



Miljøministeriet

# Danmarks 6. rapport om Århuskonventionen

Engelsk version

April 2021

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

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Name of officer responsible for  
submitting the national report:

Nathalie Sabbagh

Signature: 

Date: 29. April 2021

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**Implementation report**

**Please provide the following details on the origin of this report**

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**Party: Denmark**

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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.*

The report for the fifth reporting cycle has been based on the report from the fourth reporting cycle and has been updated with new information.

In the period September 22, 2020 – November 6, 2020 a national consultation on the content of the report took place. The relevant governmental agencies were also consulted. 11 hearing replies were received which have been integrated in the rapport.

In both public consultations a wide range of state and regional authorities, interest organizations, citizens and enterprises were consulted, and at the same time the draft reports were made public available on the internet.

The full report in Danish and English and a memorandum of both public consultations will be made available at [www.mim.dk](http://www.mim.dk).

## 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).*

Due to the length limit of 13.000 words the English edition of the report is shorter than the Danish edition. I.e. the listing of Danish legislation is excluded in the English edition. Furthermore, it has been necessary to delete those section headings, where we don't have anything to report. Relevant website addresses can be found in the Danish 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

**(a)**

A fundamental principle of the Danish administrative process is that as far as possible and without having to fulfill special requirements, the individual should be able to refer to administrative authorities regarding a case. The administrative authorities ensure that the individual receives the legal status provided for in legislation.

The Public Administration Act contains a number of general regulations regarding the administrative process that provides citizens with various rights and requirements in relation to the processing of administrative cases.

The Access to Public Administration Files Act contains the general regulations on when a public administrative authority is obliged to allow access to documents received or prepared by an administrative authority as part of its administrative case processing. The Act applies for anyone who requests access to specific documents or documents in specific cases. The authority must always consider allowing access to documents to a greater extent than that stipulated in the Public Administration Files Act, unless otherwise provided for in other regulations, such as regulations on the duty of confidentiality etc. On 1 January 2014 an act on Access to Public Administration Files entered into force. For more information see page 7.

The Act on Access to Information Relating to the Environment (Environmental Information Act) supplements the Public Administration Act and the Access to Public Administration Files Act with regard to information on the environment.

The principle in Danish administrative law on good administrative practice is a generic concept for the overall ethics-based principles regarding the behavior of authorities towards citizens. The principle is primarily used by the Ombudsman as a basis for assessment of case processing by the authorities.

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According to the Public Administration Act an administrative authority must provide all guidance and assistance necessary to people who refer enquiries within the auspices of the authority. If an administrative authority receives a written enquiry that is not within its area of responsibility, the enquiry must as far as possible be forwarded to the correct authority.

The Public Administration Act states that any decision which is notified in writing and which can be appealed to another administrative authority must be accompanied by guidance on appeals. The guidance on appeals must be provided in writing in connection with the notification of the decision and it must state the authority representing the body of appeal and provide information on how appeals are to be submitted, including any time limits. Decisions that may be brought before the courts under due observance of a statutory time limit for the proceedings of the case must be accompanied by information hereon.

**(b)**

The Ministry of Environment (MIM) is constantly working to ensure citizens access to information on environmental issues in a large number of areas, for example on the Ministry's websites. Printed material is issued when considered appropriate in order to reach the relevant target groups for a given environmental message. Furthermore, the Ministry has provided the opportunity to take part in the decision-making process by sending bills, proposed statutory orders, guidelines, plans and programs for hearing to a large cross section of interested parties, as well as making proposals available on the Internet. According to the current act on Access to Public Administration Files there is, with certain exemptions, access to existing information on data contained in databases. When establishing new databases, the administrative authorities are as a main rule required to produce specifications on the information contained in them.

MIM aims at promoting the strategy "Active Environmental Dialogue – Open Ministry", where groups of interest are invited to engage actively in a direct dialogue with the ministry as part of the work within the ministry regarding new policies and strategies linked to a specific field of expertise, but also in the ongoing bilateral dialogue with groups of interest.

MIM has made contributions to the EMU portal ([www.emu.dk](http://www.emu.dk)). This is a website with ideas for the educational sector, where they can access inspiration for environmental issues in teaching etc.

In 2019 The Danish Environmental Protection Agency launched the website [www.miljotilstand.nu](http://www.miljotilstand.nu), which is a digital reporting of the state of the environment in Denmark. The user is presented with 50 environmental indicators, which are continuously updated with the latest measurements and analysis. The website replaced the previous environmental status reports that were published every 4 years.

In 2020 the website [arter.dk](http://arter.dk) was launched in betaversion. The portal is developed in cooperation with The Danish Environmental Protection Agency and The State Museum of Natural History.

Arter.dk collects all public and private species data, eg data from the nature monitoring program NOVANA, research data from universities and private species data from associations, such as the Danish Botanical Society and the Danish Sport Fishermen's Association. Citizens themselves will also have the opportunity to report species data that have been observed in nature. Arter.dk will gradually be opened as data on the various species is gathered and ready. The first full version of the portal is expected to be ready in late 2020. After this, there will be an opportunity to further develop functionalities and continuously add datasets.

Different information campaigns about invasive species have been developed in the period 2017-2020. The campaigns have conveyed widely about invasive species,

At the end of 2019, the Danish Environmental Protection Agency published a cookbook on invasive species. The purpose of the book was to spread knowledge about invasive species and create awareness about the species that are undesirable in Denmark. The book

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contributes to an increased focus on invasive species and their detrimental impact on native biodiversity.

The Danish Environmental Protection Agency is running a project for whose goal is to gain greater knowledge about the distribution of marine invasive species in Denmark through an eDNA test. In addition, the purpose is to spread knowledge about invasive species for high school students who take the samples.

Danish Environmental Protection Agency completed a campaign aimed at boys and girls between the ages of 13-17. The focus was to increase awareness of perfume allergy and get young people to replace one or two products with perfume-free products, thus lowering the risk of skin allergies.

The Danish Environmental Protection Agency focused on chemistry in e.g. toys when parents shop online for children. The focus was especially on webshops outside the EU that do not have to live up to EU security requirements.

Information campaigns was made in 2019 for car owners about the largest climate-damaging F-gas R134A, which is used in the air conditioning of cars. The purpose of the campaigns was to inform private individuals about the applicable rules and sanctions and thereby limit the violations and ultimately the inappropriate consequences for the climate.

In collaborate with the Consumer Council Think and 21 European partners, the Danish Environmental Protection Agency developed an app for smartphones in 2020 called 'Check the Chemistry'. The app aims to help consumers gain knowledge about candidate list substances in consumables (products and goods).

The Danish Environmental Protection Agency implemented the 'Natural Talents' campaign, which purpose is to inform young boys and secondarily their parents about the risk of perfume allergy. The focus was on getting the young people to replace one or more products with perfume-free products and thus lower the risk of skin allergies.

The Danish Environmental Protection Agency conducted the information campaign "Do-it-yourself as a professional", which was targeted at the do-it-yourself segment. The main message was that people should remember to follow the safety instructions, especially protective masks, when working with particularly problematic do-it-yourself products.

An information campaign for consumers and for the retail trade has been completed. The purpose was to give the consumer the opportunity to make an informed choice and thereby the opportunity to demand outdoor clothing that has not been treated with fluorides. In addition, the purpose was to help deal with details in detail to guide consumers on choice / opt-out when buying outdoor clothing.

In 2018, Denmark's Nature Cannon was launched. The purpose was a special communication effort to the Danes about Denmark's nature, as well as to inspire everyone to seek out more nature and outdoor experiences in their everyday life and leisure. The nature cannon set the scene on 15 nature areas in Denmark, which is a very special experience to visit.

The campaign "Nice by Nature" was launched in 2018. The campaigns were created in a collaboration between the Danish Environmental Protection Agency, the Danish Outdoor Council, the Danish Nature Agency and the Danish Sports Confederation. The purpose was to inform about the rules of nature, but also to inform on how to behave in nature. In the years 2017-2018, the focus was on good behavior around dogs in nature, then waste and most recently meetings between mountain bikes and nature's other users. In 2020, the focus was on five topics: waste in nature, dogs on a leash, bonfires on legal places, to make room for other and take care of nature.

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The Danish Environmental Protection Agency carried out the campaign "Take care of health and the environment when working with primer", which was an information campaign aimed at citizens and focused on the use of biocidal primer for pleasure boats, and how to protect yourself and the environment Annual recurring garden campaign

The Danish Environmental Protection Agency has compiled a number of good advice on [mst.dk](http://mst.dk) about a spray-free. The councils aim is to help garden owners who want tips for dealing with weeds and pests in the garden without the use of pesticides.

Every year, the Danish Environmental Protection Agency completes an information campaign aimed at private garden owners to inform about the rules and how to care of a garden without pesticides.

In 2019-2020, the Danish Environmental Protection Agency launched a campaign against cigarette butts. The target group was smokers of all ages. The purpose was to make them aware that cigarette butts are plastic waste that do not belong in nature and to suggest solutions to get rid of the shutter in different situations.

A campaign about not throwing dogbags was completed from 2019-2020. The campaign was targeted dog owners and focused on dog bags not to be left in the wild.

An information campaign about scrapping old stoves was launched in 2019. The campaign's focus was to accelerate the replacement of older stoves, produced in 1994 or earlier. The goal was to replace as many old stoves as possible and buy new and less environmentally harmful oven or buy a more environmentally friendly form of heating.

The Danish Veterinary and Food Administration launched a control campaign on the use, registration and storage of the drug zinc. The aim of the campaign was to control and guide farmers and the registration of the drug zinc for pigs.

In 2014 The Danish Environmental Protection Agency (hereafter EPA) launched teaching website called "Mind the Trash", to teach students attending 4th-6th grade in elementary school about waste and resources. To the website is in 2016 added teaching resources regarding food waste.

The EPA implemented in 2015 the campaign "Know your Waste". It is an information campaign for citizens/households, which focuses on the benefits of sorting waste to recycling.

In 2015 and 2016 the EPA implemented a campaign on how to discard outworn vehicles in an environmentally correct manor.

The EPA and the Danish Outdoor Council jointly administer the Nature Guide Scheme with about 400 nature guides, who promote knowledge and understanding of nature and the environment. Each year approximately 30.000 activities for a total of approximately 1,000,000 participants are carried out.

The Danish Information Centre for Climate Change Adaptations web portal (<http://en.klimatilpasning.dk/>) provides information for authorities, businesses and private citizens on climate change and contains a number of case descriptions of adaptation measures. It includes the possibility to view graphic climate data, interactive tools and systems.

The Danish AgriFish Agency is constantly working to ensure citizens access to information on environmental issues. This particularly applies to the agricultural use of fertilizers, including i.a. a fertilizer account for each farmer published on the website of The Danish AgriFish Agency. In addition once a year The Danish AgriFish Agency publishes guidance on its website on how to regulate the agricultural use of fertilizers. Furthermore, The Danish Veterinary and Food Administration upon request gives access to environmental

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information in the data base “Vetstat” as regards prescribing and dispensing of medicines for animal husbandry.

**(c)**

The Act of Constitution ensures freedom of association in Denmark. A great deal of environmental and agricultural legislation secures environmental organizations the right of appeal and the right to be admitted as parties to hearings. Furthermore, they are frequently invited to take part in relevant committees and working groups. MIM is economically supporting specific projects of some of the environmental organizations.

**(d)**

When implementing the Aarhus Convention in 1998, the ministries were contacted and their legislation evaluated and amended in order to implement the Convention.

It is part of the procedure to involve non-governmental organisations when forming the Danish position in international and EU cases. The standard procedure regarding new EU regulation is that the Special Committee for the Environment (Miljøspecialudvalget) is presented with the Governments preliminary view and is given the opportunity to make comments in this regard. The Special Committee is open to all organisations with an interest in environmental matters. Currently, about 85 organisations are members of the Special Committee for the Environment. The Danish position may also be formed through written procedure in the Special Committee. Non-governmental organisations are part of the Danish delegation in most major international negotiation meetings, whereby public participation is integrated in international decision making processes.

The national hearing process between the Administration and the non-governmental organisation continues in the interim period between the international meetings on ad hoc basis and in different forums.

As a member of the European Union, Denmark is part of the promotion of the Aarhus Convention which is carried out by the Commission and the Presidency in other international forums.

**(e)**

The Danish Act of Constitution establishes citizens' rights to freedom of speech, freedom of association, and the right to test the decisions made by the administrative authorities in court. The European Human Rights Convention also offers protection of citizens' fundamental rights and freedoms. Furthermore a citizen may only be subject to legal proceedings or prosecution, if the felony is positively stated as illegal in the Danish legislation. Therefore it is not possible according to Danish law to penalize, persecute, etc., as mentioned in article 3, paragraph 8 of the Convention.

## 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.

In 2003 the EU implemented article 4 of the Aarhus Convention in Directive 2003/4/EC (Directive of the European Parliament and of the Council on public access to environmental information). The necessary adaptations to Danish legislation consequential upon the Directive were implemented in Danish Act no. 310 of 2 May 2005 (amendment to the Environmental Information Act).

On 1 January 2014 the current act on Access to Public Administration Files entered into force. From a general point of view, the current act on Access to Public Administration Files contains elements that both broadens but also in some specific cases restricts the principles of openness compared with the former act. Besides that the act is based on the same principles as the former act.

The Environmental Information Act in force has many references to the 1985-Act on Access to Public administration, and these references will continue to stay in force, even after the entry into force of the current Act on Access to Public Administration Files. Until the Danish Parliament does pass a new bill on Environmental Information the assessment of a request for access to environmental information will be based on those rules that give the applicant the best legal position.

### Public authorities

Public authorities in accordance with section 1 of the Access to Public Administration Files Act, as well as bodies, including physical and legal persons with public responsibility for, or which carry out public functions or services in relation to the environment, and which are subject to public supervision, are covered by the duties to notify access to documents in environmental information.

In a decision on 24 June 2004, the Environmental Board of Appeal took a position identifying the “bodies” subject to the Environmental Information Act. This is available in Danish at [www.mfkn.naevneneshus.dk/](http://www.mfkn.naevneneshus.dk/)

### **Environmental information**

Environmental information has been defined in the Environmental Information Act as follows:

Environmental information is all information which is in the possession of the authority or which is stored on behalf of the authority and which is in written, visual, or audio form, electronic or in any other form, irrespective of when the information was obtained and relates to 1) the state of the environment in the individual environmental elements, e.g. air and the atmosphere, water, soil, landscapes and natural sites, including wetlands, coastlines and marine areas, biological diversity and its components, including genetically modified organisms and the interactions between these elements,

2) factors such as substances, energy, noise, radiation or waste, including radioactive waste, emissions and other discharges to the environment which affect or could affect the individual environmental elements mentioned in no. 1,

3) measures, including administrative measures such as policies, legislation, plans, programmes, environmental agreements and activities, which affect or could affect the individual environmental elements mentioned in no. 1 and 2, and factors as well as measures and activities which aim at protecting these environmental elements,

4) reports on implementation of environmental legislation,

5) profitability calculations and other financial analyses and assumptions applied in connection with the measures and activities mentioned in no. 3, and

6) the state of human health and safety, including where relevant pollution of the food chain, people’s living conditions, cultural heritage and building structures, if they are or could be affected by the state of the individual environmental elements mentioned in no. 1 or through these elements of the conditions mentioned in nos. 2 and 3.

The Danish Ombudsman has together with among others the European Ombudsman over the years developed a wide interpretation of the concept “environmental information” which the Environmental Board of Appeal applies to.

### **Compliance with article 3, paragraph 9:**

The Environmental Information Act stipulates that *everyone* is entitled to the rights, as stated in the Act. The Act therefore ensures that there is no discrimination on the grounds of residency, nationality etc.

(a)

(i)

There are no requirements in the legislation for reasoning the request for environmental information.

(ii) and (iii)

Administrative practice is deemed "de facto" to comply with the regulations in the Convention. According to the Environmental Information Act the authorities should supply environmental information in the form or format requested by the person requesting the information, including in electronic form, unless the information is already available in another form which is readily accessible to the relevant person, or it is reasonable to make the information available in another form or format.

(b)

The Environmental Information Act states that, taking into consideration any time limit stated by the person who has submitted the request, matters regarding access to documents on environmental information must be determined as quickly as possible and no later than one month after receipt of a request or, if the complex nature and scope of the matter mean

that the one month limit cannot be satisfied, no later than two months after receipt, and that matters for which information is refused in the required form or format must be determined no later than one month after receipt of the request. If a request for access to documents is neither met nor rejected within 10 days of receipt, the authority must notify the person making the request for access to documents of the reason for the delay and when a decision can be expected.

(c)

(i)

Danish legislation is in accordance with article 4, paragraph 3(a) of the Convention.

According to both the previous and the current Access to Public Administration Files Act, an authority is only obliged to give access to documents etc. which are already received or issued by the authority. According to the current act on Access to Public Administration Files Act the administrative authorities are also obliged to collate data from databases.

With regard to (b) above note that under Danish law there is a requirement that the person making the request for access to documents must identify the documents or the case he wishes to get access to. According to the current act on Access to Public Administration, it will in most cases be enough just to indicate a theme, provided that the documents or information can be identified by the authority. Requests for access to environmental information should also be treated by these more lenient identification requirements. The duty to provide guidance pursuant to the Public Administration Act obliges the authorities to help a person with such identification, as much as possible.

(ii)

The balance between on the one hand the interests of the public to have specific environmental information and on the other hand the need to keep certain information confidential is expressed in the Danish regulations in a number of provisions containing exemptions from the Access to Public Administration Files Act and the Public Administration Act.

In each individual case of requirement of access to environmental information, the authorities make an assessment based on the public interest test, as the authorities have by law an obligation to assess whether, in accordance with the principle of public openness, access to documents should be applied to material which, according to the Access to Public Administration Files Act is exempt from access to documents.

By far the majority of exemptions in the Danish regulations are in complete compliance with the Convention. But the previous Access to Public Administration Files Act (1985), which is still being referred to in the current Environmental Information Act, does in the matter of exemptions go further in some areas than the Convention. Therefore, the Environmental Information Act lays down in paragraph 2 that certain provisions in the Access to Public Administration Files Act (1985) do not apply to environmental information.

For example, the exemption in article 10, number 5, of the Access to Public Administration Files Act (1985), states that information collected as part of public statistics and scientific studies is not subject to access to documents. This exemption cannot be applied on environmental information because article 10, number 5, is not in direct compliance with the Convention.

When that said, according to the Convention, information for use in public statistics and scientific studies can be exempted from access to documents, provided the information originates from a third party who was not, or could not be made subject to an obligation to disclose the information. This possibility is not fully exploited in Danish regulation, although the Environmental Information Act states that the authority in these situations must inform the person in question that he must not or cannot be required to supply the information and about their right to declare that the information should not be made public.

The right to access documents does not include technical designs or approaches, or operational or business conditions or similar to the extent that they are of financial significance for the person or enterprise referred to in the information. The counterpart to this regulation is in the Conventions article 4, paragraph 4(d), which has a special regulation for information on emissions, whereby the exemption regarding corporate secrets cannot be applied for information on emissions that is relevant for protection of the environment.

Information on emissions to the surrounding area can only be exempted under both the previous and the current Access to Public Administration Files Acts when there is specific documentation that disclosure of the information would lead to significant financial damage to the enterprise.

Information on emissions that is relevant for the protection of the environment can only be exempted if it regards intellectual property and disclosure will lead to significant financial damage to the enterprise.

The Access to Public Administration Files Acts include the possibility to limit the right of access to documents following a specific assessment, due to concerns for public sector control, regulation and planning activities; the economic interests of the public sector; and private and public sector interests where the special nature of the conditions requires that they be kept confidential.

The Access to Public Administration Files Acts state that if these concerns apply for a part of a document, the rest of the document must be made available to the person requesting access to documents.

Environmental information can only be exempted according to the Access to Public Administration Files Act (1985) to the extent that this will not conflict with the regulations in the Conventions article 4.

**(d)**

The Environmental Information Act states that if a request is not made to the correct authority or body, the person making the request shall be notified as quickly as possible of the correct authority, or the request must be forwarded to the correct authority and the person making the request must be notified hereof.

**(e)**

The Access to Public Administration Files Act (1985) lays down a duty to grant access to information about actual circumstances with material significance for the circumstances of a case in the following documents, that are exempted from access to documents:

- 1) documents prepared by an authority for its own use,
- 2) correspondence between different units within the same authority,
- 3) correspondence between a municipal council and its committees, departments and other bodies, or between these bodies,
- 4) records of meetings of the Council of State, minutes of meetings of ministers, and documents prepared by an authority for use at such meetings,
- 5) correspondence between ministries on legislation, including appropriations Acts,
- 6) documents exchanged in connection with the secretarial function of one authority on behalf of another authority, and
- 7) correspondence between authorities and experts for use in court cases or in considerations on whether legal proceedings should be instigated.

The current Access to Public Administration Files Act further lays down a duty to extract information on internal professional assessments in finalised form, provided these assessments have been related to a case regarding a presented Bill or a published report, action plan or similar. This, however, does not apply if the assessments are contained in a document that has been drawn up for, inter alia, Ministerial advice. This provision also applies to environmental information to the extent that it will lead to a wider access than under the Environmental Information Act.

The Access to Public Administration Files Act (1985) states that the person requesting access to documents should be informed about the other contents of a document, if only part of a document covers:

- 1) private, including financial, information about an individual,
- 2) technical designs or approaches, or operational or business conditions or similar to the extent that it is of financial significance for the person or enterprise referred to in the information that the request is not granted.

The Access to Public Administration Files Act (1985) states that the person requesting access to documents should be informed about the other contents of a document, if the following concerns are only relevant for part of the document:

- 1) national security or the defense of the state,
- 2) national foreign policy or foreign economic interests, including the relationship with foreign powers or international institutions,
- 3) prevention, clarification, and prosecution of breaches of the law, execution of penalties, and similar, or protection of the accused, witnesses or others in cases on criminal or disciplinary prosecutions,
- 4) performance of public control, regulation, or planning activities, or intended measures pursuant to tax legislation,
- 5) public economic interests, including performance of public-sector business, or
- 6) private and public interests, where the special nature of the conditions requires that they be kept confidential.

**(f)**

The Environmental Information Act states that requests regarding access to documents on environmental information must be determined as quickly as possible, hereby taking into consideration any time limit stated by the person who has submitted the request, and no later than one month after receipt of a request. If the complex nature and scope of the request results in the one month limit cannot be satisfied, the request must be handled no later than two months after receipt. In cases of refusing access to documents the decision must state the reasons and must be accompanied with guidance on appeals. Refusal must be notified in writing if the request was submitted in writing, or if the applicant so requests.

The current Access to Public Administration Files Act further lays down time limits, whereas the public authority must process requests on access to information as fast as possible, which means within seven working days, unless the request is too extensive or complex so that it is not possible to meet this time limit. If this is the case, the authority must send an orientation letter stating the reason for not meeting the request within the 7 days limit, and state when the authority expects to send their final answer.

**(g)**

The Environmental Information Act states that payment for transcripts and copies of environmental information in written documents is due in accordance with the regulations pursuant to the Access to Public Administration Files Act. The parties to a case follow the payment regulation in accordance with the Public Administration Act.

The Environmental Information Act can only contain authority to levy charges for the supply of transcripts and copies of information, and therefore do not give authority to levy charges for access to registers of authorities or environmental information, irrespective of whether they are inspected on-site or via electronic access to the registers.

There are various Statutory Orders on payment for transcripts or copies in connection with access to documents. According to these orders DKK 10 (EUR 1.34) for the first copy and DKK 1 (EUR 0.13) per copy thereafter can be charged. In some cases charges are also levied on the basis of the actual costs of making a copy of – in example – a tape, film or other media.

If the demanded environmental information cannot be delivered on paper because it is kept in electronic databases or on audiotapes, motion pictures or other medias, a payment for the actual cost for making a copy can be charged on the basis of public available rates.

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The court fee for transcripts completed by the court is DKK 175 (EUR 23,46). This also applies for transcripts of judgments etc. pursuant to the Environmental Information Act.

## **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?*

There are no statistics on application of the provisions in Denmark.

A monitoring committee has been established (including the key environmental and commercial organisations, ministries and other important stakeholders) to monitor regularly application of the Act in practice and to gather experience. MIM chairs the Committee.

In 2008 the Committee issued a report to the Minister of the Environment on experience of the Act in practice.

It was the main conclusion that there is a need for more information about the Environmental Information Act at authorities and civil society. On this background the Danish environmental agency, 24. September 2009 wrote a letter to all ministries, municipals etc. drawing the attention to the Environmental Information Act and the scope and purpose of the Act.

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## **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.

(a)

(i)

Danish authorities have a duty to establish a complete, factual and legal foundation for cases before a decision is made (the inquisitorial procedure). The authorities have a duty to file all case documents.

(ii)

A number of administrative regulations ensure that extensive environmental information is provided as basis for an application. For example, this applies to regulations on environmental approvals of listed activities and installations and regulations on EIA.

Furthermore, the authorities may lay down notification schemes for special sectors in order to keep track of production and pollution aspects at enterprises.

The Nature Protection Act contains general protection for a number of natural habitats in the form of bans on changes in status.

In order to ensure that the authorities also become aware of other activities, which do not require prior permission or similar, but which are deemed to be projects in the context of the Habitats Directive and which could significantly impact an international nature protection area, a notification scheme has been included in the Act.

Similarly, the Forest Act stipulates a duty to notify a number of activities which may impact international nature protection areas, even if these activities do not require prior authorisation.

The Environmental Protection Act stipulates that provisions must be laid down for the location and operation of listed activities and installations, including provisions for self-control. This regulation applies to those activities listed in the Convention which in the Danish legislation are covered by the supervision regulations in the Environmental Protection Act. It is hereby ensured that the authority can collect the necessary information with significance for assessment of the pollution and of possible remedial or preventive measures.

The Environmental Protection Act requires that the listed activities and installations must periodically be made public available reports regarding their environmental information on emissions, which is in line with the PRTR regulations. The Statutory Order on the Danish National Waste Register stipulates that certain operators handling waste must be registered. The Statutory Order on the Danish Waste Database contains provisions to ensure that data on waste is collected at national level. The Water Supply Act and the Marine Environment Act contains similar regulations. The Approval of Livestock Holdings Act also contains regulations on setting conditions and supervision corresponding to the Environmental Protection Act.

According to the Mineral Resources Act, the party carrying out extraction of mineral resources must provide detailed information on extraction to the authorities. The Electricity Supply Act, the Heat Supply Act, the Natural-Gas Supply Act, the Act on Promotion of Renewable Energy, the Danish Subsoil Act and the Continental Shelf Act all contain supervision schemes for compliance with legislation under which the authorities can request information, and there is a duty to report on request.

According to the Danish Act on the Environment and Gene Technology, deliberate release or placing on the market of GMOs is only allowed after approval from the Danish Minister of Environment. These rules are further clarified in the Statutory Order on deliberate release of GMOs.

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A permit to deliberately release or placing on the market of GMOs can only be given if the public authorities find that there is no health or environmental risk connected with the release. Furthermore, according to the act on gene technology the applicant seeking approval for deliberate release or placing on the market of a GMO, must provide the public authorities with all the information they require about the case and conduct tests concerning the case which the public authorities may ask for.

For agriculture, the same obligation to provide public authorities with information applies with respect to the Fertiliser Act.

(iii)

According to the Emergency Management Act the task of the fire and rescue services is to prevent, limit and redress personal injury and damage to property and the environment arising from accidents, disasters and catastrophes, including acts of terror and war, or imminent danger of such. The individual ministers shall each within their areas plan the maintenance and continuation of societal functions in the event of accidents and catastrophes, and they may direct public authorities as well as public and private enterprises and institutions to provide assistance in the planning or execution of tasks falling under the civil sector's emergency management.

A number of particularly risky enterprises must prepare safety documentation in order to prevent serious accidents.

The environmental authorities provide advice to enterprises within the scope of the Environmental Protection Act, and they process matters relating to the risk of pollution of the external environment in the event of an accident. The same applies for the Approval of Livestock Holdings Act.

The fire authorities advise on their area and process matters regarding fire.

The Police prepare emergency preparedness plans for its own effort with regard to certain types of undertakings and coordinate the effort of the various authorities in case of a greater accident. The Police ensure that people, who may be affected by an accident, are notified of the safety measures and the action they should take.

The authorities must mutually notify each other of matters of significance for the other authority.

The Environmental Protection Act contains a duty for owners and users of real property to inform the inspection authority immediately if they cause or ascertain pollution of the property's soil or subsurface. The person responsible for plant and equipment that can cause pollution must inform the inspection authorities immediately of breakdowns or accidents that may lead to significant pollution or danger hereof. The same applies for the Approval of Livestock Holdings Act.

The Environmental Damage Act also contains provisions granting the authorities power to order the responsible party to submit information, undertake investigations and take preventive and remedying measures etc. and a duty for the responsible party, in certain cases, to notify the authorities.

According to the Statutory Order on Reporting pursuant to the Protection of the Marine Environment Act, the master of a ship or the head of a marine installation must notify the relevant authorities immediately in the event of discharges or risk of discharges from the ship to the sea.

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The Danish Plant Pest Act institutes a general obligation to report to the competent authority any findings of plant pests. Furthermore, the act authorizes the Minister to let this reporting obligation serve the purpose of implementing EU rules on plant protection.

With respect to the "active duty to inform", it is assumed that this is a non-statutory duty for the authorities to notify without delay the relevant members of the public of the dangers in the event of accidents or disasters, so that the public is able to take the necessary action.

This duty also appears in the Statutory Order on Active Reporting of Environmental Information. This states that, except for special obligations otherwise pursuant to legislation, authorities and bodies subject to the Environmental Information Act must immediately and without delay issue all relevant environmental information if there is an imminent threat to human health or the environment.

The same Statutory Order also states that this duty to provide information may also be included in emergency planning within the civil sector.

According to the Danish Emergency Management Act the Danish Emergency Management Agency shall prepare a plan for coordination and corporation between the authorities responsible for the retention and continuation of functions in society in the event of a nuclear accident. The objective of the nuclear emergency response plan is to establish an overview over all the tasks and responsibilities of the involved sectors, local authorities, other government departments and emergency services in the event of accidents in nuclear facilities, enabling earliest possible warning of the public and if necessary initiating remedial actions as soon as possible. The individual ministers are responsible for maintaining and upholding within their individual sectors the vital functions of society in the event of accidents or disasters, among these nuclear incidents.

According to the Danish Act on Gene Technology (Act no. 9 of 4 January 2017) the person who is responsible for an environmental damage or the threat of imminent danger of an environmental damage, is obliged to inform the public authorities of all relevant aspects concerning the environmental damage or of the potential thereof. Furthermore, the person who has received an approval to deliberate release of GMOs or placing on the market, has an obligation to inform the public authorities of any accidents or incidents that can lead to a release of GMOs into the environment which can cause damage to the environment, nature or human health.

**(b)**

The authorities have a duty to assist citizens by providing information on the type of environmental information each authority is in possession of.

MIM has set up a central information centre. The Informationscenter for Nature and Environment, to provide replies to queries within the areas of nature and environment. At the website <https://mst.dk/service/publikationer/> publications regarding the environment can be found.

Several publications provide comprehensive and user-friendly advice regarding access to documents and environmental information.

General regulations on filing, registration, listing etc. of information are stipulated pursuant to the Filing Act and elsewhere.

In accordance with the Access to Public Administration Files Act, the right to access to documents includes entries in journals, registers, and other lists of the

documents related to the relevant case. The right of access to documents also applies to such lists using electronic data processing.

The database of legislation Retsinformation ([www.retsinformation.dk](http://www.retsinformation.dk)) contains all Danish legislation, including environmental legislation. The central information centre, Information centre for Nature and Environment, advises the public and enterprises etc. on the use of the database.

The Environmental Information Act lays down that anyone, under the conditions and with the exceptions consequential upon the Access to Public Administration Files Act and the Public Administration Act, has a right to environmental information.

(c)

A statutory order on actively disseminating environmental information stipulates that environmental information covered by the Environmental Information Act must increasingly be held on electronic databases which are easily accessible by the public through public communication networks. The same statutory order also states that authorities and bodies must take all reasonable measures to maintain environmental information which they possess, or which is being stored for them, in a form or format which is easily reproduced and easily available via electronic IT communication or other electronic media.

The Environmental Information Act authorises the Minister of Environment to lay down regulations on which environmental information is to be reported to the public. This authority has been applied in a statutory order which stipulates the information to be reported to the public.

MIM has a well-developed website where it is possible to retrieve diverse environmental information.

Since 1997, as a result of a governmental decision, new publications issued by the ministries and agencies have been made public electronically in parallel with the printed version.

Environmental data is published on the MIM website and more data will increasingly be put on the website. Hence, database and concrete data which will be published in electronically publications. MIM has since 1998 increasingly made databases available on the websites.

Public authorities have increasingly given the public access to databases via "The Danish Nature & Environment Portal": <http://www.miljoportal.dk/English/>. At present the portal gives access to data concerning the pollution of soil, ground water, surface water and nature.

Concerning the scope of the EPA, there is access to a wide range of data via [www.mst.dk](http://www.mst.dk). This includes data presentations, databases and concrete data concerning chemicals, pesticides, environmental technology, waste etc.

With regards to spatial and environmental planning some data are distributed to The Danish Nature & Environment Portal": <http://www.miljoportal.dk/English/> and [www.plansystem.dk](http://www.plansystem.dk). Plansystem.dk contains data concerning spatial planning. Other dates are submitted via [www.mim.dk](http://www.mim.dk) and other dates are part of other websites, i.e. <http://www.statistikbanken.dk/statbank5a/default.asp?w=1024>.

The Danish Act on infrastructure for spatial information implemented the INSPIRE-directive into Danish law. The purpose of the directive is to establish an infrastructure for spatial information in the European Community so that spatial data can be used across geographical and administrative borders. The official Danish spatial data will be available through the INSPIRE geoportal that MEFD has established ([www.Geodata-info.dk](http://www.Geodata-info.dk)).

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With regards to the Danish Energy Agency data concerning different licences and different monitoring programmes concerning the environment are put on the website <https://ens.dk/en>.

All bills are presented on the national hearing website (<https://hoeringsportalen.dk/>) and at the same time they are sent directly by e-mail to relevant stakeholders. There is also access to information regarding acts whilst they are being processed by the Danish Parliament, including how far the act is in the Parliamentary procedure, minutes, etc.

MIM also publishes strategies, programmes, and political objectives adopted on the Internet.

The MIM websites includes lists of the publications that have been issued; guidelines, technical reports, annual reports, and newsletters.

In addition to MIM's website, there is also information on municipality websites.

The MIM has similar rules on publication for its area. The Statutory Order on GMOs states that the Danish AgriFish Agency website shall make public information on location etc. of fields with genetically modified crops as well as control and analysis results. Another statutory order stipulates that the municipal council must first publish its proposal and later the final action plan to combat giant hogweed. According to the Fertiliser Application and Plant Coverage Act, farmers' fertiliser accounts have been made public on the internet since January 2008 - see III (b) above.

**(d)**

The Danish Planning Act lies down that the Minister must issue one or more reports no less than every four years, and with the involvement of the relevant national environmental, industrial, labour market, and consumer organisations, on the state of the environment in Denmark, as well as on nature and environmental policy.

In Denmark, the report of the state of the environment and Denmark's National Strategy for Sustainable Development are published. The reports cover the entire environment area. The relevant national environmental, industrial, labour market and consumer organisations are involved in the making of the reports.

MIM also publishes a popular report of environmental indicators, providing the public with easy-to-access information on developments in the state of the environment.

The reports are available on MIM's website.

**(e)**

The database of legislation, Retsinformation ([www.retsinformation.dk](http://www.retsinformation.dk)) contains all Danish regulations. MIM issues many publications regarding the environment, including the above mentioned. All the publications are available on the Internet. The central information centre, Informationscenter for Natur and Environment, informs about the environment in Denmark. Furthermore, MIM carries out general information activities.

These take place through dissemination of the international contracts, conventions, and environmental agreements, as well as other important international environmental documents via the EPA website.

The Environmental Information Act states that authorities and bodies subject to the Act must arrange the environmental information which is relevant for their function and which they possess or which is stored on their behalf, so that it can actively and systematically be communicated, also electronically, to the public. In addition, the Minister is granted authority

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to lay down more detailed rules on communicating environmental information, including on which information is to be communicated and on updating and on electronic communication of environmental information. This authority has been applied in a statutory order which stipulates the information to be communicated to the public.

Information is available on MIM's website, municipality websites, Danmarks Miljøportal (<https://www.miljoportal.dk/>) and Plansystem.dk.

**(f)**

During the period from 1996 till 2015 certain heavily polluting enterprises had a duty to provide general environmental information to the public through so called green accounts, which were put up on the internet. The green accounts also covered PRTR. In 2015 the regulation of this information system was modernized. The green accounts system was replaced by the PRTR register.

On the basis of the various plans for the aquatic environment, farmers have been submitting fertiliser accounts for a number of years. Since January 2008, these have been made public on the internet – see (c) above.

Through product labelling (e.g. the EU ecolabel, the Flower, and the Nordic ecolabel, the Swan) enterprises can confirm that a product meets specific environmental quality requirements.

Enterprises can also register according to the voluntary European Community environmental management scheme (EMAS). An EMAS-registered enterprise in Denmark must annually publish a statement regarding its environmental performance verified by an independent third party. Danish enterprises are encouraged by the EPA to adopt the EMAS scheme.

**(g)**

In connection with the presentation of bills and action plans or strategies for the environmental policy area, analyses of the initiatives in the bills and action plans must be carried out. For example, this applies for presentation of bills and other governmental proposals, where a strategic environmental impact assessment is carried out. The assessment is published at the same time as the proposal is presented.

On MIM's websites, there are charts of the organisation of the individual authorities and their responsibilities. At decentral level there are similar websites for regions and municipalities.

**(h)**

On the EPA's website there is a full catalogue of approved pesticides.

In addition, the EPA provides good advice on a spray garden on the website [godthavemiljo.dk](http://godthavemiljo.dk) and helps the garden owners who want to spray in the garden, to choose the least harmful pesticides.

Administration of the eco-labels the Flower and the Swan in Denmark is headed by Ecolabelling Denmark assisted by an eco-labelling board set up by the Minister for the Environment following recommendations from a number of organisations representing the interests of retailers, industry, the environment, and consumers.

The Ø logo is an inspection label and shows that the latest preparation of an organic product has taken place in a Danish company covered by organic inspection from the public Danish authorities.

Only authorities under the Ministry of Food carry out inspection under the government rules for organic production. Application of the logo is voluntary for the producer.

Inspection of organic foods in Denmark applies to all stages from stable to table, and is carried out at least once a year.

(i)

The provision is implemented specifically in the Protocol on Pollutant Release and Transfer Registers (PRTR). The Protocol was signed at the meeting of ministers in Kiev on 21 May 2003. A total of 36 countries as well as the EU have signed the Protocol, including Denmark. Denmark ratified the protocol October 13th, 2008 and the protocol went into force October 8th, 2009.

MIM has launched a register with information on enterprises' environmental situation. The register is available on the EPA website ([www.DK-PRTR.dk](http://www.DK-PRTR.dk)) and it is part of the work to provide the public with easy access to environmental information. The system is under constant development to make enterprise reporting more efficient and to increase public access to the information.

## **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:

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- (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.

**(a)**

*(i)*

A great many of the annex activities of the Convention are regulated by the regulations in the Danish Planning Act on EIA, or by special EIA regulations on off-shore activities. A new Environmental Assessment Act (act. No. 425 of 18. May 2016) is entered into force 16. May 2017. This current act gathers and replaces the Danish Planning Act and most of the special EIA regulation. The Danish EIA regulations contain regulations on procedures that are in accordance with the regulations in the Convention.

The rest of the annex activities are regulated by chapter 5 of the Environmental Protection Act on listed enterprises, including in particular the special system with advance public participation that was introduced by Act no. 369 of 2 June 1999 in connection with implementation of the IPPC Directive. In 2000 a couple of small adjustments were made to the existing law, including in particular in connection with public participation in connection with reassessments of certain types of heavily polluting enterprises. The text was further adjusted in 2012 as a transposition of Directive 2010/75/EU. As regards activities covered by the annex number 15, these requirements are incorporated into the Approval of Livestock Holdings Act part 3.

*(ii)*

Article 6, paragraph 1 of the Convention has been implemented in Denmark via the EIA regulations in the Planning Act. These regulations imply in part a compulsory EIA procedure with advance public participation for a large number of other activities than those listed in annex 1 of the Convention. In part they also mean that a large number of other activities are covered by the so-called screening system in the Planning Act, which means that these activities are also covered by the EIA regulations, if, following a specific assessment, they are deemed to have significant environmental impacts.

**(b-i)**

The provisions in article 6, paragraphs 2-9 have been implemented in Danish law in a large number of provisions.

The Danish Minister for the Environment can decide that information regarding public participation only shall be made available digital by announcements on the ministry's website.

**(j)**

Article 6, paragraph 10 regarding reconsideration has been implemented in the Environmental Protection Act and the Statutory Order on Approval of Listed Activities and the Approval of Livestock Holdings Act.

The Minister for the Environment has access to stipulate regulations on public participation in connection with decisions on whether there should be an extraordinary revision of the conditions in an environmental approval.

**(k)**

The Danish regulations on releases of GMOs into the environment are in the Act on the Environment and Gene Technology. The Act contains provisions according to which affected authorities and organisations must be heard in matters of approvals of genetically modified organisms for release.

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There are provisions on the procedure for hearing and information for the public in connection with approvals for trial releases and marketing of GMOs, including:

- hearings must be announced on the EPAs website.
- the EPA must set up a register of approvals for trial releases and marketing of GMOs. The register must include information on the name and address of the applicant, a description of the GMO, the objective and location of the release, a summary of the risk assessment, the Minister for the Environment's assessment of the case, as well as the approval terms.
- A great deal of information such as changes to an approval and results of monitoring of GMOs approved for marketing is made public on the EPAs website.

In practice, the hearing takes place by parts of the application, (the Summary Notification Information Format and an overview of the full application), being sent for hearing to about 50 parties, including environmental and consumer organisations. There are announcements on the EPAs website that the public may comment on new applications for trial releases or marketing of GMOs. The full application, except confidential information, can be supplied on request.

The hearing replies received by the EPA are incorporated in a memo to the Minister, and this forms the basis for the Minister's decision. The memo is subsequently made public on the EPAs website.

Under the MIM, the Statutory Order on the cultivation of GMOs stipulates rules on the duty to provide information on cultivation of genetically modified crops.

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## **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.*

The precise scope of the regulations in the Convention on public participation in the authorities' planning etc. under article 7 is difficult to establish, in that the Convention does not define the concept "the environment area". It would seem relevant to seek guidance in the Convention's definition of environmental information. In connection with the implementation of the Aarhus Convention, it was deemed in the 2000 Act Amending Certain Environmental Acts (Implementation of the Aarhus Convention, etc.) that the requirements of article 7 were in general being met.

In 2004 an act was adopted on environmental assessment of plans and programmes. This act is part of the implementation of article 7 of the Aarhus Convention.

Planning and environmental legislation contains a number of regulations on planning and prior public participation in accordance with article 7 of the Convention. In addition to this, there is a great deal of planning that does not arise directly from legislation. The public is also very much involved in practice with this type of planning.

The Ministry's own planning always involves prior public participation.

Rules have been laid down on public involvement in water planning in Act on Water Planning from 2013 and in NATURA 2000 planning.

Danish environmental legislation contains a number of provisions on public participation in statutory plans and programmes.

The Danish Environmental Protection Act contains a provision which gives the Minister for the Environment the authority to stipulate regulations regarding public participation in the preparation and amendment of plans and programmes within the scope of the Act. Within this framework, it is also possible for the minister to lay down requirements for public participation in the preparation of any future national plans and programmes as well as to ensure that any later Community law requirements concerning public participation in plans and programmes can be implemented in Danish legislation.

This authority has been exploited in the Statutory Order on public involvement in preparation of certain plans and programmes in the environment field, which includes rules on public involvement in connection with preparation by the EPA of a national waste plan, a national waste prevention plan. With regard to the agricultural area, legislation on the giant hogweed has been issued. According to this legislation, municipal councils must hold public hearings on draft action plans.

MIM places priority on public participation in connection with establishing policies, plans and programmes related to the environment. In establishing policies and strategies, preliminary idea meetings and workshops are extensively utilised where the public has an opportunity to have a say in the decision-making process.

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With regard to the legislation on environmental assessment of plans and programmes, the former Nature and Environmental Protection Board of Appeal<sup>1</sup> has issued a thematic supplement in the journal “NK-Orienterer” and NOMO about initial experience with the legislation. On the basis of a large amount of cases, various themes are reviewed, including the threshold for execution of environmental assessment.

#### **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.*

The most important rule is that the public is involved prior to the introduction of a bill or the issuance of a new statutory order etc. The procedure is that a draft of the general regulations is sent for hearing by a wide range of organisations and authorities addressed directly by email and put up on the webportal for public hearings. Memorandums are prepared of the incoming hearing replies, and the need for amendments as a result of the remarks is considered in each case. In normal circumstances, this practice is never diverted from.

Acts and statutory orders for the environmental and agricultural area are usually in hearing for four weeks.

All hearing material is collated on a common public hearing portal ([www.hoeringsportalen.dk](http://www.hoeringsportalen.dk)).

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<sup>1</sup> At the 1<sup>st</sup> February 2017 it changed name to The Environment and Food Appeals Board

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## 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.

(a)

(i)

The ordinary rules of legal procedure state that anyone with an individual legal interest can bring an action before the courts.

(ii)

According to the Environmental Information Act, a decision regarding access to information can be appealed to the administrative body, which is the appeal body in relation to the case, to which the request for access to information relates to. Refusal of a request for

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access to information that is notified by a body which is covered by the Environmental Information Act but not part of the ordinary public administration can be appealed to the Environmental and Food Board of Appeal.

The right of appeal is supplemented by the non-statutory administrative law principle of resumption. It is also possible to bring a case before the Ombudsman of the Danish Parliament and the authorities responsible for the supervision of municipalities.

Regulations in the Administration of Justice Act apply to parts of the Environmental Information Act. This means that the decisions mentioned above can be appealed in accordance with the regulations in the Administration of Justice Act.

(iii)

Regarding the right to demand reasons in writing and binding decisions, see under article 9 paragraph 4.

(b)

When implementing the Aarhus convention into Danish law, special appeals boards for the environmental area were established. To a certain extent, the Danish regulation gives the public concerned a wider scope of review than the minimum requirements of the Convention lay down. Hence the Danish regulation gives access to review other types of environmental administrative decisions based on Acts that are not related to the Convention's annex activities.

Nationwide associations and non-governmental organisations that have protection of nature and the environment as their primary objective have access to a review procedure before the environmental appeals board. To constitute this right it requires that such associations and organisations have articles of association or similar that documents their objective that they cover all of Denmark and have a professional and stable organisation.

According to certain environmental acts local associations and organizations that have protection of nature and the environment as their primary objective, have the right of appeal decisions they have asked to be notified about.

Special regulations have also established an access to a review procedure for organisations representing important recreational interests.

Organisations (nationwide and local) that protect the environment and also organisations using nature have thus been afforded an extended right of appeal.

(c)

There are administrative possibilities to go to the Ombudsman, the Regional State Administration, or the Police in order to contest actions and omissions by private individuals or public authorities that do not comply with the provisions of national environmental law. It is also possible to appeal to the Ombudsman.

The competence of the Ombudsman covers the entire public administration. He must decide whether authorities or people under his jurisdiction are acting in breach of current law or whether in some other way they are guilty of errors or neglect in the performance of their duties. Control includes both decisions and other administrative activities. Appeals can be submitted by anyone, and the appeal must be submitted within one year of the condition being 'committed'. His powers of sanction are to state criticism, issue recommendations, or to otherwise give his opinion regarding a case. In accordance with the declaration issued during negotiations on the institution of the Ombudsman, Denmark recognised the possibility to bring cases before the Ombudsman as a possibility for review by an independent administrative body.

The Regional State Administration carries out supervision of municipalities. The Regional State Administration supervises that municipalities and municipal associations comply with the legislation that applies in particular for public authorities. The Regional State Administration does not supervise to the extent that special appeals or supervisory authorities can take a position on the case in question. The Regional State Administration can make statements on the legality of municipal measures or omissions and it can annul municipal decisions that have been made contrary to legislation. Under circumstances stated in the legislation, the Regional State Administration can also impose default fines, institute damages and declaratory actions, as well as enter into agreements on penalties under the law of tort.

There can be reports to the environmental authorities or the Police regarding non-compliance with environmental regulations.

There is a constitutional right to test cases in the courts. To access this right it requires that the party raising the case complies with the relevant regulations.

On behalf of the European Commission, in 2007 a firm of consultants prepared a report on how EU countries have complied with article 9(3). The report for Denmark (Measures on access to justice in environmental matters (article 9(3))) concludes that the Danish system is in general sufficient.

**(d)**

Court decisions regarding:

- access to documents with environmental information,
  - public participation in decisions on specific activities with impacts on the environment,
  - consistency with environmental legislation of actions and omissions by private or public authorities,
- are available to the public, cf. the Environmental Information Act.

Furthermore, the Administration of Justice Act provides for general access to documents regarding judgements, Court orders, etc.

It is general practice that administrative decisions are notified in writing. This practice is supplemented by the principle of good administrative practice, under which written queries from the public must be answered in writing, just as particularly significant decisions must be notified in writing. Moreover, according to the Public Administration Act, the public can demand written grounds for a decision that was reported verbally, except where the decision is in every particular favour of the person concerned. The decisions of the administration are binding.

With regard to cases on access to documents with environmental information, the Environmental Information Act states that refusals must have a reason and be accompanied by advice on appeals. Refusal must be in writing, if the request was in writing or if the applicant so requested. The requirement on written documents applies to both authorities and bodies covered by the Act, as well as each refusal, including refusals to receive information in a specific form.

The decisions of the Ombudsman are in writing but not binding; in practice the administration generally follows the recommendations of the Ombudsman. The Ombudsman's position in a case does not limit the access of the courts to review the case subsequently.

Decisions by the courts are in writing, binding, and can be enforced.

In matters of making appeals to the Environmental and Food Board of Appeal a fee of DKK 900 (approximately €120) is charged for private persons and a fee of DKK

1,800(approximately €240) is charged for others, such as enterprises, NGOs and public authorities.

For judicial reviews, a court fee is due for instituting legal proceedings. In addition, there are usually costs for legal assistance and expert assistance etc.

The Administration of Justice Act provides for the possibility to obtain legal aid and free legal aid. Legal aid means that the costs of the case are paid for by the public purse, including the court fees and lawyers' fees. Free legal aid covers the performance of legal advice and completion of individual written notifications, including applications for legal aid, appeals against decisions by public authorities and participation in meetings etc.

Private individuals can, to a certain extent, have an injunction imposed against the acts of other private parties that are in conflict with regulations of a public law nature.

The Compliance Committee has assessed the Danish implementation of the Aarhus Convention in 5 cases One of them concerned art. 9(4).

(e)

See the reply under article 3 paragraph 2.

### **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;

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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.

(a)

(i)

The Danish regulations on releases of GMOs into the environment are in the Act on the Environment and Gene Technology. The regulatory framework to ensure effective information and public participation are listed in § 9 a

(ii)

In the regulation there are no exceptions to the public participation procedure.

(iii)

The regulation on public participation is implemented in the statutory order no.37 of 19<sup>th</sup> January 2012.

(iv)

The statutory order no.37 of 19 January 2012 implemented that the information listed in Annex I (bis), paragraph. 4 cannot be disclosed. In § 4 there is regulation on the minimum level of information that a decision on the deliberate release of GMO's must contain.

Public registers as mentioned under ad iii) must contain the same amount of information. From § 10 it follows that a decision must contain the same amount of information as implied in the in the EU-regulation, that the Danish regulation is implementing. The public register must contain the same amount of information.

(v)

In the Danish Act no. 9 of January 4<sup>th</sup> 2017 on the Environment and Gene Technology and in the Statutory Order no. 37 of 19<sup>th</sup> January 2012 on approval of deliberate release of genetically modified organisms it is clearly described which public authorities which is responsible for GMO-matters in Denmark. The legislation also stipulates which public authority the citizens must address to request information concerning GMOs in Denmark.

- a. before mentioned legislation describes the character of the decisions which the public authorities can reach on deliberate release as well as on cases of placing on the market.
- b. The EPA is responsible for the handling on decision on the deliberate release and marketing of GMO's as regards to non-food. As regards to the import and cultivation of GM- food and GM-feed the responsible authorities are the Danish Veterinary and Food Administration and the Danish AgriFish Agency
- c. In practice the public participation is organised through that the application (the SNIF-part (Summary Notification Information Format) and a summary of the application is sent in a hearing to about 50 organisations etc. Furthermore this information can be found on the webpage [www.mst.dk](http://www.mst.dk). The public is given the opportunity to make comments. The application, however without disclosed information, will be handed out upon request.
- d. Reference to c)

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e. Reference to c)

(vi)

Reference to c)

(vii)

The comments of the hearing will be a part of the basis on which the Minister is going to take a decision. There will be made note to the minister. The note is published on the website: [www.mim.dk](http://www.mim.dk)

(viii)

All decisions and register of decisions are on the website [www.mim.dk](http://www.mim.dk)

**(b)**

The EPA finds that the conditions in annex I complements and supports the Danish legislation as those conditions are already implemented in Danish legislation. Furthermore this is complementary to that the Danish legislation which is in conformity with the aims of the Cartagena- Protocol on Bio-Safety.

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

As earlier stated it is implemented in the regulation that there shall be public hearings.



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