

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 Iceland in accordance with decisions I/8, II/10 and IV/4.

Name of officer responsible for submitting the national report:

Mrs. Steinunn Fjóra Sigurðardóttir

Signature:

Date: 8 October 2021

Implementation report

Please provide the following details on the origin of this report

Party: Iceland

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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 Ministry for the Environment and Natural Resources announced on its website 21 July 2021 that the preparation of the report was underway and welcomed any early comments the public or stakeholders might have and wanted to put forward. It also informed that the draft report would be put on the website for comments at a later stage. The same day the Ministry sent a letter to environmental NGOs (Non-Governmental Organisations) and other stakeholders with the same information where the NGOs were invited to put forward early comments if they had any. The letter also informed that once the draft report would be ready it would be sent out to the NGOs and other stakeholders for comments and a meeting would also be called to discuss the draft. At this stage the Government received four response letters, from the Icelandic Environmental Association Landvernd, Iceland Nature Conservation Association, Samorka association of energy and utility companies in Iceland, The Public Health Office in the North West of Iceland as well as one response letter from an individual.

On 1 September 2021 the draft report was published on the Ministry's website and samradsgatt.is and asked for comments before 27 September 2021. The draft report took due account of the development of the implementation of the Aarhus Convention in Iceland since the Government's second report in 2017 and also took notice of the aforementioned response letters.

Four comments were received; from the Icelandic Environmental Association Landvernd, Iceland Nature Conservation Association, Samorka association of energy and utility companies in Iceland and one individual, and they are reflected at the relevant place in this report. A meeting was held on 1 October 2021 with the representatives of Landvernd to discuss the contents of the report and their comments.

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:

No particular circumstances to report.

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.

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

(a)

It is a fundamental general principle in Icelandic legislation that the public authorities are to assist and guide the public. An individual or an organisation does therefore not need to prove any legal interests in order to seek assistance from the relevant public authority.

The Administrative Procedure Act No. 37/1993 (<http://eng.forsaetisraduneyti.is/acts-of-law/nr/17>) contains several provisions on how the public administration is to assist the public, for example the rule on duty of guidance set out in Art 7:

Article 7

Duty of guidance

An authority shall provide those who apply to it with the necessary assistance and guidance in cases that fall within its competence. If an authority receives a written application concerning a matter outside its competence it shall forward the application to the proper authority as soon as possible.

The Information Act No. 140/2012 requires public authorities to guide members of the public on how to put forward their request for information (see Art 15, <https://eng.forsaetisraduneyti.is/acts-of-law/nr/7971>). According to Art 13 a, the public also has access to a public advisor who's role is to improve the public access to information.

(b)

The Ministry for the Environment and Natural Resources is constantly working to ensure the public's access to and awareness of environmental matters. This is for example done via the Ministry's website and social media where the Ministry publishes news and information on current environmental affairs and the work that is ongoing in the Ministry and its agencies, as well as providing platform for an open discussion on these issues. In addition the Ministry as a rule invites a large group of interested parties to participate in its legal work by sending draft bills and draft regulations out to a group of identified stakeholders, including environmental NGOs, as well as publishing them on its website for consultation.

The Ministry's agencies also constantly work towards increased access to and awareness of the environmental matters they are responsible for. This is both done via the agencies' websites and via other means such as information meetings, printed material, social media etc. Furthermore the agencies are in many cases obliged according to law to take the initiative to inform the public about certain matters, such as GMOs, air pollution and more.

The Ministry hosts an Assembly on the Environment (Umhverfising) every other year, in accordance with Act No. 60/2013 on Nature Conservation. According to the act the Assembly shall discuss environment and nature protection and sustainable development. Members of Parliament, representatives of government agencies and municipalities, representatives from the private sector and environmental NGOs shall be invited to the assembly. The first assembly was held in 1999 and has been held every other year since. The assembly has always been open to the public and is a great opportunity to raise awareness of environmental issues in general as well as the current topics each time. It also brings together different stakeholders for a discussion on environmental issues. Each assembly has a theme and the last one held in 2021 focused on climate change, nature conservation and the circular economy.

The Day of the Environment is celebrated every year on 25 April. The day is used to raise awareness of environmental issues for example with a seminar on a specific issue. On this day the Minister hands out two awards. One to companies that have been doing well in the environmental field and one to school children who have excelled in a competition on environmental projects.

The Day of the Icelandic Nature is celebrated on 16 September and the Ministry uses the day to reach out and involve as many as possible, including municipalities, schools, Environmental NGOs, other stakeholders and the public, in celebrating Icelandic nature and raising awareness of the importance of nature.

Countryside Rangers/Nature Guides work in National Parks and other protected areas and have the role to educate the visiting public on the natural history of the area, nature conservation and environmental matters in a larger context. This is done via information centers, printed material, guided walks, children hours and other interaction with the public. Number of employees working for the Environment Agency (full-time) in protected areas and for Vatnajökull National Park were 72 in 2020. The amount of man-years regarding rangers/wardens working during the summer month in 2020 were 34.

The Eco-Schools Programme is an international project (www.eco-schools.org) funded by the government and managed in Iceland by the NGO Landvernd. Eco-Schools are a program for environmental management and certification which aims at enhancing environmental education and to strengthen environmental policy in schools, in particular education for sustainability, one of the pillars of the Icelandic curricula. It also encourages children and students to take an active role in how their school can be run for the benefit of the environment. Schools that fulfil the necessary criteria are awarded the Green Flag for their work, which they keep for two years. School participation in the program in Iceland has increased steadily since the work began in 2001. In 2020 176 schools at all school levels participated in the program.

The Icelandic Government issued Action Plan in 2018 specifying actions to further implement the Aarhus Convention (cf. <https://www.stjornarradid.is/gogn/rit-og-skyrslur/stakt-rit/2019/01/29/Adgerdaaetlun-um-Arosasamninginn-2018-2021/>).

Action 1 of the Action plan contains measures to promote education and environmental awareness. In accordance with Action 1 a symposium on the Aarhus Convention was held in 2018 with the participation of the Compliance Committee's chair. On his stay in Iceland the chair also met with various people, such as specialists from Ministries, the Association of judges in Iceland, the Appellate Committee for Environment and Natural Resources, NGOs and the Minister of Justice, to educate them and discuss the Aarhus Convention. Reforms have been made on the Ministries website and information on the Aarhus Convention are now more accessible to the public. The Ministry also intends to discuss possible reforms with the institutions in question on their websites, which is in accordance with Action 10 of the Action plan. Further education on the convention under Action 1 is proposed in first quarter of 2022.

(c)

The freedom of association is a fundamental right in Iceland, ensured in the Icelandic Constitution. NGOs in Iceland play an important role in public discussions and decision making. The Ministry for the Environment and Natural Resources hosts meetings with Icelandic Environmental NGOs where information is given about the ongoing work in the Ministry and the NGOs are invited to discuss current matters with the Minister and the Ministry's specialists. Normally there is one meeting a year and the Government is

committed to keep that tradition. In addition, representatives of environmental NGOs have been invited to be part of various working groups which the minister appoints. For the period 2018 through 2020, representatives of various environmental protection NGOs and outdoor associations take part in the ministry's various working groups regarding for example environmental impact assessment, air quality, spatial planning, waste prevention, national parks, environmental awards and governance of water policy.

Every year the Ministry allocates financial grants, in accordance with the state budget, in order to facilitate progress in environmental matters. Two types of grants are allocated every year, operational grants to environmental NGOs and grants for individual environmental projects undertaken by organisations or individuals. For the year 2020 the Ministry allocated 67,7 Million ISK to environmental projects and 39 Million ISK for operational grants. The overall amount of the grants is decided on by the Parliament and the Ministry is responsible for the allocation of grants in its field. The grants can be both for the operation of the NGOs in question and for special projects the NGOs or some members of the public take on. Projects such as climate change forests, "Car Free Day", "Plastic Free September" and other various projects to raise awareness on environmental matters, such as education in high schools and for senior citizen and education regarding clothing waste problems are among those that were financially supported in 2020, to name some examples.

It has also been a goal to increase grants to Environmental NGOs, cf. Action 5 of the aforementioned Action Plan from 2018 to further implement the Aarhus Convention. In accordance with Action 5 grants to NGOs were increased in 2019 and 2020, i.e. from 13,4 Million ISK in 2018 to 20 Million ISK in 2019 and 39 Million ISK in 2020.

Environmental NGOs are consulted on draft bills and draft regulations, both by the Ministry and the Parliament. The Government of Iceland has in recent years put emphasis on consultation with the public and stakeholders and the goal is that all governmental bills are put in an open consultation on the web during their preparation stage.

The Government opened in February 2018 a new website (samradsgatt.is) where plans for legislation, draft bills, secondary legislation, plans and programmes are published by all Ministries and the public and other stakeholders encouraged to make observations and comments. Comments and observations are usually all published on the website. The Ministries also publishes main responses to comments and observations on the website. A draft bill on Environmental Impact Assessment of Projects, Public Plans and Programmes (cf. Act 111/2021) was e.g. published in samradsgatt.is on 1 February 2021 and was open for observation and comments until 23 February 2021 ([https://samradsgatt.island.is/oll-mal/\\$Cases/Details/?id=2899](https://samradsgatt.island.is/oll-mal/$Cases/Details/?id=2899)). When the draft bill was presented before Parliament the bill was also a subject to public consultation by the Parliament's Committee on Environment and transport for 2 weeks.

The process has been positive; in 2020 60% (88% excluding Covid-19 bills) of all governmental bills agreed by the Parliament were put in an open consultation compared to the ratio 11-22% during the years 2011-2015. The NGOs have pointed out that the deadlines from the Ministries and the Parliament to provide comments and extensive and complicated observations are often too short.

The goal of Action 6 of the Action Plan from 2018 is to insure a minimum of three weeks deadline as a rule for consultation with stakeholders and the public concerning governmental bills (plans for legislation and draft bills), draft regulations, plans and programmes. In case of an extensive and complex matter the aim is to keep the deadline at a minimum of six weeks.

(d)

Environmental NGOs have on occasion been members of the Icelandic delegation to the UNFCCC COP meetings. As mentioned before it has been the goal to increase grants to Environmental NGOs, which is in accordance with Action 5 of the Action Plan from 2018 to further implement the Aarhus Convention. In accordance with Action 5 grants to NGOs were increased in 2019 and 2020, i.e. from 13,4 Million ISK in 2018 to 20 in 2019 and 39 Million ISK in 2020.

The Ministry for Foreign Affairs consulted with members of the civil society, among them environmental NGOs, when preparing the implementation of the United Nations Sustainable Development Goals in 2016. The Government is committed to consult the civil society about this work on a regular basis, among other things through a special Sustainable

Development Goals Commission.

(e)

The Constitution of the republic of Iceland has a special chapter, Chapter VII, on human rights. Article 73 of that chapter provides every citizen with the right to freedom of opinion and belief as well as the right to freedom of expression. Article 74 of the Constitution provides every citizen the right to form associations. Furthermore the European Convention on Human Rights (ECHR) has been incorporated into Icelandic legislation by Act No. 62/1994 on the European Convention on Human rights and it is an established rule of legal interpretation of Icelandic law that the human rights chapter of the Constitution shall be interpreted in line with the ECHR.

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:

Paragraphs 2 and 3 of Article 3 on guidance to the public and environmental education call for continued work in order to ensure implementation. The Ministry for the Environment and Natural Resources as well as its agencies are constantly working on improving guidance and information to the public on environmental matters. The Ministry will, as a follow up from this report, increase its efforts in ensuring that ministries and other authorities are aware of the Convention and what it entails, as well as promoting education and environmental awareness among the public.

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:

Regarding Article 3, paragraph 3, comments were received that improvement was needed regarding information on the Aarhus Convention. Also that information on environmental matters should be accessible in one place. Observations were also made on the fact that information had not been published on the status of the Action Plan from 2018 on the implementation of the Aarhus Convention and that the Ministry had not implemented all Actions, e.g. measures to promote education. Furthermore that the implementation report should be accessible in Icelandic.

It has also been pointed out before that websites of public institutions should in some cases be more accessible.

In accordance with Action 10 of the aforementioned Action plan reforms have been made on the Ministries website and information on the Aarhus Convention are now more accessible to the public. The Ministry also intends to discuss possible reforms with the institutions in question on their websites, which is in accordance with Action 10 of the Action plan.

In the light of comments received The Ministry intends to issue a status report on the Action plan regarding the implementation of the Aarhus Convention, before the end of 2021. No decision has however been made to translate the implementation report into Icelandic.

According to Act No. 91/1991 on Civil Procedure it is possible to appoint expert judges (assessors) if a case is considered to be extensive or highly important from a general perspective. Action 1 of the Icelandic Action plan contains measures to promote education and environmental awareness. In accordance with Action 1 a symposium on the Aarhus

Convention was held in 2018 with the participation of the Compliance Committee's chair. On his stay in Iceland the chair also met with various people, such as specialists from Ministries, the Association of judges in Iceland, the Appellate Committee for Environment and Natural Resources, NGOs and the Minister of Justice, to educate them and discuss the Aarhus Convention.

It was further commented that public participation in international decision-making concerning marine conservation had not been ensured. It was also questioned that grants to NGO's had in fact been increased.

As said before it has been the Ministers goal to increase grants to Environmental NGOs, cf. Action 5 of the aforementioned Action Plan from 2018 to further implement the Aarhus Convention. In accordance with Action 5 grants to NGOs have encreased; in 2018 they were 13,4 Million ISK, 20 Million ISK in 2019, 39 Million ISK in 2020 and 49 million in 2021. In other respects, reference is made to the governments answer to question (d) regarding paragraph 7, article 3.

Finally comments were made regarding the Assembly on the Environment (Umhverfisþing) which the Ministry for the Environment and Natural resources hosts every other year. The comments state that ministers for the Environment have over the years increasingly emphasized on their own work rather than on strengthening discussion on environmental and nature conservation issues. It was further stated that the participation of NGO's in the preparation of the assembly had decreased.

As said before the assembly has always been open to the public and has been a great opportunity to raise awareness of environmental issues in general as well as the current topics each time. It has also brought together different stakeholders for a discussion on environmental issues and their participation has been increasing over the years. In other respect, reference is made to the governments answer to question (a).

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

www.umhverfisraduneyti.is , www.environment.is , www.ust.is, www.gatt.lmi.is, www.ni.is,

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;
- (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;
- (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;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

In 2003 the EU implemented article 4 of the Aarhus Convention by Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The Directive was incorporated into the EEA Agreement, which Iceland is a party to, by the EEA Joint Committee Decision No 123/2003. The Directive was transposed in Iceland by Act No. 23/2006 on Access to Information on Environmental Matters (lög um upplýsingarétt um umhverfismál). The act ensured the public a right to access to information on the environment without discrimination. The act was however incorporated into Act No. 140/2012 on access to information in 2019 (cf. Act No 72/2019). According to the bill, cf. Act No. 140/2012, no changes were made on the content of the former Act No. 23/2006. Main definitions in the Act are in line with the requirements of the directive.

Definitions:

Public authorities, that is authorities that fall within the scope of the act regarding environmental matters:

1. All public authorities.
2. Legal persons that are at least 51% publicly owned. That does not include legal persons that have applied for or received official listing of shares in accordance with the Act on Stock Exchange, or their subsidiaries.
3. Private persons, insofar they have been entrusted with making an administrative decision or provide a service which is considered a public service by law.
4. The Parliament, the Parliamentary Ombudsman, the Icelandic National Audit

Office, investigative committees and the courts fall outside the scope of Chapter VII of the Act on access to environmental matters.

Environmental information (article 29 of the Act):

Environmental information means any information in written, visual, aural, electronic or any other material form on:

1. The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural heritage including wetland, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction between these elements.
2. Factors, such as substances, energy, noise, radiation or waste, including radioactive waste and the release of any types of substances and factors into the environment that have effect on or are likely to have effect on the elements in the environment that are listed in point 1.
3. Administrative measures in relation to policy making, legislation, plans and programmes and agreements in the field of the environment that have or are likely to have an effect on the elements and factors listed in points 1 and 2, in addition to cost benefit analyses and other kind of benefit analysis that is used in relation to decision making on such measures.
4. The state of human health and safety, including pollution in the food chain, peoples living conditions, cultural sites and built structures, in as much as they are or may be affected by the state of the elements of the environment that are listed in point 1 or the factors that are listed in point 2.

(a) (i) According to Act No. 140/2012 on Access to information any person has the right to access to information without having to state an interest.

(ii) According to art 18 of Act No. 140/2012 on Access to Information access to information shall be given in the actual language and format of the information unless it is already open to the public. When the information is in electronic format the public can choose between receiving it in the format or printed on paper. If the information requested contains many files or the authority is not in a situation to photocopy files, the authority can ask someone else to do the photocopying. In these cases the person can be requested to pay the cost for photocopying.

(b) According to art 17 of Act No. 140/2012 on Access to Information a request for information shall be processed as soon as possible. If a request has not been processed within 7 working days the delay must be explained to the person/legal person who requested the information and it must also be stated when the decision on making the information available will be made. If the request has not been processed within 30 days the delay in processing the request can be taken to the Ruling Committee on Access to Information which will rule on the right to access to information in the case in question.

(c) (i) The public's right to access to environmental information does not apply in following circumstances:

- information that is exempted according to article 6:

1. minutes of State Council meetings and Cabinet meetings, memoranda at ministerial meetings, or the material prepared for such meetings,
2. material prepared by local authorities, their associations or their bodies when this material concerns joint preparations, formulations of proposals or negotiations of these parties with the State on the financial concerns of local authorities,
3. correspondence with experts in connection with or for use in legal proceedings or in investigating whether or not to initiate such proceedings,
4. material related to personnel matters, cf. article 7,

5. working documents, cf. article 8.

- According to article 9 public access is prohibited to material concerning any of an individual's private or financial affairs which would be reasonable or appropriate to keep secret, unless the person concerned gives consent. The same restrictions cover access to material which concerns any important financial or commercial interests of businesses or other legal entities.
- According to article 10 Public access to material may be restricted if such restriction is necessitated by important public interests because of the material containing information on: 1. state security or defence issues, 2. relations with other States or international organisations, 3. economically significant State interests, 4. the business of State-owned or municipally owned institutions or companies insofar as they are competing with other bodies, 5. planned arrangements or examinations under public auspices, if these arrangements or examinations would lose their meaning or not achieve their intended results upon becoming common knowledge, 6. environmental matters such as the location of rare minerals, fossils or rock formations, or the habitats of rare species of organisms, if revealing this material might seriously affect the protection of the environmental aspects to which the information relates.

(ii) Despite (i) the public always has the right to access to information on polluting emissions into the environment, cf. article 31 of Act No. 140/2012.

According to article 32, paragraph 1 of the Act No. 140/2012 public authorities are obligated to make information on environmental matters accessible to the public, cf. article 13. Furthermore, according to paragraph 2, public authorities are always obliged, by their own initiative, to provide information if there is a reason to believe that emissions of polluting substances into the environment may lead to dangerous effects on the health of people or animals.

Public authorities shall regularly in general provide the public with information on government activities (Article 13, paragraph 1 of Act No. 140/2012). They shall also act systematically towards making case files and lists of case materials as well as the materials themselves electronically accessible. The same applies to databases and data files. Ministries shall publish information from their case files electronically. This applies at least to a list of submitted cases from the public as well as letters from the Ministries concerning cases that are being processed in the Ministry. It is also permitted to publish a list of case documents and make them accessible electronically.

- (d) According to the Administrative Procedure Act No. 37/1993 public authorities that receive a request that they are not the right authority to deal with, shall forward the request to the correct authority as well as informing the person who made request thereof.
- (e) If only a part of the file or data in question is exempted access shall be given to the rest of the file/data, if it is possible to separate the two (Article 5, paragraph 3 of Act No. 140/2012).
- (f) A decision to refuse access or partly refuse access must be in writing and reasons given for the refusal, according to Article 19 of Act No. 140/2012 on Access to Information. The decision shall include the opinion on additional access, cf paragraph 2, article 11, and instructions on the right of appeal, cf. article 20.
- (g) According to Article 18, paragraph 3, of Act No. 141/2012 a fee can be charged for printing, photocopying and other costs that may derive from making the requested information available, such as staff costs. The Prime Minister must decide these fees by regulation.

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:

Regarding implementation of article 4 comments have been received before that Act No. 23/2006 on Access to Information on Environmental Matters does not conform well with Act No. 140/2012 on Access to Information which is the general legislation on access to information in Iceland, for example with regard to deadlines. The Ministry for the Environment and Natural Resources took this comment into consideration and the act has now been incorporated into Act No. 140/2012 on access to information (cf. Act No 72/2019). According to the bill, cf. Act No. 140/2012, no changes were made on the content of the former Act No. 23/2006.

Comments were also received that NGO's needed legal advice when appealing cases to the Ruling committee and that the legal cost was significant.

The Government points out that appeal to the Ruling Committee according to Act No. 140/2012 is free of charge.

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:

There are no available statistics on the number of requests made, the number of refusals or the reason for such refusals. The Ministry points out that the verdicts of the Ruling Committee on Access to Information are published on their website.

As said before the Ministry has been improving its website, including information on the Aarhus convention. The goal is i.a. to raise more awareness of the Act No. 140/2012 on access to information.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

www.stjornarradid.is/raduneyti/umhverfis-og-audlindaraduneytid/ and website of the Ruling Committee on Access to Information: <http://www.unu.is/>

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. 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;
- (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;

(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;

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

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

(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;

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

(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;

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

Answer:

Article 5 is implemented via several different acts of legislation. The Administrative Procedure Act No. 37/1993 requires public authorities to establish a complete, factual and legal foundation for every administrative decision made, this includes, in the case of decisions regarding the environment, ensuring that all the relevant environmental information has been collected. Public authorities in Iceland are also obliged to file all case documents.

Iceland has implemented Directive 2011/92/EU on Environmental Impact Assessment (EIA) and Directive 2014/52/EU amending Directive 2011/92/EU, through the EEA Agreement, initially by Act No. 106/2000 on Environmental Impact Assessment (EIA act). Act No. 106/2000 has however now been repealed and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes.

According to the act all projects listed in Annex I of the Directive are subject to an EIA and all projects listed in Annex II of the Directive must be screened in order to determine whether they should be subject to an EIA. When a project is submitted for screening the necessary environmental information must be submitted in order for the National Planning Agency to be able to determine whether the project should be subject to an EIA or not. When a project is subject to an EIA detailed environmental information needs to be gathered and presented via the assessment report.

Gathering and presenting of environmental information is also required when permits (development consent, building permit and operation permit) are applied for and issued.

The operation permit of polluting industry establishes requirements for monitoring and reporting on the operation and its environmental effects.

According to Act No. 140/2012 on Access to Information public authorities are always obliged, by their own initiative, to provide information if there is a reason to believe that emissions of polluting substances into the environment may lead to dangerous effects on the health of people or animals.

The Ministry's agencies all have their own websites where extensive amount of environmental information is published. Public meetings are held when deemed necessary to inform the public on particular issues. For example local meetings on the outcome of environmental monitoring and report of a polluting activity in accordance with its operation permit. Written material is also published and distributed. Furthermore the agencies' employees are always ready to assist the public in finding the information that is wanted.

Iceland has through the EEA Agreement transposed the INSPIRE Directive 2007/2/EC and the implementation, led by the National Land Survey, is ongoing. A National Geoportal has been opened, where metadata for digital spatial data will be accessible, including information on where to access the data and if there are any requirements for using the data or any costs included. The Inspire directive covers all digital spatial data, possessed by public institutions and municipalities as well as spatial data owned by others that can be included, regarding the environment. The aim of the INSPIRE directive and the transposing legislation is twofold, that is to enable the public to access environmental information and to increase the flow of environmental information between public institutions.

Iceland has implemented Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment via the EEA Agreement, initially by Act No. 105/2006 on the Environmental Impact Assessment on public plans and programmes, now by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public plans and

Programmes.

All international Conventions in the field of the environment that Iceland is party to are listed on the Ministry's website with summary and a link to the convention (<https://www.umhverfisraduneyti.is/althjodlegt-samstarf/>).

According to regulation 851/2002 on Green Accounts all activity that has an operation permit must keep green accounts which are audited by independent bodies. The green accounts provide information on the use of raw material and substances and polluting emissions from the activity in question and are published on the Environment Agency's website.

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:

No particular obstacles have been encountered in the implementation of article 5.

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:

No further information.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

<http://gatt.lmi.is/geoportal122/catalog/main/home.page>, www.ust.is,

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. 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;
 - (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;
- (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**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (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;
- (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;
- (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;
- (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;
- (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;
- (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;

(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:

- (a) (i) and (ii) Iceland has implemented Directive 2011/92/EU on Environmental Impact Assessment (EIA) and Directive 2014/52/EU amending Directive 2011/92/EU, through the EEA Agreement, initially by Act No. 106/2000 on Environmental Impact Assessment (EIA act). Act No. 106/2000 has however now been repealed and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes.

As a part of the revision of former Act No. 106/2000 an analysis was performed on certain aspects of the legislation in Denmark, Norway, Sweden and Scotland concerning the environmental impact assessment process. The analysis revealed that the Icelandic act differed in some ways from the legislation in the other countries and more complex. The main goal of the revision of the former act was therefore to increase efficiency and to ensure in the best possible way public participation in the process. The new Act No. 111/2021 prescribes a somewhat simplified procedure including the usage of an electronic data system which is to be used by all competent authorities to provide information and publish decisions on whether a project is to be subject to an EIA, and all other relevant documents, opinions and decisions relating to EIA affairs. The system will be open to the public free of charge and used as a platform for public consultation.

According to the act all projects listed in Annex I to the Convention are either subject to an EIA or must be screened in order to determine whether they might have severe effects on the environment and should therefore be subject to an EIA. Act No. 111/2021 ensures the public and environmental NGOs a right to participate in the EIA process. Regarding proposed activities not listed in annex I of the Convention, Iceland has implemented Directive 2011/92/EU as amended including a threshold criteria for the projects listed in annex II of the Directive.

- (b) According to Act No. 111/2021 the developer of a project that is subject to an EIA shall draft an Assessment Plan, which must be presented to the public. The National Planning Agency is required to inform the public of the project and the plan for the EIA work at an early stage. This gives the public a timely notification of the assessment report which is produced later in the process and introduced to the public and stakeholders for comments.
- (c) According to Act No. 111/2021 the public is given minimum 6 weeks to comment on the assessment report. Where the National Planning Agency finds that a project shall not be subject to an EIA its decision can be appealed to the Environmental and Natural Resources Board of Appeal within one month.
- (d) See above (b)
- (e) See above (b)
- (f) (i) During a screening process, the National Planning Agency shall consult with stakeholders and other relevant entities. The conclusion of the screening progress shall be public information (article 20 of the EIA act). When a project is subject to the EIA act, the National Planning Agency shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report based on information provided by the developer. The information provided by the developer shall be available to the public and the National planning Agency shall consult the public before issuing an opinion on the scope and level of detail of information to be included by the developer in the environmental impact report (article 21 of the EIA act). The EIA report submitted by the developer shall be open for public comments for 6 weeks before the National Planning Agency issues an opinion on the environmental impact of the project (article 23 of the EIA act). A development permit shall be based on the opinion of the National Planning Agency and the authority issuing the permit shall lay out how the permit corresponds to the opinion of the National

Planning Agency (article 27 of the EIA act).

(ii) See above (i). Furthermore, all the information listed in paragraph 6 shall be available to the public according to Act No. 140/2012 on Access to Information, unless some of the exemptions apply.

(g) See above (b)

(h) The deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process. This fundamental principle of public participation, that is that all comments are duly considered before a decision is made, has been reaffirmed in legal rulings on appealed decisions. This also follows from the fundamental rule of investigation stemming from the Administrative Procedure Act.

(i) According to the Administrative Procedure Act No. 37/1993 an administrative decision must be announced to all parties to the decision. According to Act No. 111/2021 a decision on whether a project shall be subject to EIA or not shall be presented to the public and according to the same act the National Planning Agency's Opinion on the EIA of a project shall be presented to the project developer and those who participated in the decision making process by sending in comments or other information and be accessible to the public on the Internet and prominently presented by The National Planning Agency. In practice all decisions and opinions of the National Planning Agency are published on the agency's website. Operation Permits are issued in accordance with Act No. 7/1998 on Hygiene and Pollution Control and regulation 550/2018 based on that act. The issuer of Operation Permits must make sure that applications for permits are accessible for the public. As soon as a permit has been drafted the draft must be made available for the public for comments, giving 4 weeks to comment. Once a decision has been made to issue a permit the permit shall be advertised by the issuer of the permit on its website. In the case of a development consent a decision to issue consent as well as the Opinion of the National Planning Authority, if the project was subject to an EIA, shall be published in the Icelandic Official Journal as well as in a national newspaper within two weeks from the decision of the issuer. The advertisement shall include information on the right to appeal the decision and relevant deadlines in doing so. Some projects that must undergo an EIA are subject to a building permit. Building permits are issued by the local authorities (municipalities) or the Iceland Construction Authority.

(j) This paragraph is implemented in Icelandic legislation by several acts of law. The general rule is that when operating conditions are reconsidered, same rules on public participation apply as when a new permit is issued.

(k) Act No. 18/1996 on Genetically Modified Organisms (GMOs) implements EU Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms. The Act sets out the administrative process for issuing permits for placing on the market and other deliberate release of GMOs. According to the act the public must be consulted before a permit to place GMO on the market is issued. The Environment Agency, which issues GMO permits, shall draft a summary of the application that shall be introduced to the public. The Environment Agency's Assessment Report shall also be made available to the public. Furthermore, the Environment Agency shall hold public meetings or in other way consult the public, as is necessary, before a permit is issued. The public has 30 days from the publishing of the summary to submit its comments.

As is said in (h) above, the deciding authority must take due consideration of all information gathered including the comments (information, analysis or opinions) put forward in the public participation process and this has been confirmed in administrative rulings. Public consultation is extremely important in decisions making regarding the environment, not only to ensure the public's right to express their views, but also to ensure that all relevant information has been gathered before a final decision is made. Public authorities are in many cases bound by deadlines described by law when making decisions but in other cases the authorities decide in each case what is a sufficient time for the public to be able to participate. In many cases extra time is given

if requested. It is also up to public authorities to follow the law and take due account of the public consultation, but the general rule is that administrative decisions can be appealed and reviewed if necessary.

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:

Regarding article 6, paragraph 8, comments were received to Iceland's 1st implementation report and reiterated for the 2nd report regarding Article 12 of the Act No. 106/2000 on Environmental Impact Assessment. Article 12 stated that if a development does not commence within ten years of the opinion of the National Planning Agency on the environmental impact assessment being given, the relevant licensor shall request a decision from the National Planning Agency on whether the developer's environmental impact statement must be revised, in whole or in part, before development consent is granted. The comment states that this article hinders that due account is taken of remarks or information given by public since they could be more than 10 years old.

Act No. 106/2000 has recently been repealed and replaced by a new legislation, i.e. Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes. According to article 27 of the act, the developer must, when applying for a development permit, submit an analysis on whether the premises for the environmental impact assessment have changed. According to Article 28 of the Act the developer of a project or the relevant licensor can at any time request an opinion from the National Planning Agency on whether the developer's environmental impact statement must be revised, if they believe that the basis of the environmental assessment report has changed. If the development does not commence within ten years of the opinion of the National Planning Agency on the environmental impact assessment being given, it is mandatory to request such an opinion from the National Planning Agency.

Comments were also received regarding a complaint before the Compliance Committee, cf. Communication ACCC/C/2019/168, concerning alleged breach of the Aarhus Convention, namely Articles 6, 8 and 9 concerning Icelandic legislation for intensive fish farming, Article 21(2)c of Act No 71/2008 on Fish Farming as amended by Act No 108/2018. In connection with that case, Case No 82787 before the EFTA surveillance Authority (ESA) was also mentioned, regarding complaint against Iceland concerning the application of Directive 2011/92/EC. Both cases are still pending.

In the case before the Compliance Committee the communicant alleged that Article 21(2)c of the Fish Farming Act violates Article 6 of the Aarhus Convention since the licensing procedure does not provide for a public participation before the licensing. In observations to the Compliance Committee the Icelandic Government explained i.a. that the only purpose of Article 21(2)c is to provide for an interim measure under the circumstances where an operating license for a fish farm operation has been annulled due to an error in the licensing procedure.

It was also alleged by the Communicant that the legislative procedure of Act No 108/2018 had not fulfilled the requirements of Article 8 of public participation. The Icelandic Government explained i.a. to the Compliance Committee that the Minister of Agriculture and Fisheries and the Parliament had recognized the urgency of the matter which had led to the decision not to make the draft bill open for comments.

The Communicant alleged as well that Article 21(2)c of the Act violates Article 9 of the Convention since operation licenses granted under that article cannot be brought before a review procedure. The Icelandic Government explained i.a. to the Compliance Committee that the purpose of licenses issued under Article 21(2)c is to prevent unnecessary loss of value and is only valid for a limited period of time. The temporary operation license was an interim measure, with limited durability, subject to strict conditions to either rectify the procedural error or bring the matter before a domestic court and scaled down operation.

In its observations to the Compliance Committee the Icelandic Government further stated its full commitment to meeting the obligations under the Aarhus Convention and welcomed

the review and findings of the Compliance Committee in the matter and declared itself ready to propose adjustments in the legislation as needed.

According to a preliminary assessment of the Internal Market Affairs Directorate at ESA, dated 14 April 2020 (Case No 82787), Iceland has failed to fulfil its obligations under Article 2, 4 to 9 and article 11 of the EIA Directive 2011/92/EC on the assessment of the effects of certain public and private projects on the environment. The background to the case is the same as in the aforementioned case before the Compliance Committee. The granting of temporary operating licenses and temporary exemptions to hold operating licenses to two fish farms. The Icelandic Government granted the temporary operating licenses after the Judicial Committee in Environmental and Natural Resources declared the initial operating licenses invalid because of flaws in the environmental impact assessments. Comments were received that Iceland has not yet repealed the Act, which is not in accordance with the Aarhus Convention.

In a response letter to ESA earlier this year the Icelandic Government provided an explanation of the Icelandic legislation in question. ESA was also informed of the Governments intentions to propose amendments to national law to minimise the risk of any discrepancies between national law and the Directive 2011/92/EC. Also that the Government had introduced a bill to Parliament where the first adjustment to national law was proposed taking into account the views of the Directorate, cf. the aforementioned Act No 111/2021. The Government informed ESA of the ongoing preparation to propose further amendments to the legislation during the next session of the Parliament to address the views of the Directorate.

Comments were finally received which stated that improvements had not been made concerning public participation in the revision of former Act No. 106/2000, cf. Act No. 111/2021 that was passed in Parliament earlier this year.

As stated before, the main goal of the revision of Act No. 106/2000 was to increase efficiency and to ensure in the best possible way public participation in the process. The new Act No. 111/2021 prescribes a somewhat simplified procedure including the usage of an electronic data system for public consultation.

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:

According to the Action Plan from 2018 the National Planning Agency is responsible for Actions 7 and 8 which concern public participation. Action 7 involves a study on the impact of public participation on decisions making concerning planning- and construction projects and action 8 involves preparing a work method to ensure public participation at an early stage in planning processes and processes concerning construction projects.

The study on the impact of public participation according to Action 7 was published on June 16 2021 and is being reviewed in order to evaluate the preparation of a work method to ensure public participation in accordance with Action 8.

Action 9 of the Action Plan involves revision of Act No. 106/2000 on Environmental impact assessment, with the aim to improve public participation. Action 9 has already been completed and the Act has now been revised and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

www.skipulag.is

https://www.skipulag.is/media/attachments/Samrad-vid-almenning-um-skipulagsmal_juni-2021.pdf

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:

Iceland has implemented Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive) through the EEA Agreement, initially by Act No. 105/2006 on the Environmental Impact Assessment on Public Plans and Programmes. Act No. 105/2006 has now been repealed and replaced by Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes. In the Act the public is defined as one or more persons, legal persons, organisations or groups. The Act applies to environmental impact assessment of plans and programmes, as well as any modification to them, that set out a framework for future development regarding issuing or consent of permits for projects listed in the Act.

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:

According to the Act No. 111/2012 on the Environmental Impact Assessment of Projects, Public Plans and Programmes, a proposal for a public plan or programme and an environmental impact assessment thereof shall be introduced to the public. The public must be given 6 weeks to look into the proposal and the assessment and submit its comments before the plan or programme is adopted. The proposal and the assessment must be introduced on the internet. Due consideration must be given to the environmental assessment as well as all comments submitted during the participation period.

XXI. Obstacles encountered in the implementation of article 7

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

Answer:

No particular obstacles have been encountered in the implementation of Article 7.

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:

No further information.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

www.skipulag.is

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:

The goal of Action 6 of the Action Plan from 2018 is to insure a minimum of three weeks deadline as a main rule for consultation with stakeholders and the public concerning government bills (plans for legislation and draft bills), draft regulations (secondary legislation), plans and programmes. In case of an extensive and complex matter the aim is to keep the deadline at a minimum of six weeks.

The Government opened in February 2018 a new website (samradsgatt.is) where plans for legislation, draft bills, secondary legislation, plans and programmes are published by all Ministries and the public and other stakeholders encouraged to make observations and comments. Comments and observations are usually all published on the website. The Ministries also publish main responses to comments and observations.

In some cases Environmental NGOs are asked to appoint a representative in a working group/committee that is preparing the legislation in question (see chapter III, (c)). The Parliament has a separate consultation process with the public, NGOs and other stakeholders during the processing of legal bills in the Parliamentary committees.

According to Article 3 of Government Agreement on Preparation and Finalization of Governmental Bills and Proposals, dated 10 March 2017, it is required that the public is consulted on plans for legislation and its estimated assessment (samradsgatt.is). Governmental draft bills shall as well be open for the public and stakeholders to make comments and observations (samradsgatt.is). It is also required to give account of all relevant stakeholders in draft bills and how it affects them. One is also obliged to describe in the proposal the consultations process the proposal has had, comments that have been received and what affect the consultation had for legislative proposal. The Prime Minister's Office reads through all legislative proposal prepared by other ministries and ascertains that they are according to the aforementioned rules.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

Comments were received regarding a complaint before the Compliance Committee, cf. Communication ACCC/C/2019/168, concerning alleged breach of the Aarhus Convention and Icelandic legislation for intensive fish farming, Article 21(2)c of Act No 71/2008 on

Fish Farming. In connection with that case, Case No 82787 before the EFTA surveillance Authority (ESA), was also mentioned, regarding complaint against Iceland concerning the application of Directive 2011/92/EC. Both cases are still pending.

In the case before the Compliance Committee the communicant alleged i.e. that Article 21(2)c of the Fish Farming Act violates Article 8 of the Aarhus Convention concerning public participation. The Icelandic Government explained i.a. to the Compliance Committee that the Minister of Agriculture and Fisheries and the Parliament had recognized the urgency of the matter which had led to the decision to make an exception from the rule of public participation and not make the draft bill open for comments.

Further discussion of those cases can be found in Chapter XVI of this report.

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:

No further information.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

www.althingi.is, www.umhverfissraduneyti.is

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. 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;

(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;

(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;

(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;

(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;

(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;

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

(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:

Article 9(1) was initially implemented by Act No. 23/2006 on Access to Information on Environmental Matters. The Act has now been repealed by the Parliament and is now part of Act No. 140/2012 on Access to information (cf. Act No. 72/2019). Articles 9(2), 9(3) and 9(4) are implemented by Act No. 130/2011 on Environmental and Natural Resources Board of Appeal. Article 9(5) is implemented with the Administrative Procedure Act No. 37/1993.

(a) (i), (ii), (iii) According to Act No. 140/2012 on Access to Environmental Information, public authority's decision to refuse access to environmental information can be appealed to the Ruling Committee on Access to Information. The same goes for public authority's refusal to provide photocopies or copies of data on other format.

(b) A special ruling committee, Environmental and Natural Resources Board of Appeal, was established by Act No. 130/2011. The aim of the Act was to ensure that members of the public with sufficient interest would have access to a review procedure before an impartial body established by law, to challenge the

substantive and procedural legality of any decision subject to the provisions of article 9 of the Aarhus Convention. According to the Act those who have legal interests regarding the environmental decision in question can appeal to the Board of Appeal. Environmental NGOs, outdoor organisation and other interest organisations, that fulfil a certain criteria, are considered to have sufficient legal interests in the cases of (1) the Planning Authority's decisions on whether projects subject to screening shall be subject to EIA, such as if the applicant considers that certain acts or omissions are in breach of the public's right to participate (2) Decisions on issuing permits (operation permit, development consent, building permit) for projects that fall within the scope of the Act No. 111/2021 on Environmental Impact Assessment of Projects, Public Plans and Programmes, such as if the applicant considers that certain acts or omissions are in breach of the public's right to participate, and (3) decisions on issuing permits according to Act No. 18/1996 on Genetically Modified Organisms. The requirements the organisations must fulfil in this regard is that the organisation must have at least 30 members and it must be in line with the aim of the organisation to appeal the decision in question (article 4 of Act No. 130/2011).

The aforementioned Action Plan from 2018 specifies certain actions (Action 11 and 12) to further insure that the Icelandic legislation is in full consistency with Article 9, paragraph 2-4 of the Aarhus Convention. According to actions 11 and 12 detailed analysis on the Icelandic legislation is to be performed in connection with the implementation of Article 9, paragraph 2-4 of the Convention. Currently the Ministry has been following research work in the University of Iceland on this matter, which is expected to be completed this year. Subsequently, a decision will be made on further actions on this matter.

- (c) This paragraph must be considered to be implemented through the general administrative system. In addition to what is said in (b) the public can take matters to the police if a criminal offence regarding the environment has been committed and in the case of administrative decisions or procedures where it is not possible to appeal to the Board of Appeal the public can file a complaint with the Parliamentary Ombudsman. The Ombudsman's competence covers the public administration as a whole and the ombudsman has substantive powers to access information and other material that may be relevant to his investigation. The ombudsman can adopt Opinion and request public authorities to improve their procedures if necessary. Although the Ombudsman's Opinions do not have the effect of law it is common practice to follow his Opinions and requests. It can also be mentioned that Iceland has implemented EU Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage. One of the comments received during the consultation period claims that Article 9, paragraph 3, has not been implemented correctly in Iceland. The Ministry has been looking further into this issue, cf. answer to question (b).
- (d) Appealing to the Environmental and Natural Resources Board of Appeal is free of charge. The Ministry for the Environment and Natural Resources has for the last years been strengthening the work of the Board of Appeal with extra funds, which is in accordance with action 13 of the aforementioned Action Plan. Appeals can now be filed electronically to the Board and average wait for a verdict has been 2,3 months for the last six months (compared to 9 months and 11 days in 2017) which is a very good result.

In addition, reference is made to answer to question (b) concerning Action Plan from 2018.

- (e) This article is implemented with Article 20 of the Administrative Procedure Act No. 37/1993 and several other acts.

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:

Environmental NGOs have been of the opinion that the implementation of the Aarhus Convention is not functioning well enough as they are not granted standing in all environmental cases. The NGOs are of the opinion that they should, as a main rule, be given standing in all environmental cases and that the current legislation defines too narrowly which cases NGOs can have standing in.

As explained above the third pillar of the Aarhus Convention was legally implemented in Iceland by Act No. 130/2011 establishing the Environmental and Natural Resources Board of Appeal. The Act states that environmental NGOs shall be considered to always have legal interests, that is the right to stand, in cases regarding

- a. The National Planning Authority's decisions on whether projects shall be subject to an environmental impact assessment, such as if the applicant considers that certain acts or omissions are in breach of the public's right to participate.
- b. Decisions on permits for projects that are subject to environmental impact assessment, such as if the applicant considers that certain acts or omissions are in breach of the public's right to participate.
- c. Decisions on permits according to Act No. 18/1996 on genetically modified organisms.

It has been the opinion of the Ministry for the Environment and Natural Resources that this satisfies the requirements of Article 9 of the Aarhus Convention. This understanding has been confirmed by The Supreme Court of Iceland in rulings in cases No. 119/2014 and 677/2013 where it was stated that the Aarhus Convention is correctly implemented in Iceland since the Government has chosen to implement an administrative procedure to ensure the public access to justice in environmental matters. The Ministry points in particular to the fact that Article 9 of the Convention must be read in conformity with Article 6, which refers to the activities that are covered by Annex I (which are the activities mentioned in Directive 2011/92/EU and in Act No. 106/2000).

The aforementioned Action Plan from 2018 specifies certain actions (Action 11 and 12) to further ensure that the Icelandic legislation is in full consistency with Article 9, paragraph 2-4 of the Aarhus Convention. According to actions 11 and 12 detailed analysis on the Icelandic legislation is to be performed in connection with the implementation of Article 9, paragraph 2-4 of the Convention. Currently the Ministry has been following research work in the University of Iceland on this matter, which is expected to be completed this year. Subsequently, a decision will be made on further actions on this matter.

Comments were received regarding a complaint before the Compliance Committee, cf. Communication ACCC/C/2019/168, concerning alleged breach of the Aarhus Convention, and Icelandic legislation for intensive fish farming, Article 21(2)c of Act No 71/2008 on Fish Farming. In connection with that case, Case No 82787 before the EFTA surveillance Authority (ESA) was also mentioned, regarding complaint against Iceland concerning the application of Directive 2011/92/EC. Both cases are still pending.

In the case before the Compliance Committee the communicant alleged i.e. that Article 21(2)c of the Fish Farming Act violates Article 9 of the Aarhus Convention since operation licenses granted under that article cannot be brought before a review procedure. The Icelandic Government explained i.a. to the Compliance Committee that the purpose of licenses issued under Article 21(2)c is to prevent unnecessary loss of value and is only valid for a limited period of time. The temporary operation license was an interim measure, with limited durability, subject to strict conditions to either rectify the procedural error or bring the matter before a domestic court and scaled down operation.

In its observations to the Compliance Committee the Icelandic Government further stated its full commitment to meeting the obligations under the Aarhus Convention and welcomed the review and findings of the Compliance Committee in the matter and declared itself ready to propose adjustments in the legislation as needed.

According to a preliminary assessment of the Internal Market Affairs Directorate at ESA, dated 14 April 2020 (Case No 82787), Iceland has failed to fulfil its obligations under Article 2, 4 to 9 and article 11 of the EIA Directive 2011/92/EC on the assessment of the effects of certain public and private projects on the environment.

In a response letter to ESA this year the Icelandic Government provided an explanation of the Icelandic legislation and informed ESA of the Governments intentions to propose amendments to national law to minimize the risk of any discrepancies between national law and the Directive 2011/92/EC. Also that the Government had introduced a bill to Parliament where the first adjustment to national law was proposed taking into account the views of the Directorate, cf. the aforementioned Act No 111/2021. The Government informed ESA of the ongoing preparation to propose further amendments to the legislation during the next session of the Parliament to address the views of the Directorate.

Further discussion of those cases can be found above in Chapter XVI of the report.

Comments were further received concerning Action 14 of the Governments Action Plan from 2018. According to Action 14 analysis is to be performed on the authorisation of the Appellate Committee for Environment and Natural Resources to seek advisory opinion from the EFTA Court. A question was also raised on whether it wouldn't be better if NGO's had such an authority instead of the Committee.

Action 14 of the Action Plan is under way in the Prime Minister's office. The Ministry is currently working on a draft bill to amend the Administrative Procedure Act No. 37/1993. According to the draft bill which was published in samradsgatt.is earlier this year for public consultation ([https://samradsgatt.island.is/oll-mal/\\$Cases/Details/?id=2876](https://samradsgatt.island.is/oll-mal/$Cases/Details/?id=2876)) independent administrative committees are authorised to decide whether to seek an advisory opinion from the EFTA Court.

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:

No further information.

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

www.unu.is, www.stjornarradid.is/raduneyti/umhverfis-og-audlindaraduneytid/,
<http://umbodsmaduralthingis.is/>

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:

No general comments.

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:

Iceland has not signed or ratified the GMO amendment. However Iceland has through the EEA Agreement implemented Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms.

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:

See above (XXXIII)

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:

See above (XXXIII)

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:

See above (XXXIII)

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:

N/A