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**ECONOMIC COMMISSION FOR EUROPE**

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**

**Belarus**<sup>\*/</sup>

**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.**

During the preparation of this report consultations were held with, and use was made of information provided by, the following republican government agencies and other organizations subordinate to the Government: the Ministry of Natural Resources and Environmental Protection (Nature Ministry), the Ministry of Justice, the Ministry of Education, the Ministry of Statistics and Analysis, the Ministry of Health, the Ministry of Emergencies, the Ministry of Communications and Information Technology, the Ministry of Forestry, the Ministry of

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<sup>\*/</sup> Unofficial translation as received by the secretariat. This document was submitted late due to the fact that 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.

Agriculture and Food, eight scientific institutions of the National Academy of Sciences of Belarus, other scientific and scientific-planning institutions, and five Nature Ministry establishments.

Consultations on the content of replies to questions were held with the voluntary associations Ekopravo and Ekodom. Individual issues were discussed with members of the UNECE Mission on the preparation of a second environmental performance review in September 2004, as well as at the plenary meeting of the mission's experts with representatives of the non-governmental organizations (NGOs) and in the course of individual meetings.

The minutes of the Nature Ministry's Public Environmental Coordination Council were used, together with materials obtained in connection with the implementation of two international technical assistance projects: the project to help Belarus implement the Convention (funded by the Danish Environmental Protection Agency (DEPA) of the Ministry of the Environment of the Kingdom of Denmark) and the TACIS environmental information, education and awareness-raising project. Legal and environmental databases were used as a basis for the preparation of the report.

Ms. Elena Laevskaya, the chairman of the Council of the voluntary association Ekopravo participated in the preparation of the report.

**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).**

The Convention was approved by Presidential Decree No. 726 of 14 November 1999. In accordance with the Regulations Act, it is part of the national legislation and its provisions are binding on all law-enforcement agencies and have the legal effect of a Presidential Decree.

Financial constraints are affecting the completion of the work on creating a national pollutant release and transfer register (PRTR) and delaying the establishment of public environmental information centres. At the same time, there are financial difficulties surrounding the actual implementation of the provisions of the Convention. Thus, although the experts of the Nature Ministry have the necessary knowledge and skills to implement the Convention, there are not enough funds available to carry out regular meetings with the public in the regions. There are also financial difficulties in the way of publishing books, booklets and brochures explaining the Convention for awareness-raising purposes.

### 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) Decree of the Council of Ministers No. 1900 of 29 December 2001 on the planning of measures for the implementation of the Convention has been prepared and approved and an inter-ministerial working group has been set up to carry it out. Enactments have been analyzed for consistency with the provisions of the Convention and proposals to improve the legislation and a number of draft normative instruments on the subject have been prepared. A start has been made on developing procedures for public participation in the making of environmentally significant decisions.

An Outline Environmental Information Act, a draft decree on the procedure for providing environmental information, a handbook on access to environmental information and draft methodological recommendations on the organization of public discussions on the siting and reconstruction of objects have been developed.

Decree of the Ministry of Natural Resources and Environmental Protection No. 22 of 29 May 2003 approved a list of items of environmental information that gives concrete expression to the concept of “environmental information” as defined in the Convention and article 74 “Environmental Information” of the Environmental Information Act;

(b) An emphasis on the environment is one of the declared principles of government education policy, as reflected by the Education Act of 29 October 1991 as amended by the Act of 19 March 2002, articles 1 and 12;

The Environmental Protection Act of 26 November 1992 as amended by the Act of 17 July 2002 includes Chapter 13 “Education, instruction and scientific research in the field of environmental protection” which, in addition to dealing with the three topics mentioned, lays down requirements with respect to the level of knowledge of workers whose activities involve the use of natural resources and affect the environment.

Article 75 establishes the legal basis for the creation of a system of continuing environmental education and training, including the encouragement of an environmental culture among nursery school pupils; environmental education and training in and outside school; environmental education and training in institutions providing vocational-technical and special secondary education; the encouragement of environmental culture among university students; environmental education and instruction within the manager retraining and upskilling system.

On this basis, environmental education is being provided in varying degrees in all the educational institutions by working with children and students, parents and other close relatives and with the teachers and assistants themselves.

The environmental education of the public falls within the sphere of activity of the voluntary associations and the media, as well as the health care institutions, the museums, libraries and other cultural establishments, nature conservation institutions, and sports and tourism organizations, as expressed in article 77 of the Act. Questions of environmental education and

training and public awareness are dealt with in a separate section of the National Strategy for Social and Economic Development for the period up to 2020 (para. 6.2.3).

The Environmental Education Concept and the Republican Programme for the Improvement of Environmental Education have been developed and approved by decrees of the Ministry of Education and the Nature Ministry.

The Republican Multi-Level Integrated Programme on Environmental Education, Training and Instruction for 2005-2010, which is oriented towards education in the interests of sustainable development, is in the development stage;

(c) Only duly registered voluntary associations may operate. The activities of voluntary associations, in particular those established for the purpose of achieving environmental objectives, are legally regulated on the basis of article 36 of the Constitution of 15 March 1994 (as amended and supplemented), articles 44-47, 48-60 and 117 of the Civil Code of 7 December 1998, the Voluntary Associations Act of 4 November 2004, articles 12-15 of the Environmental Protection Act of 26 November 1992, Presidential Decree No. 2 of 26 January 1999 on certain measures regulating the activities of the political parties, trade unions, and other voluntary associations, Decree of the Cabinet of Ministers No. 76 on the political parties and other voluntary associations, Decree of the Cabinet of Ministers No. 513 of 6 August 1996 on the approval of the procedure for the conduct of economic activity by persons who are not economic agents, Decree of the Council of Ministers No. 903 of 15 June 1999 on certain questions concerning the recording and State registration of the organizational structures of political parties, trade unions and other voluntary associations, the Regulations on the drafting and consideration of documents submitted for the State registration of political parties, trade unions and other voluntary associations, and the recording and State registration of their structures, approved by Decree of the Ministry of Justice No. 22 of 1 December 2004 and other enactments. About 50 republican, international and local voluntary associations (organizations) with environmental interests are officially registered with the Ministry of Justice;

(d) On the initiative of the Nature Ministry, representatives of the public have participated in the activities of the Aarhus Convention Working Groups: on access to justice, the application of the principles of the Convention in international decision-making processes and environmental matters. On the basis of article 7 of the Convention, the Nature Ministry has initiated discussions with the public concerning the ratification of a number of international agreements (conventions) (for more details see the Ministry's website);

(e) Article 3, para. 8, of the Convention, is being implemented on the basis of the provisions of the Constitution. Thus, under article 23, restrictions on the rights and freedoms of the individual are permitted only in those cases provided for by law, in the interests of national security, public order, the protection of morality, public health, and the rights and freedoms of others, while under article 26 no one may be found guilty of an offence if his guilt has not been proven in accordance with the procedure laid down by law and established by a final judgment of the court. Moreover, the Criminal Code establishes liability for obstructing the legitimate activities of voluntary associations and for the persecution of citizens for criticism (arts. 194 and 197).

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

One obstacle that is preventing officials and government agencies from assisting the public and providing it with the necessary guidance is the shortage of funds required for establishing centres for the dissemination of environmental information.

Another problem is the “narrowness” of the process of implementation of the provisions of the Convention: at present, this process is being fairly actively pursued by the Nature Ministry’s services, but other government agencies are not sufficiently involved.

The adoption of a number of normative instruments on the provision of international technical assistance and foreign grant aid establishing a complex and lengthy procedure for the registration of funds and providing for the possibility of collecting tax on the income from those funds is considered counterproductive as far as the recognition and support of associations, organizations or groups working in the field of environmental protection are concerned.

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

A working group has been set up to prepare proposals for bringing the legislation into conformity with the provisions of the Convention. This group is composed of leading experts from 10 ministries, the National Centre for Legislative Activity under the President, two State officials and NGOs.

A handbook on the implementation of the Convention for civil servants and representatives of the public, and a handbook on access to environmental information have been prepared and circulated among those concerned. A list of government agencies and organizations that collect and disseminate environmental information has been published.

Hotlines have been set up in all the oblasts and the city of Minsk to provide the public with environmental information and respond to factual reports of offences against the environmental legislation. The Nature Ministry’s reception centre is in operation.

To raise environmental awareness, the Ministry is using such techniques as the organization of press conferences, meetings with the Ministry’s heads of services and experts in large auditoria, media appearances, and other similar measures. Press releases are prepared and circulated.

The objectives of environmental education are also being served by the regular issue of collections of legislation, information bulletins and surveys, including: the State of the Environment, Water Resources, Natural Resources, a government report on the state of the environment, annual surveys of the results of implementing the Programme of the National Environmental Monitoring System, and quarterly information bulletins on the exceeding of the norms for the release and emission of pollutants into the environment by the country’s enterprises. One thousand copies of a version of the Government report on the state of the environment in 2003, adapted for a mass readership, have been published.

Summary information on the results of processing government statistical reports (10 statistical forms on the environment and forestry) is published by the Ministry of Statistics and Analysis in statistical yearbooks, bulletins and the annual issue of the statistical collection "Protection of the Environment and Natural Resources in the Republic of Belarus". Every year, the Ministry of Health publishes a Government report on the sanitary-epidemiological situation and a collection on the basic indicators of public health, the activity of the sanitary and epidemiological service and the state of the environment.

In 2003-2004, the Nature Ministry held republican environmental forums comprising republican, oblast and local stages and covering all the regions of the country. Within the context of this measure, environmental awareness-raising events and republican and regional environmental competitions (for details see the Ministry's site) were organized. Within the framework of the second Republican environmental forum, a scientific and practical conference entitled "Implementation by the Republic of Belarus of the UN environmental conventions: present situation, constraints and ways of removing them" was held in the city of Gorky. Six educational seminars/training courses on "The Aarhus Convention: public participation in decision-making" were held within the framework of the TACIS environmental information, education and awareness-raising project. Seventy participants in the educational programme were awarded certificates attesting to their knowledge of the subject. In July 2004, a "round table" with young politicians was held on the subject of "The Aarhus Convention - Solutions for Belarus".

In July 2001, for the purpose of implementing the provisions of the Convention and providing for interaction between the services of the Nature Ministry and the voluntary organizations and environmental associations, the development of agreed solutions of problems relating to the use of natural resources, and environmental education and awareness, the Ministry set up and continues to operate a Public Environmental Coordination Council on which 17 NGOs are represented. In 2003-2004, similar councils were established by the oblast and Minsk municipal natural resources and environmental protection committees. Plans for joint measures with a number of voluntary organizations and associations (the NGOs Environmental Initiative, Akhova ptuzhak Belarusy, Ekopravo, Ecological Management, etc.) have been prepared and are being implemented.

The voluntary associations are being invited to participate in competitions for the implementation of important environmental protection projects. For example, Environmental Management has participated in the preparation of the Environmental Impact Assessment (EIA) Directive, and Ecological Initiative in the preparation of the web pages on the "Year of improvement and restoration of order on the land" of the Nature Ministry's site on the Presidential server.

#### **6. Give relevant web site addresses, if available:**

The public can access environmental information via the following websites:

[www.minpriroda.by](http://www.minpriroda.by)

[www.president.gov.by/Minpriroda/russian/index/htm](http://www.president.gov.by/Minpriroda/russian/index/htm)

[www.ac.minpriroda.by](http://www.ac.minpriroda.by)

[www.pogoda.by](http://www.pogoda.by)

#### ARTICLE 4

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

The Environmental Protection Act of 26 November 1992 as amended by the Act of 17 July 2002 contains article 74 on environmental information. Decree of the Nature Ministry No. 22 of 29 May 2003 on the list of reports relating to environmental information has been adopted.

An Outline Environmental Information Act has been formulated and the Nature Ministry has developed a draft decree on the provision of environmental information.

- (a)(i) Article 34 of the Constitution and the enactments based on it require public authorities to provide information “concerning the rights and legitimate interests of citizens”. In the existing legislation the principle of providing information to anyone without their having to state an interest is not clearly established. There is provision for the implementation of this principle in the Outline Environmental Information Act;
  - (ii) Under article 9 of the Information Technology Act of 6 September 1995, legal and natural persons have the right of access to documented information;
  - (iii) The legislation lays down the principles of documentation of information in certain forms (Information Technology Act of 6 September 1995). However, other acts, apart from the Convention, do not require the information, particularly environmental information, to be provided in the form requested;
- (b) Article 8 of the Citizens’ Petitions Act of 6 June 1996 lays down the time frame for considering petitions from citizens including, in particular, requests for environmental information. Petitions must be considered within one month of the date of receipt and those that do not require further study and verification within 15 days, unless some other time limit is specified by law. The principle of observance of the time frames indicated in article 4, para. 2, of the Convention is also incorporated in the Outline Environmental Information Act;
- (c)(i) Under the Constitution, the provisions of the Information Technology Act of 6 September 1995 and other enactments, the right of access to information may be restricted by law. Legal restrictions on the provision of environmental information in accordance with article 4, paras. 3 and 4, of the Convention can be found, in particular, in the Citizens’ Petitions Act of 6 June 1996, the State Secrets Act of 4 January 2003, the Code of Criminal Procedure (arts. 48 and 198), the Civil Code (arts. 128 and 140), the Copyright and Related Rights Act of 16 May 1996 and other legislation;
  - (ii) The application of the “public interest test” is not required in the enactments of the Republic, apart from the Convention;
- (d) Article 4 of the Citizens’ Petitions Act of 6 June 1996 requires the officials of organs, institutions, organizations and enterprises (receiving citizens’ petitions) which are not

responsible for dealing with the questions raised in the petition to forward the petition within five days to the officials of the appropriate organs, institutions, organizations or enterprises and so notify the citizens concerned;

(e) The principle of separating out information in accordance with article 4, para. 6, of the Convention is not at present developed in the enactments of the Republic, apart from the Convention. However, it can be found in the Outline Environmental Information Act and in the draft new EIA Directive;

(f) In accordance with article 7 of the Citizens' Petitions Act, a decision on the merits of a petition or a refusal to consider it must be justified in writing, in which case the time frame for considering petitions indicated in paragraph (b) above must be observed;

(g) Article 69 of the Environmental Protection Act states that, under the procedure laid down in the legislation, public authorities, legal persons and citizens have the right to request and obtain free of charge from the Nature Ministry and its regional branches information on the state of the environment and environmental impact information obtained as a result of environmental monitoring. Under article 31 of the Hydrometeorological Activities Act of 10 May 1999, information on the state of the environment and environmental pollution is available to consumers on a fee-paying and free-of-charge basis;

Consumers (with the exception of public authorities) of information on the state of the environment and environmental pollution of general significance are charged only for services associated with the selection, copying, printing, forwarding and transmission of the information in accordance with the procedure for establishing prices and tariffs in force. A fee is charged for the provision of specialized information on the state of the environment and environmental pollution.

Information on drinking water quality under article 34 of the Drinking Water Supply Act is provided free of charge, under a mandatory procedure, on request or to all consumers of drinking water through the media or in some other way. Information on possible interruptions in the supply of drinking water is also provided free of charge.

In individual cases, prices and tariffs for the provision of information are confirmed by legislative acts. Thus, the tariffs used for providing various types of town-planning information are established by Order No. 25 of the Ministry of Architecture and Construction of 2 February 1996 establishing prices for topographic-geodesic, cartographic and aerial photography materials, works and services.

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

A number of principles of the Convention are not regulated by the legislation, which is preventing their practical implementation, in particular the principle of providing information to anyone without the need to state an interest, the obligation to provide environmental information in the form requested, the application of the "public interest test" and the principle of separating out information. The Regulations on commercial confidentiality are inconsistent with article 4, para. 4 (d), of the Convention.



**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?**

Government agencies keep records of citizens' petitions in general. However, there are no statistics on the number of requests for environmental information. The Nature Ministry has not registered any complaints for refusal to provide such information. Generally speaking, the active dissemination of information by the Nature Ministry is meeting the needs of the population. Thus, at the request of the voluntary organizations copies of actual documentation have been provided, for example: the opinion of the State environmental appraisal board on the construction of the Grodnensk hydroelectric power station on the river Neman; and cartographic materials on the functional zoning of the Belaya Rus' National Park, which is in the process of being created.

**10. Give relevant web site addresses, if available:**

Republican Centre for Hygiene, Epidemiology and Public Health ([www.rcheph.by](http://www.rcheph.by)); National Biosafety Coordination Centre (<http://biosafety.org.by/>); National Scientific Research Centre for the Monitoring of the Ozonosphere (<http://www.bsu.unibel.by/nomrec/russian.html>); Ministry of Emergencies (<http://rescue01.gov.by>).

**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)(i)-(ii) Article 68 of the Environmental Protection Act calls for the creation of a National Environmental Monitoring System for the purpose of obtaining and providing complete, reliable and up-to-date information on the state of the environment and influences on it. Public authorities and legal persons transmit free of charge to the Nature Ministry and its regional branches observational data on the state of the environment. Data on the use of natural resources, the release and emission of pollutants into the environment, waste disposal and other harmful influences on the environment have to be accounted for in the enterprise's environmental certificate and the government statistical report. Government surveys of natural resources are carried out in order to record the quantitative, qualitative and other characteristics of natural resources, the amounts used and the conditions of use. Government surveys of the following natural resources are carried out: land, subsoil, water, air, forests, flora, fauna, climate, peat reserves, and waste;
- (iii) Article 8 of the Law on the protection of the population and territories from natural and technogenic emergencies defines the concept of "information on the protection of the population and territories from emergencies", which includes information about emergencies that have occurred or been predicted and their consequences, as well as information about radiation, chemical, medico-biological, blast, fire and environmental safety in the territories concerned.

The procedure for collecting and exchanging such information is laid down in the Decree of the Council of Ministers of 23 August 2001 on the procedure for collecting information on the protection of the population and territories from natural and technogenic emergencies and the exchange of that information, according to which information on emergencies must be submitted to the agencies routinely responsible for emergency management within certain time limits, for example, information on the threat of an emergency within 30 minutes of receiving the warning; information on emergencies that have already happened - orally (by telephone) without delay or in writing (by fax); and information on the causes of the emergency, its extent and casualties as received; information on progress with the clean-up following technogenic emergencies - in writing every two hours, etc.

The Law on the protection of the population and territories from natural and technogenic emergencies requires the services of the Ministry for Emergencies and the local executive and regulatory services “promptly and reliably to inform the population through the media and other channels of the state of protection of the population and territories from emergencies, and ways and means of protecting the population from such emergencies”. Under the Industrial Safety of Dangerous Industrial Objects Act of 10 January 2000, the republican government agency responsible for industrial safety, other republican government agencies and local executive and regulatory organs and organizations must promptly and reliably inform the population through the media or other channels regarding the industrial safety situation.

Article 34 of the Drinking Water Supply Act requires the owners of drinking water supply systems, drinking water supply enterprises and government sanitary inspection services immediately to inform drinking water consumers if the quality of the drinking water is found not to meet the standards in force, with a possible threat to human health;

(b) In order to make the procedures followed by the public authorities when providing the public with environmental information understandable and environmental information easily accessible, the Nature Ministry has taken a series of measures. Thus, it has initiated and developed an Outline Environmental Information Act and draft regulations on the provision of environmental information and regularly updates its websites;

(d) A report on the state of the environment is published once every four years (the last report was published in 2002 in a run of 500 copies). It was placed on the official government website [www.president.gov.by](http://www.president.gov.by);

(e) Under Presidential Decree No 565 of 1 December 1998 on the procedure for the dissemination of legal information, the National Centre for Legal Information is responsible for the collection, accumulation, storage, control and systemization of legal acts, as well as for the dissemination of legal information in printed and electronic form. The Centre disseminates legal information in printed and electronic form. The State public libraries provide citizens with free access to legal information published in the media and other publications or contained in databases, including through public legal information centres set up in the libraries themselves. Public legal information centres are places where citizens can obtain free access to official legal

information for the purpose of acquiring a knowledge of the law and lawful behaviour and respect for the law.

Under the above-mentioned Presidential Decree, if environmental or environment-related plans and programmes and, moreover, nature conservation agreements are approved in the form of regulations, they are subject to official publication and dissemination. If administrative measures, policy statements, plans and programmes are approved by a regulation, then the information is published in the National Register of Regulations, which is open to the public.

Under the Regulations Act and the Regulations on the official publication and entry into force of legal instruments, approved by Presidential Decree of 10 December 1998, regulations and, moreover, international agreements that have entered into force on the territory of the Republic are subject to official publication. Regulations concerning the rights, freedoms and obligations of citizens enter into force only after their official publication. As a rule, legislative acts are published after inclusion in the National Register of Regulations;

(f) Voluntary environmental certification and eco-labeling of products is provided for in the Environmental Protection, Protection of Consumer Rights and Certification of Products, Works and Services Acts and in Order No. 179/130 of the Nature Ministry and the State Committee on Standardization, Metrology and Certification of 15 June 1998 on the approval of the basic regulations for the environmental certification of products and production;

(g) Under article 10 of the Protection of Consumer Rights Act, food products and their ingredients produced in radiation-contaminated areas must have a certificate (labeling) indicating the place of production, the producer, conformity of the radionuclide content indicators with republican permissible levels (including, where required by law, information on the ratio of these indicators to republican permissible levels);

Goods (works, services) which, by law or under the quality regulations, are subject to requirements aimed at safeguarding the life, health and property of the consumer and the environment and, moreover, the means of safeguarding the life and health of the consumer are subject to State sanitary regulation and registration and/or compulsory certification under the National Certification System. Lists of goods (works, services) subject to State sanitary regulation and registration and/or compulsory certification and the dates of introduction of the certification are established in accordance with the procedure determined by the Government.

The consumer must be informed that a food product has been genetically modified or contains genetically modified ingredients (components). Moreover, genetic modification is also regulated by the Law of 29 June 2003 on the quality and safety of food raw materials and food products for human life and health and by Decision No. 116 of the Senior State Public Health Physician of 27 December 2003 on the State regulation and registration of product raw materials and food products obtained from or using genetically modified sources;

(h) In the Plan of measures for the implementation of the provisions of the Convention concerning access to information, public participation in the decision-making process and access to justice in environmental matters for 2002-2005, approved by Decree of the Council of Ministers of 29 December 2001, the development of proposals for the organization of a nationwide system of pollution surveys or registers is planned for 2002-2005. In 2004, the main

environmental pollutants were analyzed and selected for inclusion in the PRTR and the structure of a register containing a list of indicators and their representative levels (oblast, city, enterprise) was developed. Since the choice of objects and the analysis of the criteria for inclusion in the PRTR showed that the list was quite long, it was proposed to compile the PRTR in several stages.

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

**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?**

The electronic information resources of the Republican Scientific and Technical Library include databases on energy-saving, environmentally friendly and safe technologies in industry, and the treatment and use of industrial and household waste. The Kolas Central Science Library of the National Academy of Sciences has set up an environmental information centre, called Eko-Info, which pools information resources on nature conservation activities and ecology and provides users with the fullest possible opportunities for obtaining up-to-date information in this field. Databases on nature, the ecology and environment and woodlands, together with foreign periodicals on biology, including ecology and nature conservation, are available at the centre. The scientific establishments of the National Academy of Sciences, the services of the Nature Ministry, government agencies and republican voluntary associations, according to the specific nature of their activities, also have at their disposal up-to-date electronic information resources relating to nature conservation and publish reports, compilations and bulletins. Official statistics on published information are not kept in approved forms.

**14. Give relevant web site addresses, if available:**

<http://csl.bas-net.by>, <http://hbc.bas-net.by/cbg>, <http://biosafety.org.by>, Ministry for Emergencies (<http://rescue01.gov.by>), Genofund of Living Collections HBC of the National Academy of Sciences of Belarus (<http://hbc.bas-net.by/cbg>), Botanical Collections (history of formation, systematic composition, botanist-curators, publications) (<http://hbc.bas-net.by/bcb>).

## ARTICLE 6

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

- (a)(i) The provisions of the Convention are subject to mandatory implementation and have the legal effect of a Presidential Decree (see art. 20 of the Law of the Republic of 10 January 2000 as amended by the Regulations Act of 4 January 2002). Therefore, the provisions of article 6 are applied directly with respect to decisions on whether to permit proposed activities listed in annex I to the Convention. Moreover, the Directive on the procedure for assessing the environmental impact of a proposed economic or other activity, approved by the Nature Ministry on 6 February 2001 (hereinafter referred to as the EIA Directive) provides for public participation in

decision-making with respect to specific forms of activity. The legislation in question approved the List of forms and objects of economic and other activity for which an assessment of the environmental impact of the proposed economic or other activity is required under the mandatory procedure;

- (ii) A decision to carry out an EIA on individual forms of activity not on the approved list, in connection with which an EIA procedure is required, may be taken by the Nature Ministry in accordance with the provisions of the EIA Directive of 6 February 2001. The Directive recommends that an EIA be carried out in relation to decisions concerning the siting of objects of economic or other activity in specially protected nature areas when the operation of those objects is not linked with the regime governing those areas;

(b) In accordance with the EIA Directive, the Client (initiator of the proposed economic or other activity) must provide interested citizens and/or voluntary organizations (associations) with the necessary information and arrange for their participation in the preparation and discussion of the EIA materials. Under the Directive, public hearings may be held by publishing draft and other proposals concerning the proposed economic or other activity in the media or by discussing them at meetings of citizens and/or voluntary organizations (associations). The results of the public hearings are reproduced in the form of minutes agreed with the public and annexed to the EIA materials.

A draft new EIA Directive has been developed, which reflects more consistently the provisions of article 6, para. 2, of the Convention concerning the adequate, timely and effective informing of the public. Thus, public hearings and discussions should preferably be organized in those places where the proposed activity is to be carried out (or, where the selected area is not populated, in any accessible place, with the agreement of all the interested parties). The following methods of working with the public may be used: publication in the media (newspapers, radio, television) of draft proposals in accessible form; publication of information sheets and bulletins; postal notification of the owners or occupants of dwellings which may be in the area directly affected by the implementation of the project; public opinion surveys; public hearings; meetings between the representative of the Client, the environmental impact assessor and the public (deputies, environmental organizations, participants in the public environmental appraisal of the project, representatives of local government committees, etc.); informal meetings with the necessary groups of local residents; seminars, and advisory committees. The procedure for holding public hearings usually includes the following stages: notification of the public hearing; discussion of the environmental impact assessment materials with the public (public hearings proper); preparation of a "comments sheet" on the results of the public hearings; formulation of proposals adopted as a result of the public hearings.

The Client for the proposed activity will provide members of the public with opportunities to acquaint themselves with the EIA materials, both during the public hearing procedure and at any other stage of the proposed activity.

Minutes of the public hearing, together with the comments sheet, must be prepared by the participants in the hearing within five working days of the hearing being held. The minutes of the public hearing and the comments sheet are sent to the Client, the local administrative and regulatory authorities, and the regional offices of the Nature Ministry. Any other interested party

may receive a copy of the minutes and the comments sheet on request. The minutes and the comments sheet are attached to the final version of the EIA materials.

Moreover, in accordance with art. 4 of the Law of 5 July 2004 on architectural, town-planning and construction activities, which enters into force on 1 January 2005, decisions of the local Councils of Deputies on questions concerning the planning, building and improvement of settlements and residential construction should normally be taken after discussion with the residents.

Public authorities, legal persons and officials are obliged to provide members of the public with opportunities to acquaint themselves with information on matters affecting their rights and legitimate interests in connection with the carrying out of architectural, town-planning and building activities. In the cases specified by law, the investor or contractor is obliged to provide, in a place accessible for inspection, information about the object to be built (rebuilt) including the names of the client, the builder, the contractor, the dates on which construction (reconstruction) will begin and end, and other information.

Before town-planning documentation is approved, the public has the right to make proposals, participate in town-planning discussions and decision-making, and make professional independent appraisals of town-planning documentation at its own expense. Where town-planning documentation is subjected to professional independent appraisals, the State expert appraisal board delivers its opinion after the conclusions of the professional independent appraisals have been received;

(c), (d), (e) The measures mentioned in these subparagraphs are reflected in the legislation only in general form, without the specification of time frames or criteria for identifying the groups concerned (see also answer under point 6 above);

(f) (i)-(ii) In accordance with paragraph 4 of the EIA Directive in force, the Client provides the public concerned with the necessary information and arranges for public participation in the preparation and discussion of the materials for the assessment of the environmental impact of the proposed economic or other activity.

The draft new EIA Directive calls for the public to be provided with an Environmental Impact Statement. In accordance with the draft Directive, the Environmental Impact Statement must be understandable by the participants in the environmental impact assessment process and clearly structured. The Statement may include a special non-technical summary written in readily understandable non-specialized language and setting out the main conclusions of the impact assessment.

The contents of the Statement are set out in the Directive and, in particular, it must include basic information about the project and its alternatives, the nature of the potential impact on the environment and an explanation of the possible associated changes, a description of measures to soften the impact, the reasons for choosing a preferred alternative and other information;

(g) In accordance with the EIA Directive, the results of public hearings at which opinions of the public are expressed must be recorded in the form of minutes agreed with the public.

Under the draft new EIA Directive, the minutes of public hearings and the comments sheet must be attached to the final version of the EIA materials. The Client and the person responsible for preparing the EIA materials record, analyze and assess all the comments and proposals made by the public concerned with regard to the possible consequences of the proposed activity, for the purpose of selecting significant, environmentally justified proposals, and classify them in accordance with the conditions of possible implementation of the project.

Article 61 of the Environmental Protection Act provides for a special form of expression of public opinion, namely, a public expert environmental appraisal, organized and carried out at the initiative of voluntary associations and citizens by independent experts with the right to obtain documentation from the Client, including materials relating to the EIA and other activities.

The conclusions of the public environmental appraisal, which have the force of recommendations, may be sent to the bodies responsible for conducting State environmental appraisals, local executive and regulatory bodies and other interested parties. At the same time, the conclusions of a public environmental appraisal submitted to an official or the appropriate body are regarded as a citizens' petition and, in accordance with the provisions of the Convention, the individual or group submitting the petition is entitled to receive an answer to that petition within the time frame laid down. Moreover, the public authority or official concerned must give a reasoned reply;

(h) This provision is reflected in the draft new EIA Directive;

(i) The measures envisaged in these subparagraphs are not provided for in the present legislation;

(k) Biosafety legislation is currently being prepared. The Cartagena Protocol on Biosafety was ratified by the Law of 6 May 2002. A Genetic Engineering Safety bill has been prepared and submitted to Parliament for discussion. This bill regulates matters pertaining to public access to information on genetic engineering activities.

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

The provisions of the current EIA Directive do not fully meet the requirements of article 6 of the Convention. In particular, from the standpoint of taking public opinion into account, holding public hearings by giving notice of the implementation of the project in the media is ineffective. Until recently, in the national legislation there were no provisions that met the requirements of paragraphs 2-11 of article 6, with the result that they could not easily be implemented in practice. It seems that these discrepancies should disappear with the approval of the new EIA Directive and the entry into force of the Law on architectural, town-planning and building activity.

At the same time, the laws and regulations need improving in order to establish clear and practicable measures to ensure, in particular: conformity of the time frames of the public participation procedures with the requirements of paragraph 3; early public participation in

accordance with paragraph 4; procedures for public participation that allow the public to submit any comments, information, analyses or opinions which it considers relevant to the proposed activity in accordance with paragraph 7; that the public is promptly informed of the decision in accordance with paragraph 9; and that when a public authority reconsiders or updates the operating conditions for an activity the provisions of paragraphs 2-9 are applied *mutatis mutandis*.

**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.**

There are no statistics on public participation in decisions concerning specific activities or on decisions not to apply the provisions of article 6 to proposed activities serving national security purposes.

A good example of the participation of the public in a decision on a specific activity is the adoption of the decision to create the Belaya Rus' National Park. One of the initiators of the decision was the Nature Ministry. The decision was discussed with the public and, in particular, the people living within the boundaries of the proposed national park and representatives of the environmental NGOs and educational institutions.

On 29 November 2004, for the first time, public hearings on this decision were held in Logoisk. The hearings were based on the provisions of the Convention. Experience of this kind will make possible appropriate corrections to the draft Regulations on the procedure for submitting proposals concerning the proclamation, conversion and termination of the operation of nature reserves and national parks for public discussion.

**18. Give relevant web site addresses, if available:**

Nature Ministry (<http://www.minpriroda.by>).

**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.**

The legislation establishes the legal basis for public participation in decision-making concerning plans and programmes relating to the environment. Thus, under article 15 of the Environmental Protection Act, voluntary associations active in the field of environmental protection have the right to develop, promote and implement programmes for the rational use of natural resources and the protection of the environment, as well as to participate in the development of draft State (republican, sectoral, local and other) programmes and measures for the rational use of natural resources and the protection of the environment and to assist in their implementation. Similar



provisions concerning the right of citizens and voluntary associations to participate in the consideration of questions affecting their interests associated with the expropriation and granting of parcels of land, the allocation, use, conservation and protection of State forest reserves and the renewal of forests and the treatment of objects of the vegetable kingdom can be found in article 7 of the Land Code of 1 December 1999, article 14 of the Forestry Code of 14 July 2000 and articles 16 and 17 of the Vegetable Kingdom Act of 14 June 2003. The Land Code states that decisions of the executive and regulatory bodies relating to the expropriation and granting of parcels of land and affecting the interests of citizens must be taken with account for public opinion which, in particular, may be achieved by holding public meetings and referenda.

Under the Republican and Local Assemblies Act of 12 July 2000, local assemblies are competent, in particular, to consider draft development and building plans for the corresponding area, the rational use of natural resources, etc. The procedure for holding referenda is laid down in the Electoral Code of 11 February 2000, while article 4 of the Architectural, Town-Planning and Building Activities Act of 5 July 2004 establishes the right of natural persons to participate in town and country planning activities. In this Act the conditions and forms of town and country planning are set out in detail.

Moreover, there is provision for the development of local or regional environmental protection action plans (LEPAP) on the basis of the National Action Plan for the Rational Use of Natural Resources and Environmental Protection (NEPAP) for 2001-2005, approved by Decree of the Council of Ministers No. 912 of 27 July 2001.

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

In accordance with article 7 of the Environmental Protection Act, the main thrust of government environmental policy is to encourage citizens and voluntary associations to protect the environment and monitor its state. Article 4 of the Act establishes as one of the principles of environmental protection the duty of voluntary associations, other legal persons and citizens to participate in environmental protection activities.

One practical opportunity for the public to participate in the preparation of policies relating to the environment is provided by the activities of the public environmental councils. For example, in addition to the Nature Ministry's Public Environmental Coordination Council, on 21 April 2004 the Mogilev municipal executive committee decided to establish its own Public Environmental Council and approved the Council's regulations, as well as a set of regulations on the procedure for submitting draft environmentally significant decisions taken by the Mogilev municipal executive committee for public discussion.

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

Despite the fact that the legislation incorporates, in general form, the principles of public participation in the preparation of plans and programmes relating to the environment, it lacks legal mechanisms (procedures) for implementing the provisions of paragraphs 3, 4 and 8 of article 6, as required by article 7. Moreover, the legislation does not contain criteria for identifying the groups that may participate in the preparation of plans and programmes relating to the environment, in accordance with article 7.

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

The creation of the Nature Ministry's Public Environmental Coordination Council opened up the possibility for voluntary associations to participate in the discussion of various environmental policy issues, for example, the creation of the Belaya Rus' National Park, the Plan of measures for the implementation of the provisions of the Convention, the National Action Plan for the Rational Use of Natural Resources and the Protection of the Environment for 2001-2005, the application of the Plan of measures for the implementation of the provisions of the United Nations Convention to Combat Desertification; the advisability of accession to the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the Stockholm Convention on Persistent Organic Pollutants; the draft new version of the Environmental Protection Act, etc.

In 2003-2004, the voluntary associations forming part of the Coalition of NGOs for Sustainable Development participated in the discussion of an Outline National Sustainable Socio-Economic Development Strategy (NSDS) for the period up to 2020 submitted by the Scientific Research Institute of the Ministry of the Economy. The public had an opportunity to make comments and proposals with respect to this document. During the work on this outline, methods of strategic environmental assessment (SEA) were used for the first time. This led to the development of a scheme for using SEA tools to analyze and correct the NSDS, which is also applicable to other strategic documents; a Strategic Environmental Assessment of the Outline NSDS was conducted and recommendations concerning the development of the NSDS over the period up to 2020 were formulated; representatives of the NGOs participated as experts in the development of the NSDS-2020.

**23. Give relevant web site addresses, if available:**

Information on the draft NSDS-2020 - <http://www.belsd.org>.

**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.**

Under the Regulations Act of 10 January 2000, the transparency of the activities of the rule-making agencies (officials) is ensured, in particular: by informing citizens of the activities of the rule-making agencies (officials) and the regulations they adopt; by publishing regulations in official publications or in other media or bringing them to the notice of the general public by other means. By decision of the rule-making agency (official), a draft regulation may be submitted for public (national, community or professional) discussion or referendum.

Presidential Decree No. 609 of 16 December 2002 created the National Legal Internet Portal, one of whose objectives is "to provide citizens, government agencies and other organizations

with timely, full and reliable legal information, together with commentaries and other legal analytical materials”. At present, draft laws are being placed on the site at the address [www.ncpi.gov.by](http://www.ncpi.gov.by). This information is available to the public.

It is the practice of the Nature Ministry to place adopted (approved) draft regulations on its website [www.minpriroda.by](http://www.minpriroda.by); this information is also circulated among the members of the Public Environmental Coordination Council. The comments of the public are generalized and, wherever possible, taken into account in finalizing the instruments.

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

At present, the legislation does not require information on the preparation and content of draft regulations (with the exception of draft laws), including those adopted by government agencies, to be disseminated; this information is not being brought to the attention of the public.

There are no provisions regulating the fixing of time frames sufficient for effective public participation in the preparation of executive regulations and other legally binding rules; there are no opportunities for the public to comment, directly or through representative consultative bodies, and there is no obligation on the public authorities to take the result of the public participation into account as far as possible.

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

In the absence of legislation requiring that the public be provided with information concerning the preparation of executive regulations and legally binding rules relating to the environment, the practical application of the public participation provisions of article 8 is unsystematic and sporadic and to a large extent left to the discretion of the public authority.

Thus, at one of the meetings of the Public Environmental Coordination Council the Nature Ministry initiated a public discussion of the draft new EIA Directive. The information was first (two weeks beforehand) circulated to the organizations that are members of the Council, comments were collected and, as far as possible, taken into account in finalizing the draft.

During the drafting of the Genetic Engineering Safety bill the National Biosafety Centre initiated the preparation of a number of legislative instruments (so-called subordinate legislation). The information was placed on the Centre’s website and the association Ekopravo played an active part in the development of the instruments.

The Ministry of Forestry regularly forwards draft normative instruments to the professional environmental NGOs, such as Akhova ptushak Belarusy, and takes any reasonable comment into account.

**27. Give relevant web site addresses, if available:**

National Centre for Legal Information (<http://www.ncpi.gov.by>).

Nature Ministry (<http://www.minpriroda.by>).

National Biosafety Centre (<http://biosafety.org.by>).

Akhova ptushak Belarusy (<http://apb.iatb.by>).

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

- (a)(i) In accordance with the provisions of the Information Technology Act and the Citizens' Petitions Act, legal proceedings may be instituted by legal and natural persons who are refused access to documented environmental information or if such information is concealed without lawful cause. The courts will also consider cases of infringements of the law on State secrets, in particular, under the State Secrets Act, cases concerning the lawfulness of classifying information as State secrets and the determination of the extent of the damage caused by restricting the dissemination of such information. A claimant may sue for protection of the right to environmental information if he has been refused that information, if the information provided is incomplete, if the information was not provided within the time frame laid down in the legislation, etc., i.e., in any circumstances in which his material right to information is infringed. It should be noted that the claimant may, at the same time, raise the question of compensation for material or non-material injury if the injury was suffered in connection with an infringement of his right of access to information;
- (ii) Under art. 8 of the Citizens' Petitions Act of 6 June 1996, a decision taken on a petition (including a petition for access to environmental information) may be appealed to the next higher public authority, institution, organization or court. Legal proceedings against the acts (omissions) of public authorities and other legal persons or officials that encroach on the environmental rights of citizens may be instituted in accordance with the provisions of the 1999 Code of Civil Procedure (arts. 353-358). There is no charge for appealing to the next higher authority, and the appeal must be considered within one month of its being lodged, or if no further study or verification is required within 15 days, unless another time frame is specified by law. Where it is necessary to carry out a special verification or request additional materials, the head of the authority, institution, organization or enterprise receiving the petition may extend the time frame but not to more than two months, while simultaneously notifying the applicant;
- (iii) Under the Citizens' Petitions Act and the legislation based thereon, an official of an authority, institution, organization or enterprise is required to take the necessary measures to reinstate the infringed rights and legitimate interests of citizens, and decide the question of the liability of the persons to blame for the infringements. Even oral petitions from citizens and legal persons must receive a written reply;
- (b) In accordance with art. 86 of the Code of Civil Procedure, voluntary associations have the right to institute legal proceedings to protect the rights and legitimate interests of their members if their statutes so provide. Presidential Decree No. 13 of 15 April 2003 on certain questions of civil justice provides that the authorized agents of voluntary associations may act as representatives of citizens in civil cases in the ordinary courts only if, by law, they have the right to represent and protect in court the rights and legitimate interests of members of those associations and other persons;

- (c)(i) The ways in which civil rights can be protected are listed in art. 11 of the Civil Code: repression of acts that infringe or threaten to infringe a right; recognition of an act of a central or local government authority as invalid; damages; compensation for non-material injury; other remedies provided for by law. In accordance with the procedural legislation, at the request of the claimant or on its own motion, a court has the right, before giving a decision, to make a determination on a provisional remedy, i.e. injunctive relief;
- (ii) In accordance with the requirements of the civil and commercial procedural legislation, claimants receive written copies of court decisions; a record of the court proceedings is kept; an interested party may consult the record on request and has the right to make comments on it which must be considered by the judge. The levels of legal costs are established by Decrees of the Council of Ministers. Legal persons and citizens are exempt from the payment of legal costs and other expenses associated with the consideration of the case if they are acting to protect the rights and legitimate interests of others in the circumstances specified by law. Moreover, claimants seeking damages for injury to health are also exempt from the payment of legal costs. At their request, the court may also exempt claimants and applicants from the payment of costs after taking their material circumstances into account;
- (e) Information on administrative and judicial review procedures is provided. The Code of Civil Procedure, the Administrative Offences Code, and the Code of Commercial Procedure can be found on the site of the National Centre for Legal Information <http://www.ncpi.gov.by>.

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

There have been very few cases of the judicial review of disputes relating to the environment initiated by citizens or voluntary associations. More extensively developed is the practice of administrative appeal to the next higher authority or official. In this case, the main problem is respect for the independence of the authority considering the appeal.

Citizens often fail to make use of the appeal procedures because they lack information concerning the possibilities of access to justice in matters relating to the environment.

There is no clear legal concept of protection of the right to a favourable environment and therefore the courts often, without giving reasons, refuse to admit claims and consider cases on the merits. The problem is the low professional level of the judiciary, prosecutors and counsel where the legal protection of the environment and the defence of the rights of citizens to a favourable environment are concerned. The legal capacity of the environmental civil-rights organizations providing free services is restricted by the law.

**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?**

Statistics on environmental justice are not compiled, except for court statistics on matters relating to environmental protection initiated by the Nature Ministry.

One of the mechanisms for ensuring access to justice in environmental matters is to make sure that the judges are familiar with the provisions of the Convention and changes in the environmental legislation. In this connection, in 2003, the Nature Ministry, with the financial support of the national office of the Organization for Security and Co-operation in Europe (OSCE), initiated and held a seminar for judges. Within the framework of this project a book entitled "Review of the Environmental Legislation of the Republic of Belarus" was written and published. In November 2004, the Office of the Attorney General organized a course for prosecution service staff responsible for monitoring compliance with the environmental protection legislation.

At present, for the purpose of keeping the general public, including jurists, informed about the body of environmental legislation, at the request of the Nature Ministry and with the financial support of the office of the OSCE, jurists of the voluntary association Ekopravo are preparing a book entitled "Scientific and Practical Commentary on the Environmental Protection Act of the Republic of Belarus" (for publication and circulation in December 2004).

**31. Give relevant web site addresses, if available:**

National Centre for Legal Information (<http://www.ncpi.gov.by>).

**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.**

The Convention defines the legal framework or principles for the protection of the human right to a favourable environment which are further developed in the national legislation in the form of specific legal mechanisms. It undoubtedly provides an incentive to improve the legislation in this field. Thus, in 2002, the Convention prompted the adoption of the new text of the Environmental Protection Act which establishes the right to a favourable environment as a universal personal right and guarantees the exercise of that right.