Report on Coordinated Environmental Inspectional Supervisions in accordance with Art. 257 of the EPA.

As far as water data is concerned, CW collects, processes and interprets the data on water and water environment in accordance with the Ordinance on the Content, Form and Manner of Keeping Water Management Documents (OG No. 120/10). The Water Act (WA) prescribes public availability of water documents which are also kept in digital form as part of the Water Information System (assessment of the quality of surface and ground waters and territorial sea affected by pollution from land, reports on sudden and accidental pollution). On the basis of the collected data, an annual report on the water quality in the Republic of Croatia is prepared. With respect to the danger of water pollution, the WA prescribes the procedure for ensuring the flow of information between the National Protection and Rescue Directorate, State Water Inspectorate and CW.

The National Plan of Measures for Sudden and Accidental Water Pollution (OG No. 5/11) determines measures and actions undertaken in cases of sudden and accidental pollution of inland waters and defines persons obliged to carry them out, the content of lower-order plans of measures and the deadline for their development, entities participating in the undertaking of measures, measures and actions in cases of sudden and accidental water pollution, sources of financing and the manner of public information.

The Contingency Plan for Accidental Marine Pollution (NN 92/08) establishes the measures for predicting, preventing, restricting and preparedness for as well as response to accidental marine pollution by oil and/or oil mixture, hazardous and noxious substances, as well as unusual natural marine phenomenon for the purpose of protecting the marine environment. Implementation of Contingency plans in cases of accidental marine pollution is under the competence of the ministry responsible for environmental protection.

Within the framework of the protection from the adverse impact of water, operative flood risk management and direct implementation of flood protection measures are set by the National Flood Defence Plan (OG No. 84/10), the Master Flood Defence Implementation Plan and Flood Defence Implementation Plans for defended areas. In line with the WA flood defence planning documents have been developed; the Flood Risk Management Plan, which is a constituent part of the River Basin Management Plan for 2016-2021 (OG No. 66/16) and the Multi-annual Programme for Construction of Water Regulation and Protection Facilities and Amelioration Facilities (OG No. 117/15).

Cooperation of all competent bodies in the protection and rescue system is necessary for effective flood defence, including local and regional self-government units and the National Protection and Rescue Directorate which is according to the National Flood Defence Plan the holder of core authorities in the field of protection from disasters and major accidents, including those caused by flooding. For organisation of management in cases of disasters all necessary measures are carried out by the competent National Protection and Rescue Directorate in line with the provisions of the Protection and Rescue Act (OG No. 174/04, 79/07, 38/09 and 127/10) and the Protection and Rescue Plan of the Republic of Croatia (OG No. 96/10).

The provider of the public service of water supply is responsible for safety of drinking water intended for human consumption, which has to possess an approval for the performance of public water supply activities (Article 203 of the Water Act) and comply with requirements prescribed by the Ordinance on Special Requirements for Performing Public Water Supply Activities (OG No. 28/11 and 16/14).

(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;

Answer:

The ARAI prescribes that all public authorities shall appoint an *Information Officer* who has the responsibility to regularly publish information falling within the scope of competence of the relevant public authority, as well as to handle individual requests for access to information, improve the manner of processing, classifying and publishing information contained in official documents falling within the scope of competence of the relevant public authority and ensure the necessary assistance to the applicants.

Furthermore, the EPA requires that the public authorities, each within the scope of its competence, regularly publish environmental information, including also the national reports on the state of the environment. The CEIS databases are available to the public through CAEN's website (<http://iszo.azo.hr>). As part of the CEIS Management Programme, the measures that have to be carried out in order to ensure uninterrupted flow of environmental information and to create new databases have been broken down into phases. Reports on the state of the environment and other sectoral reports are available to the public on the CAEN website (www.azo.hr).

(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;

Answer:

Pursuant to the EPA and the Regulation on the EIS, one of the main tasks and objectives of CAEN is the establishment, management, development, coordination and maintenance of a uniform CEIS in accordance with the Croatian Environmental Information System Management Programme which includes all relevant environmental information classified into 52 systems, that is, 72 relational databases divided into 11 thematic sub-systems (<http://www.azo.hr/Baze>).

For the existing database of the Environmental Pollution Register (hereinafter referred to as: EPR) which includes an application for the submission and use of data on place of release and/or transfer of pollutants into the air, water and/or sea and soil, as well as the generated, collected and treated waste (<http://www.azo.hr/RegistarOneciscenjaOkolisa>), in March 2012, an EPR browser (<http://roo-preglednik.azo.hr/>) was made public, and in December 2012 also the national EPR portal (CNPEPR). -- <http://hnproo.azo.hr>. The browser ensures direct and free-of-charge access to verified data in the EPR database at the level of organisational unit, which contributes to the transparency of the system and can serve as a source of data for various analyses and the basis for decision making in environmental issues. CNPEPR is a publicly available Portal, through the establishment of which the Republic of Croatia fulfilled its international commitment in line with the Act on the Ratification of the Protocol on Pollutant Release and Transfer Registers to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (OG-IT No. 4/08). CNPEPR also provides a GIS browser, i.e. an online insight into the spatial component and the related information with

additional possibilities of creating spatial analyses and reports (<http://hnproo.azo.hr/Home.aspx>). With the aim of better and higher quality communication, in 2014 the „Industry Helpdesk“ (IHD) application was made public at the following link: <http://helpdesk.azo.hr/> as support to users, various cooperating institutions as well as expert and other interested public with regard to sectoral pressure issues to which industry databases also belong. CAEN also maintains the database „Register of waste management permits and certificates“ which contains data on issued waste management permits based on the information submitted by the Ministry of Environment and Energy and the competent county administrative body. The application can be used at the link: <http://rizicna.azo.hr/AZO1/registar> for searches by Waste Catalogue codes, legal entities, type of permit, body which issued the permit, etc.

Pursuant to the Regulation on prevention of major accidents involving dangerous substances (OG No. 44/14) and the Ordinance on the registry of installations containing hazardous substances and the register of reported major accidents (OG No. 139/14), the database Registry of installations containing hazardous substances/Register of reported major accidents (RIHS/RRMA) (<http://rpot.azo.hr/rpot/index.html>) was created. The greatest public interest was recorded precisely in the part related to the databases of the EPR and the RIHS/RRMA. CAEN also keeps the Register of use permits establishing integrated environmental requirements and of decisions on integrated environmental requirements for existing installations (BOUDR), the central source of information in Croatia about issued use permits establishing integrated environmental requirements and decisions on integrated environmental requirements for existing installations (Decisions on environmental permits - <http://boudr.azo.hr/>). With regard to sectoral pressures, through its website, CAEN also provides public access to online GIS browsers: the Map of Mineral Raw Material Exploitation Fields (<http://rudarstvo.azo.hr/viewer.htm>) and the Strategic Noise Maps (<http://buka-portal.azo.hr/>).

The MEE, CAEN and the Institute of Oceanography and Fisheries from Split have jointly established the Database on sea bathing water quality, which provides public information and access to data on the quality of sea bathing water during the bathing season. The data on the quality of sea bathing water can be viewed using a bilingual online browser, and the chart presents the results of sea bathing water quality assessment in real time, depending on the duration of the sample analysis, since the period from taking the sample until the publication of the results lasts two to three days. There is a bilingual version of the browser adjusted to small screens, i.e. a mobile version of the browser for smartphones and tablets (<http://baltazar.izor.hr/plazepub/kakvoqa>).

Since 2004, CAEN has had the function of the National Reference Centre for the CORINE Land Cover database on land cover and the obligation to develop, as well as regularly maintain and upgrade the CORINE system. CLC databases were developed in line with the programme for coordination of information on the environment and natural resources entitled CORINE (COOrdination of INformation on the Environment) of the European Environment Agency and the European Commission. CORINE Land Cover Croatia represents a digital database on the state and changes to the land cover and land use in Croatia for the period 1980-2012 and the related WebGIS browser in which the indicated databases are analysed and searched (<http://corine.azo.hr/home/corine>).

In addition, there is a separate Nature Protection Information System maintained by CAEN which contains the following information: Croatian Habitat Map, Protected Areas of Croatia, National Ecological Network and the NATURA 2000 Sites (SDF + NATURA 2000 GIS) (<http://www.dzpz.hr/informacijski-sustav-zastite-prirode-99.html>).

CAEN set up the Nature Protection Information System web portal – Bioportal <http://www.iszp.hr> containing a set of databases, application solutions and web services intended for storage, maintenance and sharing of data related to various components of biological and landscape diversity and nature protection in the Republic of Croatia. Bioportal provides access to up-to-date and verified spatial data to the experts and the public. Bioportal includes a browser for spatial data through the tools of which the user can by himself set parameters for browsing through the target data (search, analysis, extracts, reports). Data from the Nature Protection Information System is also available through the web services (WMS and WFS) which the users can upload into their own GIS software for work purposes. All webpages:

www.dzpz.hr – official site of the former State Institute for Nature Protection

www.invazivnevrste.hr – site for information on invasive species in Croatia; also contains alert forms

www.croh abitats.hr –website containing habitat type database
www.velikezvijeri.hr – site for information on large carnivores in Croatia
www.georef.hr – application for georeferencing literature data

Pursuant to the Chemicals Act (OG No. 18/13), the Croatian Institute for Toxicology and Anti-doping keeps a register of data on chemicals from safety data sheets which are publicly available on its website (www.hzt.hr).

In 2014, CAEN developed the portal „Air Quality in the Republic of Croatia“ within the framework of the Air Protection Information System. Air quality is presented using the unified Europski Common Air Quality Index (CAQI) and provides the general public with an easy-to-use insight into air quality comparable to the state of air quality in the EU. It contains the database with archived data where all data is available. The Air Protection Information System also contains the following databases: Emissions from stationary sources, Emissions of volatile organic compounds, Volatile organic compounds in paints and varnishes, Fuel quality at petrol stations and in fuel storage tanks, List of legal persons performing activities in the field of air quality. The indicated databases are available on the following website: <http://www.azo.hr/BazePodataka03>.

The Register of Legal and Natural Persons Performing Activities Related to Import/Export and Placing on the Market of Controlled and Alternative Substances, Servicing, Collecting, Restoring and Recycling is published on MEE’s website as well. Information concerning the establishment of a system for emission unit trading and issuance of greenhouse gas emission permits for installations is also available to the public. On the mentioned web page, installation operators can obtain all information related to submission of requests, preparation of monitoring plans which are an integral part of the request or greenhouse gas emission permit. It also includes the frequently asked questions by operators with answers provided by experts within the framework of the professional support provided to operators in the process of preparing greenhouse gas emission monitoring plans (<http://www.mzoip.hr>).

All information on the procedures related to the EIA and the assessment of the need for an EIA is available on MEE’s website (<http://puo.mzoip.hr/>), together with the information on the SEA for strategies, plans and programmes (<http://www.mzoip.hr/default.aspx?id=8984>).

Pursuant to the Act on Radiological and Nuclear Safety (OG No. 141/13 and 39/15), the State Institute for Radiological and Nuclear Safety (SIRNS) monitors environmental radioactivity using online and offline systems. The monitoring results are available on the State Institute website (<http://cms.dzrns.hr>). The indicated website also provides complete relevant legislation, the list of sites in the Republic of Croatia at which activities involving dangerous radiation ionising sources are carried out, the Bulletin on Krško Nuclear Power Plant activities and their environmental impact, information related to nuclear safety and the emergency preparedness system in cases of nuclear or radiological disaster, and other information related to radiological and nuclear safety.

CW publish on their website information on water levels (<http://vodostaji.voda.hr/>), flood hazard and flood risk maps (<http://korp.voda.hr/>), flood risk management with flood defence measures (<http://www.voda.hr/hr/obrana-od-poplava>), bathing water quality assessment (<http://baltazar.izor.hr/plazekpub/kakvoća>) and the agglomeration register (<http://hvode.maps.arcgis.com/apps/webappviewer/index.html?id=bfl1e235883964c5f92b3c230bdd98a4d>), as well as regulations, planning and strategic documents, detailed plans and programmes regarding specific subcatchment areas, sectors, special issues or water types in the river basin for which the plan is adopted, water utility infrastructure development projects, infrastructure projects and amelioration projects, scientific and research studies for the purpose of analysing river basin characteristics <http://www.voda.hr/>.

(d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;

Answer:

Pursuant to the EPA, public authorities are required, within their competence, to regularly publish environmental information, including national environmental reports. Thus, the Report on the State of the Environment of the Republic of Croatia is printed and distributed to over 200 addresses. Besides being sent to the Croatian President, the Parliament and the Government, the Report is also sent to the central state administration bodies, regional self-government units, and various scientific and professional institutions (most of which also participate in its preparation). The Report is also sent to all university principals’ offices in the Republic of Croatia, schools of life sciences as study material, as

well as to numerous non-governmental organisations and the National and University Library in several dozen copies.

As part of CEIS, a Database of Sustainable Development and Environmental Protection Documents is available to the public through CAEN's website (<http://dokumenti.azo.hr/Pretrazivanje.aspx>). It contains complete national, regional and local reports on the state of the environment, as well as various other reports on environmental components and environmental pressures (e.g., the Annual Report on Air Quality Monitoring in the Territory of the Republic of Croatia, the Annual Report on Monitoring Air Pollutant Emissions from Stationary Sources in the Territory of the Republic of Croatia, the Report on Air Pollutant Emissions in the Territory of the Republic of Croatia (in accordance with the provisions of the LRTAP Convention), etc).

(e) Measures taken to disseminate the information referred to in **paragraph 5**;

Answer:

As part of CEIS, a record of all strategic and planning documents related to the environment and a record of reports are also kept. CEIS is publicly available through the relevant website and occasionally the relevant bodies and local and regional self-government units are invited to "feed" new data into the database.

With respect to international treaties, conventions and agreements, it is common to carry out consultations with all competent authorities prior to their adoption or signing. Where there is a reporting requirement, the common procedure is to form a working group comprised of representatives from the relevant bodies responsible for the preparation of the draft report. The list of international treaties in the field of environmental protection is available at MEE's website.

(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;

Answer:

As part of the CNPEPR portal, the public has access to information on operators exceeding the thresholds prescribed for the release and transfer of pollutants, the generated, collected and treated waste from the EPR as well as polluters and their location.

The operators, manufacturers and service providers implementing high environmental protection standards can be awarded an eco-certificate, and co-financing of the introduction of ISO 14001, EU Ecolabel and the EMAS was initiated.

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

Answer:

Both the ARAI and the EPA are important in this context, as they prescribe that the public has the right to participate in the procedures for identifying starting points, developing and adopting strategies, plans and programmes and in developing and adopting regulations and general acts pertaining to environmental protection.

Thus, for example, a wide consultation process has been initiated for the development of Croatian Low-carbon Development Strategy. The reports and presentations from the workshops were published on the MEE website <http://www.mzoip.hr/hr/klima/strategije-planovi-i-programi.html>.

In the procedure of adoption of the River Basin Management Plan for 2016-2021, CW carried out public participation and information in the duration of 6 months (April - October 2015) pursuant to Article 39, paragraph 4 of the WA and provisions under Articles 8 and 9 of the Ordinance on the Manner of Public Consultation and Information regarding the Draft Water Management Strategy and River Basin Management Plan (OG No. 48/14). The draft document was published on the websites of the Ministry of Agriculture and Croatian Waters respectively together with the Forms for submission of comments.

(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;

Answer:

Art. 219 of the EPA prescribes that the producer, that is the person placing a product on the market, shall be obliged in cases it is so prescribed to put, prior to placing a product on the market, an instruction on the packaging or on the technical document accompanying the product informing the consumer about the environmental impact of the product and of

the packaging, and instructing how to handle the product and packaging after their use. The EPA also prescribed fines for violations of provisions under Art. 219.

The Act on Sustainable Waste Management (OG No. 94/13) and the Ordinance on Packaging and Packaging Waste (OG No. 88/15 and 78/16) are also relevant in this context.

The following are also relevant in this context: The Regulation on limit values for volatile organic compound content of certain paints and varnishes used in construction and vehicle refinishing products (OG No. 69/13), Regulation on the quality of petroleum-derived liquid fuels (OG No. 113/13, 76/14 and 56/15) which prescribe that, prior to being placed on the Croatian market, the products must have an intelligible label in Croatian informing the consumers of the content and limit values.

Also publicly available through CAEN are databases on „Volatile organic compounds in paints and varnishes“ and „Fuel quality at petrol stations and in fuel storage tanks“ along with reports on indicated products (<http://blv.azo.hr/>; <http://iszz.azo.hr/kago/>; <http://www.azo.hr/GodisnjaIzvjescaOHLapivim>; <http://www.azo.hr/GodisnjaIzvjescaOTekucim>).

The public can also access the information on the approved biocidal products, the list of which is regularly published by the Ministry of Health on its website. The annual list of biocidal products is adopted by the Minister of Health pursuant to the Act on Biocidal Products (OG No. 63/07, 53/08 and 49/11).

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

Answer:

A database of the Environmental Pollution Register and the related EPR application for the entry and use of data have been created on the basis of the EPA and the Ordinance on the Environmental Pollution Register (OG No. 35/08). Upgrading of the system on the basis of the new EPR Ordinance (OG No. 87/15) is underway.

The Improvement of Croatian Environment Pollutant Register (Croatian EPR) and its Integration into Croatian Environmental Information System (CEIS) project (Twinning project HR 14 IB EN 01) is underway in which one of the results will be the design and development of the Atlas, a tool which will bring data from the EPR closer to the end users in the educational and interactive sense.

Furthermore, on the basis of the Plan for the protection of air, ozone layer and climate change mitigation in the Republic of Croatia for the 2013 – 2017 period (OG No. 139/13), CAEN is carrying out the project for the development of an environmental pollution register with geographical distribution in the EMEP network of high resolution. The realisation of the said projects began in September 2016. The aim is to develop an emission register for small and diffuse sources and other (present) mobile and stationary emission sources for the entire territory of the Republic of Croatia, that is, by zones and agglomerations (Zagreb, Rijeka, Split and Osijek) and separately for the city of Slavonki Brod and Brod (BiH). This project will result in spatial distribution of pollutant concentrations, or rather it will provide geographical identification of all point, line, surface and fugitive emission sources.

CW collect, process and enter into the Water Information System data on the monthly quantities of discharged waste water, carried out testing of waste water and chemicals placed on the market for use in the territory of the Republic of Croatia which enter the water after use, in line with Annex 1.A of the Ordinance on Emission Limit Values for Wastewater Discharges (OG No. 80/13, 43/14, 27/15 and 03/16).

Register of facilities in which dangerous substances are present/ Inquest register of reported major accidents (RPOT/OPVN) the descriptions of the facilities containing dangerous substances are all available to the public, in which it can be found a list of the installation which may cause a domino-effect, data on major accidents (sign-in required), emergencies and accidents avoided (voluntary registration), as well as various statistical data <http://rpot.azo.hr/rpot/index.html>.

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:

Additional efforts should be made to introduce the public to the information systems and improve data verification, to educate persons obliged to submit data as well as establish better cooperation at the local level between data verifiers, inspectional service and persons obliged to submit data.

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:

Data collected by CAEN is processed for the purpose of preparing reports and annual data reviews which are delivered to MEE and published at CAEN's website (www.azo.hr). From 1 January 2014 to 10 October 2016 there were 1,692,416 visits to the website made by 208,870 visitors (45.3% new ones).

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

Reports and data reviews:

<http://www.azo.hr/Izvjesca14> - for the field of waste management

<http://www.azo.hr/Izvjesca24> - on sectoral pressures

<http://www.azo.hr/BUKA> - on noise

<http://www.azo.hr/Izvjesca26> - on greenhouse gas inventory, greenhouse gas emission projections, on policies and measures for emission reduction and increase in greenhouse gas removal by sinks

<http://www.azo.hr/Izvjesca10> - for the field of air quality and emissions into the air.

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.

Answer:

Article 11 of the ARAI prescribes that state administration bodies, other state bodies, local and regional self-government units and legal persons with public authority are required to conduct public consultations prior to the adoption of acts and subordinate regulations, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons. The public authority is obliged to publish its annual plan for public consultations on its website no later than by the end of the current calendar year. The public authority is also obliged to inform the public in the same manner of any amendments to the public consultation plan. The consultation shall be carried out electronically, for the state administration bodies through the central state portal e-Consultations and for other parties through their websites or portals. Consultations are as

a rule carried out in the duration of 30 days, except in cases when such consultations are conducted pursuant to regulations governing the procedure of assessment of the impact of regulations. Consultations include the publication of the draft regulation, act or other document, with a substantiation of the reasons and objectives to be achieved through adoption of the said regulation, act or other document, and the invitation to the public to submit their proposals and opinions. Upon the expiry of the deadline for the submission of opinions and proposals, the public authority has to draft and publish a report on the public consultation, which contains the received proposals and comments, and responses thereto, with the reasons for rejection of individual proposals and comments. This report then has to be submitted to the body that adopts the regulation, act or document.

The Act on Regulatory Impact Assessment (OG No. 90/11) and the Regulation on the implementation of the regulatory impact assessment (OG No. 66/12) prescribe the rules for consultations with stakeholders, consultation and public discussions/round tables, and a minimum deadline of 30 days. After the completed consultation and public discussion, including the public presentations, the expert responsible person shall consider all comments, proposals and opinions of the public and the public concerned as well as issue a notification of the accepted and rejected comments, proposals and opinions which shall be made available to the public and the public concerned on its website.

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer related to Art. 4.

Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing of certain plans and programmes relating to the environment has been fully transposed into national legislation. The principle of public participation is thus defined under the EPA and the RIPPCEM, which regulates the manner of informing and participation of the public and the public concerned, if participation of such public is prescribed by law, in the following procedures: strategic assessment; adoption of plans and programmes which are not subject to strategic assessment; drafting of laws, implementing regulations and other generally applicable legally binding rules that could have a significant impact on the environment; environmental impact assessment and determination of integrated environmental requirements for company installation. The Regulation also prescribes the procedure for holding public discussions, public inspections and public presentations, as well as the related deadlines. It also specifies the plans and programmes related to environmental protection that are not subject to strategic assessment, in which case it prescribes the obligation of ensuring public participation in the process of drafting proposals of such plans and programmes, and specifies which public may participate in the mentioned process.

Article 39 of the WA (OG No. 153/09, 63/11, 130/11, 56/13 and 14/14) and Articles 8 and 9 of the Ordinance on the Manner of Public Consultation and Information regarding the Draft Water Management Strategy and River Basin Management Plan (OG No. 48/14) prescribe public participation and information in the procedure of adopting the Water Management Strategy and River Basin Management Plan.

The Nature Protection Act (OG No. 80/13) prescribes public participation, i.e. the procedure for holding a public discussion, in articles referring to the ecological network; import, placing on the market and introduction of alien species into nature; reintroduction and repopulation of native species; and breeding of wild species.

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;

Answer:

Activities listed in Appendix I of the Convention correspond to the list of projects listed in the Annex I of the Regulation on the of environmental impact assessment (NN 61/14, hereinafter: UPUO) and in the list of activities in Annex I of the Regulation on the environmental permit (NN 8/14). The administrative procedure is conducted for environmental impact assessment for the approval of activities listed in Annex I of UPUO which precedes other approvals or permits. The process of getting environmental permit for new activities follows the procedure separately and after environmental impact assessment procedure. The process of the environmental permit does not serve to allow activities, but for the regulation of conditions of work for activities that have already been permitted. The process of the environmental

permit should be implemented at the latest before the commissioning of the facility. Due to the formality of the process, the PUO follows the procedure in accordance to the regulation of GAPA. The process of environmental permits is conducted according to Regulation of environmental permit, NN 8/14, with a lower application of the GAPA when it comes to issues that are not covered by these regulations. During the procedure the public has a right of access to documents during public consultations, which includes public access to documents and public presentation on the project. (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;

Answer:

In the case of projects listed in Annexes II and III of the REIA, i.e. the projects or activities which are not covered by Annex I to the Convention, the assessment of the need for an environmental impact assessment is carried out, on the basis of which it is determined whether the proposed project could have significant impacts on the environment. In the procedure for obtaining approvals or permits for projects which are not subject to the assessment of the need for an EIA, public participation is not envisaged. However, pursuant to Art. 111 of the Physical Planning and Building Act (OG No. 76/07, 38/09, 55/11, 90/11, 50/12, 55/12, 80/13 and 78/15), in the procedure for obtaining a location permit, the parties (and only the parties) are allowed to inspect the conceptual design and in the procedure for issuing decisions concerning construction requirements and building permits, the parties are allowed to inspect the conceptual design, in accordance with Article 216 of the same Act.

(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**;

Answer:

The RIPPCEM prescribes that the competent authority shall be responsible for the accuracy, timeliness, comparability and availability of information provided in relation to environmental matters. Besides the requirement to publish information on its website, the competent authority may provide information using other methods which are perhaps more appropriate in that particular case considering the relevant local community or individual citizen, referring in particular to public announcements in the press, i.e. the official bulletin of the local or regional self-government unit, posting information on the notice boards in relevant towns, publishing information in other media, electronic media, on appropriate information boards and similar, or issuance of written materials.

Art. 8 of the REIA is also applied in this context. It prescribes that the competent authority shall inform the public and the public concerned of the developer's request for EIA after it establishes that the request contains all the required information and evidence and that the study contains all the necessary chapters in accordance with Annex IV to this Regulation. Art. 8 of the RPEIER that obliges MEE to inform the public and the public concerned about any request for establishing integrated environmental requirements pursuant to the RIPPCEM is also relevant.

Ordinance on the Appropriate Assessment for the Ecological Network (OG No. 146/14, hereinafter referred to as: OAAEN) and the Nature Protection Act (OG No. 80/13), as well as Articles 19, 35 and 38, para. 4 of the Act on Genetically Modified Organisms (OG No. 70/05, 137/09, 28/13 and 47/14, hereinafter referred to as: AGMO) are also applicable in this context.

With respect to the decisions concerning the ecological network, the OAAEN prescribes that the competent ministry or the competent administrative body in the relevant county has to inform the public about the request made by the project developer and the results of the procedure of Prior Assessment, the procedure of Main Assessment, or the procedure of establishing the overriding public interest and approval of the project with compensation conditions through its website.

Thus, in the procedure of Prior Assessment of the plan or programme subject to strategic assessment or assessment of the need for a strategic assessment, the public is informed of the results of the procedure through the publication of the adopted act on the website of the body responsible for adopting the relevant act. In the procedure of Main Assessment of the plan or programme (carried out as part of strategic environmental assessment), information and participation of the public and the public concerned are ensured through a public discussion on the strategic impact study and the draft proposal of

the plan or programme.

The Prior Assessment procedure requires that the competent authority informs the public of the results of the procedure by publishing the adopted act on its website. The Main Assessment procedure requires that the public be informed of the project developer's request, the implementation of public inspection and the results of the Main Assessment procedure.

In the process of establishing the overriding public interest and the compensation conditions concerning the project developer's request, public information and participation is ensured for a period of 30 days, during which time the information on the submitted project developer's request is published on the website and written public opinions, comments and proposals are collected. The public is informed of the results of the procedure through the publication of the adopted act on the website of the ministry responsible for carrying out the relevant procedure.

The procedure for designation of protected natural resources requires that the public be informed about the proposal for designation of a protected area in such a manner so as to allow a public inspection of the proposed act as well as the related expert background documents containing cartographic representations. The public inspection ensured in the procedure for designating national parks, nature parks, strict reserves and special reserves is organised and carried out by the competent ministry, while the public inspection for other protected areas (nature monuments, regional parks, significant landscapes, park forests and park architecture monuments) is organised and carried out by the county administrative body or the City of Zagreb. The public inspection must be ensured for a period of no less than 30 days. The entity proposing the act on designation of a protected area has to issue a statement in response to the comments submitted during the public inspection, while the submitted comments and statements shall become integral parts of the documents that the proposal of the act is founded on.

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;

Answer:

The EPA prescribes a minimum time period of 30 days for public participation in the process of drafting acts and implementing regulations as well as other general binding rules that could have a significant environmental impact, as well as amendments to the same. This requirement is reiterated in the relevant legal and subordinate regulations. The time limits are aligned with the Act on Regulatory Impact Assessment (OG No. 90/11) and the Regulation on the implementation of the regulatory impact assessment (OG No. 66/12) prescribing a minimum time limit of 30 days.

(d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;

Answer:

The EPA (Art. 163) prescribes that in the early phase of the procedure when all options are still open, public authorities shall through public notices, advertisements and other appropriate media, including electronic media, inform the public and the public concerned on draft strategic documents, regulations and special regulations being implemented pursuant to the EPA. This is also prescribed by the REIA and the RPEIER.

Early and efficient public participation concerns the process of obtaining development consent. In Croatia, obtaining development consent refers to the issuance of a building permit. The EIA procedure is thus required in the early project development phase (prior to submitting an application for a location permit), whereby early public participation is ensured. Furthermore, Croatian legislation prescribes a requirement that any project for which an EIA is carried out has to be planned under the valid physical planning documents. Pursuant to the regulations governing physical planning and construction, public inspection and discussion are mandatory and public participation must be ensured at all stages of the process of preparing physical plans of all levels.

(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;

Answer:

There are no incentive measures. However, in practice, the authorities inform the public most commonly by announcing the projects and the proposed activities which are being discussed or for which decisions will be issued through their websites, press, radio stations and in other ways.

- (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;

Answer:

Art. 163 of the EPA, which regulates the informing of the public and the public concerned with regard to the right and manner of participating in procedures and the applicable deadlines, is applied in this context, together with Articles 5, 7, 9, 10 and 11 of the RIPPCEM.

- (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;

Answer:

Within the framework of the national portal e-Consultations the public can directly enter comments on the text for the duration of the consultations. There is an obligation to prepare a report on the carried out consultations and publish it within one month at the same portal. In the EIA and SEA procedures the public can for the duration of the consultation submit their comments in writing or in person during public discussion. Information on these procedures is made public on the website of the competent body, in the press and in radio programmes.

- (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;

Answer:

In general, the EPA (Articles 162 – 166) prescribes the right and manner of participation of the public and the public concerned in the process of drafting implementing regulations and/or generally-applicable legally binding normative instruments, as well as strategies and programmes referring to the environment. The EPA also prescribes that the public proposals and opinions and the outcomes of transboundary consultations concerning draft proposals of strategies, plans and programmes have to be taken into consideration in the SEA and EIA procedures (Art. 73, Art. 89). Also relevant in this context are Art. 21 of the RIPPCEM and Art. 19 of the AGMO.

- (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;

Answer:

The manner in which the public has to be informed of a decision adopted by a competent authority and the grounds which the relevant decision is based on, including the data concerning the procedure for participation of the public and the public concerned, is prescribed under a number of different laws and regulations (the EPA: Art. 73, Art. 91, Art. 162 – 166; the REIA: Art. 22, para. 2; the RPEIER: Art. 15, para. 2; the RPMARDS: Art. 21, para. 2 and 3, and Art. 22, para. 4; the Ordinance on Measures for Environmental Damage Remediation and Remediation Programmes (OG No. 145/08): Art. 14; the RIPPCEM: Art. 5, para. 2, Art. 6, para. 2, Art. 7, Art. 8, para. 2 and Art. 9, para. 4; and the OAAEN: Art. 7, 10, 11, 17, 21, 22, 23, 27, 32, 38. Also relevant is Article 36, para. 3 of the AGMO.

MEE regularly uses the decisions of the Administrative Court (concerning violations of the rules governing public participation in environmental decision-making) for the purpose of improving the EIA and environmental permit procedure. Thus, the decisions concerning the assessment of acceptability of a particular project specify the public concerned that has provided comments, as well as the grounds for all comments that were

not accepted (all decisions issued in the past three years are available on MEE's website <http://puo.mzoiip.hr/hr/puo/novosti.html>).

In decisions on environmental permit, the draft of the environmental permit must be publicly available before adoption, and the public feedback and comments must be taken into account. Only after the completion of access to the draft permits may be issued a decision on the environmental permit, which in the explanation must include responses to comments from the public debate and respond to comments on the draft permit, if any. Also, a decision on the environmental permit may provide additional environmental requirements that are determined on the basis of public participation, if their decision was justified.

(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;

Answer:

In the lists of projects provided in Annexes to the REIA, it is stated that the EIA procedure is carried out in the event of changes or reconstructions related to the listed projects as well. Since reconstruction and expansion are considered to be new projects, the standard procedures for the EIA or assessment of the need for EIA are carried out.

Art. 36 of the AGMO is also applied in this context.

(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:

The regulations applicable with respect to paragraph 11 include: Art. 47, para. 2, Art. 57, para. 1, subpara. 5 and Art. 60, para. 2 of the AGMO and Art. 5 of the Ordinance on the Form and Manner of Keeping the Unique Register of Genetically Modified Organisms and the Manner of Establishing Printout Costs (OG No. 125/07) and Annex I to the Ordinance on the content and scope of the risk assessment in relation to placing on the market of genetically modified organisms or products which contain and/or consist of or derive from genetically modified organisms, the methodology for the preparation of assessment and requirements that have to be fulfilled by a legal person for the preparation of risk assessment (OG No. 39/08 and 31/13).

Croatia has not ratified the GMO Amendment to the Aarhus Convention. However, the provisions of the Aarhus Convention regarding public access to information and public participation have been integrated into the AGMO.

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:

It has been observed in practice that in cases when the Committee requested amendments of the study, the amended text of the study was not made available to the public since there exists no obligation for its publication. Thereby, the public are not provided with access to the entire information. CSOs are of the opinion that the publication of amended impact studies should be made mandatory and that they should be published in the same places as the other documents so that the decisions adopted by competent bodies in the EIA procedure could be compared to the protection measures from the environmental impact study.

Also, the opinions of special bodies in the procedure, which can also be of great importance for participation in the EIA procedure, are not published. CSOs are of the opinion that the publication of opinions by bodies determined by special regulations should be made mandatory and that they should be published in the same places as the other documents related to the procedure so that the public could have access to the entire file and could participate in the consultation procedure in possession of a complete information.

It has been observed in practice that it is not sufficient to make the information in the EIA procedure public only on the website of the competent body and in the local newspapers, but that it should also be done in public places in the vicinity of the project (bus stations, church, frequently visited shops, libraries, etc.), as well as that the identified interested public should be informed individually at their home addresses.

According to the regulation in force, the REIA, decisions are published only on the website of the competent body which is not sufficient since a large proportion of the population has no access to Internet. Furthermore, the public that participated in the procedure by providing opinions has to be given a timely information on the decision so that it could have the opportunity to dispute it through complaints or civil action. Therefore, the public participating in the procedure should be informed through delivery of information to their doorsteps and the said Regulation should be amended so that it is aligned with the Aarhus Convention. For example, CSOs that participated in an EIA procedure have to for months, on a daily basis, search for the issued decision on the website of the competent body (since decisions are not delivered to the home or e-mail addresses of the interested public that participated in the procedure), since it is often not published on the same web page on which the documents related to EIA procedures have been published and where it would be most logical to look for it. In addition, decisions are usually made available without the indicated date of publication so that it is impossible to ascertain the date on which the deadline for complaints or civil action starts.

Maastricht recommendations on promoting effective public participation in decision-making in environmental matters (ECE/MP.PP/2014/8) should be taken into account with regard to the requirements under Article 6, paragraph 9 of the Convention on the obligation of «prompt and efficient» public information. To this end, decisions in EIA procedures have to be delivered to the home or e-mail addresses of the public that participated in the procedure so that they could be provided with an opportunity to dispute the said decision at a higher instance or in court. Also, in accordance with item 143 of the Recommendations, information about the possibilities to appeal the decision should be provided to the public together with the decision.

With regard to offshore projects (gas and oil installations), to date the legislator did not give special treatment to the right of interested public/public concerned to participate in the procedure. Instead of there being an obligation of public presentation and publication of information in the territory under the greatest direct impact of proposed projects, presentations are usually held in Zagreb, which is in contravention to the Aarhus Convention since it prevents and makes participation of the concerned or interested public in the procedure more difficult.

It has been observed in practice that all comments made by the public, regardless of the argumentation, are mostly rejected. Thus, distrust was created in the public with regard to procedures of adoption of spatial plans or EIA procedures. SEA documents frequently only superficially describe alternatives to the proposed projects.

The Report of the Information Commissioner states that in particular failures to adopt the plan for public consultations, to observe deadlines for the implementation of consultations, as well as to inform the public in a timely manner of the completed consultations through publication of a report have been observed. The failure to hold consultations in some cases can be attributed to the expedited adoption of a regulation.

New EIA and SEA Regulations are currently being drafted in order to improve the procedures.

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

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

Answer: /

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

<http://puo.mzoip.hr/>
<http://aarhus.zelena-istra.hr/>

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:

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer to Art. 4.

Art. 7, para. 5, Art. 9, para. 1, Art. 15 and Art. 19, para. 3 and 4 of the Regulation on the strategic environmental assessment of plans and programmes (OG No. 64/08, hereinafter referred to as: RSEAPP), and Art. 10 of the APA are relevant in this context. Also applicable are the NPA: Art. 5 and 125; the WA: Art. 5, para. 8 and Art. 39; and the NMO: Art. 27.

The SEA procedure envisages a public discussion on determining the content of the strategic impact study and informing the public of the same. The purpose is to discuss with the public, at the earliest possible stage, the issues relevant for the strategic assessment procedure.

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:

Articles 17, 164 and 165 of the EPA, and the RIPPCEM are applied in this respect. The public has the right to express its opinion, comments and suggestions concerning draft strategies and proposals of plans and programmes related to the environment for which the EPA does not prescribe mandatory strategic assessment.

Public authorities form working groups for the preparation of certain strategic and planning documents as well as advisory bodies for the purpose of obtaining opinions regarding such documents. It is common practice that such bodies include the representatives of both the business and the civil sector, as well as representatives from scientific institutions. Government Office for Cooperation with NGOs, through its website, keeps a database of advisory bodies in which a search can be conducted of state institution advisory bodies by person or by institution/organisation to which they belong. The database is available at the following link: <https://savjetovanja.gov.hr/baza-savjetodavnih-tijela/1118>.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

Bodies in local and regional self-government units often evade preparation of SEA for plans, programmes and strategies and their amendments. Therefore, in 2015 during the discussion regarding amendments to the EPA the legal experts from the Faculty of Law of the University of Zagreb warned of its shortcomings with regard to the prescribing of mandatory SEA for spatial plans. They wanted to draw attention to the practical issue of the target amendments to spatial plans which each separately might not represent significant amendments but when viewed as a whole could have significant impacts on the environment. MEE did not adopt the proposal to amend the EPA and thus in practice the avoidance of preparation of SEA continues for multiple concurrent amendments to spatial plans.

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

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

Answer:

The City of Zagreb regularly publishes information on the initiated SEA and EIA procedures and submitted requests for determining integrated environmental requirements falling under its competence on its official website, on the notice board in the lobby of the City Administration building and the notice board of the city district in which the proposed project is located within the Official Journal of the City of Zagreb, in the daily newspapers at least 8 days before the public discussion and public inspection commence.

Public presentations are regularly held in the territory of the city district in which the proposed project is planned to be executed. Written invitations to the presentations are sent to representatives of the project developer, authorised person who has prepared the documents, Council of the city district in which the proposed project is planned to be executed and other city offices and services, depending on the specifications of the proposed project. Public presentations are organised in afternoon and evening hours. The public and the public concerned have an opportunity to express their opinions, proposals and comments during the public discussion in the manner described in the published notice of the public discussion (by phone, fax or e-mail).

In early 2014 the Government Office for Cooperation with NGOs announced the scheme for allocation of IPA 2012 grants entitled *Building Local Partnerships for Open Governance and Fight against Corruption in Responsible Management of Natural Resources*, and granted a total of 1,855,129.50 EUR for 11 CSO projects. The overall objective of the Call for Proposals was to ensure open governance and transparency in managing public goods and natural resources in the Republic of Croatia, through affirmation of civil society organisations as equal partners in ensuring open governance and transparency in managing public goods and natural resources (<https://udruga.gov.hr/ipa-2012/324>). Projects cover activities for raising public participation in decision-making and the fight against corruption at the local level: analysis of public opinion regarding the level of transparency of the process of environmental decision-making, education for local authorities and CSOs on public participation in spatial planning, the procedure for granting concessions and Directive on environmental liability, on corruption and anti-corruption mechanisms in managing utility services and spatial planning, free legal assistance to citizens regarding access to information and public participation in environmental decision-making in the fight against corruption at the local level, public campaign for raising public participation in environmental decision-making, social audit activities for management of natural resources, etc.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

<http://puo.mzoip.hr/>
www.zagreb.hr
<https://udruga.gov.hr/ipa-2012/324>

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:

It was already described in Article 6 of this report how Article 11 of the ARAI prescribes that state administration bodies, other state bodies, local and regional self-government units and legal persons with public authority are required to conduct public consultations prior to the adoption of acts and subordinate regulations, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons.

Pursuant to Article 24 of the Act on Regulatory Impact Assessment (OG No. 90/11) and Articles 18 and 19 of the Regulation on the Implementation of the Regulatory Impact Assessment Process (OG No. 66/12), during the preparation of any national legislative act, it is required to include consultations with stakeholders, public consultations and public discussions.

Relevant definitions from Art. 2 and non-discrimination requirements from Art. 3, para. 9 are mentioned in the answer provided for Article 4.

The opinions, comments and proposals can be submitted by all citizens, without exceptions, in accordance with the principle of equality of citizens from Art. 14 of the Constitution of the Republic of Croatia. The Amendments to the Rules of Procedure of the Government of the Republic of Croatia (OG No. 121/12), Art. 30, para. 4, prescribes that the draft proposal of the regulation must be subject to the mandatory consultation procedure (in accordance with the Code of Practice on Consultations with the Interested Public) as well as the mandatory delivery of the report on consultations with draft proposals of acts and other regulations.

Annual reports on the implementation of the Code of Practice on Consultations with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts show significant progress in the number of consultations that were carried out as well as the interest expressed by the representatives of the interested public. In 2015, the number of consultations rose by 12% as compared to 2014, by 62% as compared to 2013 and by 323% as compared to 2012.

One of the reasons for this is the fact that the capacities of the Government Office for Cooperation with NGOs have been strengthened and additional education has been provided to coordinators of the consultations with the interested public (a consultation coordinator education programme has been prepared, several training seminars and consultations have been carried out, A Guide to Consultation has been developed and the practice of regular meetings of consultation coordinators has been established). The normative framework for the implementation of consultations has also been completed, and the need and value of consultations have been integrated in the measures for the implementation of the action plan of the global initiative called Open Government Partnerships. In addition, through the launch of the central consultations portal entitled e-Consultations on 27 April 2015, a step forward was made with regard to availability of information on opened consultations to the general public, to the simplicity of commenting draft regulations, but also with regard to the efficiency of proceeding by state administration bodies. The advantages of the portal are ease of access to all opened consultations in one place, easier commenting of the provisions of draft regulations, more

efficient analysis of received comments by state authorities, less complicated publication of reports on the results of consultations, greater public control over the quality of responses by state authorities and in general a contribution to a better quality communication between state authorities on the one hand and citizens and all interested social groups on the other in the process of shaping public policies. At the same time, the Government Office for Cooperation with NGOs carries out regular education of all users of the e-Consultations portal in state administration bodies and organises periodic meetings with system administrators in state administration bodies with the aim of further standardisation of work and improvement of the consultation process.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

Obstacles: there were cases in which certain public discussions lasted less than the prescribed 30 days; the comments are in most cases disregarded; while long lasting discussions have resulted in the adoption of regulations that differ substantially from the draft proposals considered during the public discussion.

An example of the disregard of public opinion is the process of participation in public discussion on the amendments to the Environmental Protection Act (May 2015).

According to the Report on the carried out public discussion on the amendments to the Environmental Protection Act from 2015, on behalf of the Chair of Administrative Law of the Faculty of Law of the University of Zagreb comments were submitted by 4 Doctors of Law. All their proposals, objections and comments were rejected. Comments were, besides the mentioned legal experts, also submitted by other members of the interested public - the Report on the carried out public discussion is 88 pages long. All comments were rejected except the following two, which were adopted: "replace the term marine with the term coastal" and "there is a round bracket missing at the end of the paragraph".

The results of the study on the implementation of the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts carried out at the level of local public authorities show a constant increase in the number of comments and an increase in the comments made by the interested public which are adopted. Furthermore, by the amendments to the ARAI, the Office of the Information Commissioner was given greater powers for monitoring the consultation process, as well as powers for inspectional supervision.

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: /

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

<https://savjetovanja.gov.hr/>
<https://udruga.gov.hr/>
<http://civilnodrustvo.hr/frontpage>

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.

Answer:

Articles 3, 14, 15, 16, 18, 19, 26 and 29 of the Constitution of the Republic of Croatia and Article 8 of the ARAI apply in this context.

Pursuant to Art. 3 of the Constitution of the Republic of Croatia, conservation of nature and the environment and the rule of law represent some of the highest values of the constitutional order of the Republic of Croatia. All persons in the Republic of Croatia enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other characteristics, and all persons are equal before the law (Art. 14 of the Constitution).

Croatia guarantees equal rights to the members of all national minorities, and the rights and freedoms may only be curtailed by law in order to protect the rights and freedoms of others, the legal order, public morals and health. Any restriction of freedoms or rights shall be proportionate to the nature of the need to do so in each individual case (Art. 15, para. 1 and Art.16 of the Constitution).

The right to appeal against individual legal decisions made in first-instance proceedings by courts or other authorised bodies is guaranteed by the Constitution. By way of exception, the right to appeal may be denied in cases specified by law if other legal protections are ensured (Art. 18 of the Constitution).

Individual decisions of governmental agencies, the civil service and bodies vested with public authority shall be grounded in law. Judicial review of individual decisions made by governmental agencies and other bodies vested with public authority shall be guaranteed (Art. 19 of the Constitution). All citizens of the Republic of Croatia and aliens shall be equal before the courts, governmental agencies and other bodies vested with public authority (Art. 26 of the Constitution).

Everyone shall be entitled to have his or her rights and obligations, or suspicion or accusation of a criminal offence decided upon fairly before a legally established, independent and impartial court within a reasonable period (Art. 29, para. 1 of the Constitution).

Pursuant to Art. 8 of the ARAI, the right of access to information and the re-use thereof is granted to every beneficiary in an equal manner and under the same terms. The beneficiaries are equals in exercising thereof. Public authorities may not place beneficiaries in an unequal position, especially in a manner that would enable certain beneficiaries to obtain information before others or in a manner that provides them with special benefits.

Article 4, item 53 of the EPA defines the meaning of the term “right of access to justice”. The right of access to justice means the right to file an appeal with the competent body and the right to lodge a complaint before the competent court which the EPA, subject to the prescribed conditions, confers upon persons - citizens, other natural and legal persons, their groups, associations and organisations, with the aim of realising the right to a healthy life and sustainable environment and for the purpose of protecting the environment and individual environmental components as well as protection against the harmful impacts of burdens.

The principle of the right of access to justice is prescribed under Art. 19, para. 1 and 2 and Art. 154 – 172 of the EPA and Art. 25 and 26 of the ARAI.

Provisions on the right of access to justice are also contained in the Act on Administrative Disputes (OG No. 20/10, 143/12 and 152/14; hereinafter referred to as: AAD) the objective of which is to ensure the legality and court protection of the rights and legal interests of natural and legal persons and other parties, breached by a decision or by an action of the body of administrative law. In its Decision (Ref.: U-I-2753/2012 etc. of 27 September 2016) the Constitutional Court of the Republic of Croatia repealed the

provisions of 79 of the AAD, regarding settlement of costs and it remains to be seen how this is to be regulated.

Art. 12 of the AAD prescribes that administrative disputes are settled by administrative courts and the High Administrative Court of the Republic of Croatia. In accordance with Art. 22 of the AAD, by a complaint the following can be demanded: 1. nullification or declaring of an individual decision null and void, 2. taking of a decision which was not taken within the prescribed time limit, 3. performance of an action which the respondent was obliged to perform in accordance with rules and regulations or a decision, 4. declaring of an administrative contract null and void or performance of an obligation stipulated in an administrative contract. In cases referred to in items 1 and 2, the court may be requested in a complaint to adjudicate on the rights, obligations and legal interests of the party. Along with the main claim, a complaint may demand return of an item and compensation of damage caused by the respondent. An administrative dispute may be initiated after all other legal protection laid down by law has been exhausted.

Pursuant to Art. 83 of the AAD, the High Administrative Court shall initiate the procedure of assessment of the legality of general acts upon the motion of a natural or legal person or a group of persons joined by common interests, if a particular decision of the body of public law which is based on a general act resulted in a violation of their right or legal interest. The request shall be submitted within 30 days of the delivery of the decision. The High Administrative Court may initiate the procedure of assessment of the legality of general acts in the line of duty or upon notification by citizens, the obudsman or upon request of the court.

Provisions on access to justice from Art. 9 of the Aarhus Convention are also contained in particular provisions of the Croatian law, as will be mentioned in answers to the questions below. However, if a certain provision of the Convention proves in conflict with a specific legal regulation of the Republic of Croatia, the judges are obliged to apply directly the provision prescribed under the Convention as it has primacy over the law. Namely, international treaties which have been concluded and ratified are a component of the legal order of the Republic of Croatia and shall have primacy over domestic law (Art. 141 of the Constitution).

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;

Answer:

Any person (citizen and other natural and legal person, their groups, associations and organisations) who considers that his request for information pertaining to environmental protection matters has been neglected, unfoundedly refused, either in its entirety or in part, or that his request has not been answered in an appropriate manner, has the right to defend his rights before a court of law, in accordance with a special regulation on access to information (Art. 19, para. 1 of the EPA).

A public authority may reject the request to provide environmental information by means of decision in cases mentioned in Art. 158, para. 1 and 3 of the EPA. It is possible to file an appeal with the Information Commissioner against a decision issued by the competent administrative body or the competent ministry within 15 days from the date of delivery of the decision, pursuant to ARAI (Art. 158, para. 6 of the EPA).

Pursuant to Art. 25 of the ARAI, a complaint may also be filed if the public authority fails to issue a decision on the submitter's request within the legal deadline. The Commissioner shall issue a decision on the complaint and deliver it to the requesting party through a first-instance body no later than 30 days from the date of filing of an orderly complaint, except in cases described in Art. 25, para 5 and 6 of the ARAI. When the Commissioner has determined that the complaint is valid, he shall issue a decision ordering the public authority to provide the beneficiary with access to the requested information, i.e. to decide on the beneficiary's request and to set an adequate deadline in which it is obliged to act accordingly.

Pursuant to Art. 26, para. 1 of the ARAI, no complaint may be filed against the decision issued by the Commissioner, but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia. The High Administrative Court

of the Republic of Croatia must issue a decision on the complaint within 90 days. The complaint shall delay the execution of the decision granting access to information.

An administrative dispute against the Commissioner's decision may also be initiated by the public authority that has issued the first-instance decision.

- (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;

Answer:

In certain cases, the EPA allows that second-instance proceedings be initiated with the competent authority.

- (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;

Answer:

Pursuant to Art. 10 of the AAD, the final judgment shall be binding upon parties to the procedure and their legal successors. The final judgement of the court concerning the lawfulness of a general act shall be binding upon all. According to Art. 81, para. 2, the respondent is bound by the legal standpoint and court remarks. Furthermore, Art. 23, 24, 25 and 26 of the ARAI are also applicable in this context.

With regard to the grounds which must be provided in writing, the following articles of the AAD are applied: Art. 60 – Contents of the Judgement and Art. 62 – Delivery of the Judgement, Art. 65, para. 5 which refers to the decision (content of the decision). In addition, Articles 97 and 98 of the AAD are applied as well.

- (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;

Answer:

Articles 167 and 168 of the EPA shall apply as follows: any natural or legal person which can, in conformity with the law, prove a violation of a right, due to the location of the project and/or the nature and impact of the project, shall be considered to have a justifiable legal interest in the procedures regulated by the EPA in which the participation of the public concerned is provided for. It is also understood that a civil society organisation which promotes environmental protection has a sufficient (probable) legal interest in the procedures regulated by the EPA which provide for the participation of the public concerned, if it fulfils the requirements provided in Art. 167, para. 2.

The persons which participated in the procedures regulated under the EPA as the public concerned, shall have the right to instigate a legal action against a certain administrative act of a public authority, for which the EPA or a special regulation provides for the possibility of instigating a legal action, and may file an appeal with the ministry responsible for environmental protection or file a complaint before the competent court in conformity with the EPA and the AAD, for the purpose of re-examining the legality of acts, actions or oversights.

The persons belonging to the public concerned shall be notified of a relevant administrative act issued by a public authority and of their right to file an appeal with the ministry responsible for environmental protection or file a complaint before the competent court, by the act being delivered to them if the public authority is in possession of their personal information or through a public notice or in any other appropriate manner in accordance with the regulation referred to in Article 160, paragraph 2 of the EPA.

AAD has a wide definition of who may be a party in the dispute. Namely, pursuant to Art. 17 of the AAD, the complainant is a natural or legal person who believes that his rights and legal interests were violated by a decision, by an act of the body of public law, or by the failure to adopt a decision or to act on the part of the body of public law within the time limit defined by law, or by the conclusion, termination or enforcement of an administrative contract. The complainant may be a person without legal capacity or a group of persons if their rights and legal interests were violated by a decision or an act of a body of public law.

The complainant may be a body of public law that participated or should have participated in taking of a decision, performance of an act or conclusion of an administrative contract. The complainant in an administrative dispute may also be a state body authorized by law. Pursuant to Art. 19 of the AAD, an interested party in a dispute is any person to whom the nullification, change or taking of a decision, an act or failure to act by the body of public law, or the conclusion, termination or enforcement of an administrative contract would mean a violation of his right or legal interest. An interested party is also a body of public law that holds that a court decision may have an impact on the rights and legal interests that it protects under law. The court shall ask the interested party to participate in the dispute in the line of duty or upon the proposal of one of the parties. The interested party may become involved in the dispute at any time. The court shall notify the parties of the involvement of the interested party in the administrative dispute without delay.

(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;

Answer:

Article 169 of the EPA is applied as follows: a legal or natural person which fulfils the requirements concerning the legal interest, which considers that a decision, act or oversight of a public authority or an action or oversight on the part of a natural or legal person (such as: operator, polluter) in environmental matters constitutes a violation of the EPA or a special regulation on protection of an individual environmental component or protection from the effects of burdening and the regulations passed on the basis thereof, shall have the right to request before a competent court the re-examination of the legality of the issued decision, act or oversight in relation to environmental protection and to contest the legality of actions or oversights in environmental issues.

The request shall be submitted in the prescribed format in line with the AAD, within 30 days from the date on which it was delivered to the parties, or the date of publication at the website of the body which passed the decision which is disputed, or from the date on which the deadline for execution of the act or issuing the decision expired. The request shall state and explain what the violation is or what the violation of the regulations is related to. The request must be supported by appropriate evidence.

(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;

Answer:

Pursuant to the EPA, it is possible to lodge an appeal or, if lodging an appeal is not allowed, it is possible to initiate an administrative dispute.

The right to legal remedy is also prescribed in Article 12 of the GAPA, as well as in Art. 66 of the AAD. Legal remedies prescribed under the GAPA include: Lodging Appeals (Art. 105), Filing Objections (Art. 122), Reopening of Proceedings (Art. 123), Pronouncing Decisions Null and Void (Art. 128) and Annulment and Repeal of an Unlawful Decision (Art. 129) for decisions adopted by competent bodies in the first instance in line with regulations on the state administration system, while the AAD also envisages initiation of an administrative dispute pursuant to Art. 12. Legal remedies prescribed under the AAD include: Appeals (Art. 66-75), Renewal of the Dispute (Art. 76 and 77) and Request for Extraordinary Examination of Legality of Final Judgment (Art. 78). In line with Art. 83 – 88, an assessment of the legality of general acts is carried out, while Art. 89 prescribes a special manner of resolving administrative disputes through court settlement.

Art. 26, para. 2 of the AAD prescribes that the court may decide that a complaint should have delaying effect if the enforcement of a decision or administrative contract would result in damage to the complainant which would be difficult to remedy, unless provided by law that a complaint shall not delay the enforcement of a decision (the EPA does not), and that such a delay is not contrary to public interest.

Pursuant to Art. 1047 of the Civil Obligations Act (OG No. 35/05 and 41/08), any person may request from another person to eliminate a major source of danger for him or for another person, as well as to refrain from activities causing disturbance or a risk of

damage, if disturbance or damage cannot be prevented by applying the appropriate measures. The court shall order, at the request of an interested party, to take the appropriate measures for preventing the occurrence of damage or disturbance, or to eliminate a source of danger, at the expense of a possessor of a source of danger, if the latter fails to do so himself.

If damage is a result of performing an act of public interest for which an approval has been obtained from the competent authority, only a compensation for damage exceeding the usual limits may be required (excessive damage). In that case, however, taking of socially justified measures may be required in order to prevent the occurrence of damage or to reduce damage.

In addition, Art. 25, 26 and 59 of the ARAI are applied in this context as well.

(ii) Such procedures otherwise meet the requirements of this paragraph;

Answer:

A court order prescribing a prohibition is provided for under Article 170 of the EPA. In the procedure for challenging decisions, acts and oversights of a public authority, or an action or oversight on the part of a legal or natural person in environmental matters, the competent court may:

- order the operator, polluter or the public authority to undertake all necessary measures, which include the suspension of specific activities,
- oblige the operator or the polluter to pay an appropriate fee to the Environmental Protection and Energy Efficiency Fund,
- establish necessary temporary measures and order the operator, polluter or the public authority to implement them,
- or issue another adequate decision in accordance with the law.

Court proceedings shall be fair, equitable, timely and not prohibitively expensive, and as prescribed under Art. 172 of the EPA court proceedings on all legal actions instigated in the field of environmental protection shall be deemed urgent, Art. 26, para. 1 of the ARAI the High Administrative Court of the Republic of Croatia must issue a decision on the complaint against the decision issued by the Commissioner within 90 days, and Art. 8 of the AAD which prescribes that the court shall conduct the procedure speedily and without stalling, by avoiding unnecessary actions and costs, prevent the abuse of the rights of the parties and participants in the administrative dispute and render a decision within a reasonable time.

With regard to fairness and equitability, Articles 5, 6, 7 and 9 of AAD and Articles 5, 6, 7 and 8 of the GAPA provide for the mentioned measures.

The costs of the proceedings, which may not be prohibitively expensive, are prescribed under Article 19, para. 1 and 2 of the ARAI. It is also stated that access to information in procedures before the public authorities does not require the payment of administrative and court fees. The public authority is entitled to request the beneficiaries to cover the actual material expenses incurred by providing information and to cover the expenses of delivery of the requested information.

(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:

Art. 168, par. 1 and 2 of the EPA is applied in this context. One of the principles of the GAPA is to ensure assistance to the party. It obliges the body conducting the proceedings to ensure ensure that the lack of knowledge or the ignorance of the party or other persons who participate in the proceedings shall not be to the detriment of the right to which they are entitled by law (Art. 7 of the GAPA). The principle of assistance to an ignorant party is also contained in Art. 9 of the AAD; the court shall ensure that the lack of knowledge and ignorance of the party and other participants in the administrative dispute is not to the detriment of the rights to which they are entitled pursuant to law.

The High Administrative Court shall make decisions about the legality of general acts in public sessions (Art. 86, para. 1 of the AAD).

Pursuant to Art. 86, para. 3 and 4 of the AAD, when the High Administrative Court repeals a general act or some of its provisions with a judgement if it establishes that it is not in conformity with law or the statute of the body of public law, the judgment shall be

published in the Official Gazette.

All decisions adopted in procedures of assessment of the legality of a general act are published on the website of the High Administrative Court.

Activities are underway on the access of administrative courts and the High Administrative Court to the SupraNova information system with the Supreme Court of the Republic of Croatia which contains court practice. Namely, this is the information system created within the framework of the PHARE 2006 project "Harmonisation and Publication of Case Law". Decisions passed by all courts in the Republic of Croatia are entered into the system .

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:

CSOs deem that the EPA, which sets the principle of access to justice, is not aligned with the provisions under the Convention, EU legislation (Directive 2003/35/EC) and the Croatian Constitution. Namely, Article 19, paragraph 2 of the EPA contains the condition that the right to contest the procedural and substantive legality of decisions, acts or oversights of public authorities before the competent body and/or competent court exists only if it can be proven that rights have been permanently violated. There are no similar examples in Croatian legislation, it suffices that the claimant deems his/her right to be violated, and the violation does not have to be permanent. Thus, the right of access to courts is disproportionately restricted, and therefore it is necessary to align the principle of access to justice with the AAD in order to ensure the consistency of the Croatian legal system.

The rules for filing complaints are too strict since they stipulate participation in the procedures (Article 167, paragraph 1 of the EPA). It is proposed that paragraph 1 of Article 168 of the EPA is amended in such a way that the requirement of participation in the procedures regulated under the EPA as public concerned is removed for other persons as well. Such requirement is not in accordance with the AAD pursuant to which for filing a complaint it is enough that the claimant deems that his/her rights or legal interests were breached by a specific act. The Act does not stipulate any other additional requirements for the claimant to have had to participate in the administrative procedure, only that he/she used the right to appeal in the administrative procedure if appeal was permitted.

In Croatia the right to free legal aid can be exercised only by natural persons and thus CSOs are denied it, which is in contravention to the Aarhus Convention (Art. 9, para. 4 and 5, which require fair and equitable legal remedies and the duty to consider establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice). According to the Act on Free Legal Aid, legal persons cannot be users of free legal aid, and therefore also CSOs. Organisations engaged in environmental protection should be able to participate equally in court and other proceedings and the legislator should recognise that.

Article 172 of the EPA prescribes that court proceedings on all legal actions instigated in the field of environmental protection are deemed urgent, however the practice has shown that court proceedings initiated by CSOs can last for 2 or more years. Also, the delaying effects of complaints are very rarely applied.

Another obstacle in the implementation of the Aarhus Convention is that the parties in the procedure for issuing a location permit are very restricted by the Physical Planning Act and include only the applicant, the owner of the property for which the location permit is being issued and a holder of other real rights on that property, an owner or holder of other real rights on the property which directly borders the property for which the location permit is being issued. Consequently, the CSOs do not have the right to participate in the procedure for issuing a location permit. Together with the inability to contest the alignment of the project with the spatial planning documents one of the important elements of control over negative environmental impacts in the administrative procedure of assessing the impact of the project on the environment remains out of reach of the public and interested public.

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:

Reducing the Barriers to Access to Justice

Pursuant to Art. 19, para. 1 of the ARAI, access to information in procedures before the public authorities does not require the payment of court fees.

Pursuant to Art. 5 of the Court Fees Act (OG No. 74/95, 57/96, 137/02, 26/03, 125/11, 112/12, 157/13 and 110/15) in administrative proceedings, fees are charged only if the court rejects or dismisses the complaint. Furthermore, the plaintiffs in disputes concerning compensation for damage due to environmental pollution are exempt from paying the fees in accordance with Art. 16, paragraph 1, item 18 of the mentioned Act.

Reform of the judicial administration system and administrative procedures have contributed to the improvement of access to justice. A new administrative court system has been introduced: 4 regional Administrative Courts and the High Administrative Court of the Republic of Croatia. Administrative proceedings now also include: oral contradictory hearing, the right to appeal and the possibility of court supervision of the procedure for establishing the factual situation in a particular administrative proceeding, second-instance proceedings, as well as the assessment of legality of general acts passed by local and regional self-government units, legal persons with public authorities and legal persons performing public services. More efficient operation of administrative courts also contributes to the increased transparency of operations of administrative bodies and institutions, as well as plays an important role in the fight against corruption.

Statistics

With regard to the statistical data held by the High Administrative Court of the Republic of Croatia for the period 2014-2016 related to the realisation of the right to access environmental information (Waste Act, Water Act, Environmental Protection Act), no cases were recorded.

Judicial Academy

The Judicial Academy makes continuous efforts to provide judicial officials with education in the field of environmental law:

- In 2014 and 2015 judicial officials and court counsellors from Croatia participated in the following workshops: „Participatory and Procedural Rights in Environmental Matters“ (ERA); „Access to Courts in Environmental Law Matters“ (EJTN);
- In 2015, a judge of the Supreme Court of the Republic of Croatia, who is also the head of the educational activities at the Judicial Academy, participated in ERA’s Annual Conference on European Environmental Law;
- In 2016, the Judicial Academy accepted the offer to be ERA’s partner in the project “Cooperation with national judges in the field of environmental law”, however the results of the call for proposals are still not known.

Projects and other

Croatian Academy of Sciences and Arts organised various scientific conferences on the topic of environmental law (2014 - 2016); Maritime Law and Law of the Sea: Adriatic Countries in the European context at which, among other, a presentation was held on the Impact of the European environmental law on maritime industry; congresses on Legal protection of forests; Legal protection of soil, Legal protection of water.

Also the project „Capacity building of the environmental inspection and other relevant authorities and institutions for preventing, recognizing, investigating and prosecuting offences against environment“ (2014-2015) was carried out.

Judicial Academy, in cooperation with the Information Commissioner, organised one-day workshops „Right of access to information“ intended for information officers in judicial bodies and/or other judicial officials who in their work come across the right of access to information (Zagreb, 24 October 2014 and 11 December 2015).

The Information Commissioner, with the support from the British Embassy, organised the conference „Access to Information in the Republic of Croatia: New

Challenges, New Solutions“ (Zagreb, 24 September 2014).

Faculty of Law of the University of Rijeka organised counselling of jurists at which, among other, the topic of „Damages in cases of marine pollution in line with the provisions of the Maritime Code“ (Rijeka, 13 to 15 April 2016) was covered.

Faculty of Law of the University of Split organised a scientific congress with participation of international experts entitled „Right of access to information and protection of personal data“ (Split, 6 and 7 July 2015).

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

<http://www.mprh.hr/Default.aspx>

<http://www.pak.hr/Default.aspx?sec=16>

<http://www.upravnisudrh.hr/frames.php?right=ocjenazak.html>

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:

Preservation of natural wealth and protection of human environment are of great importance for the human community as a whole and the quality of life of present and future generations. In Croatia, natural wealth and the environment are recognized as constitutional values and enjoy special protection (Article 2, paragraph 4, line 2 of the Constitution).

Article 38, para. 4 of the Amendments to the Constitution (OG No 76/10) prescribes the following: “The right of access to information held by any public authority shall be guaranteed. Any restriction on the right of access to information must be proportionate to the nature of the need for such a restriction, in each individual case, and necessary in a free and democratic society, as stipulated by law.”

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: /

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: /

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: /

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:

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: Decision V/9e concerning compliance by Croatia with its obligations under the Aarhus Convention – final progress report

In our progress reports, we gave information about legislative improvement that has been made to assure transparency and public participation in the development of waste management plans on local level (Article 22 of the Act on Sustainable Waste Management). We also gave information that due to the Environmental Protection Act all waste management plans and programmes at national, regional and local level including their revisions are subject to the preparation of strategic environmental assessment (SEA).

We also clarified that there are two separate processes of public hearings which are however conducted at the same time; those for SEA and those for draft of strategy, plan or programme. Relevant legislative act prescribes in details public participation for each process. General concept of public participation is prescribed by the Law on the Right of Access to Information and Environmental Protection Act which is supported by the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts and respective Guidance's adopted by the Croatian Government (National Aarhus Convention implementation report consists more information about it).

Ministry established specialised web portal to improve communication with public about SEA and EIA process for which Ministry of Environment and Energy is in charge. This portal is also used as joint place to post information about SEA documents for which other central or local government bodies are in charge as well as guidance of how to improve public participation in the SEA and EIA process (<http://puo.mzoip.hr/>).

In relation to the new National waste management plan, which is a prerequisite for drafting of new local waste management plans, public consultations have been prolonged because of the need for wider consultations about the new waste management concept in Croatia. In parallel to that, SEA documents are also in the process of revision and information regarding that are posted on the web portal specialised for EIA and SEA issues: <http://puo.mzoip.hr/hr/spuo/postupci-strateske-procjene-nadlezno-tijelo-je-ministarstvo-zastite-okolisa-i-energetike.html>.

That said, we believe that current Croatian legislative framework has ensured adequate and appropriate practical provisions for the public participation during the preparation of municipal waste management plans and that Croatia fulfilled the requirements from the decision V/9e of the Meeting of the Parties. Moreover, we will continue our efforts to enhance public participation in decision making on environmental issues in general.