
Economic and Social

Council

Distr.

GENERAL

Original: SPANISH

ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN
DECISION-MAKING AND ACCESS TO JUSTICE IN
ENVIRONMENTAL MATTERS**

IMPLEMENTATION REPORT SUBMITTED BY SPAIN

According to article 10, paragraph 2, of the Convention, at their meetings the Parties shall keep under continuous review the implementation of the Convention on the basis of the regular reporting by the Parties. Decision I/8 of the Meeting of the Parties (Lucca, Italy, October 2002) established a reporting mechanism by which each Party is requested to submit a report at each Meeting on the legislative, regulatory and other measures that it has taken to implement the Convention and their practical implementation, in accordance with the format set out in the Annex to the decision. For each Meeting, the secretariat is asked to prepare a synthesis report summarising the progress made and identifying significant trends, challenges and solutions. The reporting mechanism was also developed through Decision II/10, which tackled the matter of how to draw up the second and subsequent reports among the Parties

The following report is submitted on behalf of SPAIN in accordance with decisions I/8, II/10 and IV/4.

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Signature:

Date: 2/12/2013

Implementation report

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. This report was prepared by the Ministry of Agriculture, Food and Environment (MAGRAMA) in collaboration with other state agencies, autonomous community authorities and local authorities (through the Spanish Federation of Municipalities and Provinces, FEMP). The Environmental Advisory Council (CAMA, which integrates five of the most relevant environmental NGOs), as well as other representatives of civil society, have also collaborated on the elaboration of the report.

Following the recommendations of the Convention's Secretariat, the Ministry, as well as the rest of agencies and territorial authorities, used the previous National Implementation Report (NIR) and made the appropriate updates, comments and remarks directly on the previous text.

2. The MAGRAMA and some Autonomous Communities have displayed all the information related to the NIR on their websites. A process was designed to encourage the participation of the general public.

II. PARTICULAR CIRCUMSTANCES THAT ARE RELEVANT FOR UNDERSTANDING THE REPORT

3. The Aarhus Convention is directly applicable to Spain, following its ratification in December 2004 and entry into force on 31 March 2005. In addition, the Spanish Parliament passed Law 27/2006 (18 July) regulating rights of access to information, public participation and access to justice in environmental matters, which also incorporates Directives 2003/4/EC and 2003/35/EC. The purpose of this Law is to guarantee effective application of the Aarhus Convention across Spain. It is a basic law, which means that according to the distribution of competences in Spain, the Autonomous Communities (AC, regional governments) are able to adopt stricter legislative decisions. In those ACs where no complementary legislation has been already developed, it is the state law that, to all intents and purposes, guarantees the direct application of the Convention across the country. This report is mainly focused on the implementation of the Convention at national level, though some references to regional implementation are also included.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES THAT IMPLEMENT THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

4. Law 27/2006 (18 July), regulating the rights of access to information, participation and access to justice in environmental matters, implements all the Convention.

5. Moreover, the Autonomous Communities have passed a series of regulations to implement this article. These include: Law 7/2007 of Andalusia on Integrated Environmental Quality Management and Decree 347/2011 regulating the structure and operation of the Environmental Information Andalusian Network; Law 7/2006 of Aragon on Environmental Protection; Law 4/2006 of Cantabria on Nature Conservation; Decree 97/2010 (June 11) of the Consell, regulating the rights of access to environmental information and public participation in environmental matters in Comunitat Valenciana; Law 17/2006, of Integrated Environmental Assessment of Cantabria and its Regulation, approved by Decree 19/2010 (March 18); Law 5/2002 (8 October) of La Rioja on Protection of the Environment, Law 11/2003 of Castilla y León on Environmental Prevention, General Law 3/1998 of the Basque Country on Environmental Protection, Law 8/2007 (March 15), modifying Law 9/1999 of Castilla-La Mancha on Nature Conservation; Law 7/2008 of Galicia on Landscape Protection and Law 5/2010 of Extremadura on Prevention and Environmental Quality. Some other Autonomous Communities are currently working on similar legislation in their respective areas of competence.

Article 3, paragraph 2

6. Article 3.1 b) of Law 27/2006 recognises the universal right to be informed of the rights set down in this Law and of being assisted in their exercise. Article 5 sets forth the general obligations of public authorities in this matter. Likewise, Law 30/1992 (26 November) on the Legal System of Public Authorities and the Common Administrative Procedure also sets forth the general obligation of officials and public authorities in assisting the public and supplying the required information and, in addition, it allows for public participation.

7. Ministry Order AAA/1601/2012 (June 26) sets instructions to enhance the implementation of Law 27/2006 in all areas of the MAGRAMA, with a view to increase efficiency in assisting the public and to add coherence to the application of different procedures.

8. Besides, Royal Decrees 208/1996 (9 February) regulating the administrative information and citizens advice services and, 951/2005 (29 July) establishing the general framework for the quality enhance of National Administration determine the operation and quality controls of the Information Offices of the State Government.

9. Both the State and Autonomous and local authorities have introduced environmental information services to assist the public by telephone, in person or by post and/or e-mail, dealing with all queries submitted and advising citizens on how to easily access the environmental information and informing on the instruments of participation and access to justice if they consider that their rights have been impaired. Some ACs have incorporated the use of social networks to their environmental information services.

10. Lists of public authorities are available at national and AC level, or they are currently being drafted.

11. In order for the State, Autonomous and local authorities to provide the necessary public assistance with maximum efficacy, training courses and conferences on environmental information and the application of Law 27/2006 are regularly organised for their officials. Following the recommendations of the Aarhus Convention Compliance Committee, since 2010 an annual training programme has been set off for officials, specifically on items related to the environmental legislation and the implementation of the Aarhus Convention and the law 27/2006. Similarly, specific training programmes are developed at AC level.

12. In November 2012, the Secretary of State of Environment imparted a masterclass on Aarhus Convention issues at the Spanish Advocacy General Council.

13. In the framework of Law 11/2007 (22 June) on the electronic access of citizens to public services, the MAGRAMA has successfully implemented an electronic access system to information and administrative procedures. It is currently available for more than fifty environmental procedures. The Autonomous Communities have also developed similar processes of implementing these services in their respective areas of competence.

14. Articles 20, 21, 22 and 23 of Law 27/2006 establish a number of measures to guarantee access to justice and administrative protection in environmental matters.

Article 3, paragraph 3

15. Article 19.2 e) of Law 27/2006 commissions the Environmental Advisory Council (CAMA), the State Government's highest consultative body on environmental matters, with the proposal of environmental education measures to inform, guide and raise awareness among society of ecological and environmental values, as well as measures to foster public participation in the solution of environmental problems.

16. The MAGRAMA, Autonomous Communities and local authorities of larger towns carry out the following activities: regular calls for aid, subsidy and grant proposals to promote the education and awareness of environmental problems; campaigns, conferences and environmental education seminars; the organisation of educational workshops and exhibitions, and the publishing of best practices and other informative documents. They also carry out environmental education programmes and projects, while there are bodies with specific powers in environmental education and public education to raise awareness of environmental problems and participation in decision-making. Unfortunately, some of these initiatives have been occasionally reduced due to budget constraints

17. The chief aim of the MAGRAMA's National Centre for Environmental Education (CENEAM) is to increase the responsibility of citizens in environmental matters. Diverse lines of work specialising in environmental education have been developed for this purpose: e-newsletter, environmental documentation centre, education and environmental interpretation programmes, training programmes, etc.

18. The MAGRAMA regularly publishes its "Ambienta" magazine, whose digital version is available at <http://www.revistaambienta.es/>, registering more than 10.000 visits per month. The majority of Autonomous Communities also publish environmental and agro-food information magazines for the public.

Article 3, paragraph 4

19. The fundamental right of association is enshrined in Article 22 of the Spanish Constitution. Public associations represent the interests of citizens before public authorities and develop a critical and indispensable role in many different issues, inter alia, sustainable development policies and environmental protection, for which the Law sets the provision of grants and subventions from different public administrations in accordance with the legal and regulatory framework. In this context, the State and local authorities and a number of non-profit institutions regularly hold calls for aid proposals specifically for non-profit organisations and NGOs set up to protect the environment.

20. Besides, financial aid is periodically granted to environmental-social oriented foundations and public utility entities assigned to the MAGRAMAS's Protectorate.

21. Additionally, environmental NGOs can voluntarily register in the Ministry's database.

22. Articles 2.2, 16.2 and 23 of Law 27/2006 recognise the legal capacity of environmental protection groups and organisations to enjoy the rights of public

participation and access to justice in environmental matters and the right to access the benefits of free justice in the terms set down in legislation. Article 19 expressly allows for the participation of environmental NGOs in the CAMA. For their part, the Autonomous Communities carry out this function through their various advisory bodies and publish lists on their websites of associations, organisations and groups promoting environmental protection.

23. The national legal system is fully consistent with these obligations.

Article 3, paragraph 7

24. Article 19.2 f) of Law 27/2006 charges the CAMA with proposing the measures it deems appropriate to improve compliance of international agreements on the environment and sustainable development, evaluating the effectiveness of the regulations and programmes in force and proposing, where applicable, the necessary amendments.

25. Prior to every Conference of the Parties of multilateral environmental agreements and prior to other relevant international conferences, as well as sur place at every conference, authorities from the Ministry of Agriculture, Food and Environment maintain permanent contact with NGOs and other representatives of civil society.

Article 3, paragraph 8

26. The Spanish Constitution of 1978 and the system of constitutional, legal and administrative protection implemented through it are directly applicable to the guarantee of the effective exercise of the rights recognised in the Constitution and by Spanish legislation.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ANY OF THE PARAGRAPHS OF ARTICLE 3

27. Spain is still making big efforts to make environmental information available to the public. This forms part of a continuous and exhaustive task requiring technical means and human resources with sufficient environmental training. As a result, in some isolated cases, it is difficult to provide the environmental information as quickly as desired due to its complexity.. In large projects with large volumes of documentation, problems concerning the ease with which environmental documentation can be consulted and copies of the required documentation can be provided have been detected. An attempt is being made to remedy this situation. Sometimes, a consultation relates to thematic areas that are the competence of diverse administrative departments, which means that it is impossible to answer in a short period of time.

28. Democratic channels for political participation have been set up through regular procedures, and citizens can intervene directly (organically, functionally and cooperatively) in government activities to protect the environment. However, certain shortcomings have been detected, specially in the field of organisation.

29. Given the rise of social networks, it would be desirable to take advantage of these kind of initiatives, also in the field of public administration and, in particular, with regard to access and exchange of environmental information. However, the lack of sufficient human resources can be an obstacle for this purpose.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF THE CONVENTION

30. As part of the environmental assessment procedure for state projects, plans and programmes, plans have been made to make environmental documentation and telematic processing available to the public through the MAGRAMA website and through the website of some Autonomous Communities. Public participation through electronic means is a common practice nowadays. Currently on-going processes and recently completed processes can be consulted at this link <http://www.magrama.gob.es/es/participacion-publica/listado.aspx>

31. Similar online public participation processes are available at ACs level.

VI. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

32. The following websites are available:

Ministry of Agriculture, Food and Environment

<http://www.magrama.gob.es>

<http://www.magrama.gob.es/es/ministerio/servicios/area-actividad/>

<http://www.magrama.gob.es/es/ministerio/funciones-estructura/organizacion-organismos/otros-organismos-organizaciones/consejo-asesor-de-medio-ambiente-cama/>

<http://www.magrama.gob.es/es/ministerio/servicios/informacion/plataforma-de-conocimiento-para-el-medio-rural-y-pesquero/>

<http://www.magrama.gob.es/es/ministerio/servicios/informacion/analisis-y-prospectiva/>

<http://www.magrama.gob.es/es/estadistica/temas/estadisticas-ambientales/>

<http://www.prtr-es.es> (including links to EPER and PRTR at ACs)

<http://www.fundacion-biodiversidad.es/>

<http://www.sostenibilidad-es.org/>

Other State Departments:

Ministry of Economy and Finance:

<http://www.ine.es> (statistics on wastes, water use and expenses on environmental protection)

Ministry of Industry, Energy and Tourism:

www.minetur.es

Institute for Energy Diversification and Saving:

<http://www.idae.es>

Nuclear Safety Council

<http://www.csn.es>

Autonomous Communities:

Andalusia:

<http://www.juntadeandalucia.es/medioambiente>

Aragon:

<http://www.aragon.es/Temas/MedioAmbiente>

http://www.aragon.es/DepartamentosOrganismosPublicos/Departamentos/AgriculturaGanaderiaMedioAmbiente/AreasTematicas/MA_InformacionDATosAmbientales/ci.01_Derecho_acceso_informacion_ambiental.detalleDepartamento?channelSelected=de0890292fb3a210VgnVCM100000450a15acRCRD

http://www.aragon.es/DepartamentosOrganismosPublicos/Departamentos/AgriculturaGanaderiaMedioAmbiente/AreasTematicas/ch.MA_InformacionDATosAmbientales.detalleDepartamento?channelSelected=de0890292fb3a210VgnVCM100000450a15acRCRD

Asturias:

<http://www.asturias.es>

<http://www.redambientalasturias.es>

<http://www.osasturias.es>

Balearic Islands:

<http://pia.caib.es>

<http://dgbio.caib.es>

<http://www.oficinadelcanviclimatic.caib.es>

Canary Islands:

<http://www.gobiernodecanarias.org>

Cantabria:

<http://www.gobcantabria.es>

<http://www.medioambientecantabria.com>

Castile-La Mancha:

<http://www.castillalamancha.es/tema/medio-ambiente/calidad-ambiental>

<http://www.castillalamancha.es/tema/medio-ambiente/medio-natural>

http://pagina.jccm.es/medioambiente/atencion_informacion/index_partic_infamb.htm

<http://www.castillalamancha.es/tema/medio-ambiente/cambio-clim%C3%A1tico-0>

Castile and León:

<http://www.jcyl.es/medioambiente>

<http://rednatura.jcyl.es/natura2000/>

<http://www.patrimonionatural.org/>

Catalonia:

<http://www.gencat.cat/aca>

<http://www.arc.cat>

<http://www.gencat.cat/dmah>

Extremadura:

<http://www.gobex.es/gobex/view/main/index/index.php>

<http://extremambiente.gobex.es/>

Galicia:

<http://medioambiente.xunta.es>

<http://www.cmati.xunta.es>

<http://www.siam.medioambiente.xunta.es>

<http://www.a21.medioambiente.xunta.es>

Madrid:

<http://www.madrid.org>

<http://www.asambleamadrid.es>

http://www.madrid.org/cartografia_ambiental

http://www.madrid.org/rlma_web

http://gestiona.madrid.org/azul_internet

Murcia:

<http://www.carm.es>

<http://www.orcc.es>

Navarra:

<http://www.navarra.es>

<http://www.crana.org>

<http://www.nasursa.es>

Basque Country:

<http://www.ingurumena.ejgv.euskadi.net/r49-home/es/>

<http://www.udalsarea21.net>

<http://www.irekia.euskadi.net/>

<http://opendata.euskadi.net/w79-home/es>

<http://www.geo.euskadi.net/s69-15375/es>

La Rioja:

<http://www.larioja.org>

Valencia:

<http://www.cma.gva.es>

Spanish Federation of Municipalities and Provinces:

<http://www.femp.es>

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES THAT IMPLEMENT THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

Article 4, paragraph 1

33. In the majority of cases, the State and the Autonomous Communities are equipped with systems to speed up the supply of environmental information to all users, who can access a form to request information on the corresponding websites or even make a telematic application of such request. As an example, the mailbox information@magrama.es is accessible through the MAGRAMA website.

34. At the end of 2011, Decree 1495/2011 was passed. The Decree develops Law 37/2007, on reutilization of public information, in the context of public sector at a national level and the different modalities of reutilization. This decree represents a great advance in terms of transparency.

35. In this context, the MAGRAMA is currently working on the passing of the Plan of Measures to Promote Reutilization of Information, with a view to enhance interoperability and formats of environmental information in order to facilitate its reutilization by the citizenship.

Article 4, paragraph 2

36. Both the State and the Autonomous authorities have implemented or are in the process of implementing systems to ensure that the information is supplied within fixed terms, with the aim of correcting failures to comply with these. Local authorities also have means for accessing information.

Article 4, paragraphs 3 and 4

37. Article 13 of Law 27/2006 includes a complete list of the only circumstances that may lead to refusal of the request for environmental information, indicating that these reasons for refusal must be interpreted restrictively and that each specific case should weigh up the conflict of interests between the disclosure and refusal of information.

Article 4, paragraph 5

38. This right is recognised in article 10, paragraph 2. b) of Law 27/2006. It is common practice in both the State and Autonomous authorities to inform the public of the authority they must address or to transfer their request to that authority.

Article 4, paragraph 6

39. This right is recognised in article 14 of Law 27/2006. If it is not possible to supply all of the information, the applicant is supplied the part of the information that can be accessed and given the reasons for the partial refusal.

Article 4, paragraph 7

40. This right is recognised in article 10, paragraph 2 of Law 27/2006.

Article 4, paragraph 8

41. Article 15 of Law 27/2006 establishes the obligation of public authorities to draw up, publish and make available to applicants of environment information the list of public and private fees and charges applicable to such requests and the events in which payment is not required. Moreover, First Additional Provision of Law 27/2006 creates a rate for environmental information supplying, at a national level. A specific regulation to establish fees for provision of environmental information at national level is currently being elaborated, bearing in mind the specifications of the Aarhus Convention. No fee will be charged by national authorities until this regulation is finally passed. For this purpose, the Autonomous Communities have their own legislation.

VIII. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 4

42. Besides those indicated in section IV, the difficult should be emphasized to made compatible the intellectual property rights and the right of access to environmental information, as well as some commercial information which relates to elements of the environment. In this context, it can be mentioned, by way of example, the obligation to inform the public of the exact location of the fields where GMO's are deliberately released (see paragraph 171)

43. Other obstacle is the overuse of the silence procedure (administrative silence), meaning that the environmental information is not made available in due time, which does not fulfil the obligations of stating the reasons for the refusal and giving information on access to review procedures, even though the judicial review is directly accessible.

44. Some difficulties have been detected when accessing specific databases which

are referenced at the MAGRAMA's website. The implementation of the Plan of Measures to Promote Reutilization of Information is expected to homogenize and simplify the access to these databases.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS ON ACCESS TO INFORMATION

45. The "Annual Memoir of the Ministry" which can be accessed through the Department's website, contains statistics on the number of requests received, the number of refusals and their reasons, and generally all that concerns the processing of environmental information requests by the State and Autonomous authorities. This publication can be consulted and downloaded through the website.

46. The Autonomous Communities also publish their own statistics.

47. With regard to the quality of the information, in 2012 a study was made to analyze the quality of the information provided by the ACs. The study was conducted by the environmental NGO Association of Environmental Sciences, with funds from the MAGRAMA's Biodiversity Foundation. It is available at this link: <http://www.cienciasambientales.org.es/index.php/noticias/205-2o-estudio-sobre-la-calidad-de-la-informacion-ambiental-autonomica-en-la-red.html>

X. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

48. Those indicated in paragraph 32..

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES THAT IMPLEMENT THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Article 5, paragraph 1

49. Article 5.2 of Law 27/2006 requires the public authorities to ensure, as far as their powers allow, that the information they collect or which is collected in their name is up to date, accurate and able to be compared to other data. Article 7 of this Law requires that the information disclosed be up to date, where applicable, and that it includes certain minimum contents.

50. In situations where there is an imminent threat to human health or the environment, pursuant to article 9 of the Law, the public authorities are required to immediately and without delay disclose all information held by the public authorities or other subjects in its name, to enable the public that may be affected to take the necessary measures to prevent or mitigate the harm arising from such threats.

51. The Directorate-General for Civil Protection and Emergencies, reporting to the Ministry of the Interior, through the National Commission on Civil Protection, coordinates the departments of the State and Autonomous authorities.

52. Both the State and the Autonomous Communities have specific warning legislation in place and protocols of action and conventions to enable disclosure of the appropriate information.

Article 5, paragraph 2

53. Article 1.2 of Law 27/2006 guarantees the dissemination and public disclosure of environment information gradually and with the greatest possible extent and use of technology. Article 5 of this Law guarantees the practical measures set down in the Convention, such as: designation of departments responsible for environmental information, creation and maintenance of resources for consulting the latter, creation of registers or lists of the environmental information held by public authorities or points of information, fostering of the use of telecommunications, etc. The obligations to disclose environmental information are incorporated into article 6.2 of Law. Since the Law 27/2006's entry into force, the predictions on the progressive improvement of the provision of environmental information have been achieved and the promotion of the use of telecommunications have significantly increased.

54. Law 37/2007 of 16 November, on reuse of the information of public sector, provides the basic regulation for the reuse of all information held by the authorities, in any form. Pursuant to this Act, the Ministry of Industry, Energy and Tourism and the Ministry of Public Administrations and Finances are promoting the [Datos.Gob](#) Project, which promotes a culture of reuse of information in the field of public administration.

55. Some Autonomous Communities have organised environmental information networks or systems and/or catalogues of environment data sources. They have also begun to draw up lists of environmental information and carried out activities to raise the profile of the new regulation among relevant sectors.

Article 5, paragraphs 3 and 5

56. Article 6, paragraph 3 and 4 of Law 27/2007 requires public authorities to adopt the necessary measures to guarantee that environmental information is gradually made available in electronic databases easily accessible by the public through public telecommunications networks, either directly or through the corresponding links.

57. For this purpose, both the MAGRAMA and the Autonomous Communities have set up environmental information websites, which also allow access to the information in the various networks and to geo-referenced information.

58. The minimum contents that must be covered by the information to be disclosed is developed in article 7.2 of Law 27/2006. The contents included are broader than those established in the Convention itself.

59. The MAGRAMA website provides general information, by topics, on administrative powers, sources of information and means of access to the latter and on environmental policies, plans and programmes and how they interrelate with sectorial policies.

60. The MAGRAMA website provides information on activities carried out in Spain with GMOs and publishes reports on the results of voluntary release notices and the authorisations granted by the Interdepartmental GMO Council. The website also gives information of the GMOs legal framework at European, National and Autonomous level

61. The Autonomous Communities have also made significant efforts on the implementation of paragraph 3, developing monitoring activities on the control

and surveillance networks of air quality, water quality, waste management, etc.

Article 5, paragraph 4

62. Each year, the MAGRAMA publishes and disseminates the Memoir on the activities of the Ministry and the publication “Environmental Profile of Spain”, in English and Spanish, (based on selected indicators in the framework of the Spanish EIONET network), along with other one-off and regular publications which use environmental information. They are all available on the Ministry’s website, in some cases with detailed versions in different languages and free of charge.

63. Since 2006, the Ministry promotes the annual publication of the studies elaborated by the Environmental Politics Observatory, an independent research institution formed by 47 professors of 30 universities who analyze the environmental action of ACs in its national, comparative, European and international context.

64. The Public Bank of Environmental Indicators is a project of the MAGRAMA to elaborate and disseminate environmental information through its website, by presenting in a very intuitive and dynamic way the most relevant environmental data. An updating of all the indicators has recently been performed, showing the best information available until the present date. Indicators are displayed using graphics, definitions and notes, which makes the information widely accessible to the public. The 68 environmental indicators are structured in 14 different areas, offering a wide range of environmental related issues and showing their evolution: air, water, soil, nature and biodiversity, wastes, agriculture, energy, industry, fishery, tourism, transports, houses, urban environment, natural and technological disasters.

65. The Bank of Data of the Nature, attached to the General Directorate of Quality, Environmental Assessment and Nature, manages the information on the elements of the environment related to nature. This information is made available free of charge and without previous demand.

66. The Observatory on Sustainability in Spain (OSE) created by this Department also publishes an annual report based on indicators of sustainable development in Spain, coherent with those produced by the EEA, and a pocketbook edition “Sustainability in Spain”.

67. Besides these general reports, there are numerous specific statistical sources provided by the MAGRAMA, EUROSTAT and many specialist agencies, such as the Spanish Meteorology Agency (AEMET), the Spanish Oceanography Institute (IEO), etc.

68. The statistical data on the diverse environmental parameters collected by the MAGRAMA each year from the various authorities are sent to the European Environment Agency (EEA) and in some cases they are subsequently co-edited.

69. The Autonomous Communities regularly publish reports on the situation of the environment and, where applicable, on their own regional systems of environment indicators.

Article 5, paragraph 6

70. The twelfth additional provision of Law 27/2006 requires public authorities to

encourage economic operators, when required to do so, to inform the public regularly of those activities or products that have or could have a significant impact on the environment. In this regard, the national and Autonomous PRTR inventories include data on emissions from companies with greater pollution potential. Moreover, Regulation (EC) No. 761/2001 of the Council of the European Union allows public and private organisations, both non-profit and otherwise, to voluntarily join the Community Eco-Management and Audit Scheme (EMAS). Eco-labelling and organic farming production allow for similar mechanisms for the dissemination of information on private activities and products that could have a significant impact on the environment.

71. In the Autonomous Communities, initiatives have been adopted for consumers and producers of waste to encourage a reduction of the latter at source and for urban users on best practices in energy consumption, water use, waste separation and, in some cases, financial aid for actions to implement environmental management systems.

72. The economic operators, particularly the big distributors, have informed about their contribution to the reduction of the use of non-reusable, non-biodegradable plastic bags, through their own public campaigns or through campaigns promoted by the MAGRAMA.

Article 5, paragraph 7

73. In addition to their publications and Internet dissemination and participation, all public authorities have information departments and other units for the reception and processing of complaints and suggestions on matters relating to the environment, along with the electronic means to access them.

Article 5, paragraph 8

74. In Spain, the labelling of food products is regulated in Royal Decree 1334/1999 (July 31), approving the general rule of labelling, presentation and advertising of food products, and transposing the relevant European legislation. This regulation applies to ready to consume food and drink products as well as to restaurants, hospitals, canteens and similar establishments.

75. Regarding the European Union Ecolabel, the Ministry of Agriculture, Food and Environment is currently drafting a Royal Decree implementing the eco-labelling in Spain according to Regulation (CE) No 66/2010, which will replace the currently in force Royal Decree 598/1994.

76. Similarly, the labelling of fish products, dangerous substances, noise from domestic appliances, energy consumption, etc., have their own national regulation covering environmental information.

77. Some Autonomous Communities control the labelling of electrical appliances and the symbols of integrated waste management systems. Both these authorities and some local governments have produced green shopping guides and incorporated sustainability criteria in public competitions for goods and services.

Article 5, paragraph 9

78. Since January 1st, 2008, the Spanish Register of Emissions and Pollutant Sources becomes the PRTR-Spain Register, (which replaced the State Pollutant

Emission Register, EPER-Spain, operating since 2001), following the European Regulation 166/2006 (E-PRTR) and the Royal Decree 508/2007, regulating information on emissions of the E-PRTR and the IPCC permits. These rules fall within the scope of the Aarhus Convention and the PRTR Protocol, both signed and ratified by Spain. Complying with the mentioned Protocol, industrial installations make their notifications using the new PRTR criteria.

79. All public information relating pollutant emissions and transfers on the PRTR-Spain register is available on the Internet and is easily accessible to all stakeholders and the general public from the www.prtr-es.es address. The information, which is available in Spanish, the other official languages of Spain and English, includes links to the inventories of international and Autonomous Community systems. PRTR-Spain manages the mailbox info@prtr-es.es, where stakeholders, public administrations and the general public may submit their inquiries and requests of environmental information as well as their suggestions and observations to improve the operation of the register. Information requests and suggestions may be submitted in Spanish and English.

XII. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 5

80. The cross-cutting nature of the subject matter creates problems with administrative organisation and coordination that, to a greater or lesser extent, affect the various public authorities in the application of article 5.

81. The difficulties in preparing specific aggregate information for the whole of Spain using data supplied by the local and Autonomous authorities include problems with uniformity, which suggests the need to reinforce mechanisms of coordination.

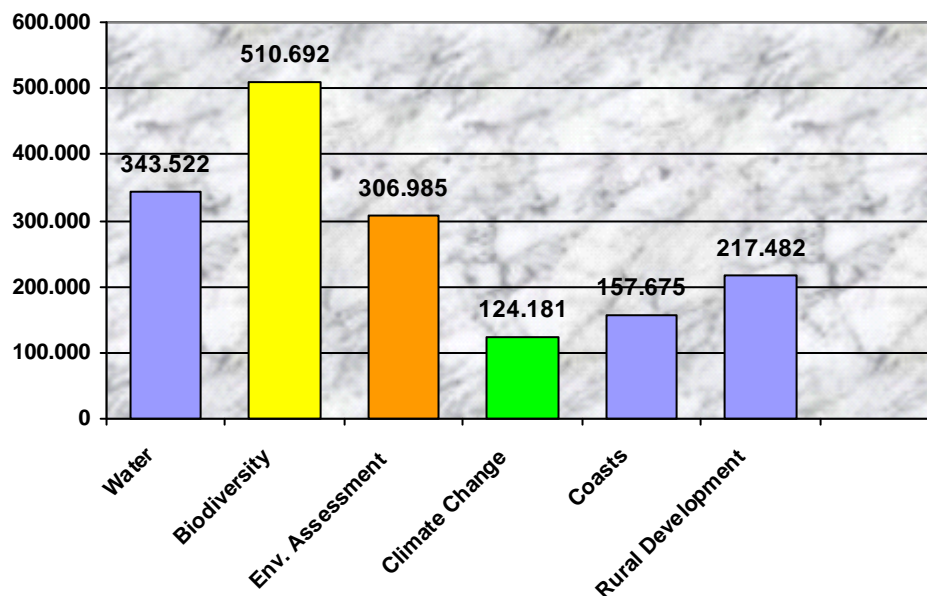
82. In some Autonomous Communities and in the Ministry itself, the available human and material resources have occasionally been insufficient to adequately meet the obligations of access and dissemination of environmental information within the set terms. However, in some ACs a significant improvement of the quality of the information has been detected. Greater difficulties have been encountered with the statistical monitoring of requests and their processing at local level.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 5

83. The number of visits to the EPER/PRTR-Spain site averaged some 1,000,000 queries per year. November is usually the busiest month, as the new data are just published. Visits are made from all over the world, particularly the USA, Latin America and countries in Europe. The most common requests were for information on public emissions data by sectors of industrial activity, the inventory of facilities, waste transfers and downloads of PDF documents, as well as tables and charts.

84. The following table and chart illustrate the visits made to the website of the Ministry of Agriculture, Food and Environment, organized by subject areas.

Visits by subject areas	Total annual 2012
Water	343.522
Biodiversity	510.692
Environmental assess.	306.985
Climate Change	124.181
Coasts	157.675
Rural Development	217.482



XIV. RELEVANT WEBSITES FOR THE IMPLEMENTATION OF ARTICLE 5

85. <http://www.prtr-es.es> and those indicated in Section 32.

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES THAT IMPLEMENT THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

86. Public participation in decisions on specific activities in article 6 of the Convention is performed through specific procedures according to different sectorial pieces of legislation. Article 3.2.e) of Law 27/2006 provides that every person has the right to participate in an adequate and effective manner, according to the applicable legislation in the administrative procedures of IPPC permits, GMO's authorizations and environmental impact assessment.

87. It must be stressed that the First and Second final dispositions of Law 27/2006 have modified the basic regime of EIA and IPPC in order to comply with the provisions of the Aarhus Convention, particularly through the redefinition of

“public” and “public concerned” and the introduction of early participation.

Article 6, paragraph 1

88. The participation in decisions on whether to permit the activities listed in Annex I of the Convention is regulated by specific sectorial legislation, mainly by Law 16/2002 on integrated pollution prevention and control, IPPC (for granting integrated environmental permits) and Royal Legislative Decree 1/2008 of 11 January, approving the consolidated text of the Law on Project Environmental Impact Assessment (for evaluating the environmental impact of projects or activities)

89. IPPC Law 16/2002 is applicable to public or private installations that carry out any of the industrial activities included in the categories listed in its Annex 1. At the very least, the emission values of these installations must be within the limits set down in the regulations in Annex 2 and, where applicable, those fixed in additional protection regulations introduced by the Autonomous Communities.

90. Royal Legislative Decree 1/2008 concerns: the performance of works, facilities or any other activity included in Annex I of the EIA Law, which must only be subject to an EIA when the environmental department so decides on a case-by-case basis, and the projects or activities in Annex II not included in Annex I but which could directly or indirectly affect the spaces in the Natura 2000 Network.

91. The Autonomous Communities have developed general legislation in both cases (Law 7/2007 of Andalusia on Integrated Environmental Quality Management; Law 11/2006, of 14 September, on environmental impact assessments and strategic environmental assessments, of the Balearic Islands; Law 17/2006, of 11 December, on integrated environmental control, of Cantabria and its Regulation, approved by Decree 19/2010 (March 18); Law 4/2007, of 8 March, on environmental assessment in Castile-La Mancha; Law 20/2009, of December 4, on prevention and environmental control activities in Catalonia; Law 6 / 2009 of April 28, 2009, on environmental assessment of plans and programs, also in Catalonia; Law 2/2002, of 19 June, on environmental assessment, of the Community of Madrid; Law 5/2002, of 8 October, on environmental protection in La Rioja; Law 11/2003 of Castile and Leon on Environmental Prevention; etc.), and there are also some instances of institutional or organisational legislation regulating public participation (Law 4/2006, of 30 June, on transparency and best practices in the Government of Galicia). Extremadura is currently working on the adoption of a regulation on environmental assessment and other authorizations and Environmental Communication.

Article 6, paragraph 2

92. Regarding the information that must be provided, the regulation of the procedures for Integrated Environmental Authorisation (IEA) in Law 16/2002, which includes the guarantee of the “real and effective” participation of stakeholders (article 14), states in its Annex 5 that the competent authority will provide information to the public, at the early stages of the procedure, on the following issues, among others: the request of the environmental authorization or, where appropriate, its renewal or modification; the identification of the competent authorities that make the decision, provide information and/or receive observations or questions, indicating the timeframes for doing so; the legal nature of the

resolution or the draft proposal for resolution; the dates and venues for the provision of information, as well as the means used to provide that information; the different ways of public participation and consultation.

93. For Environmental Impact Assessment (EIA) procedures, Royal Legislative Decree 1/2008 also guarantees “real and effective” participation since the early stages (article 1.4) and regulates the processing of public information and consulting of the stakeholders and public authorities involved (article 9). The information that must be made available is rather similar to what has been explained above: the request of authorization of the project, identification of the competent authorities, legal nature of decisions, date and venue of the provision of information, ways of participation, information contained in the environmental assessment study and other relevant information.

94. Some Autonomous Communities have passed regulations on participation to regulate the processing of permits or decision-making, among others, for those not subject to a regulated procedure of public participation.

95. In some instances, the Autonomous Communities have set up ad hoc bodies of participation as part of their administrative structure.

96. The Autonomous and local authorities have generally adopted measures on participation, establishing new options or bolstering existing ones, particularly those deriving from the Local Agenda 21 in the case of municipalities. Both types of authority have encouraged the use of new technologies for this purpose.

Article 6, paragraph 3

97. In the EIA procedure, the decision-making body must inform stakeholders and the public authorities involved of the right to participate in the corresponding procedure and the moment at which they can exercise this right; this notification must include the competent authority to which observations and allegations must be addressed, specifying the participation and the deadline by which they must be sent, which cannot be less than 30 days (article 9.3 of Royal Legislative Decree 1/2008).

98. Regarding Integrated Environmental Authorisation, according to article 5 of Annex 5 of Law 16/2002, reasonable timeframes must be provided for every stage of the process, allowing the public to have sufficient time to be well informed and the public concerned to prepare and effectively participate in the decision-making process.

99. With relation to environmental plans and programmes, sufficient public participation time frames are established by each relevant sectorial legislation. By way of example, the Hydrological Plans are submitted to public consultation for a period of at least six months, according to article 74 of the Regulation on Hydrological Planning.

100. In addition, the general provisions on public hearing, as regulated by Law 30/1992 (26 November) on the Legal System of Public Authorities and the Common Administrative Procedure, envisage the possibility of establishing urgent proceedings by reducing timeframes to a half, whenever reasons of public interest may justify it.

Article 6, paragraph 4

101. Law 16/2002, through the modification introduced by Law 27/2006, guarantees participation from the initial phases of the respective procedures (article 14). To this effect, the provisions on public participation in decision-making set forth in its Annex 5 are of application.

102. Royal Legislative Decree 1/2008 includes this guarantee in its article 8, by opening up the consulting process to the public authorities involved and to the natural persons or public and private legal entities linked to protection of the environment, at the start of the EIA procedure. Article 9 provides that this process will take place when all options regarding the substance, size and definition of the project are still open.

103. Regarding plans and programmes, the relevant specific legislation has adapted its procedures to the provisions of the Convention and the national Law 27/2006. For example, according to Law 22/2011 (28 July) on wastes and contaminated soils, the public administrations will guarantee the rights of access to information and public participation in matters related to waste and contamination, in the terms of Law 27/2006 of 18 July, regulating the rights of access to information, public participation and access to justice in environmental matters

104. In fact, the State and Autonomous authorities, in addition to the intervention of consultative collegiate bodies where this is provided for, encourage early participation through the Internet and by sending information to the associations, organisations and agents involved in the procedures.

Article 6, paragraph 5

105. Though not set down in the regulations, the MAGRAMA places no restrictions on the project developer making consultations prior to the start of procedures for project authorisation.

106. In the Autonomous Communities, the disclosure of information stimulates spontaneous preliminary debate, though not regulated in legislation, and some Autonomous Communities have signed social pacts for the environment to reinforce mechanisms of communication.

Article 6, paragraph 6

107. Law 27/2006 regulates access to environmental information in articles 5 to 12, and access to environmental information on request in its article 10 in particular. Likewise, the Environmental Assessment regulation – articles 7 and 9.2e) – guarantees the public disclosure of the information mentioned in article 6.6 of the Convention: a general description of the project and estimations regarding time, soil and other resources; estimations regarding kinds and amounts of wastes and pollutant releases; a description of the main alternatives studied; assessment of the significant direct and indirect effects of the project on the environment; a description of the measures envisaged to prevent, compensate and/or reduce the effects, an easily understandable outline of the study and its conclusions.

108. Additionally, the body responsible for the substantive decision (substantive body) should make available all the relevant documentation received prior to the public hearing phase.

Article 6, paragraph 7

109. The general regulation on the processing of public information allows for the

possibility of presenting allegations and submitting documents and justifications, pursuant to the aforementioned Law 30/1992.

110. In particular, according to article 9 of the RLD 1/2008, the substantive body will inform the public about the competent authority to which observations, questions and allegations must be addressed and the timeframe for doing so. Similarly, Annex 5 of the IPPC Law provides that the public concerned will have the right to submit to the competent authorities all the comments and observations that they consider to be relevant before the resolution of the request.

111. All channels of information (e-mail, post, fax, telephone, personal presence or website) are generally available to the public at all public authorities for participation and the presentation of allegations. The MAGRAMA has also made available to the sectors involved its “Sede Electrónica” application on its website, for diverse procedures within the scope of its powers, including those on EIA (Sabia programme).

Article 6, paragraph 8

112. In the EIA and IEA procedures, the results of consultations and public hearings must be taken into account by the project developer and the decision-making body authorising it (article 9.5 of RLD 1/2008, and article 4 of Annex 5 of Law 1/2002).

113. Regarding plans and programmes, Law 27/2006 generally provides that when making a decision, the public authority will take due account of the outcomes of the public participation.

Article 6, paragraph 9

114. Article 12 of RLD 1/2008 determines that the Environmental Impact Statement must be made public in all events (Official Gazettes) and it shall include the main reasons and considerations on which the decision is based in relation with the observations and opinions expressed by the public concerned during the EIA process and a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects. The result of the procedures is also published on the website and made public by other means, as explained in this report.

115. Likewise, the IPPC Law provides that the ACs will make available the administrative resolutions permitting or modifying the integrated environmental authorisations, along with a memoir including the main reasons and considerations on which the decision is based and the information regarding the public participation process.

Article 6, paragraph 10

116. The modifications and changes to the characteristics and circumstances in which a project that falls within the scope of application of an EIA or IEA, in accordance with the basic regulation of the State, is always subject to a screening procedure in order to determine the possible existence of significant impacts. The channels of public participation has already been mentioned in this procedure.

Article 6, paragraph 11

117. For GMOs, see sections XXXIII, XXXIV, XXXV Y XXXVI.

XVI. OBSTACLES ENCOUNTERED IN THE APPLICATION OF ANY OF THE PARAGRAPHS OF ARTICLE 6

118. In some cases, there has been a lack of greater resources, clarity of distribution of competences and preparation of technicians and officials for promoting a higher level of civic participation in public administration.

119. The main obstacles identified by local authorities in the application of the Aarhus Convention have been the lack of detailed knowledge of its terms and the lack of interest by a considerable proportion of the population. This lack of interest and, occasionally, lack of knowledge of the regulations may be partly due to the shortage of promotion and capacity building activities from the part of the public authorities.

120. Some minimum deadlines established in sector legislation for presenting allegations in the procedures requiring environmental authorisation, particularly EIAs and AAAs, are sometimes too short in view of the size of the cases and their technical complexity. Nevertheless, deadlines can always be extended as in most of the cases the deadlines are established as a minimum.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 6

121. Projects related to National Defence objectives are excluded from the EIA procedure when such an application could have negative repercussions for these objectives. Projects specifically approved by a State law (first additional provision of RLD 1/2008) are also exempted. The exclusion of projects from this procedure is also permitted for exceptional reasons, by reasoned agreement of the Council of Ministers.

122. To facilitate the implementation of these rights, databases of the projects submitted to EIA processes are available on-line, both at the MAGRAMA webpage and at the webpages of the environment departments at AC level.

XVIII. RELEVANT WEBSITES FOR THE IMPLEMENTATION OF ARTICLE 6

123. <http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/evaluacion-ambiental/> and those indicated in Section 32.

XIX. PRACTICAL AND / OR OTHER PROVISIONS WHICH HAVE BEEN TAKEN TO THE PUBLIC INVOLVED IN THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

124. Law 27/2006 established a two-way system for public participation in plans and programmes: on the one hand, there is a list of environmental matters subject to the general participation procedure designed by Law 27/2006 (wastes, batteries and accumulators, nitrates, packages, air quality and others according to AC

legislation) . On the other hand, law 27/2006 refers to specific legislation on participation in matters such as water management and plans and programmes affected by Law 9/2006 (incorporates Directive 2001/42/EC) on the assessment of the effects of certain plans and programmes on the environment.

125. Regarding water management, the public consultation of the documentation relating the hydrological plans is required both by the EU Water Framework Directive and the revised text of the national Law on Water Management, developed by article 74 of Regulation on Hydrological Planning. With regard to the hydrological planning projects, the general public has online access to the programmes, agendas, types of consultation, text of the project, general study by the Hydrological Demarcation, outline of the main important topics, etc. Additionally, the documentation that has been incorporated to the project after the public consultation phase can be revised afterwards.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

126. Besides that set down in article 16 of Law 27/2006, article 19 of the latter also establishes the functions of the Environmental Advisory Council, as a collegiate body for the participation and monitoring of environmental policies, among others, to advise on plans and statewide programs proposed by the presidency due to the importance of their impact on the environment.

There are also other sectorial participation agencies, such as the National Water Council, the national Climate Council, the National Council for Natural Heritage and Biodiversity , the Council for Rural Affairs and the Bureau of Rural Development Associations.

127. The Autonomous Communities, without prejudice to the application of Laws 27/2006 and 9/2006, have incorporated tools to suit the new approach to participation in the drafting and approval of plans and programmes. This entails consulting the authorities involved, including local authorities, and the stakeholders. Participation is also structured through similar consultative collegiate bodies.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

128. The obstacles encountered at this early stage are gradually overcome and a significant level of public participation is expected. Occasionally, the public concerned argues that the time frames for public participation are not sufficient due to the volume or complexity of the information related to the project or activity.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 7

129. In both the State and Autonomous levels, public participation in the drafting and approval of plans and programmes is facilitated through the implementation of new technologies allowing the interactive participation of citizens, whose aim is

the transparency and promotion of these plans and programmes. At the local level, new channels of participation are being set up or existing ones are being strengthened, particularly those deriving from the Local Agenda 21.

130. The MAGRAMA and some Autonomous Communities have created profiles on Facebook and other social networks for the mass dissemination of information and as additional means of participatory environmental processes. This social tool has become a major means of communication in today's society.

131. Biodiversia is a social network project promoted by the MAGRAMA and the Biodiversity Foundation, with the support of the Ministry of Industry, Energy and Tourism's Avanza Project. It is a virtual space devoted to channel the public participation by making available all the official information related to the Spanish Inventory of Natural Heritage and Biodiversity, with the aim of fostering environmental education and awareness rising. (www.biodiversia.es)

132. CHIL is a free collaborative and professional platform open to the participation of professional groups and individuals specialized in agro-food and environmental knowledge. (www.chil.org.)

133. The site <http://www.magrama.gob.es/es/ministerio/servicios/participacion-publica/> includes a list of all the projects submitted to public participation. By way of example, at the time this report is drafted, on-going processes include, among others, the 2013-2020 Biodiversity and Natural Tourism Sectorial Plan.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

134. <http://www.magrama.gob.es/es/ministerio/servicios/participacion-publica/> and those indicated in Section 32.

XXIV. EFFORTS 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

135. At State level, the general legal framework is set down in article 24 of State Law 50/97 regulating the procedure for public information and comments in the drafting of regulations. This State provision is complemented by the obligation of public authorities, set down in article 18 of Law 27/2006 to ensure that the necessary guarantees are observed to ensure participation in environmental matters.

136. Article 19.2 of Law 27/2006 establishes that the CAMA must make public all draft legislation on the matters mentioned prior to their approval. Similarly, there are other public bodies (National Council of Water Management, Climate National Commission, Biodiversity...) that facilitate the participation of social agents and the most representative environmental NGOs whose intervention in the drafting processes is compulsory.

137. The implementing regulations of the Autonomous authorities establish the fostering of social participation and the guarantee of effective public information procedures.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

138. Although, as mentioned, several environmental awareness campaigns have been promoted by the different authorities and NGOs, it would be desirable to further stress the necessity of a better understanding of the rights of access to information, public participation and access to justice in environmental matters, specially at the level of Local Governments, given its proximity to citizens.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF ARTICLE 8

139. Through the MAGRAMA's website, drafts of environmental laws and regulations are submitted to public consultation allowing the public and stakeholders to value them and to submit any comments and observations prior to approval. It would be desirable, however, to inform in a timely and individualized way to the environmental NGOs about these publications, given its particular interest in participation.

XXVII. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

140. <http://www.magrama.gob.es/es/participacion-publica/> and those indicated in Section 32.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES THAT IMPLEMENT THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

Article 9, paragraphs 1 and 2

141. Article 20 of Law 27/2006 establishes that a member of the public who considers that an act or, where applicable, an omission attributable to a public authority has impaired his/her rights to information and public participation as recognised by this Law may seek the administrative remedy regulated in Law 30/1992 on the Legal System of Public Authorities and the Common Administrative Procedure. Following resolution of the administrative appeal, if the private party is not satisfied, a judicial review may be sought, as established in Law 29/1998 (13 July) regulating the jurisdiction of judicial reviews. The decisions on the administrative and judicial appeals are binding for the authorities and they must be motivated and notified in writing.

Article 9, paragraph 3

142. Article 22 of Law 27/2006 sets forth the popular action by which appeals may be lodged against acts and, where applicable, omissions attributable to public authorities that contravene the environmental regulations listed in article 18.1 of

Law 27/2006 through the administrative appeals system regulated in Law 30/1992 and the system of judicial reviews established in Law 29/1998. All non-profit legal entities accrediting compliance with the requirements set down in article 23 of Law 27/2006 are legitimated for the exercise of popular action.

143. At national level, popular action, without any prerequisite, is recognized in areas such as urban planning, coastal protection, cultural heritage or national parks, while at the regional level, some autonomous communities, such as the Basque Country and Navarra have established public actions for the general protection of the environment.

Article 9, paragraph 4

144. The general regulations on the procedure for the resolution of administrative appeals and judicial reviews apply. These establish all of the guarantees for ensuring the efficacy and public disclosure of the decisions adopted to resolve administrative appeals and judicial reviews, including the possibility of adopting injunctive measures.

Article 9, paragraph 5

145. Article 58 of Law 30/1992 sets forth the obligation of publishing notices within ten days. These notices must indicate whether the act is final in the administrative system, the applicable expression of appeals, the body to which these should be submitted and the term in which to present them, without prejudice to the fact that stakeholders may carry out, where applicable, any other procedure that they consider appropriate. In terms of the reduction of financial barriers, article 23.2 of Law 27/2006, in accordance with article 119 of the Constitution, establishes that the non-profit legal entities referred to in paragraph 1 of this article will be entitled to legal aid under the terms set down in Law 1/1996 on Free Legal Aid and in its regulation (Royal Decree 996/2003).

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ANY OF THE PARAGRAPHS OF ARTICLE 9

146. Notwithstanding the right to a trial "without undue delays" (Article 24.2 of the Spanish Constitution), the main obstacle to the full implementation of Article 9 lies in the excessive length of judicial proceedings. In this regard, with the aim of expedite the procedures, the Law 18/2011, of 5 July, regulating the use of information technology and communication in the Administration of Justice, was recently passed.

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS IN ARTICLE 9

147. According to data collected by the General Council of Spanish Lawyers, in 2011 there were over 900,000 applications for Legal Aid, which implied that more than 848,000 records were sent from the different Bar Associations to the Legal Aid Commissions, attached to the ACs with competences in Justice or to the Ministry of Justice. An average of 79% of the applications were granted. The top jurisdiction regarding legal aid is the Criminal Jurisdiction, with 64% of the services, followed by Civil (22%), Contentious-Administrative (5%) and Social

(2%).

148. As for the average length of the procedures in the Contentious-Administrative Jurisdiction, where the vast majority of environmental cases are brought, the Judiciary General Council, in its study "Justice: data 2011" provides the following statistics (time is expressed in months):

Contentious-Administrative Jurisdiction Bodies

	2011	2010	2009	2008	2007
Contentious Judges	12,9	12,0	11,1	10,6	10,2
High Court of Justice (CA level)*	25,9	25,7	26,2	29,0	31,6
Contentious Central Judges	16,9	16,0	14,8	11,8	9,2
National Audience*	18,6	17,1	17,6	18,1	18,2
Supreme Court	18,0	17,2	18,8	19,7	21,3

* Single instance

XXXI. WEBSITES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

149. Justice: data 2011

http://www.poderjudicial.es/cgpj/es/Temas/Estadistica_Judicial/Analisis_estadistico
[O](#)

Judiciary General Council:

http://www.poderjudicial.es/cgpj/es/Poder_Judicial

Ministry of Justice:

<http://www.mjusticia.gob.es/cs/Satellite/es/1200666550194/DetalleInicio.html>

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

151. The State, Autonomous and local authorities consider that the transparency and fostering of public participation are key instruments for a modern and democratic environmental policy. Better service to citizens is the reasoning behind the reforms that Spain has been introducing following approval of the Constitution to shape a modern Government. The shaping of a society in which people are perfectly knowledgeable of their rights, empowering them to demand compliance with environmental regulations and play an active role in the conservation and improvement of the environment, is becoming a key element for the effective monitoring and control of government activities.

152. The role of NGOs and environmental organisations has been decisive in raising widespread awareness about environmental issues and promoting legal instruments of control and protection.

152. There can be no doubt that implementation of the Aarhus Convention has served to guarantee a series of rights of access to information, public participation in decision-making and access to justice in environmental matters. However, with the participation of departments with environmental powers from all public authorities and the social partners involved and their activities to raise the profile of the Convention and Law 27/2006, it has also served to become aware of the

importance of the exercise of these rights on the one hand and of the need to respect and foster them on the other.

XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES FOR THE IMPLEMENTATION ON PUBLIC PARTICIPATION IN DECISIONS ON DELIBERATE RELEASE AND PLACING ON THE MARKET OF GENETICALLY MODIFIED ORGANISMS (GMO'S) OF ARTICLE 6 BIS

153. The provisions in this area are: Law 9 / 2003, (April 25), which establishes the legal regime of the contained use, deliberate release and placing on the market of genetically modified organisms; Royal Decree 178/2004 (30 January), which approves the General Regulation for the development and implementation of the Law; Royal Decree 367/2010 of 26 March, amending various regulations in the area of Environment for its adaptation to the legislation on freedom of access to service activities (Law 17/2009 and Law 25/2009) and the Order ARM/2616/2010 (5 October), regulating the composition and operation of the Participation Committee under the Interministerial Council of Genetically Modified Organisms.

154. According to the above-mentioned legislation, the “Competent Authority” at the national level is the Interministerial Council of GMOs and the Biosafety National Commission and at the regional level, each one of the Autonomous Communities in accordance in their respective areas of competence on GMOs.

155. On releasing GMOs into the environment, the following information is considered non-confidential: description of genetically modified organisms; identification of the owner; purpose, place of activity, emergency systems and control measures; evaluation of the effects on human health and the environment; information on deliberate releases made, authorizations of placing on the market , the list of GMOs whose marketing has been authorized or rejected as a product or part of a product; the evaluation reports; the results of the controls on placing on the market; the opinions of the Scientific Advisory Committee.

156. “Public” means any natural or legal person, and "public interested” means any non-governmental organization working on environmental conservation or protection, agricultural unions, labor unions, consumer organizations, human and veterinary pharmaceutical industry, crop and livestock industry.

157. Stakeholders, professional agricultural organizations nationwide, agribusiness cooperatives, consumer organizations and users are represented at the Participation Committee attached to the Interministerial Council of GMOs.

158. As regards non-discrimination requirement of article 3, paragraph 9, Spanish Constitution of 1978 is directly applicable, particularly Article 14 which says that the Spanish people are equal before the law without any discrimination on grounds of birth, race, sex, religion, politics or any other condition or personal or social circumstance.

Paragraph 1 of Annex I bis

159. Article 25 of Royal Decree 178/2004, paragraph 4, provides that the

competent body will submit the proposed deliberate release to public information for a period of 30 days. It also describes what information should be available to the public.

Paragraph 2 of Annex I bis

160. Article 28 of Royal Decree 178/2004 provides for the possibility of establishing separate procedures when sufficient experience in specific ecosystems has been gained and the criteria of Annex VI are fulfilled.

Article 29 of Royal Decree provides for the option of simple procedure when several deliberate releases of plants have been generated from the same host plants cultivated but can differ in any of the sequences added or deleted or inserted sequences.

Paragraph 3 of Annex Ia

161. In case of deliberate release with no intention of placing on the market, article 25.4 of Royal Decree 178/2004, on the procedure after receiving the request, provides that the competent body will submit the proposed deliberate release project to public information for a period of 30. Public information will include a summary of the dossier, including the environmental assessment report.

In case of placing on the market, the second transitional provision concerns the procedure for the renewal of previous authorizations, which is developed in Article 41 of Royal Decree 178/2004.

Paragraph 4 of Annex I bis

162. Article 20.2 of the Law 9 / 2003 specifies which parts of the information provided by the notifiers are not confidential and therefore can be supplied to the public without any restriction.

Paragraph 5 of Annex I bis

163. The MAGRAMA manages a web page that is accessible to the public. Within this website there is a section on Genetically Modified Organisms: <http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia>

On this website, users can find information about the structure of Public Administration in the context of GMOs, how decisions are made and who is responsible for taking them, what are the different ways for public participation and the Ministry's contacts who provide any information relating to environmental releases of GMOs, as well as links to other sites of interest.

Paragraph 6 of Annex I bis

164. Option for access to public participation, both for deliberate release activities and contained use, is available on the Directorate General of Quality and Environmental Assessment website is

<http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg-participacion-publica/>

This web page describes the procedure to be followed by a citizen to submit comments, objections or any additional request of information on any of the two procedures.

Paragraph 7 of Annex I bis

165. Article 16 of Law 27/2006 of 18 July, regulating the rights of access to information, public participation and access to justice in environmental matters, establishes the procedure once a request is made by a citizen through the usual channels.

Paragraph 8 of Annex I bis

166. The third additional provision of Act 9 / 2003 provides that the competent authorities will create public files to compile the location of genetically modified organisms released for purposes other than placing on the market, as well as the location of which are grown in accordance with the provisions of this law for placing on the market.

167. Article 27 of Royal Decree 178/2004, deals with the obligation to report on deliberate releases of GMOs into the environment without intention to sell by the owner of releases.

168. Article 49 of Royal Decree provides that information on authorizations for contained use, deliberate release for purposes other than placing on the market and the placing on the market of genetically modified organisms should be accessible for the public

169. The GMOs section within the above-mentioned MAGRAMA website, contains all the data of the public register and is freely accessible to all citizens.

Paragraph 2 of Article 6 bis

170. All necessary legislative, regulatory and other measures listed above fall within the national biosafety framework and are consistent with the objectives of the Cartagena Protocol on Biosafety, in particular Article 23 on public awareness and participation, and 21 on confidential information of that protocol.

XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6 AND ANNEX I BIS

171. The main difficulty is to establish a clear distinction between information that is confidential and information protected by intellectual property rights. In this sense, the provision of specific data, in particular, exact location of the experimental plots, could jeopardize their own tests with the resulting of economic losses to the company or public institution.

Two reports of the legal services of the State and a decision by the Ministerial

Council of GMOs have been made to clarify the level of detail to be provided within the information, always based on the full compliance with the law.

172. Finally, there have been some cases of vandalism in experimental plots once the geographical coordinates of the position of tests with genetically modified crops have been provided.

XXXV. ADDITIONAL INFORMATION ON PRACTICAL APPLICATION OF THE PROVISIONS OF PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES OF ARTICLE 6.

173. Annual statistics on the number of requests for information on GMOs in the different possible routes (phone, email, mail) are recorded, in compliance with the Aarhus Convention.

XXXVI. WEB ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6.

174. OMGs in the MARM website:

<http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/>

OMG website of the Directorate General of Quality and Environmental Assessment:

[http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg-/](http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg/)

Deliberate public information releases:

<http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg-/participacion-publica/liberacion-voluntaria/>

Public information contained use:

<http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg-/participacion-publica/uso-confinado/default.aspx>

Mailbox for comments and suggestions on GMOs:

buzon-omg@magrama.es

Cartagena Protocol:

<http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/temas/biotecnologia/organismos-modificados-geneticamente-omg-/protocolo-cartagena/>

XXXVII: FOLLOW-UP ON ISSUES OF COMPLIANCE

175. Decision IV/9f on compliance by Spain with its obligations under the Aarhus Convention , welcomed the progress made by Spain in this area, particularly with regard to access to information and public participation , while recognizing the need for further efforts in the area of access to justice , to overcome obstacles to the full implementation of Articles 9.4 and 9.5 of the Convention

176. In this context , the Compliance Committee invited Spain as a Party

concerned to examine in depth , with appropriate involvement of the public, the relevant legislation in relation to access to justice in environmental matters and , in particular , judicial practice in relation with :

- I. Precautionary measures in environmental matters ;
- II. Grant of free legal assistance to environmental NGOs , and
- III. The role of double representation (Barrister and Solicitor) in environmental matters.

177. Also invited to Spain to inform the Meeting of the Parties on the progress made in relation to the fees charged for provision of information relating urban planning and time-frames for public participation in environmental procedures .

178. Regarding the study on access to justice, at the time this NIR is completed, the study is finalized and will be presented at the Meeting of the Parties through the Compliance Committee in due time. The study was prepared by the MAGRAMA in collaboration with the Ministry of Justice and has received adequate public participation as required by Decision IV/9f .

179. In relation to the fees charged for provision of information relating urban planning and time-frames for public participation in environmental procedures, all relevant information is available at the following link:

<http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envppccimplementation/fourth-meeting-of-the-parties-2011/spain-decision-iv9f.html>