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Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Italy^{*/}

Based on the reporting format annexed to decision I/8

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

The draft report was prepared by the Ministry of the Environment (MoE) and the National Agency for Environmental Protection and Technical Services. A number of elements have been taken from previous studies.

For the purpose of public consultation, the draft report has been sent by e-mail to all recognized environmental non-governmental organizations (NGOs) (some fifty-two) and published on the

^{*/} This document was submitted late due to the fact that the report was received by the secretariat from the Party concerned after the deadline set out in decision I/8 and various first-time problems had to be overcome as this is the first reporting cycle under decision I/8 of the Meeting of the Parties. This was compounded by the fact that a considerable volume of other documentation being prepared for the second meeting of the Parties had to be processed during the same period.

website of the MoE for three weeks. Relevant observations provided by the public have been integrated.

2. 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 a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Regions and autonomous Provinces have legislative capacity conferred through national legislation. For the sake of brevity, the report focuses mainly on national measures.

ARTICLE 3

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

(a) Assistance and guidance to the public is guaranteed by a number of general and specific provisions.

According to general Law 241/90 on administrative process (no. 241 adopted in 1990), public administrations must appoint a “responsible officer” for each “decisional process”, who will also be in charge of informing and consulting the public concerned, and an *ad hoc* responsible officer to oversee the process of access to documents.

Legislative Decree 80/98 (n.80 adopted in 1998 and subsequently transposed to no. 165/01) stipulates that public administrations be organized in accordance with set criteria of transparency and impartiality, and accordingly, must establish appropriate means to inform the public.

According to Legislative Decree 29/93 (no. 29 adopted in 1993), each public administration must establish an *ad hoc* Office for the Relationship with the Public to:

- Guarantee the public’s exercise of their rights to information, access to documents and to public participation;
- Facilitate the public’s use of the services offered, including by providing information on legislation, competences and the structure of the administration concerned; and to ensure the quality of these services.

Furthermore, Law 150/2000 regulates communication activities to be undertaken by each public administration, and includes the obligation for the national administration to adopt a communication plan.

Concerning more specific environmental information, regulated by Legislative Decree 39/97, each public authority must identify the suitable structures/facilities within its organization in order to implement the right of access to environmental information (this provision is in addition to the other general ones mentioned above).

- Guarantee the exercise by the public, of their rights to information, to access documents and to public participation;
- Facilitate the use by the public of the services provided, including through information on existing legislation, competences and structures of the administration concerned, and by verifying the quality of those services.

Furthermore, Law 150/2000 regulates communication activities undertaken by each public administration, and for the national administration, includes the obligation to adopt a communication plan.

Concerning more specifically environmental information, regulated by Legislative Decree 39/97, each public authority shall identify, within its organization, the suitable structures/facilities in order to make effective the right of access to environmental information (this provision is additional to the other general ones mentioned above);

(b) Italy is actively engaged in environmental education and awareness-raising. A network of local environmental education centres has been established within the framework of the National System for Environmental Information, Training and Education. The centres (about 150 in number), some of which are located in natural protected areas, are coordinated by a regional body and managed by local government in cooperation with various stakeholders, such as environmental NGOs, private enterprises, universities, research centres. They mainly focus on promoting public awareness, address various categories of learners of different ages; some projects are carried out within or in collaboration with schools.

A national programme, jointly coordinated by the MoE and the regions, has been prepared for the period 2002-2005, supported by the Ministry and drawing on regional and private financial resources. The Ministry for Education also participates in some of the activities under the *Informazione Educazione Ambientale (INFEA)*.

An agreement is under preparation between the MoE and the Ministry of Education for the training of teachers and other joint activities, including the second national conference on environmental education, to introduce sustainable development in curricula.

The National Consortium for Packaging, a non-profit body for packaging producers and users aimed at recovering and recycling packaging waste, promoted teacher training seminars on waste management with a focus on Southern regions facing environmental emergencies, which were agreed by the Ministry of Education and the MoE.

A large part of environmental education is carried out by the parks' authorities (i.e. natural protected areas established at the national, regional or local level – and managed by *ad hoc* public bodies).

The system of environmental agencies, composed of the National Agency for Environmental Protection and Technical Services and the Regional and Provincial Agencies, which collect, process and monitor scientific and technical data for all environmental media (air, water, soil), coordinates activities on environmental education in the whole country in order to reinforce their scientific base and improve their quality.

Finally, various projects on environmental education are carried out every year in formal educational institutions in collaboration with external organizations (generally environmental organizations);

(c) Concerning support to groups, the Constitution recognizes the value of citizens' associations. According to the principle of "legitimate interests", affirmed in general law on administrative process (Law 241/1990), opportunities to participate in decision-making shall be given not only to individuals having an interest in the decision, but also to associations representing common interests, when such interests are likely to be influenced by the decision.

According to environmental law (l. 349/86), citizens' environmental organizations recognized by the MoE have legal standing to challenge public decisions (or omissions) both at the national and at the local level, and to request compensation for environmental damage. In order to be recognised, such organizations need to fulfil the following requirements:

- Act across the whole country or in at least five Regions;
- Have democratic internal rules;
- Pursue objectives of environmental protection; and
- Have continuity of action.

In accordance with the principle of "legitimate interests", legal standing is in most cases conferred by judges not only upon recognized NGOs, but upon all organizations/groups (also local ones) representing an interest that could be prejudiced by the decision (i.e. all relevant environmental organizations);

(d) There are a number of examples of efforts to apply the Convention's principles in international processes. To give some, Italy has contributed to:

- The EU proposal, presented during preparation of the World Summit on Sustainable Development, for global guidelines on Principle 10 (unfortunately rejected);
- The preparation of the Guidance on Public Participation in Transboundary EIA, adopted under the Convention on Environmental Impact Assessment in a Transboundary Context (by providing both funding and case studies);
- The preparation of Guidelines on public participation in international fora, to be adopted by the Convention itself (funding and leadership);
- The UNECE Strategy on Education for Sustainable Development (funding and in-kind);
- The improvement of information and public participation as provided for by the Barcelona Convention on the Mediterranean Sea Protection (UNEP/MAP): Italia is committed to re-focus the Regional Action Centre on Remote Sensing in Palermo (ERS/RAC) by extending its activities to environmental information and communication, in accordance with the Decision taken at the 13th Conference of the Parties;
- The enforcement of the principles of the United Nations Convention to Combat Desertification on access to information (art. 16), through the development of a Clearing House Mechanism for exchanging and integrating information among Northern Mediterranean countries (CLEMDES project);
- Other international initiatives/partnerships such as the Mediterranean Education Initiative for Environment and Sustainability, PP10 (Partnership for Principle 10), cooperation

projects like “UMANA DIMORA” (a project aiming at facilitating networking between environmental NGOs in south-eastern Europe).

In October 2005, Italy will host the Third World Congress on Environmental Education (WEEC3) in Turin, sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Environment Programme (UNEP) and Food and Agriculture Organization (FAO).

In March 2004, the second international forum on partnerships for sustainable development (voluntary initiative involving governments, international institutions and civil society) was organized by the MoE as a follow-up to the Johannesburg Summit. Many NGOs and other stakeholders participated to present their initiatives and discuss the added value of their partnership.

The Agency for the Protection of Environment and Technical Services and the MoE are establishing a global biodiversity database, in accordance with international agreements and national needs, which will provide free information to the general public, including public and private research institutions.

Among civil society initiatives, an example is the System of Marine Environmental Education in the Mediterranean project, promoted by an NGO, Forum for the Venice Lagoon, which will lead to the establishment of a network of marine environmental education centres in the Mediterranean, addressed at schools, associations, tourist operators, the general public and local institutions.

With regard to participation in international conferences on environment and sustainable development, preparatory meetings are usually held at the national level for the major events (e.g. the Johannesburg Summit and the United Nations Convention on Climate Change), with the participation of major groups. In certain cases, NGOs and other stakeholders form part of the Italian delegation;

(e) The exercise of rights and legitimate interests foreseen by law is guaranteed through access to courts. Inspections, sanctions, and similar measures are only admitted to the extent that they are foreseen by law, and in the framework of constitutional rights of freedom and equity.

Other specific requirements are contained in sectoral law and at the local level.

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

Concerning assistance to the public, not all public authorities have established the Office for the Relationship with the Public (required by Law 29/93), or equivalent services/offices responsible for providing information to and contact with the public, mainly due to lack of sufficient resources.

The international promotion of the Convention's principles is not easy because each international forum has its own rules and characteristics, and often the result is influenced by partners (organizations and States) that are not committed to the Aarhus process.

5. Provide further information on the practical application of the general provisions of the Convention.

There are 150 centres for environmental information, education and training; supported by the MoE with a total budget of €10 million.

6. Give relevant web site addresses, if available:

ARTICLE 4

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

Legislative Decree 39/97 regulates access to environmental information. This decree is under review in order to make it compatible with Directive 2003/4/EC of 28 January 2003 on public access to environmental information. The new decree will integrate provisions on the way public authorities organise the information, including the use of electronic tools, and make it publicly available, and will broaden the scope of the information to be made available.

According to Legislative Decree 39/97, the person requesting information does not need to state an interest. The procedure must be concluded within 30 days after the request has been submitted, otherwise the request is considered to be refused, and judicial remedies can thus be applied.

The same decree lists the grounds for refusal (confidentiality of internal deliberations, international relations, national defence, public order and security, issues under inquiry, commercial and industrial information, confidentiality of personal data or dossier, material provided by a third party). Disclosure can be refused only if it is possible to justify, in a concrete and effective manner, the interests indicated as a ground for refusal; materials and documents are exempted from disclosure only insofar as they are related to the interests listed above.

A reasoned decision about refusal must be issued. A reasoned decision regarding delay is admitted only for the temporary protection of interests that allow exemption.

Finally, examination and display of information is free of charge.

Access to information implies the possibility to copy. Copies and duplication are subject to coverage of reproduction expenses, and payment, if applicable, of tax (stamp duties).

Every year, the Minister for the Environment presents a report to Parliament on the state of implementation of legislation regarding access to environmental information (Leg. Decree 39/97, which is under review). This report is made available by Parliament.

In addition, more general legislation on access to administrative documents (Law 241/90) is applicable in other situations not specifically regulated by Decree 39/97. Accordingly, the responsible official must indicate all relevant publications, display all relevant documents, make

copies and put in place any other appropriate modality. This law also states that an authority that erroneously receives a request concerning a document not held by that authority, shall promptly forward it to the competent authority, and inform the interested person accordingly. The competent authority then informs the interested person as soon as it receives the request.

Law 241/90 stipulates the establishment of a Commission on access to documents under the authority of the Presidency of the Council of Ministers, composed of members from government and Parliament, and charged with monitoring the effective implementation and reporting to Parliament and to the President of the Council.

Further measures are envisaged at the regional/local level (regions, provinces, municipalities) in accordance with the various regulations and actions taken.

8. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

The public is not fully aware of the scope of Legislative Decree 39/97. Access often depends on the local community's level of environmental awareness, the commitment to provide information to the public and the sensitivity of the issues involved. The new national legislation on access to information, which is under preparation in order to implement Directive 2003/4, will strengthen efforts to increase awareness.

One major obstacle has been solved by Legislative Decree 39/97 since previous legislation (article 25 of Law 241/90, applicable to administrative documents not containing environmental information) required the request for access to be state an interest. The differentiation between administrative documents (subject to Law 241/90, which requires an interest be stated for the request for access) and environmental information (Legislative Decree 39/97, which does not require statement of an interest) is not always completely clear.

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Despite certain reporting requirements, the information available on the factual implementation of these legal provisions is not complete. This is due to the enormous number of existing public authorities (in 20 regions, there are over one hundred provinces and more than 8,000 municipalities) and the difficulty that some of them face in collecting and sending the data to the central level.

10. Give relevant web site addresses, if available:

ARTICLE 5

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

(a) As provided by Law 349/86, the MoE is in charge of disseminating information on the state of the environment and raising public awareness on environmental issues. This task is fulfilled, *inter alia*, through:

- The website (www.minambiente.it), which includes an on-line magazine (“Environment informs you”) a part of which is dedicated to younger people through interactive games; a specific section on the Convention; a link to the on-line National Library of Environment (in course of completion); and on-line publication of a wide range of environmental documentation; it also facilitates Internet access for the visually impaired;
- The report on the state of the environment and other publications/leaflets (see below);
- The coordination, together with all of the country’s regions, of the INFEA programme on environmental information, education and training (see answer to question 3).

The agencies for environmental protection, at both the national and local levels, as well as central/regional/local institutions are committed to disseminate environmental information.

Significant use is made of websites in order to disseminate information, including laws, policies, reports, drafts, studies and similar documentation. In particular, the website of the National Agency for Environmental Protection contains a vast bulk of documentation, divided into different environmental themes (such as water, air, environmental certification, emergencies, industries, technologies and infrastructures). It also contains *IdeAmbiente*, a monthly magazine which is sent in hard copy to the authorities, enterprises, journalists, NGOs and stakeholders in general.

The website is also used to provide the public with information on environmental training, courses and internships.

The National Agency for Environmental Protection publishes a number of national sectoral reports (e.g. on waste management and the quality of the environment in urban areas) including the Yearbook of Environmental Data, which is widely distributed in both Italian and English. The National Agency for Environmental Protection also manages environmental databases and makes these available to the general public through its website. These include GELSO (good practices for local sustainability), CORINAIR-IPCC (inventory of emissions to air), INES (national register on pollutant releases and transfers; see below), BRACE (national database on air quality) and Meteorological Marine Data.

The System of Environmental Protection Agencies, chaired by the National Agency for Environmental Protection’s Director General, connects all the regional and provincial agencies (ARPAs and APPAs) through a network. The agencies’ main tasks are facilitating the dissemination of information, harmonizing shared data and targeting multi-media reporting to the general public.

The system has also established a network of libraries and documentation centres and organises an annual national conference aimed at raising public awareness.

The main sources of information for public authorities are the various national institutes/bodies in charge of conducting studies and collecting information, such as the agencies for environmental protection (National Agency for Environmental Protection, ARPAs, APPAs), CNR (National Research Centre), ENEA (National Agency for New Technology, Energy and the Environment), ISTAT (National Institute for Statistics), ICRAM (Institute for Applied Research on Sea), ISS (National Health Institute) and universities.

To ensure the adequate flow of information, the National Environmental Information System (SINAnet) was established. SINA is a network aimed at collecting, elaborating and disseminating data and information from environmental monitoring, control and information systems at national and sub-national levels, through a network of so-called reference institutions.

The main nodes are represented by:

- The National Agency for Environmental Protection, responsible for the general co-ordination and the relationship with the European network EIONET;
- Regional focal points,
- National Topic Centres that give operational support to the National Agency for Environmental Protection for management of data and information regarding a specific environmental theme through a number of reference institutions.

For example, for the theme “water”, the environmental agencies act as coordinators and the reference institutions include ICRAM (Institute for Applied Research on Sea), ISS (National Health Institute), CNR (National Research Centre) and universities.

Concerning emergencies, the National Service for Civil Protection, as re-organized by Law 225/92, is conceived to protect the public and the environment from emergencies and other calamitous events (both natural and those caused by human activity). All possible preventive and reparative measures shall be adopted, mainly in the framework of local emergency planning, including public dissemination of any useful information;

(b) Public information and communication (by the public administration) is regulated in general terms (not specifically on environmental issues) by a corpus of legislation (Legislative Decree 80/98; Law 241/90; 29/93; 150/2000; Legislative Decree 165/01). According to these, public administrations must comply with criteria of transparency and impartiality and, therefore, establish and coordinate the appropriate structures for informing the public. Furthermore, each public administration must designate a responsible officer for access to documents, establish an Office for Relations with the Public (URP) and undertake communication activities, through use of the media and advertising, dissemination of publications, postings, organization of and participation in events, the designation of a spokesperson and a Press Office. At the national level, public administrations have to adopt a Public Communications Plan, communication programmes and specific publicity projects.

The Presidency of the Council of Ministers is in charge of identifying communications with social/ethical value, including those containing environmental information, to be spread out via the media.

A large part of environmental communication is put forward on behalf of natural protected areas established at the national, regional or local level: in their founding laws, environmental education and communication is explicitly envisaged as a major activity, including scholastic visits and eco-tourism.

In 2004, the MoE established a Department on Public Communication and Relationships with the Public;

(c) The general legal framework on e-documentation produced by administrative bodies is provided by Presidential Decree 445 28/12/200. A series of by-laws regulates specific issues like certification of electronic signature, internet access for disabled persons, basic rules on e-learning, electronic mail use etc.

The transposition into national law of EU Directive 2003/4 is underway and will further develop procedures for the dissemination of environmental information;

(d) Concerning the National Report on the State of the Environment, Law 349/86 (on the Establishment of the MoE) requires that the MoE present Parliament a national report on the state of the environment on a biennial basis.

Legislative Decree 39/97 on access to environmental information specifies that the report be disseminated and made available to the public.

The national report on the state of the environment aims to represent the state of the environment, identify sensitive elements and related constraints, select and quantify the objectives and monitor periodically the environment and related constraints.

Many regional and local institutions also periodically produce their national reports. In 2002, an *ad hoc* version for children (“RSA Junior”) was produced.

Four regions have piloted the use of RSA Junior in schools. The experience has been positive and will be repeated when the next national report is produced.

The 2004 national report on the state of the environment is under preparation. It will focus on the interrelation between the environment and economic growth, aimed at highlighting the potential mutual benefits of their interaction in order to spread a positive vision of the environment as an opportunity;

(f) Concerning the encouragement of operators, it is necessary to mention the voluntary agreements between the MoE and private companies in order to improve environmental performance of the latter, as well as to increase the periodic presentation of environmental reports by enterprises. These reports contain measures and strategies adopted by the particular company to improve environmental performance.

Many industrial sites have registered to the EC eco-management and audit scheme (EMAS), a management tool for companies and other organizations focusing on their environmental performance, which envisages that participating sites make public a report on their environmental performance in return for being certified with an EMAS logo. In order to facilitate the use of EMAS by small and medium-sized enterprises, an agreement between the MoE and the main business association (Confindustria) was signed in 2001. Within this framework, a public fund is used to contribute to consulting fees that SMEs are faced with. Furthermore, the possibility of applying to EMAS has recently been granted to industrial districts, which include all SMEs operating in the same area and in the same sector (or same chain), rather than only to individual sites. An example of an industrial district is the Pordenone area (north-eastern Italy) that specialises in furniture production, based on an agreement involving the Provincial government, the Region, the MoE and a committee of local furniture producers.

EMAS as well as integrated product policies have recently been applied with success to touristic sites. Similarly, environmental reporting is encouraged on the basis of the Corporate Social Responsibility of enterprises;

(h) Concerning product information for consumers, a large number of Italian enterprises apply the EU eco-labelling scheme (second place in the EU after France), covering more than 200 types of products in nine sectors (e.g. detergents, paper, tissues, shoes, paint). The MoE is acting at different levels to promote the use of eco-labelling and product information. It organizes seminars for local authorities on eco-labelling schemes and green public procurement, and has also started to work with the National Agency for public information services to promote green purchasing for public administrations.

Other compulsory labelling is foreseen by EU Directives, such as, for example, energy labelling for household appliances;

(i) In 1999, Italy established a national register on pollutant releases and transfers, the INES register, through Legislative Decree 372/99. The INES register is an inventory containing qualitative and quantitative information on pollutants released into water and into air by specific facilities defined at the EU level. Those facilities listed in EC Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (IPPC) and fulfilling the criteria set out in Ministerial Decree of 23 November 2001 must report under INES. The competent authorities validate the data and send the results to the National Environment Protection Agency, which analyses the data, draws up summary statistics and fills in the INES register, then sends these on to the MoE that submits these data to the relevant EU bodies. The National Agency for Environmental Protection is in charge of providing and disseminating environmental information related to the INES register. For this purpose a website was set up on 11th November 2004 and is now available to the public. According to relevant by-laws adopted for the implementation of the INES register, three reporting cycles have already been completed.

12. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

With regard to pollutants registers, since the INES questionnaires have not yet been fully and correctly compiled by the operators, the validation of data at this stage is still problematic.

13. 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?

Experience acquired by the National Agency for Environmental Protection's Relationship with the Public Office demonstrates that the most frequent requests are about nature preservation (biodiversity and sustainable management of natural habitats), soil protection and territorial planning.

14. Give relevant web site addresses, if available:

www.minambiente.it (MoE).

www.apat.gov.it (National Agency for Environmental Protection, including the National Environmental Informative System (SINAnet)).

www.dichiarazioneINES.it (INES questionnaire)

www.eper.sinanet.apat.it (INES register)

ARTICLE 6

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

The main context for the application of article 6, paras. 2-10, of the Convention is the EIA procedure, which is regulated at the national level and, within the framework of national laws, at the regional level (through subsidiarity). National legislation pertaining to the EIA procedure is in line with EC law.

One of the main legislative acts covering the EIA procedure is Prime Ministerial Decree No. 377/88 (adopted in 1988, and subsequently integrated and modified) that lists the projects subject to the national EIA procedure. It foresees a list of activities (identical to annex I to Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment) for which EIAs are compulsory at the national level since they are deemed to have a significant impact. Additional activities (those listed in annex II to the EU Directive) are also subject to EIA procedure at the regional level, as provided for by the President of the Republic's Decree of 12 April 1996. These additional activities are listed in two Annexes: Annex A lists projects that are subject to an obligatory regional EIA while Annex B shows those subject to a screening procedure to assess whether or not are likely to have a significant impact. Projects listed in Annex B that are located in specified protected areas are automatically subject to an EIA. Screening criteria are established by law. In some cases (such as for regional laws), the public may participate in the screening procedure.

EIA legislation stipulates that the public be informed at an early stage of the procedure. Accordingly, the proponent of the activity subject to the EIA procedure shall inform the public authorities and the public at the same time by publishing a notice in both a national and a local newspaper that provides general information on the proposed activity, indicating where and for how long the relevant documentation will be available, and specifying practical details about public participation. The applicant assumes the expenses of publishing the notice as well as of providing EIA documentation (which includes a study on the environmental effects) and copies thereof.

Concerning the deadline for providing comments, national legislation foresees a time limit of 30 days from the day the documentation has been made available, but it is interpreted in a flexible manner so that comments received after the deadline are also taken into account.

Law 349/86 foresees that any person may present comments to be provided in writing to the competent authorities specified in the published notice. In the case of energy plants, public hearings are also held.

The outcome of the EIA procedure in Italy is a Decree on the “environmental compatibility” of the proposed activity issued by the Minister for the Environment and the Minister for Cultural Heritage on the basis of the opinion of an independent EIA Commission charged with assessing the documentation provided by the proponent. The assessment made by the EIA Commission is based *inter alia* on the comments provided by the public and on reasoned opinion. The opinion and the subsequent Decree can turn out to be either negative, in which case the project is not deemed to be environmentally compatible and is therefore normally not executed, or positive, in which case specific conditions for the execution of the project are prescribed. The final decision (the assessment by the EIA Commission and the Decree on environmental compatibility) is published in newspapers, in the Official Journal and usually also on the MoE’s website.

As stated by Law 2001/443 and implementing Legislative Decree 190/2002, a simplified EIA procedure applies to specific projects identified by the Government as strategic or of national interest. Provisions on public participation in this context remain unchanged.

If a change leads to a substantially different activity, a new EIA procedure (including public participation) has to be carried out to change existing activities already subject to an EIA, Legislative Decree 372/99 on Integrated Pollution Prevention and Control (IPPC) (i.e. the transposition of EC Directive 96/61 into national law) foresees an equivalent procedure for public participation when issuing “integrated environmental authorization”.

Legislation on EIA, like any other sectoral environmental legislation, is complemented by general provisions on public participation in administrative decisions (Law 241/90) that focus on aspects not specifically regulated by sectoral legislation. According to this law, persons likely to be directly affected by the decision as well as anybody having a public or a private interest in a future decision by a public authority, including associations representing common interests, can participate in the decision-making where such interests are likely to be affected. More specifically, the concerned public, so defined, is entitled to receive the relevant information, to have access to all documents and to give comments which have to be taken into consideration.

For judicial remedies on the right to access, see the answer to question 28.

Finally, concerning paragraph 11, the decision-making process on deliberate release of genetically modified organisms (GMOs) is regulated under the framework of EC law (Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and Regulation (EC) No. 1829/2003 of 22 September 2003 on genetically modified food and feed), which includes requirements for public information and consultation. EC Directive 2001/18 has been implemented through Legislative Decree 224/2004 that established a National Competent Authority for the release of GMOs within the MoE, which has the duty to inform and consult with the public. Consultation with the public at the national level in this context refers only to the experimental release of GMOs, since notification for commercial release is dealt with through a centralised EU procedure, which foresees consultation with the public through the competent EU authorities (i.e. the Commission or the European Food Safety Agency).

Regarding the national procedure, once a notification for experimental release is submitted, the National Competent Authority has a duty to provide the public with all relevant, non/confidential information. Any physical or legal person, institution, organization or association is entitled to submit observations.

To manage public information and participation, a special section of the MoE's website is currently used. However, a more efficient web-tool is being prepared that will integrate into a single "biosafety portal" both information and participation requirements under EC Law as well as the information exchange procedure agreed under the Cartagena Protocol on Biosafety (this section will be the national node of the Biosafety Clearing House). To facilitate public participation, a mailing list for the consultation will be created, which will comprise all competent institutional actors and relevant stakeholders. Any individual, group or institution will be entitled to request to be included in this mailing list.

Public consultation lasts thirty days, after which the National Competent Authority transmits all observations it has received to an inter-ministerial commission charged with evaluating them and taking into account public opinion.

Legislative Decree 224/2003 establishes two GMO public registers: a centralised register for the experimental release of GMOs (managed by the National Competent Authority) and a regional register for the cultivation of GM plants (managed by the regional departments). Some regional governments that play a leading role in the European network of GM-free regions have recently (October 2004) deliberated imposing a complete ban on GMO cultivation/production within their territory. These deliberations are mostly based on the outcome of local public consultation or on public petitions or public initiatives (see answer to question 19).

16. Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.

There has been a demand from NGOs for binding public consultation at local level on any proposed cultivation or production of GMOs.

17. 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.

18. Give relevant web site addresses, if available:

ARTICLE 7

19. 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. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Public participation in plans and programmes has been developed mainly at the local level.

Voluntary Local Agenda 21 processes are successfully spread throughout Italy, involving around 800 local authorities (as at October 2004): the MoE cofinances the process by periodical calls for tender to support the initiation and strengthening of Local Agenda 21. Public participation is implicit in the Local Agenda 21 process, since local programmes for sustainable development are discussed in a consultative forum, in which the public and stakeholders are represented.

In 2000, the National Environmental Protection Agency published its guidelines on the application of Local Agenda 21 for local administrations. An updated manual was published in 2004 ("From Agenda to Action"), aimed at providing operational tools.

The adoption into national law of Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, which addresses public consultation on the environmental impacts of a proposed plan or programme, is currently underway. Despite the temporary lack of a national legal framework, several actions are being taken at the regional and local levels. Some experimental initiatives are in place on a voluntary basis, particularly for plans and programmes for both urban and rural areas. An example in this regard is the plan for the upcoming winter Olympic games in Turin in 2006, which has been made available for comments. When legislating on EIA, many regions have included a procedure for urban and territorial plans along the lines suggested by the SEA Directive. Some have even extended it to include waste, the energy and industrial sectors. Moreover, six regions have participated in the interregional project "ENPLAN", which defined a common methodology for the forthcoming introduction of the EU Directive.

Other mechanisms for public participation are foreseen at the local level, in accordance with the various regional laws, municipal and provincial statutes or regulations. Legislative Decree 267/2000 (on local administration) states that municipalities and provinces are obliged to promote public participation and access to information through their statutes. It is worth mentioning several fragmented practices of public involvement in local decision making to draft plans, e.g. on waste-water management, prevention of noise or air pollution, town planning, structural interventions, land-use, river-basin management and local/regional development.

Law 394/1991 on natural protected areas (parks established at the national, regional or local level) foresees public participation in the plan to establish and manage parks. The public can access and comment on the draft plan, which has to be deposited at the local administration for a period of forty days. The park administration and the regional and local governments are then obliged to react to the comments received. Environmental NGOs are involved in the parks' management and incorporated in their governing bodies.

Beginning in October 2001, City and Local Environmental Accounting and Reporting is the first project introducing environmental accounting for local authorities. Cofinanced by the EU within the framework of the LIFE-Environment programme, it foresees “environmental budgeting” to be drawn up and approved by twelve Italian municipalities and six provinces. The project provides for public participation in drafting the budgets.

In the last few years, other projects aimed at developing environmental accounting for different levels of public administration have included: ContaRoma (municipality of Rome), STADERA (province of Milan) and ContAre (Tuscany Region). Many projects have been carried out within the framework of LA21 processes.

Italy, especially the South, benefits from a large share of European Community Structural Funds, the main EU financial instrument aimed at reducing regional, economic and social disparities under the overarching principle of environmental sustainability. The current national legal framework (2000-06) provides for public participation mechanisms: environmental NGOs and socio-economic organizations are members (even if without decisional power) of the Monitoring Committees, which meet every six months, led by EU and national or local public authorities. More and more regions allow the participation of citizens’ organizations and groups in “integrated projects” that focuses on a specific area by implementing various interventions under a shared strategy.

Italy has been implementing “territorial” EMAS, which require certification of the environmental information provided for the whole geographical area, including all activities in it. Some examples include the industrial sector in Prato, the tourism area in Bibione and the New Tuscia project near Rome; the “territorial environmental programme” is available to the public for comment.

20. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

The adoption of policies is not so common and the term “policies” is not usually used in connection with policy documents. These documents, where they exist, rather take the form of “strategies” or “programmes”, or may even result in legislative acts. Consequently, some of the answers given to the previous question, or in relation to article 7, may also be relevant for this question.

A specific example is the National Environmental Strategy for Sustainable Development adopted in 2002 by the Inter-ministerial Committee for Economic Planning. During its preparation, a consultation process was organized by the MoE, consisting of meetings with different stakeholders, such as trade unions, environmental NGOs, business representatives etc., all of which could suggest amendments to the draft. A discussion forum on the draft document was also set up on the Internet.

To improve governance for sustainable development, the MoE created a consultative body, the Economic and Social Council for Environmental Policies in August 2004 in order to strengthen the dialogue with social and economic partners; optimize environmental policies; and promote eco-efficiency. Chaired by the Environment Minister, it consisted of all major national

organizations operating in the economic and social spheres (trade unions, national industrial confederations, farmers, retailers, service providers).

At the local level (Legislative Decree 267/2000), various regional, provincial and municipal statutes, laws and regulations establish mechanisms for public consultation, including the consultative referendum, procedures for the presentation and early examination of citizens' petitions, proposals and requests.

Consultative referendums are also used often at the national or local level in order to assess popular opinion on important issues and act accordingly. An example of this was the abolition of nuclear energy plants in 1987 following the results of a referendum.

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

At the local level, mechanisms for the involvement of local communities in policies for sustainable development, including Local Agenda 21, have been in place for a long time and are functioning well. Public participation at the national level still presents a challenge and need to be developed further.

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

There are currently 118 processes under Local Agenda 21 co-funded by the MoE, with a total cost of €13 million.

23. Give relevant web site addresses, if available:

www.A21italy.it (Local Agenda 21 coordination).

ARTICLE 8

24. 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. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

An institutionalised procedure for public participation in preparing national legislation (i.e. laws adopted by Parliament or Legislative Decrees adopted by Government within the framework established by a Parliamentary law) currently does not exist. However, there are some mechanisms for public involvement in legislative activities. For example, for parliamentary hearings, members of the public (or their associations) are invited - or put themselves forward - to comment on issues under discussion by a parliamentary committee. Another frequently used tool for public consultation, stipulated by Law 352/70, are *petitions* (proposals for legislation or motion based on common interest) that can be put forward by a group representing at least 50,000 citizens and are considered directly by the Parliamentary Committee or transmitted to Government. These are common at the local level.

Furthermore, all draft legislation and other information on parliamentary activities is published on Parliament's website (www.parlamento.it) where it is also possible to send emails to members of Parliament.

A recent Law (308/2004) which charges Government with the task of codifying environmental law through Legislative Decrees, stipulates that modalities for consultation with trade unions, business organizations, and environmental NGOs (for the preparation of such decrees) be specified by an *ad hoc* Act of the MoE.

The referendum enjoys widespread use for repealing or abrogating legislative acts, either partially or entirely. A referendum takes place if proposed by at least 500,000 citizens, or by five Regions. The provisions subject to a referendum are automatically repealed if this is favoured by a simple majority of votes and at least half of all eligible citizens have participated in the vote. Mechanisms for public consultation and procedures for the presentation and early examination of citizens' petitions and requests, are regulated at the local level.

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

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

27. Give relevant web site addresses, if available:

ARTICLE 9

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

(a) Concerning article 9, para.1, access to justice is covered by a law on access to information (Leg. Decree 39/97) and a general law on access to administrative documents (Law 241/97), stating that in case of refusal or delay, recourse to an expeditious review procedure before a court can be obtained. According to this procedure, the interested party can challenge the decision or omission before the Regional Administrative Tribunal within 30. This ruling can, in turn, be challenged on appeal to the Council of State (2nd degree judicial decision) within the following 30 days.

Where the interested party has obtained a favourable ruling, the Tribunal orders the delivery of the requested information. All courts' decisions are in writing and are binding.

An alternative remedy is given by Law 241/90 (as modified in 2000); the party requesting the information can approach the local ombudsman, who will request the public authority to issue a reasoned decision and, where such a decision is not issued, will directly authorise access. Access to a review before the Regional Administrative Tribunal is still available to an interested party that has not been satisfied;

(b) With respect to article 9, para. 2, the legal system is based on the protection of legitimate interests. A "legitimate interest" is a direct interest of an individual in a public

decision but is not guaranteed as a legal right. The system gives the public ‘with an interest’ in an administrative decision (individuals and associations representing an interest) the possibility not only to participate in the decision-making, so that their interests are taken into account, but also to challenge before Courts any unlawful decision adopted by a public authority (Law 1034/71 on TAR, L.241/90). A decision is considered to be unlawful when it is inconsistent with legal provisions regulating the way the discretionary power of the administration should be exercised, including those on public participation. Individuals and associations, other than the ones challenging the decision, can also intervene throughout the jurisdictional proceedings. To give an example, the decision on “environmental compatibility” of an activity, following the environmental impact assessment procedure, may be appealed to the Administrative Regional Courts or to the President of the Republic.

The latter remedy (appeal to the President of the Republic) is open to any member of the public with a legitimate interest that wants to challenge an administrative decision and is free of charge;

(c) Concerning article 9, para. 3, each person/group, whose right or “legitimate interest” has been breached by a public decision or omission, has legal standing to act in court against that public authority’s decision or omission. Furthermore, according to Law 349/86, all environmental NGOs recognized by the MoE can challenge public decisions or omissions, both at the national and at the local level. For the criteria for recognition, see the answer to question 3. Recognised environmental organizations can also challenge decisions taken by local public authorities (at the regional, provincial or municipal levels) that cause environmental damage (Law 127/97). Private individuals are not allowed to challenge public decisions directly; in the case of criminal behaviour (the private or public act is punishable by criminal law), any individual or group is entitled to commence an investigation, by addressing either the police or the judiciary (if the request appears to have a sound basis, these authorities are obliged to act). Furthermore, any person whose right has been breached by another private person can challenge that act or omission directly before a court and request both tort compensation for the damage and criminal sanctions.

Specific provisions apply with regard to the restoration of environmental damage. Law 349/86, charges the State (MoE or, in the case of local damage, local government, such as Provinces or Municipalities) to request compensation for environmental damage before the court. However, citizens’ environmental organizations that are recognised by the MoE (see above) may also intervene in proceedings already in course to apply for compensation for environmental damage. In the case of local damage, these NGOs can address their requests for compensation for the damage directly to the court on behalf of the local administration. However, the Municipality remains the addressee for pecuniary compensation (Leg. Decree 267/00).

Individuals and groups can move forward all the above mentioned procedures by referring cases of environmental damage or infringement to the public authorities (the national or local administrations or authorities charged with inspections).

Local administrations, such as Regions, Provinces or Municipalities, nominate ombudsmen (this has recently occurred for most local governments). When he or she receives a complaint from a private individual or association about a case of bad administration, the Ombudsman, if he/she exists, can request an internal review of acts or omissions by a public authority. If the official

does not provide adequate justification or the requested documentation, the Ombudsman may initiate disciplinary proceedings against the official in order to redress the situation.

The National Agency for Environmental Protection as well as the Regional Agencies for Environmental Protection and a number of authorities dealing with security (national or local police, forest guards, environmental police, customs officials) ensure through inspections that environmental law, including permit requirements, is properly implemented (mainly by polluting companies and installations). These authorities charged with monitoring are alerted by the public authority dealing with environmental control (the national or local administration, as defined by sectoral environmental laws - in most cases Provinces) but can also be directly alerted by claimants or by the judiciary itself.

The above-mentioned authorities charged with monitoring have the power to ascertain whether infringement of environmental law or permits has occurred and, if so, to apply administrative penalties (e.g. fines, suspensions of permits), or, where applicable, to initiate criminal proceeding by signalling an infringement to the judiciary.

Furthermore, safeguard and preventive administrative measures (e.g. closure of productive sites, confiscation) can be imposed by those public authorities charged with environmental control which also have power of ordinance (for instance from the Municipality's Mayor or from the Minister of Environment).

29. Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

Public access to judicial remedies is guaranteed in principle. However, in practice, there are often cases of long waiting times to go through the judicial process (judicial congestion), particularly because some procedures require a long time before a judge's decision can be issued. The mechanism for inspections is also too complex and involves too many public authorities. Furthermore, despite some fragmented initiatives (for instance free legal advice provided by local environmental protection agencies or other institutions), costs still represent an obstacle, especially with regard to lawyers' fees. As the judicial system is regulated in a comprehensive way, it is difficult to foresee specific provisions targeting only "environmental" justice.

30. 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?

31. Give relevant web site addresses, if available:

32. 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.