

# REPORT OF THE REPUBLIC OF BULGARIA ABOUT THE EXPERIENCE GAINED IN THE APPLICATION OF DIRECTIVE 2003/4/EC CONCERNING PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION

*(based on EC Guidance document on reporting)*

## 1. General description

*Summarize the implementation of the Directive in particular at national and regional level.*

Directive 2003/4/EC on public access to environmental information has been transposed into the Bulgarian legislation with the provisions of the Environmental Protection Act (ZOOS - State Gazette No. 91/25.09.2002) and the Access to Public Information Act (ZDOI - State Gazette No. 55/7.07.2000). National legislation has been harmonised fully with the Directive's requirements.

At national and regional levels the necessary structures have been created for the Directive's implementation, including the procedure for providing access to environmental information. Seminars, meetings and training have been carried out, guidebooks and handbooks published on providing access to information by national and regional authorities. When staffing the present administration several regional structures pointed out the necessity for continuation of staff training in providing access to environmental information.

Information campaigns, seminars, etc. have been carried out in partnership with non-governmental organisations with various public groups about their rights as regards providing access to environmental information. The improved access to environmental information created conditions for greater openness and transparency in the functioning of the state's executive structures at national and regional levels, enhancement of public awareness and culture, more effective public participation in making environmental decisions. The Ministry of the Environment and Water (MOSV) and its structures were given awards by the Foundation *Programa Dostap do Informatsia* (Access to Information Program) for the best institution providing access to public information.

## 2. Experience gained

*Describe which have been, according to your experience, positive and negative impacts of the application of the Directive so far (for instance, increased involvement of civil society/stakeholders in specific environmental matters, facilitating the decision-making-process and implementation of the consequent decisions, administrative burden, etc.)*

In Bulgaria the beginning of the process of the Directive's implementation coincides with the preparation for ratification of the Convention on Access to Information, public participation in the decision-making process and access to justice on environmental issues. Bulgaria has been a party to the Convention since 16<sup>th</sup> March, 2004. Many activities were carried out in Bulgaria in connection with the Convention ratification, financed mostly by international projects (mainly under the Stability Pact) for the preparation of ratification, harmonization of legislation, training of various society groups, the publication of manuals and information materials, conferences, seminars, etc.. In this sense, the implementation of the Directive and Convention in the country have been one common process, which significantly increased awareness and public participation in the decision-making process on environmental issues. There is increasing interest from business, scientific organisations and non-governmental organisations towards the access to environmental information. There are some difficulties with requests for access to information, when the requested information has been vaguely formulated, the relevant period has not been indicated, etc.

## 3. Definitions (Article 2)

3.1 *Have you encountered any particular difficulties relating to the interpretation and management of the definition 'environmental information'?*

There aren't any particular difficulties relating to the interpretation and management of the definition 'environmental information'. The Articles of Chapter Two of the Environmental Protection Act are clear enough in this respect.

*3.2 According to your national/regional situation, give examples of the types of bodies that have been found to be covered by the provisions of Article 2, paragraph 2, letter b, "any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment.." and letter c, "any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (a) or (b) " ? Where appropriate, formulate suggestions on how the meaning of the definition 'public authority' may be further clarified.*

The Act clearly specifies the persons covered by the provisions of Article 2, paragraph 2 of the Directive. We consider that at this stage no further clarification of the definition 'public authority' is necessary.

Under Article 21. (1) of the Environmental Protection Act competent authorities in connection with environmental information are the central and local executive authorities that collect and hold information relating to the environment.

(2) Competent authorities in the sense of item 1 are also other bodies and organisations managing finances from the consolidated state budget and collecting and holding information about the environment, excluding the legislative and judiciary authorities.

(3) (new – State Gazette 77/2005) Obligated to provide environmental information under this chapter is also any natural or legal person who provides community services related to the environment, and engages in this activity under the control of authorities and organizations under Items 1 and 2.

The types of persons found to be covered by the provisions of Article 2, paragraph 2, letters b) and c) of the Directive according to Bulgarian legislation are natural or legal persons carrying out activities on the basis of registration documents and modes issued by MOSV and its structures, such as depot operators, etc. Such persons may also be the experts registered in a public register of MOSV - Bulgarian and foreign natural persons who carry out environmental assessment (EA) and environmental impact assessment (EIA) of plans, programs and investment proposals for construction, operations and technology or their amendments, in the conduction of which significant environmental impacts are possible.

*3.3 Do you have any other observations relating to the practical application of Article 2?*

No difficulties have been observed with the practical application of the definitions in Article 2 of the Directive.

#### **4. Acces to environmental information (Article 3)**

*4.1 What are the practical arrangements as referred to in Article 3(5) c), set up by, in particular, national and regional authorities? Please provide examples of these practical arrangements.*

According to the provisions of the Access to Public Information Act (APIA) Art. 15. (1) In order to achieve transparency of the administration's activities and for maximum facilitation of access to public information, every chief officer of an administrative structure within the executive administration system shall publish on a regular basis up-to-date information containing:

1. description of his/her powers as well as data on the organizational structure, the functions and the responsibilities of the administration led by him/her.
2. list of the acts issued within the scope of its powers;
3. description of the databases and resources, used by the respective administration,
4. the name, the address, the telephone number and the working hours of the respective administration's office which is authorized to receive applications for access to information.

According to the amendments of the APiA of 2008 this information shall be published on the websites of administrative structures in the system of executive power as well as the existing internal rules on access to public information and procedures for access to public records held by the administrative structures in the system of executive power.

The following practical measures have been undertaken at national and regional levels:

1. Access to public information, including environmental one, is actually provided by national and regional authorities by introducing the principle of administrative service of citizens – the so-called "one stop shop" sector, where you can apply for access to information, including environmental. Applications for access to environmental information can be sent electronically, by electronic signature - through the internet pages of MOSV and its structures. This form is in its initial stages of application.
2. Personnel have been assigned to handle access to environmental information at MOSV and its subordinate organizational structures (the Executive Environment Agency (EEA) and territorial structures of the ministry, regional inspectorates for environment and water, basin directorates and directorates of national parks).
3. A register is kept of the incoming written applications for access to environmental information at MOSV and its subordinate organizational structures. The register contains databases for the number of applications for access to environmental information, the type of information requested, the number of decisions for providing access to information, the number of refusals for providing access to information with the relevant motives.
4. Procedures (internal regulations) have been confirmed at national and regional levels about providing access to environmental information.
5. EEA maintains a National electronic catalogue of sources of environmental information, accessible via the Agency website. The National catalogue of sources of environmental information contains data about where and what environmental information is stored in Bulgaria, in what format, and what the procedures for access to it are.
6. MOSV maintains an electronic List of acts issued in pursuance of the powers of the Minister for Environment and Water and its relevant subordinate organizational structures. The List is accessible via the Ministry Internet website.

*4.2. In which way has it been ensured that the public has adequate information of the rights they enjoy, as referred to in Article 3 (5) last paragraph?*

The adequate information of the public about the rights conferred to them regarding the access to environmental information is done via various channels:

1. The carrying out of information campaigns, seminars, training for various public groups in partnership with non-governmental environmental organizations and distribution of information materials relating to the provision of environmental information and advice in this respect
2. Information has been provided at the internet websites of MOSV and its structures regarding the rights of the public related to environmental information access, the order of its receipt, charges, etc..
3. Through the public information centres and the 'one stop shop' sector of MOSV and its structures the public obtain information about their rights of access to information, as well as advice and instruction in this respect.

*4.3 Do you have any other observations relating to the practical application of Article 3?*

Bulgaria has no difficulties with the practical application of Article 3 of the Directive.

## **5. Exceptions (Article 4)**

*5.1 Amongst the possible exceptions listed in Article 4, which ones have been retained in the implementation of the Directive, to refuse access to environmental information?*

The following grounds specified in the Directive have been used to refuse access to environmental information in Bulgaria:

1. Request refers to materials being prepared – Article 4.1 .(d);
2. The interest or protection of the person that voluntarily provided the requested information – Article 4.2. (g).

*5.2 Have the Member States or regions issued any guidance (such as circulars or guidelines) governing the granting of exceptions?*

MOSV has developed Guidelines for providing access to environmental information, which also includes the exceptions for access to information. The non-governmental organisations working in the access to information sphere also prepared and issued guidelines on access to information, including exceptions. The 'Access to Information Programme' Foundation, for example, developed or translated and adapted for the country a series of handbooks and manuals relating to access to information such as 'How to obtain access to environmental information?', the Manual for civil servants 'How to apply the Access to Public Information Act', 'How to obtain access to information', and others.

*5.3 Have any steps been taken to ensure the accessibility of a list of criteria, as mentioned under Article 4(3), on the basis of which the authority concerned may decide how to handle requests?*

In Bulgarian legislation (APIA, EPA, the Privacy Act, the Protection of Classified Information Act and other. Enactments) exceptions for access to public information, including environmental information are very clearly defined and detailed. In this respect there has been no need to develop a specific list of criteria on how to handle requests as specified in Article 4, paragraph 3 of the Directive.

*5.4 Do you have any other observations relating to the practical application of Article 4?*

Bulgaria has no difficulties with the practical application of Article 4 of the Directive. Compared with the total number of applications for access to environmental information the number of refusals or partial access to environmental information is very small. Some MOSV structures have not had cases of refusal for access to environmental information.

## **6. Charges (Article 5)**

*6.1 According to Article 5 (2) public authorities may make a charge for supplying environmental information. Have public authorities fixed such charges? Please give examples of what measures public authorities have implemented on charging.*

According to the APIA, access to public information is free, only charges for the provision of information are due. Costs for providing the information have been specified by the Minister for Finance (Order № 10 of 10.01.2001 of Ministry of Finance laying down norms for the cost of providing public information under APIA by the type of publication, published. SG. 7 of 23.01.2001), and they may not exceed the material costs of providing.

The available primary information and the available pre-processed environmental information are paid for under the conditions and regulations of the APIA (Article 28 of EPA). For the provision of specifically processed information payment is negotiated for each case (Article 29 of EPA).

*6.2 Please explain how it has been ensured that the applicants are aware of the relevant schedule of charges and circumstances in which a charge may be levied or waived.*

The Order of the Minister for Finance (№ 10 of Ministry of Finance of 10.01.2001) for determining the norms for the cost of providing public information under APIA by the type of publication has been published in the State Gazette (SG. 7 of 23.01.2001). Information about the amount of charge and the variants for its payment is posted on the website of MOSV and its structures.

Each decision on access to public information contains information on the amount of charge due, the basis for the charge, the manner of its formation and terms of payment.

*6.3 Do you have any other observations relating to the practical application of Article 5?*

No difficulties have been observed with the practical application of the definitions in Article 5 of the Directive.

## **7. Access to justice (Article 6)**

*7.1 What kind of review procedure is provided for an applicant in cases mentioned in Article 6(1) ? Please specify the appointed authority or independent body.*

According to Article 40. (1) (Ammend. - - SG. 30 of 2006, in force from 12.07.2006, amend. - SG. 49 of 2007) of APIA the Decisions for providing access to public information or refusal of providing access to public information can be appealed at administrative courts or the Supreme Administrative Court depending on the authority which issued the act, under the Administrative Procedure Code (APC).

(2) (Ammend. - - SG. 30 of 2006, in force from 12.07.2006,) Decisions on granting access to public information or refusal to provide access to public information to subjects under art. 3, para. 2 can be appealed at the district courts under the Administrative Procedure Code.

*7.2. What kind of procedure is provided for an applicant in cases mentioned in Article 6(2)? Please specify the institutions entitled to review.*

Review of decisions on access to environmental information is made pursuant to a court ruling repealing the order issued by the competent authority, which denied access to public information. Procedures are governed by Articles 40-41 of the Access to Public Information Act.

It is also possible, before the court procedure, to initiate a procedure on reopening of the proceedings on issue of the administrative acts under Chapter Seven of the APC in the presence of: an enacted administrative act, which has not been contested before the court and the presence of some of the grounds under Art. 99 of the APC. The same text defines the authorities competent to handle such proceedings - the immediate higher administrative body, and if the act had not been subject to contestation by administrative order – by the body that issued it.

*7.3 Is the decision issued by the institution referred to in question 7.2 final? If not, please specify what kind of procedures could follow this one to get a final decision?*

The second instance appeal is at the Supreme Administrative Court.

*7.4 Do you have any other observations relating to the practical application of Article 6?*

There have been few refusals for access to environmental information, hence, few appeals.

## **8. Dissemination of environmental information (Article 7)**

*8.1 What measures have been taken to ensure that public authorities organise the environmental information with a view to its active and systematic dissemination among the public, in particular by means of computer telecommunications and/or electronic technology?*

According to Article 25a. (1) of the EPA The competent bodies and persons shall create an Internet website and maintain through it an information database about the environment which is free of charge and publicly accessible.

(2) The database under (1) shall contain at least the following information:

1. texts of international agreements, conventions or accords and legislation connected with the environment;

2. environment-related strategies, plans and programs

3. reports of the progress or the implementation of the acts and the documents of items 1 and 2 if such have been worked out or maintained in electronic form;
4. national and regional reports about the environment status as well as other environment status reports required by the law or by a by-law normative act;
5. data or summarized data incoming from the monitoring of the activities which impacts or can impact the environment;
6. public registers under this Act or other special Acts about the environment.

According to Article 31 of the EPA the national public radio and TV operators shall in their programmes:

1. disseminate information about environment preservation and management;
2. ensure protection of the right to information about the environment status;
3. promote the knowledge, the scientific and technical achievements in the field of environment protection by transmitting Bulgarian and foreign educational programmes.

The Executive Environment Agency (EEA) maintains a National electronic catalogue of sources of environmental information, accessible via the Agency website. The National catalogue of sources of environmental information contains data about where and what environmental information is stored in Bulgaria, in what format, and what the procedures for access to it are. MOSV maintains an electronic List of acts issued in pursuance of the powers of the Minister for Environment and Water and its relevant subordinate organizational structures. The List is accessible via the Ministry Internet website.

A system is maintained for providing information to the population about above-standard presence of sulfur dioxide, nitrogen dioxide, particulates and lead in ambient air and ozone in ambient air. Pursuant to the requirements of normative documents relating to the various environmental components and factors and the impact on them. MOSV and its structures are required to provide the public with certain types of information. For example, a public debate conducted in accordance with EPA in the EIA procedure, which is a separate stage of the procedure for adopting a decision on EIA, the procedures under which permits are issued - for water, use of water, waste disposal, the procedures to exclude or increase the protected areas, procedures for issuing an integrated permit - public access to the application and subsequent public access to the integrated permit, etc. The public shall be informed about the drafting of normative documents, strategies, programs, activity plans and others. related to the environment by placing them on the websites of MOSV and its structures, as well as on the portal of the Council of Ministers for public consultation.

MOSV and all its structures have Internet websites in which the volume of information is continuously increased and updated, in keeping with the regulations. Public information centres function in the Ministry and its structures. Information-and-education campaigns are organized to raise the awareness, environmental consciousness and culture on environmental issues of various public groups and especially of young people. Information materials are issued related to environmental status and protection. Some municipalities, together with the regional structures of MOSV, maintain electronic information boards in busy places with updated information about the state of the environment.

#### *8.2 What are the measures taken to ensure that information is updated as appropriate?*

According to Article 25a.(3) of EPA the information under Article 25a. (2) of EPA is periodically updated. MOSV and its structures have appointed staff to update information on the Internet websites of the Ministry and its structures.

#### *8.3 Is there an obligation to report on the state of the environment, at national, and also at regional and local levels, and if so, according to what timetable?*

According to Article 22. (1) of EPA, the Council of Ministers submits annually to the National Assembly a report about the environment status, proposed by the Minister for Environment and Water, which, after its approval, is published as a National report about the environment status and protection. The report is submitted to the National Assembly within three months' time of the provision of data and information by the National Statistics Institute.

According to Article 22. (3) of EPA the Regional inspectorates for environment and water prepare every year before April 30 regional reports about the status of environment on their respective territory for the previous year. The contents and the scope of the regional reports are determined with instructions of the Minister for Environment and Water.

Apart from the annual reports MOSV and its structures issue semi-annual, quarterly, monthly and weekly bulletins about environment status.

#### *8.4 What mechanisms are used to publicize these reports?*

Reports on the state of the environment at national and regional levels are placed on the websites of the EEA and regional inspectorates. The reports are distributed to various public groups in paper and electronic format.

#### *8.5 Do you have any other observations relating to the practical application of Article 7?*

Bulgaria has no difficulties with the practical application of Article 7 of the Directive. Owing to the more widespread usage of the electronic means of information, the volume of environmental information made actively available to the public increased several times in recent years and continues to increase.

### **9. Quality of environmental information (Article 8)**

#### *9.1. What are the measures taken to ensure that any information that is compiled by public authorities or on their behalf is up to date, accurate and comparable?*

The quality of environmental information is regulated in Chapter eight of the EPA - the National System for Environmental Monitoring. According to Article 144 (2) of the EPA 'The National networks for monitoring of environment shall be designed and established in compliance with the national, European and international standards' as well as 144 (5) of the EPA – 'The measuring and the laboratory trials shall be implemented by accredited laboratories.'

All EEA laboratories have been accredited under BDS EN ISO/IEC 17025. The information gathered from legal or natural persons is subject to verification, including in-situ one, before being accepted.

#### *9.2 To ensure that information is comprehensible, accurate and comparable, the method used in compiling the information is important. Have you received any requests about the method used? Please give any other information you consider useful.*

No requests about the method used have been received.

#### *9.3 Do you have any other observations relating to the practical application of Article 8?*

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### **10. Statistics**

*Where statistical data has been collected on the items below, it would be useful to forward this data to the Commission:*

- *Number of requests made.*

**In MOSV for the period 1.01.2007 - 31.12.2008** there were **539** requests for access to public information on record. **In the EEA** there were **231** such requests.

There were **1197** requests **in the sixteen regional inspectorates on environment and water.**

There were **523** requests on record **in the four Basin Directorates.**

There were **40** requests on record **in the three National Park Directorates.**

- *Areas to which areas the requests for information relate.*

All environmental components and factors, NATURA 2000, EIA, ecological assessment, permits, etc.

- *Percentage of requests handled within the one-month period and those within the extended term.*

According to Article 28 (1) of the APIA applications for access to public information shall be considered within the shortest possible time, but not later than 14 days as of date of registration.

According to Article 31 (1) of the APIA this period may be extended with not more than 14 days, also when the requested information is a matter of concern to a third party and his/her consent is needed for its disclosure.

No representative information has been gathered.

In **MOSV, for instance**, 211 decisions/replies were issued within the legally determined term of 14 days. 31 decisions/replies were issued within the legally determined extended term. 274 decisions/replies were issued after the term.

- *Percentage of requests accepted/refused; in the case of refusal, please give a breakdown by exemption cited in support of the refusal.*

**7 decisions were issued in MOSV for refusal to provide public information on the grounds** that the requested information relates to the preparatory work of an act of the bodies, and has no significance in itself, according to Article 13. (2) 1. of the APIA.

No decisions for refusal or for provision of partial access to information were issued at **EEA** for the period.

**In the regional environment inspectorates the decisions for refusal to provide information were for 15 requests**, on the basis of Article 37. (1) 2. in relation to Article 13. (2) 1. of the APIA, refusal was received from third parties involved about providing the requested information, which is also related to the preparatory work on the issue of an individual administrative act and has no significance in itself.

**In the Basin Directorates 7 decisions for refusal** were issued, on the basis of Article 37. (1) 2. in relation to Article 13. (2) 1. of the APIA, refusal was received from third parties involved about providing the requested information, which is also related to the preparatory work on the issue of an individual administrative act and has no significance in itself.

**There was no decision for refusal of access to information in the National Park Directorates.**

- *Number of procedures introduced according to Article 6.1 and 6.2 of the Directive; average duration and average cost of the procedures; percentage failures and successes at the end of the procedures.*

No representative information has been gathered.

As the number of refusals for the period is small, the procedures introduced according to Article 6.1 and 6.2 of the Directive were also very few.