

Format for the Aarhus Convention implementation report in accordance with Decision IV/4 (ECE/MP.PP/2011/2/Add.1)

The following report is submitted on behalf of the Republic of Croatia [name of the Party or the Signatory] in accordance with decisions I/8, II/10 and IV/4.

Name of officer responsible for submitting the national report:

Branka Pivčević Novak, Ministry of Environmental and Nature Protection, Croatia

Signature:

Date: 18 December 2013

Implementation report

Please provide the following details on the origin of this report

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I. Process by which the report has been prepared

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

Answer:

The 3rd National Report on the Implementation of the Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (hereinafter referred to as: Aarhus Convention) covers the period since the last report (2011 – 2013)¹. The preparation of the report was coordinated by the Ministry of Environmental and Nature Protection (hereinafter referred to as: MENP) in cooperation with the Ministry of Justice and other public authorities relevant for the implementation of the Aarhus Convention. *Zeleni Forum* (Green Forum), a network of organisations active in the field of environmental protection, appointed its representative from *Zelena Istra* (Green Istria), a non-governmental organisation (NGOs), as a member of the Working Group for the Preparation of a Draft Report. The draft report was published on MENP's website for a period of 30 days and the Ministry invited all regional self-government units (some of which also published a notice of the public discussion on their respective websites, while

some forwarded the draft report to their respective local self-government units) to join the related public discussion. Certain objections were included in the Report, while a written statement was issued with respect to the remaining objections and published on MENP's website. In accordance with the recommendation of the Aarhus Convention Secretariat, the final version of the Report was shortened and translated into English. Both the short and the long version of the 3rd National Report are available on MENP's website, while the relevant bodies and organisations have been notified of the publication of the report.

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

II. Particular circumstances relevant for understanding the report

Report any particular circumstances that are relevant for understanding the report, e.g., whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer: /

III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8

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

Answer:

A number of Croatian laws and subordinate regulations are applicable in connection with the implementation of the general provisions of Article 3, which have already been mentioned in the previous National Reports. However, since the time the 2nd Report was finished, certain laws related to the environment and some other laws relevant for the implementation of the Convention have been amended for the purpose of harmonising the national legislation with the legislation of the European Union (Croatia became a member of the European Union on 1 July 2013). New versions of the Environmental Protection Act (hereinafter referred to as: EPA; OG² 80/13), Nature Protection Act (OG 80/13), Sustainable Waste Management Act (OG 94/13), Air Protection Act (OG 130/11; hereinafter referred to as: APA) and Law on the Right of Access to Information (OG 25/13; hereinafter referred to as: LRAI) have been adopted, while the Water Act has been amended (OG 153/09, 63/11, 130/11 and 56/13; hereinafter referred to as: WA).

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

The following new regulations are also important in this context: Ordinance on Mutual Exchange of Information and Reporting on Air Quality (OG 57/13), Ordinance on Monitoring Air Quality (NN 3/13), Regulation on Levels of Pollutants in Ambient Air (OG 117/12), Regulation on Limit Values for Pollutant Emissions from Stationary Sources into the Air (OG 117/12), Ordinance on the Quality of Liquid Oil Fuels (OG 33/11), Ordinance on Monitoring, Reporting and Verification of Reports on Greenhouse Gas Emissions from Installations and Aircraft in the Period Starting from January 1, 2013 (OG 77/13), Ordinance on Greenhouse Gas Emission Monitoring in the Republic of Croatia (OG 134/12).

After the Government of the Republic of Croatia had adopted the *Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts* (OG 140/2009; hereinafter referred to as: Code), the Croatian Government's Office for Cooperation with NGOs prepared the *Guidelines* for the implementation of the Code and *A Guide to Consultation with the Interested Public*. The *Guide* serves as a simple and easy to understand tool which explains particular parts of the *Guidelines* in more detail and provides relevant examples and samples of forms, thus

ensuring easier practical application. A complete educational and training programme for *consultation coordinators* (appointed in public administrative bodies and Croatian Government offices) was defined under the project. The educational and training programme for *consultation coordinators* was conducted in three modules (January – March 2012) and the public administrative bodies were provided continuous technical assistance in the process of building the capacities for efficient consultation. The technical assistance will be provided after the implementation of the project as well.

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

Pursuant to the Amendments to Croatian Government's Rules of Procedure, public consultation and informing of the public about the outcomes of the consultation are envisaged as part of the procedure for making political decisions at the national level by which the *Code* is additionally strengthened (31 October 2012).

Croatian Government's Office for Cooperation with NGOs prepares annual reports on the implementation of the *Code*, which show progress in the application of the principle of consultation (<http://www.uzuvrh.hr/stranica.aspx?pageID=208>).

² Official Gazette

Explain how these paragraphs have been implemented. In particular, describe:

(a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;

Answer:

The basic rules of procedure of state administration bodies and other state bodies, the bodies of local and regional self-government units and legal entities vested with public authority are regulated under the General Administrative Procedure Act (OG 47/09; hereinafter referred to as: GAPA). When administrative matters concerning the rights, obligations or legal interests of the citizens, i.e. legal persons or other parties, are being resolved through direct implementation of the regulations, this act also applies to procedures related to requesting access to information.

Pursuant to the LRAI, all public authority bodies shall appoint an *Information Officer* responsible for ensuring the proper exercise of the right to access information. The obligation to provide information and explanations concerning administrative matters is also regulated under the Civil Servants Act (OG 49/12 – cleared text, 37/13, 38/13).

MENP's Department for Inspection provides a daily phone service through which environmental protection inspectors provide information to the public and receive visits every first and third Monday of the month. In this way, the interested public can make reports/enquiries via e-mail to the following address: okoliš.inspekcija@mzoip.hr.

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

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

In 2012, on the occasion of the 25th anniversary of the Montreal Protocol on Substances that Deplete the Ozone Layer and the Ozone Layer Protection Day (16 September), the MENP coordinated a series of activities, lectures, the preparation of educational/promotional materials and similar intended for school children

(<http://www.mzoip.hr/default.aspx?id=4808>).

The Environmental Protection and Energy Efficiency Fund (hereinafter referred to as: EPEEF) plays a special role in the Republic of Croatia in promoting environmental awareness and carries out educational/promotional programmes on the topic of environmental protection, promotion of energy efficiency and use of renewable energy sources. It also co-finances various conferences and gatherings related to the environment, energetics and corporate social responsibility. The EPEEF publishes a bimonthly environmental bulletin called *Eko revija* with a circulation of 6,000 copies, providing, in addition to the information concerning the activities of the EPEEF, news from the field of environmental protection and energetics as well. The bulletin is sent to all local self-government units, various national, public and professional/scientific institutions, organisations and companies (<http://www.fzoeu.hr/hrv/index.asp?s=revija>).

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

The State Institute for Nature Protection (hereinafter referred to as: SINP) issues educational/promotional materials for the purpose of sensitizing and informing the public about nature protection and encourages the media to mark the dates relevant for nature protection (<http://www.dzrp.hr/>). New web pages have also been created for the purpose of informing the public about invasive species and large carnivores in Croatia (<http://www.invazivnevrste.hr/>, <http://www.life-vuk.hr/vuk/>). A Facebook profile has also been activated on SINP's website (<http://www.facebook.com/pages/Drzavni-Zavod-za-Zastitu-Prirode>).

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

As part of the project called Supporting the Implementation of the Strategic Plan of the Convention on Biodiversity 2011 – 2020 in Croatia, a survey of the informedness and public attitude towards nature protection is being carried out for the purpose of developing a communications strategy (<http://www.zastita-prirode.hr/>).

The Croatian Environment Agency (hereinafter referred to as: CEA) promotes environmental awareness among the public primarily through educational/promotional materials, campaigns carried out on dates relevant for environmental protection, as well as lectures held in schools and via its website (<http://www.azo.hr>). In 2010, the CEA opened a *Citizen Information Centre* that provides all the necessary information and publications concerning the environment and nature to the public (open business days from 11 a.m. to 2 p.m.).

The Croatian water management company (hereinafter referred to as: CW), issues an informative/professional monthly bulletin called *Hrvatska vodoprivreda* (Water Management in Croatia) and a scientific magazine called *Hrvatske vode* (Croatian Waters) through which the company informs the general public about water management issues (<http://www.voda.hr/001-483>). With the aim of raising awareness concerning the importance of waters and the water environment, CW also organises events to mark the International Water Day (22 March), the Danube Day (28 June) and the Day of CW (7 September), on which occasion annual awards for the best final bachelor's, master's and doctoral theses as well as professional books from the field of hydrotechnology and other water management related fields are presented. CW also hosts professional gatherings and regularly co-finances scientific projects related to water management.

The State Office for Radiological and Nuclear Safety (hereinafter referred to as: SORNS) runs a project the purpose of which is to prepare a calendar with student artworks on the topic of application of nuclear technology and additional information on the state of preparedness of the Republic of Croatia for an event of nuclear disaster and procedural guidelines. The implementation of the project started in 2002. The project is being implemented in cooperation with the Croatian Education and Teacher Training Agency and the Krško Nuclear Power Plant on the basis of the approval issued by the Ministry of Education, Science and Sports. The calendar is primarily intended for the families living within the radius of 25 km from the Krško Nuclear Power Plant and the radius of 100 km from the Pakš Nuclear Power Plant and is distributed to elementary school students from the mentioned areas. The relevant artworks are collected from students of grades 3 to 8 of the mentioned schools (<http://cms.dzrns.hr/>).

As part of the project called Strengthening Cooperation with the Civil Society, various seminars were conducted in 2013, at which the local officials were introduced to

the principles of the Aarhus Convention and the Guidelines for Informing and Participation of the Public and the Public Concerned in Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Procedures issued by the MENP (<http://puo.mzoiip.hr/default.aspx?id=6543>).

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

(c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;

Several mechanisms are used in Croatia to provide support to associations and organisations promoting environmental and nature protection and all the data at the national level are consolidated and published in *Annual Reports on Public Financing of Projects and Programmes of Civil Society Organisations* coordinated by Croatian Government's Office for Cooperation with NGOs. Such annual reports contain data on financial and non-financial support allocated from the state, county, town and municipal budgets. Some of the mentioned funds are allocated from the income from the games of chance, fees imposed on polluters and budget reserves. In this way, the Government of the Republic of Croatia regularly follows the dynamics of financing and provides recommendations for improving the system for allocating financial support for projects and programmes of civil society organisations (hereinafter referred to as: CSOs) in Croatia (<http://www.uzuvrh.hr/stranica.aspx?pageID=34>).

In addition, the projects carried out by CSOs in the field of environmental and nature protection are also funded by the EPEEF and CW.

(d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:

(i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are ongoing;

(ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;

(iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party's delegation in international environmental negotiations, or involving NGOs in forming the Party's official position for such negotiations), including the stages at which access to information was provided;

(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;

(v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;

Answer:

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

The MENP regularly informs the public about the outcomes of its international and cross-sectoral cooperation through its web pages and public releases. It is uncommon that

CSO representatives participate in the meetings of the parties of international conventions that Croatia is a signatory to.

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed

Answer:

This right is ensured pursuant to the principle of legality from Art. 16 of the Croatian Constitution (OG 85/10 – cleared text) and the right to appeal from Art. 18 of the Croatian Constitution.

IV. Obstacles encountered in the implementation of article 3

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

Answer:

CSOs complain about the lack of systematic and sufficient funding of organisations engaged in environmental education at both the national and the local level and claim that a significant decline in funding has recently been recorded. It is not common in practice to invite CSO representatives to participate in the Party's delegations for international negotiations.

Pursuant to the EPA (Art. 218), CSOs can be rewarded for significant contributions to environmental protection. Such national acknowledgements and awards are, however, not awarded on a regular basis.

Article 4 (16) of the EPA defines public interest in the following way: "Public interest is interest in environmental matters expressed by the State or local or regional self-government units in accordance with their respective statute". However, CSOs also complain that this definition prevents the citizens and their organisations to represent the public interest and that the term should be changed to include their organisations as well.

Article 4 (74) defines public authority in the following way: "Public authority is a government authority, bodies of local and regional self-government units and legal persons with public authorities which perform activities related to the environment". Some CSOs point out that this definition is restrictive as it excludes natural persons performing administrative duties related to environmental matters, compared to the Aarhus Convention (Art. 2, Para. 2) which includes them. They believe that this discrepancy between the EPA and the Convention concerning the definition of the public authority may in practice reflect negatively on the act of exercising the right of access to environmental information if the information is withheld by an authority recognised as a public authority under the Convention but not under the EPA. However, it has not been recorded in practice that natural persons performing public administrative duties related to environmental matters pursuant to national legislation hold environmental information that the competent ministries do not.

As far as the manner of informing the public about various phases of the EIA and SEA is concerned, it is believed that that informing through websites is not sufficient and that it is necessary to introduce a legal requirement to additionally inform the public concerned about each phase of the assessment procedure through the local media or to introduce a legal requirement to identify the public concerned to which additional notifications concerning the phases of the relevant procedure will be delivered. According to the data from the State Bureau of Statistics for 2012, 68% of households possess information and communications technology, of which 66% have Internet access, and the number is expected to grow, which is why this manner of communication is increasingly used in Croatia.

V. Further information on the practical application of the general provisions of article 3

Provide further information on the *practical application of the general provisions of article 3*.

Answer: /

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

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VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4

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

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;

The EPA, the LRAI and the Regulation on Information and Participation of the Public and the Public Concerned in Environmental Matters (OG 64/08, hereinafter referred to as: RIPPCEM) are the core regulations applicable in relation to the implementation of Article 4. Certain measures are additionally integrated in other regulations related to particular environmental areas. It is important to note that Directive 2003/4/EC of the European Parliament and of the Council on Public Access to Environmental Information has been fully transposed into the national legislation. Definitions from Art. 2 of the Aarhus Conventions have been transposed into the EPA and the LRAI.

The provisions of Art. 3, Para. 9, of the Aarhus Convention are regulated under the constitutional principle of equality of citizens and under the provisions of the LRAI. The EPA and the LRAI also prescribe that all persons have the right of access to information without the requirement of stating their particular interest, as well as the manner in which the data and information can be accessed. The right of access to information is exercised by submitting a request. If the request is submitted in written form, the requesting parties must complete the *Request for Information* form which can be submitted electronically, via regular mail or personally. On the basis of the request form, the parties can request access to information in one of the four different ways: direct provision of information (orally); inspection of documents and making copies of the documents containing the requested information; delivery of copies of the documents containing the requested information or other (entered by the requesting party) (Regulation on the Structure, Content and Manner of Keeping an Official Register of Requests, Procedures and Documents Related to the Exercise of the Right of Access to Information; OG137/04). The deadline for providing information is 15 days, as prescribed under both, the EPA and the LRAI.

- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;

Answer:

Pursuant to the EPA (Art. 158), a public authority which holds environmental information shall not reject a request for information if that request is related to releases or other emissions into the environment. In the process of deciding whether to approve or reject a request, the public authority which holds environmental information shall assess whether the protection of public interest is of greater significance than the interest which would be realised by disclosing the requested information. The LRAI thus prescribes, in

Art. 16, that the public authority body in charge of acting upon a request for access to information shall, prior to reaching a decision, conduct the proportionality and public interest tests. Also, the restrictions on the right of access to information, as well as the exemptions from the same, are prescribed under Art. 15 of the LRAI and Art. 26 of the Ordinance on Water Documents (OG 13/06). In the procedure for exercising the right of access to information, appropriate provisions of the GAPA are also applied.

(d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;

Answer:

Art. 21 of the LRAI is applied with respect to Paragraph 5. Pursuant to the same, if a public authority body does not hold the information, but has knowledge of the public authority body that does, it shall, without delay, transfer the request to the relevant body. Furthermore, in the procedure for exercising the right of access to information in a proper manner, the provisions of the GAPA are applied as well.

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

Answer:

These measures are implemented pursuant to Art. 15, Para. 5 of the LRAI. More precisely, if the requested information contains a trade, professional or tax-related secret, the remaining parts of the information will be made available.

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

Answer:

The public authority body shall issue a decision on rejecting the request (Art. 23, Para. 5 of the LRAI) if the requested information relates to any procedures carried out by the competent bodies in preliminary and investigation activities for the duration of the relevant procedures, and if the requested information is considered a trade, professional or tax-related secret in accordance with the previously obtained opinion of the Office of the National Security Council and the previously carried out proportionality and public interest tests. A decision on the rejection of the request shall also be issued if the public authority body establishes that there are no justifiable reasons for amendments or corrections, and if the requested information is not considered information in accordance with the definition from the LRAI.

The deadline for approving or rejecting a request for access to information is 15 days. This deadline may be prolonged for a period of another 15 days (Art. 22 of the LRAI) on the basis of a written notification and explanation sent to the requesting party no later than 8 days from the date of submission of the request.

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

Answer:

Art. 19 of the LRAI is applied in this context. In cases when actual material expenses are incurred by providing information and delivery of the requested information (such as the price of copying, storing on electronic media, and similar), a fee shall be charged (CEA, SINP, MENP).

VIII. Obstacles encountered in the implementation of article 4

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

Answer:

CSOs have reported violations of the right of access to information with regards to the deadlines and provision of full information on complete environmental impact studies, deadline extensions, competency of other bodies, and similar (example: <http://www.zelena-istra.hr/?q=node/1256>). Also, the public has not been ensured easy access to the list of fees charged for the provision of information.

In the conclusions to the 2012 Report prepared by Gong, a Croatian civil society

organisation, it is stated that significant additional improvements are required in the implementation of the LRAI, both in terms of the active disclosure of information by the institutions, as well as in terms of a coherent application of the LRAI to the requests on the basis of which sensitive information concerning the use of the funds allocated from the budget is requested. Although there is an awareness of the importance of informing the citizens via web pages among the institutions at the national level, these institutions are still not inclined to publish detailed information concerning their finances (information on public procurement agreements, the available budget or accountability in using the same).

In the meantime, a new version of the LRAI was adopted in 2013. It includes novelties concerning the improvement of the information access monitoring and control system. This includes the appointment of a national *Information Commissioner* and establishment of the *Office of the Commissioner* that shall supervise the implementation of the LRAI.

IX. Further information on the practical application of the provisions of article 4

Provide further information on the practical application of the provisions on access to information in article 4, e.g., are there any statistics available on the number of requests made, the number of refusals and the reasons for such refusals?

Answer:

Pursuant to Art. 60 of the LRAI, the public authority bodies shall submit to the Information Commissioner (i.e. the Croatian Personal Data Protection Agency in accordance with Art. 66 of the LRAI) a report on the implementation of the LRAI for the previous year no later than by 31 January of the current year. The Information Commissioner shall submit the report on the implementation of the LRAI to the Croatian Parliament no later than by 31 March of the current year for the previous year.

The analysis of the data from all the reports on the implementation of the LRAI from 2012, particularly the reports on the manner of approving or rejecting requests, shows progress in exercising the right of access to information considering that 93% of all requests submitted in the reported period were approved. The procedure for exercising the right of access to information indicates the openness of the public authorities towards communication with the beneficiaries of the right of access to information, which is an indicator that the positive goals and the purpose of the LRAI are being achieved. The Report on the Implementation of the LRAI is available on the website of the Croatian Private Data Protection Agency (<http://www.azop.hr/>).

Until 8 March 2013 when the new LRAI came into force, the Croatian Private Data Protection Agency (hereinafter referred to as: CPDPA), had not been authorised to inspect the information classified by the level of secrecy in accordance with the law and/or a general act adopted on the basis of the law prescribing data secrecy, and thus had not been in the position to carry out a test of public interest in such classified data. Art. 25 of the new LRAI prescribes that, in the procedure of reviewing a complaint against a decision on restricted information from Article 15, Para. 2 and 3 of the LRAI, the public authority bodies shall enable the Commissioner i.e. the CPDPA until the Information Commissioner has been appointed, to review the information constituting the subject matter of the procedure, including classified information. On the basis of the review, the Commissioner, i.e. the CPDPA, shall request an opinion from the Office of the National Security Council in accordance with the Data Secrecy Act.

Pursuant to the LRAI, in the procedure of reviewing the complaint, the Commissioner, i.e. the CPDPA, shall examine the regularity of the conducted proportionality and public interest tests or conduct the proportionality and public interest tests after determining the validity of the complaint, and then allow access to the relevant information to the beneficiary on the basis of a written decision issued by the Commissioner. The control mechanism is strengthened by the introduction of inspectional supervision by the Office of the Commissioner, whereas the other novelty concerns the Commissioner's authority to impose a fine directly.

For the purpose of strengthening the procedures for exercising the right of access to information, in 2012 the CPDPA held a series of free educational seminars intended for Information Officers of the Government of the Republic of Croatia, government offices and ministries. As part of the Strengthen the Implementation of the New Freedom of

Information Act project, 5 educational seminars were held for the information officers (Rijeka, Varaždin, Split, and Zagreb). The same year, the CPDPA held lectures at seminars intended for the representatives of keepers of personal information collections on behalf of public authorities (Zagreb, Slavonski Brod, Sisak and Karlovac). On the occasion of the European Data Protection Day, lectures were held on the topic of the right of access to information intended for students.

As part of the project called Increase the Capacity of Croatian NGOs to Use Access to Information, the CPDPA conducted two educational workshops for associations and representatives of local and regional self-government units in 2012 (Split and Dubrovnik). As part of the pilot project organised in cooperation with the State School of Public Administration, materials for educational seminars and exercise workshop for information officers have been prepared.

In cooperation with the Croatian Chamber of Commerce, the CPDPA organised 17 educational seminars called Protection of Personal Information and the Right of Access to Information attended by the representatives of the public authorities and more than 800 Information Officers. In addition, a workshop for the directors of social welfare institutions of the Ministry of Social Policy and Youth on the topic of Application of the Law on the Right of Access to Information to Social Welfare Institutions was also held.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

<http://www.azop.hr/news.aspx?newsID=234&pageID=153>
<http://gong.hr/media/uploads/dokumenti/20120927ProvedbaZakonaopravunapristupinformacijama.pdf>

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

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

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

Answer:

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

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

Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;

Answer:

A number of laws and subordinate regulations, documents and implementation

regulations have been prepared prescribing the content, form and manner of keeping records on particular environmental components and information flow, as mentioned in the previous National Reports. The EPA requires that public authorities, within the scope of their competence, regularly publish environmental information using the available electronic databases or other appropriate informing methods. The following regulations are also relevant in this context: Regulation on Information and Participation of the Public and the Public Concerned, Ordinance on the Environmental Pollution Register (OG 35/08) and the Regulation on the Environmental Information System (OG 068/2008, hereinafter referred to as: Regulation on the EIS).

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

The EPA prescribes that the environmental inspection shall particularly supervise the delivery of the prescribed data and reports for CEIS purposes as well as the keeping of a register of the reports on the state of the environment and delivery of data for the EPR. In case of violation of these provisions, inspection measures shall be initiated. Pursuant to the new EPA (Art. 227, OG 80/13), the MENP publishes on its website the Annual Activity Plan of the Environmental Inspection. The MENP also informs the public about particular inspectional supervisions and activities of the Environmental Inspection, as well as prepares and publishes a quarterly Report on Coordinated Environmental Inspectional Supervision in accordance with Art. 257 of the EPA.

As far as water data are concerned, CW collects processes and interprets the data on water and water environment in accordance with the Ordinance on the Content, Form and Manner of Keeping Water Documents (OG 120/2010). The Water Act (WA) prescribes public availability of water documents which are also kept in digital form as part of the Water Information System (assessment of the quality of surface and underground waters and territorial sea affected by pollution from the land, reports on extraordinary and unexpected pollution). On the basis of the collected data, an annual report on the quality of waters in the Republic of Croatia is made. With respect to the danger of water pollution, the WA prescribes the procedure for ensuring the flow of information between the National Protection and Rescue Directorate, State Water Inspectorate and CW.

(b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;

Answer:

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

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

(c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;

Answer:

Pursuant to the EPA and the Regulation on the EIS, one of the main tasks and objectives of the CEA is the establishment, management, development, coordination and maintenance of a uniform CEIS in accordance with the Croatian Environmental Information System Management Programme including all relevant environmental information classified into 44 databases and divided into 11 thematic sub-systems (<http://www.azo.hr/Baze>).

Furthermore, the database of the Environmental Pollution Register (hereinafter

referred to as: EPR) has also been created. It includes an EPR application for the submission and use of data for the purpose of keeping a record about the sources, types, quantity, manner and place of release, transfer and depositing of waste into the environment (pursuant to the Ordinance on the Environmental Pollution Register, OG 35/08) (<http://www.azo.hr/RegistarOneciscenjaOkolisa>). In March 2012, a national portal for the EPR was established and implemented (CNPEPR) as well. Apart from the transparency of data on the release and transfer of pollutants, produced, collected and treated waste, and polluters and their sites, the CNPERP also includes a GIS browser, i.e. provides an up-to-date insight into the spatial component and the related information with additional possibilities of creating spatial analyses and reports (<http://hnproo.azo.hr/Home.aspx>).

In 2012, a GIS browser was also designed as part of the CEIS and the Waste Management Database. It offers an overview of waste management facilities. GIS tools are also used for searching and viewing cartographic representations.

Pursuant to the Regulation on Prevention of Major Accidents Involving Dangerous Substances (OG 114/08) and the Ordinance on the Register of Installations in which Dangerous Substances are Present and the Register of Reported Major Accidents (OG 113/08), databases of the Register of Installations in which Dangerous Substances are Present and the Register of Reported Major Accidents have been created. The public shows most interest in the information contained in the databases of the EPR and the Register of Installations in which Dangerous Substances are Present. The CEA also keeps the Register of Use Permits Establishing Integrated Environmental Protection Requirements and Decisions on Integrated Environmental Protection Requirements for Existing Installations, the central source of information in Croatia about issued use permits establishing integrated environmental requirements and decisions on integrated environmental protection requirements for the existing installations. Responding to sector pressures, through its website, the CEA also provides public access to online GIS browsers of the Map of Mineral Raw Material Exploitation Fields and the Strategic Noise Map.

The MENP, the CEA and the Institute of Oceanography and Fishing from Split have established a database containing information on sea bathing water quality, which allows public informing and access to information about the quality of the sea bathing water during the bathing season. The data on the quality of the sea bathing water can be viewed using a bilingual online browser, and the chart presents the results of the sea bathing water quality assessment in real time, depending on the duration of the sample analysis, since the period from taking the sample until the publication of the results is two to three days. There is a bilingual version of the browser adjusted to small screens, i.e. a mobile version of the browser for smart phones and tablets (<http://baltazar.izor.hr/plazepub/kakvoca>).

In addition, there is a special Nature Protection Information System run by the SINP which contains the following information: Croatian Habitat Maps, Protected Areas of Croatia, National Ecological Areas and the NATURA 2000 Areas (SDF + NATURA 2000 GIS) (<http://www.dzsp.hr/informacijski-sustav-zastite-prirode-99.html>).

Pursuant to the Chemicals Act (NN 18/13), the Croatian Institute for Toxicology and Anti-doping keeps a register of data on chemicals from safety/technical sheets which are publicly available on its website (www.hzt.hr).

Since the last report, the MENP has strengthened the mechanisms of particular environmental sectors for providing information to the public. Thus, a special web page called National Air Quality Monitoring Network (<http://zrak.mzoip.hr/>) has been created, which presents air quality data from all measuring stations belonging to the national network. The web page is directly linked to the measuring stations via a central base wherefrom the data are updated and shown every hour together with the reports about the measurements in hourly concentration format. The Register of Legal and Natural Persons Performing Activities Related to Import/Export and Placing on the Market of Controlled and Substitute Substances, Servicing, Collecting, Restoring and Recycling is published on MENP's website as well. Information concerning the establishment of a system for emission unit trading and issuance of greenhouse gas emission permits for facilities is also available to the public. On the mentioned web page, facility operators can obtain all information related to request submission and preparation of a monitoring plan constituting an integral part of the request or greenhouse gas emission permit. It also includes the frequently asked questions of operators with answers provided by experts in the framework of the professional support provided to operators in the process of preparing greenhouse gas emission monitoring plans (<http://www.mzoip.hr>).

All information about the procedures related to the EIA and evaluation of the need for an EIA is available on MENP's website (<http://puo.mzoip.hr/>), together with the

information on the SEA of strategies, plans and programmes (<http://www.mzoip.hr/default.aspx?id=8984>).

Pursuant to the Act on Radiological and Nuclear Safety (OG 28/2010), the State Office for Radiological and Nuclear Safety monitors environmental radioactivity using online and offline systems. The monitoring results are available on the website of the State Office (<http://cms.dzrns.hr>). The mentioned website also provides complete relevant legislation, the list of sites where activities involving dangerous radiation ionising sources are carried out, the Krško Nuclear Power Plant Activities and Environmental Impact Bulletin, information related to nuclear safety and the system of preparedness in case of a nuclear or radiological disaster, and other information related to radiological and nuclear safety.

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

Answer:

Pursuant to the EPA, public authorities are required, within their competence, to regularly publish environmental information and national environmental reports. Thus, the National Report on the State of the Environment of the Republic of Croatia is printed and sent to over 200 addresses. Besides being sent to the Croatian President, Parliament and Government, the Report is also sent to the main state administration bodies, regional self-government, and various scientific and professional institutions (most of which also participate in the preparation of the same). The Report is also sent to all university principal's offices in the Republic of Croatia, schools of life sciences (as a study material), as well as numerous non-governmental organisations and the National University Library in several dozen copies.

As part of the CEIS, a Database of Sustainable Development and Environmental Protection Documents is available to the public via CEA's website. It contains full-text national, regional and local reports on the state of the environment, as well as various other reports on environmental components and environmental pressures. For example, the Annual Report on Air Quality Monitoring on the Territory of Croatia, Annual Report on Monitoring Air Pollutant Emissions from Stationary Sources on the Territory of the Republic of Croatia, Report on Air Pollutant Emissions on the Territory of the Republic of Croatia (in accordance with the provisions of the LRTAP Convention), and other.

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

Answer:

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

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

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

Answer:

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

The operators, manufacturers and service providers implementing high environmental protection standards can be awarded an eco-certificate (ISO, a national ecolabel Environmentally Friendly). We are currently in the process of introducing the European Union environmental protection label (EU Ecolabel) and the EMAS (a system for environmental management and independent organisation assessment).

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

Answer:

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

For example, a wide consultation process has been initiated to identify the starting points for drafting the Framework for development of Croatian Low-carbon Development Strategy. The reports and presentations from the workshops were published on the website and final Framework was made publicly available and presented to the general public at a conference held at the Croatian Chamber of Commerce (<http://klima.mzoiop.hr/default.aspx?id=332>).

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

Answer:

Art. 219 of the EPA prescribes that producer, that is the person placing a product on the market, shall be obliged in cases it is so prescribed to put, prior to placing a product on the market, an instruction on the packaging or on the technical document accompanying the product informing the consumer about the environmental impact of the product and of the packaging, and instructing how to handle the product and packaging after their use. The EPA also prescribed fines for violations of provisions of Art. 219.

The Sustainable Waste Management Act (OG 94/13) and the Ordinance on Packaging and Packaging Waste (OG 97/05, 115/05, 81/08, 31/09, 156/09, 38/10, 10/11, 81/11, 126/11, 38/13 and 86/13) are also relevant in this context. Pursuant to the mentioned Ordinance, a Decision on requirements regarding packaging labelling (OG 155/05, 24/06 and 28/06) has been issued. It regulates in more detail the system for packaging labelling, depending on the type of packaging.

The following documents are also relevant in this context: Regulation on Limit Values of the Content of Volatile Organic Compounds in Certain Paints and Varnishes used in Construction and Vehicle Refinishing Products (OG 69/13), Regulation on the Quality of Liquid Oil Fuels (OG 108/13) and the Regulation on the Quality of Bio-fuels (OG 141/05, 33/11), which prescribe that, prior to being placed on the Croatian market, the products must have an intelligible label in Croatian informing the consumers of the content and limit values.

The public can also access the information on the approved biocide products, the list of which is regularly published by the Ministry of Health on its website. The annual list of biocide products is prepared by the Minister of Health pursuant to the Biocide Products Act (OG 63/07, 53/08 and 49/11).

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

Answer:

A database of the Environmental Pollution Register and the related EPR application for the submission and use of data have been created on the basis of the EPA and the Ordinance on the Environmental Pollution Register (OG 35/08). The EPR Browser was introduced in March 2012 and the Croatian National Portal for the EPR (hereinafter referred to as: CNPEPR) activated in December of the same year. Apart from the transparency of data on the release and transfer of pollutants and the produced, collected and treated waste as well as the polluters and their sites, the CNPEPR also include a GIS browser, i.e. provides an up-to-date insight into the spatial component and the related information along with additional possibilities for creating spatial analyses and reports (<http://hnproo.azo.hr/Home.aspx>).

XII. Obstacles encountered in the implementation of article 5

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

Answer:

Some CSOs believe that additional efforts should be made to introduce the public to the information systems and improve data verification.

XIII. Further information on the practical application of the provisions of article 5

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g., are there any statistics available on the information published?

Answer: /

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

/

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

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

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

The Act on Regulatory Impact Assessment (OG 90/11) and the Regulation on the Implementation of the Regulatory Impact Assessment (OG 66/12) prescribe the rules for consultations with stakeholders, counselling and public discussions/round tables, and a minimum deadline of 30 days. After the counselling and public discussion, including the public presentations, the professional responsible person shall consider all objections, suggestions and opinions of the public and the public concerned as well as issue a notification of the accepted and refused objections, suggestions and opinions which shall be made available for the public and the public concerned on its website.

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

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

The Nature Protection Act (OG 80/13) prescribes public participation, i.e. the procedure for holding a public discussion, in articles referring to the ecological network; importing, placing on the market and introducing foreign species into the environment; repeated introduction and repopulation of native types; and wild species cultivation. Public informing is also ensured through public inspection of the proposed act on proclamation of a protected area and the related professional documents and cartographic representations. In

procedures related to proclamation of national parks, nature parks, strict and special reserves, public inspection is organised and ensured by the MENP. The public consultation in the duration of no less than 30 days is mandatory in procedures related to proclamation of monuments of nature, regional parks, significant landscapes, park forests and park landscaping monuments and they are organized by regional self-government units.

Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;

Answer:

The activities listed in Annex I to the Convention match the list of projects from Annex I to the Regulation on the Environmental Impact Assessment (OG 64/08, 67/09, hereinafter referred to as: REIA) and Annex I of the Regulation on the Procedure for Determining Integrated Environmental Protection Requirements (OG 114/08, hereinafter referred to as: RPDIEPR). In order to obtain approval for the projects listed in Annex I to the REIA, an administrative environmental impact assessment procedure is performed. The EIA is a prerequisite for obtaining other approvals and permits. If the project is listed in Annex I to the RPDIEPR, a uniform procedure for environmental impact assessment and determination of integrated environmental protection requirements is performed, which is a prerequisite for obtaining other approvals and permits. Considering its formalised nature, the EIA procedure, i.e. the uniform environmental impact assessment and integrated environmental protection requirements determination procedure, is performed in accordance with the provisions of the GAPA. The procedure envisages the public's right to inspect the documents during a public discussion, which includes both, the public inspection of documents and public presentations of the proposed project activities.

- (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

Answer:

In the case of projects listed in Annexes II and III of the REIA, i.e. the activities which are not listed in Annex I to the Convention, the evaluation of the need for an environmental impact assessment is carried out, on the basis of which it is determined whether the proposed activities (hereinafter referred to as: projects or proposed project activities) could have significant effect on the environment. In the procedure for obtaining approvals or permits for projects which are not subject to the evaluation of the need for an EIA, public participation is not envisaged. However, pursuant to Art. 111 of the Physical Planning and Building Act (OG 76/07, 38/09, 55/11, 90/11 and 50/12), in the procedure for obtaining a location permit, the parties (and only the parties) are allowed to inspect the conceptual design. In the procedure for issuing decisions concerning building conditions and building permits, the parties are allowed to inspect the main design, in accordance with Article 216 of the same Act.

- (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;

Answer:

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

Art. 8 of the REIA is also applied in this context. It prescribes that the competent authority shall inform the public and the public concerned of the developer's request for EIA after it establishes that the request contains all the required information and evidence and that the study contains all the necessary chapters in accordance with Annex IV to this Regulation. Art. 8 of the RPDIEPR that obligates the MENP to inform the public and the

public concerned about any request for determining the integrated environmental protection requirements pursuant to the RIPPCEM is also relevant.

Ordinance on the Appropriate Assessment of the Impact of Plans, Programmes and Projects on the Ecological Network (OG 118/09, hereinafter referred to as: OAIPPPEN) and the Nature Protection Act, as well as Articles 19, 35 and 3, Para. 4 of the Act on Genetically Modified Organisms (OG 70/05 and 137/09 and 28/13, hereinafter referred to as: AGMO) are also applicable in this context.

With respect to the decisions concerning the ecological network, the Ordinance on the Assessment of Acceptability of Plans, Programmes and Interventions for the Ecological Network (OG 89/07, 118/09) prescribes that the competent authority (competent ministry or the competent administrative body in the relevant county or the City of Zagreb) must inform the public about the results of the assessment by publishing the acts (certificates, opinions, decisions) adopted in particular phases of the procedure for assessing the acceptability of a plan, programme or intervention for the ecological network on its website.

In the process of making the Preliminary Assessment of the plan or programme subject to strategic assessment or evaluation of the need for a strategic assessment, the public is informed about the results of the procedure through the publication of the adopted act on the website of the body responsible for adopting the relevant act. In the process of making the Main Assessment of the plan or programme subject to strategic assessment, informing and participation of the public and the public concerned are ensured through a public discussion on the strategic impact study and the draft proposal of the plan or programme.

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

In the process of determining the predominant public interest and compensation terms concerning the developer's request, public informing and participation is ensured for a period of 30 days, during which time the information about the developer's request is published on the website and written opinions, objections and suggestions of the public are collected. The public will be informed about the results of the procedure through the publication of the adopted act on the website of the ministry responsible for carrying out the relevant procedure.

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

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

Answer:

The EPA prescribes a minimum deadline of 30 days for public participation in the process of drafting acts and implementation regulations as well as other generally applicable legally binding rules that could have a significant environmental impact and amendments to the same. This requirement is reiterated in the relevant legal and subordinate regulations. The deadlines are harmonised with the Act on Regulatory Impact Assessment (OG 90/11) and Regulation on the Implementation of the Regulatory Impact Assessment (OG 66/12) prescribing a minimum deadline of 30 days.

Furthermore, for each individual project, the MENP issues a separate decision concerning the duration of the public discussion, considering the complexity and scope of the project. For example, in the process of making an EIA for a multi-functional Danube-Sava channel, the public discussion lasted 42 days. The number of public presentations is

determined in accordance with the location and complexity of the project. In the process of making an EIA for a thermal power plant/heating facility in Slavonski Brod, three public presentations were held, and the documents were available for public viewing in three different locations. In the process of making an EIA for the reconstruction of the Plomin Thermal Power Plant, public inspection was also organised in three different locations, and two public presentations were held. If the public shows interest, the MENP shall, in principle, extend the duration of the public discussion.

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

Answer:

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

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

(e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

Answer:

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

Here are two examples of procedures in which the developer organised and provided information to the public concerned beyond his legal requirements. CEMEX, a cement manufacturer, organised a broad public discussion in the process of preparing project plans for the introduction of waste fuel in cement production <http://www.cemex.hr/> (Info Centre, News and Developments in 2012).

In January 2013, HEP d.d. initiated procedures for issuing an instruction concerning the content of the environmental impact assessment for the Kosinj and Senj 2 Hydropower Plants. In addition to all legally prescribed requirements concerning the informing and participation of the public and the public concerned, the developer held three public presentations of the project as well.

<http://www.hep.hr/hep/novosti/vDetail.aspx?id=3622&CatID=4&lang=HR>

(f) With respect to **paragraph 6**, measures taken to ensure that:

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

Answer:

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

(g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or

opinions that it considers relevant to the proposed activity;

Answer:

The procedure for public participation in environmental matters is prescribed under the EPA and the RIPPCEM the OAIPPEN as well as Art. 27 of the Ordinance on the Method of Preparation and Content of Noise Maps and Action Plans and on the Method of Calculating Limit Values of Noise Indicators (OG 75/09; hereinafter referred to as: Noise Mapping Ordinance, NMO). Also relevant in this context are Articles 19 and 35 of the AGMO and Art. 20 of the Act on Amendments to the AGMO, which prescribes that general and special requirement for the coexistence of genetically modified crops with conventional and organic agriculture, shall be established by the National Strategy for coexistence of genetically modified crops with conventional and organic agriculture. On the basis of the expert opinion of the Committee for Release of GMOs into the Environment and after a public debate organised in accordance with special regulations governing provision of information and participation of the public concerned in environmental matters, Strategy shall be adopted by the Croatian Parliament, at the proposal of the Croatian Government.

Para. 5 and 6 of Art. 7 of the Noise Protection Act (OG 30/09, 55/13) are also relevant in this context. They prescribe that strategic noise maps and action plans shall be made fully available to the public in line with special regulations governing the provision of information and participation of the public and the public concerned in environmental matters. The authorities obliged to draw up strategic noise maps and/or action plans shall carry out a public debate procedure and present the data from the strategic noise map and/or action plan to the public in a clear, comprehensible and concise manner through available informing methods.

(h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

Answer:

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

(i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

Answer:

The manner in which the public must be informed of a decision adopted by a competent authority and the grounds on which the relevant decision is based on, including the data concerning the procedure for participation of the public and the public concerned, is prescribed under a number of different laws and regulations (EPA: Art. 73, Art. 91, Art. 162 – 166; REIA: Art. 22, Para. 2; RPDIEPR: Art. 15, Para. 2; RPMAIDS: Art. 21, Para. 2 and 3, Art. 22, Para. 4; Regulation on the Measures for Remediation of Environmental Damage and Restoration Programmes (OG 145/08): Art. 14; RIPPCEM: Art. 5, Para. 2, Art. 6, Para. 2, Art. 7, Art. 8, Para. 2 and Art. 9, Para. 4; and the OAIPPEN: Art. 7, 10, 11, 17, 21, 22, 23, 27, 32, 38. Also relevant is Article 36, Para. 3 of the AGMO.

The MENP regularly uses the decisions of the Administrative Court (concerning violations of the rules governing public participation in environmental decision-making) for the purpose of improving the EIA procedure. Therefore, the decisions concerning the assessment of acceptability of a particular project specify the public concerned that has provided objections, as well as the rationale for all objections that have not been accepted (all decisions issued in the past three years are available on MENP's website).

(j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

Answer:

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

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

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

The regulations applicable with respect to Paragraph 11 include: Art. 47, Para. 2, Art. 57, Para. 1, Sub-para. 5 and Art. 60, Para. 2 of the AGMO and Art. 5 of the Ordinance on the Form and Manner of Keeping the Unique Register of Genetically Modified Organisms and the Manner of Establishing Printout Costs (OG 125/07) and Annex I to the Ordinance on the Content and Scope of the Risk Assessment in Relation to Placing on the Market of Genetically Modified Organisms or Products which Contain and/or Consist of or Derive from Genetically Modified Organisms, the Methodology for the Preparation of Assessment and Requirements that have to be Fulfilled by a Legal Person for the Preparation of Risk Assessment (OG 39/08 and 31/13).

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

XVI. Obstacles encountered in the implementation of article 6

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

Answer:

Complaints have been made that the public that showed interest in participation in EIA procedures as the public concerned has not received written response or any notifications concerning the course of the procedure. However, the law does not prescribe delivery of information at all stages of the procedure. It prescribes the legal requirement to inform the public and the public concerned about the procedures being carried out pursuant to Art. 156 of the EPA (OG 80/13) (i.e. Art. 133 of the previous Environmental Protection Act OG 110/07). In accordance with the same, the common practice is to make complete information and decision available via the web.

CSOs believe that in the case of comprehensive environmental impact studies, public inspection in the duration of 30 days is too short and that adequate legal actions should be undertaken in order to ensure that the public has sufficient time to prepare and effectively participate in environmental decision-making.

As far as the preparation of an environmental impact study is concerned, some CSOs believe that “early and efficient public participation” cannot be ensured unless a requirement concerning the content of the study is introduced. Without such a requirement, public participation is ensured considerably late, i.e. during the public discussion about the environmental impact study already prepared. It has been proved in practice that, during such public discussion, possible alternative project locations are not considered.

Some CSOs also object that the measures related to public participation are not sufficient enough and that the same must be improved through investing in education of public administration representatives, sharing of experiences and good practices among the stakeholders and promotion of the culture of dialogue in decision-making. The practice of informing and consulting the public concerned prior to submission of the request by a developer should be encouraged. They believe that the decision concerning the acceptability of the environmental projects should contain the objections expressed during the public discussion and the reasons for not accepting the same.

Some CSOs object that the publication of the decision on the web pages of the competent authority cannot be considered direct informing of the public about the decision. Furthermore, the decision often contains insufficient information concerning the rationale for not accepting the submitted objections. They believe that the representatives of the public who participated in the public discussion should receive individual responses to their comments and objections.

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

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

Answer: /

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

<http://puo.mzoip.hr/>
<http://gmo.hr/>

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

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

Art. 7, Para. 5, Art. 9, Para. 1, Art. 15 and Art. 19, Para. 3 and 4 of the Regulation on the Strategic Environmental Assessment of Plans and Programmes (NN 64/08, hereinafter referred to as: RSEAPP), and Art. 10 of the APA are relevant in this context. Also applicable are the NPA: Art. 5 and 125; the WA: Art. 5, Para. 8 and Art. 39; and the NMO: Art. 27.

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

Pursuant to the NPA, in the preparation of physical and natural resource management plans, the nature protection requirements and measures, which will be adequately integrated into the mentioned documents, shall be obtained from the competent ministry. Furthermore, if the scope of the mentioned document covers a protected area, adoption of the same shall be subject to consent of the competent ministry. Public participation in the drafting and adoption of physical plans is carried out through prior public discussions prescribed under the Physical Planning and Building Act, thus allowing the public to inspect the parts of the plans relating to nature protection. Furthermore, the public will also be ensured participation in the preparation of the natural resource management plan, if this is prescribed under the special regulation pursuant to which the plan is being drafted. Pursuant to the NPA, public institutions are obligated to ensure public inspection of proposals of protected area management plans in accordance with the special regulation governing nature protection.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

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

Public authorities form working groups for the preparation of certain strategic and planning documents as well as advisory bodies for the purpose of obtaining opinions regarding such documents. It is common practice that such bodies include the representatives of both the business and the civil sector, as well as representatives from scientific institutions. Croatian Government's Office for Cooperation with NGOs keeps a list of advisory bodies in which the CSOs are represented (<http://www.uzuvrh.hr/defaultthrv.aspx>).

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

CSO representatives believe that deeper understanding of the reasons and use of the SEA procedure has not been achieved. Consequently, SEAs have been made or initiated only for a small number of plans and programmes in Croatia so far. They also believe that the mechanisms for the promotion of public participation have to be established. A question is also raised concerning the need to determine the criteria establishing the need for the SEA in the procedure of adopting amendments to physical plans. Annex I to the RSEAPP defines the mandatory content of the strategic impact study which, among other, includes a chapter outlining the considered alternative options, explanation of the most reasonable alternative option of the plan or programme and a description on how the assessment was carried out. CSOs however believe that the body responsible for drafting the strategy, plan or programme is not required to accept and include the conclusions of the SEA, which makes the process of integrating the SEA into the existing planning system even more difficult, although the purpose of the SEA is precisely to "break" the traditionally narrow, sector-oriented and reserved planning culture.

The committee appointed for the strategic assessment of a particular strategy, plan or programme assesses the completeness and professional well-foundedness of the strategic impact study in relation to the draft proposal of the plan or programme and issues its opinion concerning the most reasonable version of the plan/programme. This means that only one version of the plan/programme is publicly discussed, thus depriving the public of the opportunity to inspect or participate in deciding about other alternatives. CSOs complain that, in doing so, the public is prevented from participating in the most important part of the strategic assessment – consideration of possible alternatives - since the main goal of the strategic assessment is precisely to assess the best possible way to achieve the previously defined objective of a strategy, plan or programme.

The Strategic Environmental Assessment Report states, among other, the manner of monitoring the implementation of measures integrated in the plan or programme and the manner of monitoring significant environmental impacts of the adopted plan or programme. The objection that the manner of informing the public about the results of monitoring the implementation of the State of Environment Monitoring Programme is not regulated has been accepted. The new regulation should prescribe in more detail the requirement of informing the public about the results of the state of environment monitoring procedure.

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

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

Answer:

The City of Zagreb regularly publishes the information about the initiated SEA and EIA procedures and submitted requests for determining integrated environmental protection requirements falling under its competence on its official website, on the notice board in the

lobby of the City Administration building and the notice board of the city district where the proposed project activities are planned to be executed.

Public discussions, public inspections and public presentations and the manner of submitting objections to the documents that are subject to public discussion as part of the SEA and EIA procedures and the procedure for determining integrated environmental protection requirements are organised by the City Office for Energetics, Environmental Protection and Sustainable Development within its competence or on the basis of requests for legal assistance of the Ministry of Environmental and Nature Protection. Notices concerning the time and place are published regularly by the City of Zagreb: on official web pages, on notice boards in the lobby of the City Administration building and the notice board of the city district where the proposed project activities are planned to be executed (depending on the specifications of the proposed project activities, the information and notices may also be posted in local municipal board offices and in other locations across the City), in the Official Bulletin of the City of Zagreb, as well as in daily newspapers at least 8 days prior to the public discussion and public inspection. The same notices are also regularly sent to the Service for Local Self-government of the City of Zagreb, the Regional Department responsible for the city district where the proposed project activities are planned to be executed.

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

In October 2011, NGO Green Istria organised a seminar on the SEA attended by more than 30 CSO representatives and in 2013 it published the Manual for the SEA in order to provide assistance to those who wish to understand and get involved in the SEA procedure.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

<http://puo.mzoip.hr/>
www.zagreb.hr
<http://www.zelena-istra.hr/?q=node/1207>

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

Pursuant to Article 24 of the Act on Regulatory Impact Assessment (OG 90/11) and Articles 18 and 19 of the Regulation on the Implementation of the Regulatory Impact Assessment Process (OG 66/12), during the preparation of any national legislative act, it is required to include consultations with the stakeholders, public consultations and discussions.

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

The opinions, objections and suggestions can be submitted by all citizens, without exceptions, in accordance with the principle of equality of citizens from Art. 14 of the

Constitution of the Republic of Croatia. The Amendment to the Rules of Procedure of the Government of the Republic of Croatia (OG 121/12), Art. 30, Para. 4, prescribes that the draft proposal of the regulation must be subject to the mandatory consultation procedure (in accordance with the Code of Practice on Consultation with the Interested Public) as well as the mandatory delivery of the report on consultations with draft proposals of acts and other regulations.

Annual reports on the implementation of the Code of Practice on Consultations with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts (2011 and 2012) show significant progress in the number of consultations and the interest expressed by the representatives of the interested public.

One of the reasons is the fact that the capacities of the Office for Cooperation with NGOs of the Government of the Republic of Croatia have been strengthened and additional education has been provided to coordinators of the procedure for consultation with the interested public (a consultation coordinator education programme has been prepared, several training seminars and consultations have been conducted, A Guide to Consultation has been developed and the practice of regular meetings of consultation coordinators has been established). The normative framework for the implementation of consultations has also been completed, and the need and value of consultations have been integrated in the measures for the implementation of the action plan of the global initiative called Open Government Partnerships.

A special web page has been activated on the website of the Croatian Government's Office for Cooperation with NGOs where all ongoing consultations are listed.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

Some CSOs believe that the Ministry of Public Administration is the one that should establish a special portal dedicated to public consultation, which would provide for continuous communication between the public authorities and the public concerned with regards to all regulations in the process of adoption.

Obstacles: certain public discussions last less than the prescribed 30 days; the objections are mainly disregarded; while long lasting discussions have resulted in the adoption of regulations that differ substantially from the draft proposals considered during the public discussion.

The results of the study of the implementation of the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts carried out at the level of local public authorities (2012) show that more motivation is needed for the implementation of the Code and that CSOs must work harder on developing the capacities for quality participation. In addition, it is necessary to increase the financial support for projects and activities related to the participation of CSOs in the process of drafting and monitoring programmes, plans and regulations at both the local and the national level.

XXVI. Further information on the practical application of the provisions of article 8

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

Answer: /

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

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

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

Answer:

Articles 3, 14, 15, 16, 18, 19, 26 and 29 of the Constitution of the Republic of Croatia (OG 85/10 - cleared text) and Article 8 of the LRAI apply in this context.

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

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

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

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

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

Pursuant to Art. 8 of the LRAI, the right of access to information and the re-use thereof is granted to every beneficiary in an equal manner and under the same terms. The beneficiaries are equals in exercising thereof. The public authorities may not put the beneficiaries in unequal positions, especially in a way that enables some beneficiaries to obtain information before the others or in a way that provides them with special benefits.

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

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

Provisions on access to justice from Art. 9 of the Aarhus Convention are contained in particular provisions of the Croatian law, as will be mentioned hereinafter in answers to the following questions. However, if certain provision of the Convention proves in conflict with a specific legal regulation of the Republic of Croatia, the judges shall directly apply

the provision prescribed under the Convention as it has primacy over the law. More precisely, international treaties which have been signed and ratified shall be a component of the domestic legal order of the Republic of Croatia and shall have primacy over domestic law (Art. 141 of the Constitution).

Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;

Answer:

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

A public authority may reject an environmental information access request in circumstances mentioned in Art. 158, Para. 1 and 3. of the EPA. Pursuant to the LRAI, it is possible to file a complaint with the Information Commissioner against a decision issued by the competent administrative body or the competent ministry within 15 days from the date of delivery of the decision (Art. 158, Para. 6 of the EPA).

Pursuant to Art. 25 of the LRAI, a complaint can be filed even in the case that the public authority fails to issue a decision concerning the request. The Commissioner shall issue a decision on the complaint and deliver it to the party through a first-instance body no later than within the deadline of 30 days from the date of proper submission of the complaint except in circumstances described in Art. 25 and 26 of the LRAI. If he/she determines that the complaint is valid, the Commissioner shall allow access to the relevant information to the requesting party by issuing an adequate decision.

No complaint may be filed against the decision issued by the Commissioner, but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia (Art. 26 of the LRAI). The High Administrative Court of the Republic of Croatia must issue a decision on the complaint within 90 days. The complaint shall delay the execution of the decision granting access to information.

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

If the relevant official fails to fulfil his/her obligation concerning the access to information or public participation pursuant to Art. 19, measures will be taken pursuant to Art. 102 – 109 of the Civil Servants Act (OG 49/12, 37/13 and 38/13).

- (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

Answer:

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

- (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

Answer:

Pursuant to Art. 10 of the Act on Administrative Disputes (OG 20/10, 143/12; hereinafter referred to as: AAD), the final judgment shall be binding upon parties to the procedure and their legal successors. The final judgement of the court concerning the lawfulness of a general act shall be binding upon all. According to Art. 81, Para. 2, The respondent is bound by the legal standpoint and court remarks. Furthermore, Art. 23, 24, 25 and 26 of the LRAI are also applicable in this context.

As far as reasons which must be provided in writing are concerned, the following articles of the AAD are applied: Art. 60 – Contents of the Judgement and Art. 62 –

Delivery of the Judgement, Art. 65, Para. 5 that refers to the Decision (content of the decision). Furthermore, Articles 97 and 98 of the AAD are applied as well.

(b) Measures taken to ensure that, within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;

Answer:

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

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

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

(c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;

Answer:

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

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

(d) With respect to **paragraph 4**, measures taken to ensure that:

(i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;

Answer:

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

The right to legal remedy is also prescribed in Article 12 of the GAPA, as well as Art. 66 of the AAD. Legal remedies prescribed under the GAPA for decisions issued by first-instance bodies authorities in accordance with the regulations governing the state

administration system include: Lodging Appeals (Art. 105), Filing Objections (Art. 122), Reopening of Proceedings (Art. 123), Pronouncing Decisions Null and Void (Art. 128) and Annulment and Repeal of an Unlawful Decision (Art. 129), while the AAD also envisages initiation of an administrative dispute pursuant to Art. 12. Legal remedies prescribed under the AAD include: Appeal (Art. 66-75), Reopening of Proceedings (Art. 76 and 77) and Request for Extraordinary Assessment of the Lawfulness of the Final Judgment (Art. 78). Pursuant to Art. 83 – 66, an assessment of the lawfulness of general acts is performed, while Art. 89 prescribes a special manner of resolving administrative disputes through a court settlement.

Art. 26, Para. 2 of the AAD prescribes that the court may postpone the enforcement of an individual decision or administrative agreement because an appeal has been lodged, if such enforcement would cause serious damage to the appellant, unless it is prescribed by law that the enforcement of an individual decision may not be postponed on account of an appeal (the EPA does not) and unless such a delay is contrary to public interest.

Pursuant to Art. 3 of the AAD, the subject matter of an administrative dispute can under certain conditions, among other, include: assessment of the lawfulness of a particular decision issued by a body of administrative law, assessment of the lawfulness of procedures carried out by a body of administrative law and assessment of the lawfulness of the failure of a body of administrative law to adjudicate on the party's right, obligation or legal interest or regular legal remedy within the prescribed deadline or in line with the regulations.

Pursuant to Art. 1047 of the Civil Obligations Act (OG 35/05 and 41/08), any person may request from another person to eliminate a major source of danger for him or for another person, as well as to refrain from activities causing disturbance or a risk of damage, if disturbance or damage cannot be prevented by applying the appropriate measures. The court shall order, at the request of an interested party, to take the appropriate measures for preventing the occurrence of damage or disturbance, or to eliminate a source of danger, at the expense of a possessor of a source of danger, if the latter fails to do so himself.

If damage is a result of performing an act of public interest for which an approval has been obtained from the competent authority, only a compensation for damage exceeding the usual limits may be required (excessive damage). In that case, however, socially justifiable measures with the aim of preventing the occurrence of damage or reducing the damage may be requested.

Furthermore, Art. 25, 26 and 59 of the LRAI are applied in this context as well.

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

Answer:

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

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

Court proceedings shall be fair, equitable, timely and not prohibitively expensive, as prescribed under Art. 172 of the EPA which reads that court proceedings on all legal actions instigated in the field of environmental protection pursuant to the EPA shall be deemed urgent and Art. 8 of the AAD which prescribed the principle of efficiency. As far as fairness and equality are concerned, Articles 5, 6, 7 and 9 of AAD and Articles 5, 6, 7 and 8 of the GAPPA provide for the mentioned measures.

The cost of the proceedings, which may not be significant, is prescribed under Article 19, Para. 1 and 2 of the LRAI. It is also stated that no administrative or court fees shall be charged for access to information in procedures before public authorities. Public authority bodies may, however, request from the beneficiaries to cover the actual material

expenses incurred in the process of providing and delivery of the requested information.

(e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

Art. 168, Par. 1 and 2 of the EPA is applied in this context. One of the principles of the GAPA is to ensure assistance to the party. It obligates the body conducting the proceedings to ensure that the ignorance of the party or other persons is not detrimental to the exercise of the rights they are entitled to by law.

XXIX. Obstacles encountered in the implementation of article 9

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

Answer:

Objection: The Convention does not stipulate that the right of access to justice be restricted only to the persons who participated, as the public concerned, in procedures in respect of which they wish to claim legal remedy, i.e. file an appeal. Since the Convention, Art. 9, Para. 3, guarantees the right of access to justice against acts, actions and oversights in violation of the domestic environmental legislation, the public concerned (or at least a part of it) could then, in any case, exercise the right to appeal pursuant to Para. 3, if such a right would be denied to the same under Art. 9, Para. 2. It is therefore believed that there is no sense in restricting the right of access to justice pursuant to Art. 9, Para. 2 only to such persons that have actually participated in the procedures. Similarly, additional requirements should also not be prescribed for CSOs meeting the requirements pursuant to which they are considered the public concerned.

Objection: Art. 169 of the EPA which refers to the challenging of decisions, acts and oversights of public authorities or actions and oversights of natural or legal persons in environmental matters is not in line with the Aarhus Convention, because CSOs will in general not be able to prove that their right has been violated since their operations are aimed primarily at protecting the general and not their own interests. It is believed that Art. 169, Para 1 prescribes two sets of requirements for challenging the procedural and material legality of an issued decision, act or oversight in environmental matters, thus restricting access to justice.

Objection has also been made about the fact that the deadlines for submitting requests are strict and unreasonable (the deadline for filing complaints with a competent court is 30 days from the date of issuance of the decision being challenged and the deadline for filing complaints in the case of acts and oversights is 15 days from the expiry of the deadline for the performance of the relevant act or issuance of the relevant decision). Explanation is that the deadlines prescribed by the EPA comply with the deadlines prescribed by the GAPA.

Objection: Art. 253 of the EPA refer to the proceeding upon a report. The inspector informs the person submitting a report about the factual situation established. The inspector may establish that there is no infringement of the EPA or regulations adopted on the basis of the same which environmental inspection is authorised to supervise and that there is no justifiable reason for further continuation of the procedure. The person submitting the report may, however, demand deduction of evidence and the proceedings shall be continued upon request by the person submitting the report who shall then be fully responsible for the cost of further proceedings. The objection is that even if the inspection initially establishes that there is no justifiable reason for continuing the proceedings, the cost of further inspection should not be charged.

There are also certain examples confirming the failure of some first-instance authorities to refer the appeals to second-instance authorities.

XXX. Further information on the practical application of the provisions of article 9

*Provide further information on the **practical application of the provisions on access to justice pursuant to article 9**, e.g., are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?*

Answer:

Reducing the Barriers to Access to Justice

Pursuant to Art. 5 of the Court Fees Act (OG 74/95, 57/96, 137/02, 26/03, 125/11, 112/12), in administrative proceedings, fees are charged only if the court rejects or dismisses the complaint. Furthermore, the plaintiffs in disputes concerning compensation for damage due to environmental pollution are exempt from paying the fees in accordance with Art. 16, Item 7 of the mentioned Act.

Article 1, Paragraphs 2, 5, 5a and 8 of the Free Legal Aid Act (OG 62/08, 44/11 - Decision of the Constitutional Court of the Republic of Croatia 81/11) also applies in this context. With the amendments made in 2011, the financial criteria were reduced, thus increasing the possible number of free legal aid beneficiaries. Amendments to the existing wording of the act are currently in the parliamentary procedure. These amendments also include the proposed changes related to the financial criteria, which are in relation to the existing Act reduced even further, thus allowing an even bigger circle of possible free legal aid beneficiaries.

Reforms relating to the judicial administration system and administrative procedures have been initiated for the purpose of improving access to justice. A new administrative court system has been introduced: 4 regional Administrative Courts and the High Administrative Court of the Republic of Croatia as the second-instance authority. Administrative proceedings now also include: oral contradictory hearing, the right to appeal and the possibility of court supervision of the procedure for establishing the factual situation in a particular administrative proceedings, as well as second-instance proceedings. More efficient operation of administrative courts also contributes to the increased transparency of operations of administrative bodies and institutions, as well as plays an important role in the fight against corruption.

Statistics

According to the statistical data held by the High Administrative Court of the Republic of Croatia, 23 cases related to the LRAI and the environment were received and 68 resolved in the period from January 1, 2011 until December 31, 2012. Two of the mentioned decisions/judgements were reached pursuant to the provisions of the LRAI referring to the environment. In the same period, 72 cases were received and 149 resolved with respect to the implementation of the Waste Act, and 4 cases were received and 10 resolved with respect to the implementation of the Water Act.

Judicial Academy

The Judicial Academy makes continuous efforts to provide education on the topic of provisions of the Aarhus Convention to judicial officials:

- A one-day seminar entitled Enforcement of the Aarhus Convention was organised as part of the IPA 2008 project called Enforcement of the Aarhus Convention in the Adriatic Region Countries. The purpose of the seminar was to familiarize the judges and attorneys-at-law with the importance of the Aarhus Convention for the development of democracy and the civil society.
- The Academy participated in the preparation of two workshops called Further Strengthening of the Capacities of Environmental Inspectors and other Stakeholders as part of the IPA 2008 project called Enforcement of the New Environmental Protection Act Harmonised with EU Legislation in Cases of Criminal Offences against the Environment. The mentioned workshops were attended by judges and state attorneys.

Projects

The purpose of the project entitled Ensuring a Better Environment through Civil Society Dialogue, which is coordinated by NGO Green Istria, a Croatian civil society organization, is to improve the implementation of the Aarhus Convention in Croatia (2013-2014). Goal achievement will be measured on the basis of the number of measures carried out by the vertical actors (central, regional and local administrative bodies) for the purpose of improving the implementation of the provisions of the Aarhus Conventions and the measures that will be carried out by the horizontal actors (citizens, organizations) in the process of monitoring the implementation of public policies related to the Aarhus Convention.

Gong, another Croatian CSO, has completed a project called Enforcement of the Aarhus Convention in the Adriatic Region Countries (January 2010 – August 2011) in cooperation with Green Istra and organisations from Bosnia and Herzegovina (MPD

Initiatives), Montenegro (Mans), Italy (Adriatic GreeNet) and Belgium (European Environmental Bureau). The purpose of the project was to familiarize the judges, attorneys and journalists with the provisions of the Aarhus Convention. The Croatian Judicial Academy rewarded the participation of Croatian judges in the seminars.

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

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

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

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

Article 38, Para. 4 of the Amendments to the Constitution (OG 76/2010) prescribe the following: "The right of access to information held by any public authority shall be guaranteed. Any restriction on the right of access to information must be proportionate to the nature of the need for such a restriction, in each individual case, and necessary in a free and democratic society, as stipulated by law."

XXXIII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6 bis and Annex I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1 of article 6 bis** and:
- (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market of such genetically modified organisms, as well as the assessment report where available;
 - (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;
 - (v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:
 - a. The nature of possible decisions;
 - b. The public authority responsible for making the decision;
 - c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
 - d. An indication of the public authority from which relevant information can be obtained;
 - e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;
 - (vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;
 - (vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;
 - (viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;
- (b) With respect to **paragraph 2 of article 6 bis**, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer: /

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

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

Answer: /

XXXV. Further information on the practical application of the provisions of article 6 bis and annex I bis

*Provide further information on the **practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis**, e.g., are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?*

Answer: /

XXXVI. Website addresses relevant to the implementation of article 6 bis

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Answer: <http://gmo.hr/>

XXXVII. Follow-up on issues of compliance

If, upon consideration of a report and any recommendations of the Compliance Committee, the Meeting of the Parties at its last session has decided upon measures concerning compliance by your country, please indicate (a) what were the measures; and (b) what specific actions your country has undertaken to implement the measures in order to achieve compliance with the Convention.

Please include cross-references to the respective sections, as appropriate.

Answer: /