Dear Mr Cashman and Mr Franzone,


Yours sincerely,

pp.

Dr Behrens
**REPORT BY THE FEDERAL REPUBLIC OF GERMANY ABOUT THE EXPERIENCE GAINED IN THE APPLICATION OF DIRECTIVE 2003/4/EC ON PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION**

1. General description

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

The Directive was transposed at Federal and Land levels.

At **Federal level**, the Directive was transposed by the Federal Environmental Information Act (*Umweltinformationsgesetz des Bundes* – UIG) of 22 December 2004, which entered into force on 14 February 2005. The Act applies to the Federal bodies subject to the obligation to provide information. The costs for providing information under the Environmental Information Act are regulated in the Order on costs for official acts by the bodies subject to the obligation to provide information in implementation of the Environmental Information Act (*Verordnung über Kosten für Amtshandlungen der informationspflichtigen Stellen beim Vollzug des Umweltinformationsgesetzes* – UIG Costs Order), which was issued on the basis of § 12(3) of the UIG.

At **Land** level, the Directive was transposed by the Environmental Information Acts of the Länder (*Umweltinformationsgesetze der Bundesländer*). These are applicable to the bodies subject to the obligation to provide information of the Länder and the municipalities. Moreover, each Land has itself regulated the costs for access to information (see point 6). In particular, the Environmental Information Directive was transposed at Land level by the following Acts and Orders:

**Bavaria:**

Bavarian Environmental Information Act (*Bayerisches Umweltinformationsgesetz* – BayUIG) of 8 December 2006.

**Baden-Württemberg:**

Berlin:
Berlin Freedom of Information Act (Berliner Informationsfreiheitsgesetz) of 19 December 2005.

Brandenburg:
Environmental Information Act of the Land of Brandenburg (Umweltinformationsgesetz des Landes Brandenburg – BbgUIG) of 26 March 2007

Bremen:
Environmental Information Act for the Land of Bremen (Umweltinformationsgesetz für das Land Bremen – BremUIG) of 15 November 2005.

Hamburg:

Hessen:
Hessen Environmental Information Act (Hessisches Umweltinformationsgesetz – HUIG) of 14 December 2006.

Mecklenburg-Western Pomerania:
Land Environmental Information Act (Landes-Umweltinformationsgesetz – LUIG M-V) of 14 July 2006.

Lower Saxony:
Environmental Information Act of Lower Saxony (Niedersächsisches Umweltinformationsgesetz – NUIG) of 7 December 2006.

North Rhine-Westphalia:

Rhineland-Palatinate:
Land Environmental Information Act (Landesumweltinformationsgesetz – LUIG) of 19 October 2005.

Saarland:

Saxony:
Saxon Environmental Information Act (Sächsisches Umweltinformationsgesetz – SächsUIG) of 1 June 2006.
Saxony-Anhalt:

Schleswig-Holstein:

Thuringia:
Thuringian Environmental Information Act (Thüringer Umweltinformationsgesetz – ThürUIG) of 10 October 2006.

2. Experience gained

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

The extent to which the changes introduced by the new Environmental Information Directive have had an impact on the involvement of civil society or on the decision-making process cannot yet be assessed on account of the relatively short space of time since the entry into force of the current UIG. On the other hand, the extent to which precisely the new Directive has had an impact is ascertainable only with difficulty, on account of the Federal UIG already existing before the entry into force of the Environmental Information Directive in February 2003 (adopted to transpose the predecessor Directive 90/313/EEC) and the activities which have taken place in parallel in recent years to provide the public with multifarious information from the public sector (not confined to environmental information alone) via electronic media.

So far, in connection with the transposition of the provisions of the Directive, the following observations have been made in total:

In specific cases, the handling of requests (especially if large numbers arise on a particular topic) may give rise to a very heavy workload. In particular, examining a large number of documents, which sometimes contain confidential industrial or commercial information or personal data, may be very time-intensive. Furthermore, in such cases, hearings of third parties concerned must frequently be held.
So far, the concern of a change occurring in the communication within the administration and of fewer procedures being recorded in writing on account of possible requests for the issuing of documents has not materialised at Federal level or in most of the Länder. Here and there, however, the experience has been different (for instance in North Rhine-Westphalia). Admittedly, this also depends on how much scope has been given to the national legislator for the implementation of the reason for refusal in Article 4(2)(a) of the Directive. In this respect, Germany is awaiting a preliminary ruling by the European Court of Justice in case C-204/09.

In North Rhine-Westphalia, problems have arisen in relation to the concern about releasing data in the case of sensitive projects, especially with regard to terrorist attacks. When compiling the data in this respect (e.g. data on pipelines, dangerous sites, etc.), which are to allow more efficient organisation of the surveillance by the authorities and rapid intervention by the authorities, protracted discussions on the establishment of the list of data were conducted in this Land with representatives of the undertakings concerned whose data were to be recorded. Uncertainties have also been perceived in connection with the release of meeting documents and minutes as to when a right to information exits or is precluded.

In some cases, ambiguities have arisen concerning the relationship of the Environmental Information Directive to other Community legal instruments, such as, for example, the Seveso II Directive concerning the release of personal data of facilities operators who are subject to the Hazardous Incident Order (Störfallverordnung). There could be an inconsistency here with Article 19(1a) of the Seveso II Directive, according to which access to information in a database is reserved to persons authorised by the Commission or the competent authorities of the Member States. The fundamental question arises of how Community regulations on restricted disclosure of environmental data are to be considered in relation to the Environmental Information Directive.

3. Definitions (Article 2)

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

Demarcation problems have arisen in various cases relating to the concept of environmental information. The definition of the concept is important for the demarcation from other Information Acts, such as for example the Freedom of Information Act (Informationsfreiheitsgesetz) or the Consumer Information Act (Verbraucherinformationsgesetz). It is true that the Federal Administrative Court, referring to the case-law of the European Court of Justice, ruled that the concept is to be interpreted "broadly" and that it is not a matter of whether factors have a direct or indirect impact on the environment. Nevertheless, in individual cases it is often difficult to make a precise demarcation. For example, the question often arises of how close the connection must be
between the factors according to Article 2(1)(a) of the Directive and the (likely) effect on the elements of the environment within the meaning of Article 2(1)(b) of the Directive.

An example of the demarcation difficulty from the time of the obligation to publish arising from the corresponding EC Regulation is the classification of the names of recipients of agricultural subsidies and the total subsidy received by each recipient. Various administrative courts have dealt with this in Germany. It is true that they have mainly come to the conclusion that this is environmental information, but there is a lack of supreme court case-law in this respect.

Also with regard to the concept of emissions, for which a privileged right of access exists compared to other environmental information, there are ambiguities in so far as it cannot be inferred from the Environmental Information Act itself whether, in addition to direct discharges, indirect discharges are also covered.

3.2 According to your national/regional situation, give examples of the types of bodies that have been found to be covered by the provisions of Article 2(2)(b) "any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment" and (c) "any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (a) or (b)"?

**Article 2(2)(b)** of the Directive covers natural or legal persons who, according to German law, are to be classified as "loaned", i.e. they perform sovereign duties in their own name, but under the supervision of a sovereign authority.

**Examples** of this include:

- The Foundation for the waste electrical and electronic equipment register (Stiftung Elektro-Altgeräte Register) under § 17 of the Act on the Marketing, Withdrawal and Environmentally-compatible Disposal of Waste Electrical and Electronic Equipment (Gesetz über das Inverkehrbringen, die Rücknahme und die umweltverträgliche Entsorgung von Elektro- und Elektronikgeräten – ElektroG);

- The toxic waste agencies (Sonderabfallagenturen) (Baden-Württemberg);

- The standing conferences of local planning authorities (Planungsgemeinschaften), §§ 14 et seq. of the Spatial Planning Act (Landesplanungsgesetz) (Rhineland-Palatinate);

- Trägerverein Naturpark Soonwald-Nahe e.V. (in accordance with the Land Order on the Soonwald-Nahe Nature Park (Landesverordnung über den Naturpark, Soonwald-Nahe) of 28.1.2005) (Rhineland-Palatinate);
- Water and soil associations (*Wasser- und Bodenverbände*) (*Rhineland-Palatinate*);

- The water and soil associations responsible for water and soil management tasks in the public interest and for the benefit of their members (*Hamburg*).

The correlation of natural or legal persons with the specifications of Article 2(2)(c) of the Directive must be decided on a case-by-case basis. It is not possible to make a blanket statement on this, since it is necessary to examine, for each natural or legal person, the statutory provisions under which they operate, how to classify their relationship with public bodies and the extent to which they perform activities or services relating to the environment. Irrespective of their organisational structure, municipal utilities, for example, are considered as bodies within the meaning of Article 2(2)(c) of the UIR. In *Saxony*, this covers natural and legal persons governed by private law, in so far as they provide environmentally-related services of general interest, such as water supply and wastewater and waste disposal (§ 3(1), point 2 of the SächsUIG).

In Germany – as far as it can be seen – there is no case-law so far on the question of which natural or legal persons are covered by the scope of Article 2(2)(b) of the Directive.

*Where appropriate, formulate suggestions on how the meaning of 'public authority' may be further clarified.*

According to Article 2(2), second sentence, of the Directive, Member States may provide that bodies or institutions are not considered as public authorities within the meaning of the Directive when they are acting in a judicial or legislative capacity. The Federal Administrative Court considered the meaning of this sentence to be unclear for the following reasons: it is not recognisable whether the following third sentence is to restrict the provision in the second sentence further or whether it represents an additional possibility for exception. In addition, it is not clear whether a "legislative capacity" exists only in the case of bodies which, according to the Constitution of the respective Member State, take the actual decision on the enactment of a legal instrument or whether preparatory activities of a ministry are also included under this.

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

No.
4. Access to environmental information (Article 3)

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

Arrangements made at **Federal level:**

§ 7 of the UIG regulates support of access to environmental information. According to this, bodies subject to the obligation to provide information are to take measures to facilitate access to the available environmental information held by them. They must work towards environmental information held by them increasingly being stored in electronic databases or in other formats downloadable by means of electronic communication. § 7(2) of the UIG mentions as examples the following practical arrangements to facilitate access to information: designation of information officers or information points; publication of lists of available environmental information; establishment of publicly accessible information networks and databases; publication of information on the responsibilities of the public authorities.

The Federal Republic of Germany has transposed these provisions (and therefore also the requirements of Article 3(5)(c) of the Environmental Information Directive) through various practical arrangements:

Establishment of the Internet portal "PortalU". **Germany’s environment portal PortalU, a joint initiative by Federal Government and Länder**, has been online since May 2006 ([www.portalu.de](http://www.portalu.de)). The portal, as the largest official environmental information network in Germany, offers central access to approximately 3 million environmentally relevant webpages and over 500 000 entries in data lists and databases of over 300 institutions and organisations at Federal, Land and municipal levels. Alongside the environmentally relevant webpages, the content of sixteen Federal and Land lists of environmental data and eleven further databases with relevance to the environment are available. The majority of the lists of environmental data are based on ISO standards 19115/19119 and the INSPIRE-conform PortalU web application InGrid®Catalog. Via an editor, the metadata of these lists can be entered, updated and published directly on the Internet. These databases include the documentation on nature and landscape DNL-Online and FloraWeb, a database on wild plants and vegetation of Germany, which are both made available by the Federal Agency for Nature Conservation (Bundesamt für Naturschutz) and ULIDAT, the environmental literature database of the Federal Environmental Agency (Umweltbundesamt).

The Federal Environmental Agency also established a "central information point for environmental data" via the webpage "Umweltdaten Deutschland Online", see [gtto://www.umweltbundesamt-umwelt-deutschland.de/umweltdaten/open.do](http://www.umweltbundesamt-umwelt-deutschland.de/umweltdaten/open.do).
Publication of the responsibilities and activities of the respective body subject to the obligation to provide information. For example: the records plan of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety can be viewed via the Internet. This shows in concrete terms the topics on which information is available at the Ministry.

As a rule, the respective bodies subject to the obligation to provide information have recorded their organisational structure on their website. For example, the entire organisation chart with all departments, their responsibilities and their departmental heads (including telephone numbers) is available on the website of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety. In this way, everyone can identify which information is available at the Ministry (this is shown in the records plan, see above) and from whom this information can be requested (this is shown in the organisation chart).

Most of the bodies subject to the obligation to provide information also have a citizens’ portal through which it is possible for the public to ask questions on all topics for which the respective body is competent (e.g. the Citizens’ Forum of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, through which questions can be asked using a form which can be downloaded from the website http://www.bmu.de/buergerforum/fragen/content/4120.php).

The measures presented largely also apply for the Länder. In addition, the following arrangements have been made at Land level:

**Baden-Württemberg:**

In Baden-Württemberg, § 3(1) of the LUIG refers to § 7 of the UIG, which regulates the support of access to environmental information. These provisions have been implemented by Baden-Württemberg through a large number of arrangements, the full presentation of which would exceed the scope of the implementation report. Mention is made of the following measures, as examples:

An extremely comprehensive source of information is the Umweltportal Baden-Württemberg (Baden-Württemberg Environment Portal) available on the Internet. Comprehensive information can be found via www.umwelt.baden-wuerttemberg.de on all environmental media and environment-related topics. The Environment Portal also opens up access to topical online databases as regards the air quality monitoring network or water levels in the event of flooding. The Environment Portal can be found in various ways. The Baden-Württemberg Environment Portal contains not only technical information for experts, but also many presentations drawn up for citizens without specific technical knowledge. In addition to the above-mentioned Internet address, it is also accessible via the Internet address of the Ministry of the Environment of Baden-Württemberg www.um.baden-wuerttemberg.de and the Land Institute for the Environment, Measurements and Nature Conservation of Baden-Württemberg (Landesanstalt für Umwelt, Messungen und Naturschutz).
Baden-Württemberg – LUBW) [www.lubw.baden-wuerttemberg.de](www.lubw.baden-wuerttemberg.de) and the central Citizens’ Portal of the Land Government [www.service-bw.de](www.service-bw.de). The competent authority for individual questions can easily be found via service-bw by entering the postcode or place name. The Internet sites of the Ministry of the Environment of Baden-Württemberg, the LUBW and the central Citizens’ Portal of the Land contain further environmental information and links to databases with environmental information.

In many cases environmental data can be downloaded from the Internet websites of the rural districts and municipalities. Environmental data of the rural districts and municipalities flow into the data pool of the Baden-Württemberg environmental information system (UIS). For their part, Internet providers from this sector incorporate the offerings of the Ministry of the Environment and the LUBW in their own offerings.

Support of access to environmental information is also ensured in particular by the citizens’ officers of the Ministry of the Environment, the Ministry of Food and the Countryside and the other Ministries and the Environmental Helpline of the Land Government at the Ministry of the Environment. Furthermore, the Internet presence of the Ministries and Regional Councils allow easy access to organisational structures, competent bodies, contact points and addresses, so environmental information is also easily obtainable in this way. This also applies for all other bodies subject to the obligation to provide information in Baden-Württemberg.

Bavaria:

In Bavaria, the metadata information system "Environmental Object List" (Umweltobjektkatalog – UOK) ([www.uok.bayern.de](www.uok.bayern.de)) is used to catalogue information sets with relevance to the environment across departments and levels. The Bavarian State Ministry for the Environment and Health (StMUG) makes this system available to all departments, governments, urban districts and administrative district offices in Bavaria. Training seminars on the use of the system are carried out regularly. The UOK is linked to the Federal environment portal PortalU.

The webpage [www.lebensministerium.bayern.de](www.lebensministerium.bayern.de) offers central access to environmental information from public authorities covered by the area of responsibility of the StMUG. The organisational structure, with responsibilities and telephone numbers of the heads of department of the Ministry, is also available via the central webpage.

Most of the bodies subject to the obligation to provide information at municipal level actively make their information relevant to the environment available via their Internet portals (e.g. [www.passau.de](www.passau.de)).

North Rhine-Westphalia:
The information system "NRW Local Environmental Data" (NRW Umweltdaten vor Ort) has been established in North Rhine-Westphalia. This informs the public on the basis of a user-friendly map application about various environmental topics in the immediate neighbourhood.

**Hessen:**

In Hessen, the environmental data made available can be examined via the respective websites of the bodies subject to the obligation to provide information (public authorities). An annually updated list summarises the data of all the environmental information published at the Hessian Land administration (without municipalities), with corresponding references, and is published as a download on the website of the Hessian Ministry of the Environment, Energy, Agriculture and Consumer Protection (HMUELV). Furthermore, the Internet portal "Hessen-Finder", as a service of the Land of Hessen in cooperation with the Hessian municipalities, makes available information on services provided by the public authorities and official forms, according to the information requirements of citizens in concrete life situations, such as for example building, etc.

**Schleswig-Holstein:**

In Schleswig-Holstein, support of access to environmental information is regulated in § 11(1) of the UIG-SH. Accordingly, the bodies subject to the obligation to provide information facilitate access to the environmental information available from them, especially by designating information officers or information points, publication of lists of available environmental information, establishing publicly accessible information networks and databases and publishing information on the responsibilities of the public authorities. They work towards the environmental information available from them increasingly being stored in electronic databases or other formats which can be downloaded by means of electronic communications. Regarding the practical implementation of this provision, the Ministry of Agriculture, the Environment and the Countryside constructed a "Agriculture and Environment theme portal" (www.umwelt.schleswig-holstein.de). The districts, cities and municipalities publish the environmental information at municipal level on their respective websites.

**Saxony-Anhalt:**

The environmental portal of Saxony-Anhalt has been public since January 2006 as the "environmental information network of Saxony-Anhalt" (http://www.umwelt.sachsen-anhalt.de). It is to link centrally all information to be actively disseminated of the Land environmental administration and make it available to the public with verified quality. The environment portal as a tool for the better opening up of the distributed web offerings with environmental relevance of the administrations will be used by other departmental sectors and at municipal level. The information providers are gradually being integrated. Various access possibilities (thematic breakdown, list of providers, news, full-text search) open up the information offerings to the public. Databases are also linked to the portal and in this way their content can be opened up. The environmental information
network of Saxony-Anhalt currently offers central access to about 400,000 environmentally relevant webpages of about 250 institutions in Saxony-Anhalt. This Land-specific environment portal is developed in cooperation with the Länder of Baden-Württemberg and Thuringia.

The data set for the environmental information held in databases and analysable is the complex environmental information system of the environmental administration in the UIS operator centre in the Land Environmental Protection Agency of Saxony-Anhalt.

The environmental data list in Saxony-Anhalt is a list of available environmental information. It describes the data in the form of metadata, i.e. information on which data are available where and how. In this way, there is also information about contact and information points. Environmental information is also described here which is not yet available in digital form. The list refers directly to the competent information provider. The information providers are structurally transparent on account of the organisation chart of the respective institution provided on the Internet. The environmental data list is based on ISO standards 19115/19119 and the INSPIRE-conform PortalU web application InGrid®Catalog.

**Hamburg:**

The Land of Hamburg has introduced the "Environmental information according to the Environmental Information Act portal" for the active dissemination of environmental information on the Internet. Searches for environmental data can be made here according to type of information (legal, conceptual, status reports, state of the environment, data and maps, risk assessment) or topics (water, soil, air, etc.). The Hamburg environmental information portal is reached via the website http://www.hamburg.de/start-wir-ueber-uns/135336/start.html.

The lists of available environmental information and information on the responsibilities of the public authorities with the information officers are published under www.hmdk.de in the Hamburger MetaDatenKatalog (HMDK).

Regarding the active dissemination of spatial information, especially for resolving cross-border environmental problems, in implementation of the planned Geodata Access Act (Geodatenzugangsgesetz) following INSPIRE, it is possible to access spatial environmental information via various portals through the geodata infrastructure of the City of Hamburg at http://www.hamburg.de/gdi-anwendungen.

Publicly accessible information networks and databases are:

- Hamburg air quality monitoring network: http://www.hamburger-luft.de
- Hamburg water quality monitoring network: http://www.hamburg.de/wasserguetemessnetz
- Environment in Hamburg: http://www.hamburg.de/umwelt
The bodies subject to the obligation to provide information in Hamburg are published via the webpages "City and State" (Stadt und Staat) on the Internet at www.hamburg.de. As a rule, there is a contact person or a contact point on each technical page on the Internet.

- Responsibilities: http://www.hamburg.de/kontakt-bsu
- Authorities finder: http://www.hamburg.de/behoerdenfinder
- Environmental telephone: http://www.hamburg.de/infocenter.


**Thuringia:**

Access to environmental information is ensured via generally accessible sources, e.g. the respective homepage of the enforcement authority and the organisation chart of the public authorities, which show tasks, contact points and links to further information. Information can also be communicated from the plant information system – immission control (AIS-I) and from the records file (individual procedures).

**Mecklenburg-Western Pomerania:**

In Mecklenburg-Western Pomerania, the Government Internet portal provides information on citizens’ right to information under the UIG and LUIG M-V and the Costs Order (Kostenverordnung) also enacted.

**Brandenburg:**

Berlin and Brandenburg offer a jointly provided agricultural and environmental information system (LUIS-BB), which is publicly accessible via the Land Internet service www.service.brandenburg.de. The webpages of the bodies subject to the obligation to provide information (e.g. www.mluv.brandenburg.de) generally speaking, in addition to environmental data, also contain an indication of the respective competent contact or information points within the public authority and references to other bodies subject to the obligation to provide information together with address details.

**Bremen:**

The Land of Bremen publishes environmental information on the topics of waste, soil, contaminated sites, air, noise, chemicals, climate protection, nature and water, among others, on the Internet as a range of services at www.umwelt.bremen.de. In addition, reference is made to the respective competent public authorities and contact points.

**Saarland:**

In Saarland, § 7 of the SUIG regulates support of access to environmental information.
With the overhaul of the Internet site in 2006, Saarland transferred the important environmental information for citizens, associations, institutions, municipalities and undertakings from the pages of the competent Ministries to theme portals in order to simplify searches and speed up access.

With the implementation of the Environmental Information Act (*Umweltinformationsgesetz*) important announcements, such as, for example hearings under the Federal Immissions Control Act (*Bundesimmissionsschutzgesetz*) or disclosures under the UVP, are not only to be found in the Official Gazette of Saarland, but are also presented to the public on the corresponding webpages.

The bodies subject to the obligation to provide information on the respective topic are indicated on the webpages. In this way, everyone can identify from whom this and further information can be requested. In addition, there is a reference to further information, such as for example reports, brochures or links to other public authorities.

**Berlin:**

The Berlin environment portal provides a common Internet presence of the Berlin environmental authorities (www.berlin.de/umwelt). This online contact point makes it considerably easier for citizens, trade and industry and politicians to access environmental information in the Land of Berlin. The environment portal offers information on topics and services which are provided by the Berlin environmental authorities. In this way, interested users can quickly and easily find the competent contract point for their respective concerns or obtain comprehensive information.

Environmental information from the highest level nature conservation authority, especially on the landscape and species protection programme, landscape plans, protected areas, biotope mapping, etc., can be downloaded from the Internet via the FIS Broker. The competent specialist staff, together with telephone numbers, are also indicated here and therefore the possibility exists to ask questions on the topics and to obtain further information.

Further environmental information can be downloaded via the website of the Senate Administration for Urban Development. The organisational structure of the Senate Administration is also given there, with all divisions, departments, their responsibilities and heads of department (including telephone numbers).

With regard to the publication of environmental data on air quality, Article 26 of Directive 2008/50/EC provides concrete requirements concerning the scope of the public information which complete the framework established by the Environmental Information Directive. Information on current and long-term atmospheric pollution in Berlin is published on the Internet at http://www.berlin.de/sen/umwelt/luftqualitaet/index.shtml. Reference should be made in particular to the environmental atlas of Berlin, which keeps available, in digital form too, a comprehensive supply of information not only on air quality, but also on environmental noise (strategic noise-mapping in accordance with Directive 2002/49/EC – the Environmental Noise Directive) and on other

**Lower Saxony:**

In Lower Saxony, during authorisation procedures, information containing confidential commercial or industrial information is organisationally separated from all other information routinely at the beginning of the procedure, in order as far as possible to avoid disputes on the accessibility of this information which are to be recorded time and again alongside judicial proceedings relating to environmental information concerning the protection of personal data and the infringement of copyright provisions.

**Rhineland-Palatinate:**

The organisation chart and an overview of the area of responsibility with corresponding links and individual responsibilities of the Ministry of the Environment, Forests and Consumer Protection of Rhineland-Palatinate (MUFV) are published on its homepage. This also contains links to the homepages of the subordinate public authorities, the organisation charts of which are also published there.

The electronic administration portal of Rhineland-Palatinate, in which all public authorities of the Land and the municipalities along with administrative topics could be consulted, is to be superseded in autumn 2009 by the Citizens and Businesses Service (BUS), which contains all administrative services with the respective responsibilities, contact points and service descriptions. It is possible to consult, for example, air quality readings, ozone readings, technical information on nature conservation, radiation readings, the forest status report and the water geoportal on the homepage of the MUFV. Databases allow access to current flood data, the noise mapping or the digital water report. In addition, reference is made to the European Environment Agency and to EIONET by link, in which the data from the environmental observation of the Land are stored.

Contact forms allow questions to be put directly by e-mail to the Ministry or the public authorities. The homepage of the forest administration also offers the possibility to put questions to the so-called web foresters. The same applies for the other departments of the Land Government, some of which also hold environmental information.

**Saxony:**

The public authorities subject to the obligation to provide information have relevant Internet presentations (e.g. www.umwelt.sachsen.de) with references to the structure of the public authorities. Building on the Federal PortalU, the Land of Saxony has developed the SachsenPortalU (www.portalu.sachsen.de).
4.2 In which way has it been ensured that the public has adequate information of the rights they enjoy, as referred to in Article 3(5), last paragraph?

Public information takes place first and foremost via the Internet. In addition, some Länder have also published brochures on the right of access to environmental information or organised or sponsored workshops in this field.

At Federal level, both the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Federal Environmental Agency provide detailed information on the rights of citizens under the UIG via their websites. In addition, the Federal Ministry for the Environment and the Federal Environmental Agency have sponsored the construction of an Internet site by the Independent Institute for Environmental Concerns (Unabhängiges Institut für Umweltfragen – UfU) (http://www.umweltinformationsrecht.de). This informs members of the public about their rights. In addition, a guide on the use of the right to environmental information can be ordered from UfU.

At Land level, the following measures have been taken, among others:

**Baden-Württemberg:**

Baden-Württemberg informs the public in the way described under point 4.1. The legal bases for the right to environmental information can be downloaded via the Internet sites of the Ministry of the Environment and the LUBW. One of the duties of the staff of the Land of Baden-Württemberg is to support citizens in seeking access to information under the Environmental Information Directive. Baden-Württemberg also runs a central citizens’ portal at www.service-bw.de, which refers to the right to information under the environment-related keywords.

For example, mention can be made of the keyword "odour emissions", which refers *inter alia* to the right to information under the UIG to obtain information on an undertaking causing pollution. Furthermore, Baden-Württemberg has for 35 years been running an environmental helpline established at the Ministry of the Environment, to which persons with environmental concerns of any kind can turn and where appropriate their right to environmental information is pointed out.
North Rhine-Westphalia:
In North Rhine-Westphalia, the MUNLV NRW offers a leaflet on its homepage which can be downloaded by information-seekers, in which it is explained how they can exercise their right to environmental information in relation to the bodies subject to the obligation to provide information. The leaflet can also be made available to information-seekers in paper form.

Rhineland-Palatinate:
In addition to a detailed presentation of the right to free access to environmental information – along with the relevant legal provisions – a brochure on "Environmental information for Rhineland-Palatinate" is distributed nationwide on the homepage of the Ministry of the Environment, Forests and Consumer Protection of Rhineland-Palatinate.

Hessen:
In Hessen too, the public are provided with the relevant information via the Internet. The Hessian Land Agency for the Environment and Geology (HLUG) makes a large amount of its data available (at: www.hlug.de and www.atlas.umwelt.hessen.de). Furthermore, on the relevant websites of the public authorities publishing environmental data, there are corresponding links to the PortalU or to the website of the Federal Ministry for the Environment, through which Hessian citizens can access the information materials already existing.

Schleswig-Holstein:
Information on the rights of the public under the UIG-SH is provided on the website of the Ministry of Agriculture, the Environment and the Countryside of Schleswig-Holstein.

Mecklenburg-Western Pomerania:
In Mecklenburg-Western Pomerania, a workshop to present the Information Acts and their demarcation from one another (UIG/IFG/VIG) was organised in October 2008 by the Ministry of Agriculture, the Environment and Consumer Protection.

Saxony-Anhalt:
Saxony-Anhalt informed the public by means of press releases of their rights with regard to access to environmental information. In addition, public information takes place continuously via the Internet (http://www.umwelt.sachsen-anhalt.de/servlet/is/146).
**Lower Saxony:**

The Internet presentation of the Lower Saxon Ministry of the Environment and Climate Protection contains a reference to the Lower Saxon Environmental Information Act (*Niedersächsisches Umweltinformationsgesetz* – NUIG) and explanations concerning its content.

**Bavaria:**

In Bavaria, the public is informed about their rights under the BayUIG on the Internet site of the StMUG.

**Hamburg:**

In Hamburg too, the public are informed primarily via the Internet.

**Saarland:**

Likewise, Saarland informed the public predominantly via the Internet.

**Saxony:**

In Saxony, the public is informed via the Internet and brochures.

**Bremen:**

In Bremen, the public are informed of their rights under the BremUIG on the Internet site [www.umwelt.bremen.de](http://www.umwelt.bremen.de).

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

Germany has the following observations concerning Article 3(2) of the Directive.

Under German law, it is necessary for third parties concerned by the access to information to be heard before the information is disclosed (see § 9(1), third sentence, of the UIG). In order to ensure effective legal protection of these third parties concerned within the meaning of Article 19(4) of the Basic Law (*Grundgesetz*), they must have the possibility after the hearing to take action in the form of opposition or a complaint against a decision by the public authority to disclose the information to the applicant. For this, they must first be informed of this decision and then be granted a time-limit for bringing action before the information is disclosed. This may lead to delay (especially in the case of a large number of third parties concerned), so it may not be possible to comply with the time limits provided for in Article 3(2) of the Environmental Information Directive.
5. Exceptions (Article 4)

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

All the exceptions listed in Article 4 were included at both Federal and Land levels in the respective Environmental Information Acts.

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

Federal level:

There are no universally valid guidelines for the application of the UIG by Federal bodies subject to the obligation to provide information. At present, guidelines are being developed under a research project to provide guidance for the handling of applications.

The interpretation is facilitated by precise legal texts. For interpretation, the user can also have recourse to the case-law of the administrative courts and to the legal commentaries.

Further activities regarding interpretation have been undertaken in the following Länder:

North Rhine-Westphalia:

In the circular on the active dissemination of environmental information in accordance with the Environmental Information Acts (Umweltinformationsgesetze) of 28.4.2009, Mbl. 2009, p. 264, the Land of North Rhine-Westphalia referred to directions drawn up on the application of the exceptions under §§ 8 and 9 of the UIG.

Mecklenburg-Western Pomerania:

The bodies subject to the obligation to provide information in Mecklenburg-Western Pomerania have been provided with written directions dated 22 January 2009 for handling applications under the Environmental Information Act (Umweltinformationsgesetz) and the Consumer Information Act (Verbraucherinformationsgesetz), as distinct from the Freedom of Information Act (Informationsfreiheitsgesetz).
**Hessen:**

In Hessen, especially given the current process to reduce legislation (control of provisions, elimination of decrees), so far in general no corresponding implementing regulations or instructions regarding the Environmental Information Directive have been issued or rules specified for the granting of exceptions in accordance with Article 4 of the Environmental Information Directive. However, on account of several demands from requested subordinate authorities, the HMUELV is currently considering issuing corresponding specifications.

**Rhineland-Palatinate:**

Administrations and parties concerned have been and are informed about the practical application of the LUIG in numerous on-the-spot training seminars.

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

   So far, no practical need has been perceived for such a list of criteria.

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

   - Clarification would be desirable of the possibilities for refusal of a request for access to information in cases where strategic proceedings are part of a critical opinion-forming process and therefore are to be classified as confidential proceedings. This would counter uncertainty of the administration in dealing with such processes.

   - Regarding Article 4(1)(b) of the Directive: it is unclear whether the unreasonableness can relate only to the public authority (e.g. application even though the applicant is already in possession of the information) or also to the use of the information (e.g. application for the disclosure of certain address lists in order to use them for commercial advertising purposes), so far as the purpose is apparent from the application.

   - The weighing-up between the public interest in access to information and a possible reason for refusal may be very difficult for the authority in individual cases.
- At times, it seems difficult to establish in individual cases what are personal data worthy of protection. For example, precisely with regard to map-based information systems, the question often arises of the scope of a possible personal reference.

6. Charges (Article 5)

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

As far as making charges is concerned, orders for the fixing of charges have been adopted at Federal and Land levels. These indicate which costs can be claimed by the public authorities for access to information.

At Federal level, this is an Order on costs for official acts by the bodies subject to the obligation to provide information on implementation of the Environmental Information Act (Verordnung über Kosten für Amtshandlungen der informationspflichtigen Stellen beim Vollzug des Umweltinformationsgesetzes – UIG Costs Order). At Federal level, charges have been made provided that the conditions of the UIG Costs Order have been met and the charging of costs did not stand in the way of effectively claiming the right to information.

It is however exceptional to charge costs at Federal level. This has occurred only in cases involving particularly high expenditure. According to § 12 of the UIG, no costs may be charged for the communication of oral and simple written information or for examination in situ of environmental information. According to the UIG Costs Order, no costs are charged either for a refused request. The UIG Costs Order limits the costs for a request to a maximum of EUR 500. However, as far as is known, such an amount has not been charged so far at Federal level. Where the expenditure does not exceed an amount of EUR 5, it is not charged. Charges for certain official acts have no minimum value and therefore can also be set at zero. In addition, § 2 of the UIG Costs Order offers the possibility for the charging of costs to be waived in whole or in part if this is required in individual cases for reasons of the public interest or equity.

At Land level, the following arrangements have been made concerning the fixing of charges:

North Rhine-Westphalia:
On the basis of the General Administrative Charges Order (Allgemeine Verwaltungsgebührenordnung) for North Rhine-Westphalia, the general schedule of charges regulates the levying of charges for access to environmental information. As at Federal level, EUR 500 is the maximum charge for access to environmental information. This is only levied in the case of extraordinarily expensive measures. Oral and simple written communications and examination in situ, on the other hand, are free of charge.

**Hessen:**

According to § 11(1), first sentence, of the HUIG, in Hessen costs (charges and expenses) are levied for the "communication of information under this Act". § 11(1), first sentence, of the HUIG refers to the Hessian Administrative Costs Act (Verwaltungskostengesetz – HVwKostG) and this in turn to the statutory orders adopted on the basis of the HVwKostG (here respectively: General Administrative Costs Order (Allgemeine Verwaltungskostenordnung). It is expressly stipulated in § 11(1), second sentence, of the HUIG that simple oral or written information is free of charge.

**Schleswig-Holstein:**

In Schleswig-Holstein, costs are charged under § 9 of the UIG-SH and the Land Costs Order under the Environmental Information Act for the Land of Schleswig Holstein (Landesverordnung über Kosten nach dem Umweltinformationsgesetz für das Land Schleswig-Holstein – UIG-SH-KostenVO) of 21 March 2007 (GVOBl. 2007, page 225). According to § 9(1) of the UIG-SH, no charges are made for the communication of oral and simple written information, and where appropriate too on issuing fewer than 10 copies, examination in situ, measures and arrangements to support access to environmental information in accordance with § 11 of the UIG-SH and active public information in accordance with §§ 12 and 13 of the UIG-SH. No costs are charged if the request is refused. In practice, it is also important that for example bodies, associations and foundations, which serve non-profit-making or charitable purposes within the meaning of tax law, in so far as the matter does not concern a taxable economic business operation, in accordance with § 8 of the Administrative Costs Act (Verwaltungskostengesetz) of the Land of Schleswig-Holstein of 17 January 1974 (GVOBl. SH, p. 37), last amended by Act of 12 December 2008 (GVOBl. SH, p. 791) are in principle exempt from administrative charges. Furthermore, in accordance with § 2 of the UIG-SH-KostenVO, the charging of costs may be waived in whole or in part if this is required in individual cases for reasons of equity or the public interest. In accordance with § 9(2) of the UIG-SH and also considering the administrative expenditure, the charges are to be gauged so that the right of access to information can effectively be claimed. The charges may not exceed a total amount of EUR 500, even if several chargeable acts have arisen in the case of a single request for information (§ 1(2) of the UIG-SH-KostenVO).

**Thuringia:**
The Land of Thuringia adopted the Environmental Information Administrative Costs Order (Umweltinformationsverwaltungskostenordnung - ThürUVwKostO) of 23.11.2006 (ThürGVBl. 06, page 554), according to which no charge is made for oral information, examination in situ of environmental information or if a request is refused.

**Mecklenburg-Western Pomerania:**

Mecklenburg-Western Pomerania regulates the liability to charges by the Costs Order for Official Acts implementing the Land Environmental Information Act (Environmental Information Costs Order) (Kostenverordnung für Amtshandlungen beim Vollzug des Landes-Umweltinformationsgesetzes (Umweltinformationskostenverordnung – UIKostVO M-V)). The charge for handling a request for information is limited to EUR 500.

**Saxony-Anhalt:**

Costs and charges are regulated in Saxony-Anhalt by § 3 of the UIG LSA and serial No 43 of the Annex to the General Scale of Charges of the Land of Saxony-Anhalt (Allgemeine Gebührenordnung des Landes Sachsen-Anhalt – AllGO LSA) of 30 August 2004 (GVBl. LSA p. 554), last amended by Order of 19 May 2008 (GVBl. LSA p. 157).

§ 3(1), first sentence, of the UIG LSA stipulates that in principle costs may be charged for the communication of environmental information. In implementation of Article 5(1) and (2) of Directive 2003/4/EC, § 3(1), second sentence, points 1 to 3 list the binding exceptions from this principle. According to § 3(1), second sentence of the UIG LSA, no costs are charged for example for the communication of oral or simple written information, examination in situ of environmental information or the refusal and withdrawal of a request. To take account of Article 6(1) of Directive 2003/4/EC with regard to the costs of the review procedure, the application of § 13(2) of the Administrative Costs Act of the Land of Saxony-Anhalt (Verwaltungskostengesetz des Landes Sachsen-Anhalt) of 27 June 1991 (GVBl. LSA p. 154), last amended by § 7 of the Act implementing statutory provisions on meat and poultry hygiene (Gesetz zur Ausführung fleisch- und geflügelfleischhygiene-rechtlicher Vorschriften) of 22 December 2004 (GVBl. LSA p. 866), was precluded, according to which a charge can be fixed for unsuccessful opposition.

As a result, it is exceptional for costs to be charged in Saxony-Anhalt too. There are corresponding chargeable acts in accordance with serial No 43 of the Annex to the AllGO LSA only for cases involving particularly high expenditure. The costs are limited depending on the chargeable act and may amount to a maximum of EUR 500 for an official act. There is no information available that this amount has been charged to date in Saxony-Anhalt. Moreover, there is no minimum value for the various chargeable acts. Furthermore, § 3(2) regulates the principle that also considering the administrative expenditure, charges are to be gauged so that the right to information can effectively be claimed. The authority must decide in individual cases whether making a charge would be of a
nature to deter the applicant from claiming the right to environmental information and if necessary react accordingly.

**Lower Saxony:**

In Lower Saxony, § 6 of the NUIG together with Annex contains cost regulations. Considering the case-law of the European Court of Justice, the ranges of charges do not comply with the principle of covering costs as a component of German law on charges but, by way of derogation from this, are generally speaking not designed to cover costs.

**Bavaria:**

In Bavaria, the charges for opening up access to environmental information were regulated in accordance with the BayUIG in the scale of charges to the Costs Act (*Kostengesetz*). Accordingly, the provision of oral and simple written information and examination *in situ* of environmental information are free of charge. For other information, a range of charges from EUR 10 to EUR 2 500 has been fixed.

**Hamburg:**

The charges for official acts under the HmbUIG are levied in accordance with the scale of environmental charges. In particular, the provision of oral and simple written information, examination *in situ* of environmental information and the written refusal of a request are free of charge. For the provision of comprehensive written information and making available documents and other information media involving compilation expense, provision is made for a range of charges from EUR 15 to EUR 150; in individual cases involving extraordinarily expensive measures for the compilation of documents, especially if data have to be removed to protect public and private interests in a large number of cases, charges of EUR 150 to EUR 500 are possible. For the delivery of identical copies, a charge per page is levied where there are more than 10 pages (e.g. EUR 0.15 per DIN A4 copy).

**Baden-Württemberg:**

The Ministry of the Environment is authorised to determine the charges by statutory order for use of the services of the bodies subject to the obligation to provide information. The Order of the Ministry of the Environment on charges for the use of services under the Land Environmental Information Act (*Verordnung des Umweltministeriums über Gebühren für die Inanspruchnahme von Leistungen nach dem Landesumweltinformationsgesetz*) of 24 March 2006 (GBl. p. 112) was drawn up on the basis of this authorisation.

According to § 5(5), second sentence, of the LUIG, bodies subject to the obligation to provide information of municipal corporations and administrative district offices subject to the obligation to provide information may adopt derogating arrangements.
In general, charges must be gauged so that the right to information can effectively be claimed in accordance with § 5(4) of the LUIG. According to the LUIG-GebVO, provision is made for maximum charges amounting to EUR 500. According to § 5(2) of the LUIG, the provision of oral and simple written information, examination *in situ*, measures and arrangements to support access to environmental information, public information, as well as the refusal or withdrawal of a request and decisions relating to the withdrawal or cancellation of services under the LUIG, are free of charge and expense. § 5(3) of the LUIG contains further acts which are free of charge and expense serving to implement Directive 96/61/EC concerning integrated pollution prevention and control.

**Bremen:**

In Bremen, rules governing costs were adopted for measures based on the Environmental Information Act for the Land of Bremen (*Umweltinformationsgesetz für das Land Bremen* – BremUIG) in the Costs Order of the environmental administration. The charging of costs is waived in the case of oral or simple written or electronic information or information provided in any other way at low expense (e.g. examination of documents). In principle no costs are charged for examination *in situ*. The refusal or withdrawal of a request is also free of charge. The Costs Order (*Kostenverordnung*) limits the costs for a request to a maximum of EUR 500. According to § 25 of the Bremen Charges and Fees Act (*Bremisches Gebühren- und Beitragsgesetz*) of 16 July 1979 (Brem.GBl. p. 279), last amended on 8 April 2003 (Brem.GBl. p. 373), costs may be waived in whole or in part for reasons of equity. Under the same conditions, costs may be waived or fixed at reduced rates; in addition, costs already paid may in special cases be reimbursed in whole or in part.

**Brandenburg:**

In the Land of Brandenburg too, a schedule of charges for the Environmental Information Act (*Umweltinformationsgesetz*) was adopted on the basis of § 6(1) of the BbgUIG. However, making a charge is possible only in certain cases involving considerable administrative expenditure, which may amount to a maximum of EUR 500. The municipalities and associations of municipalities are authorised to adopt their own derogating cost recovery arrangements (by by-law).

**Saarland:**

In Saarland, the costs for environmental information are regulated in § 11 of the SUIG. § 11(2), first sentence of the SUIG provides that the charges are to be gauged considering the administrative expenditure so that the right to information can effectively be claimed. In No 665 "Environment-related information" of the general schedule of charges, ranges of charges are fixed for information/provision of copies, etc. The upper limit stands at a maximum of EUR 500. This maximum amount – as far as can be seen – has so far never been charged. Furthermore, charges are made in total only in exceptional cases. The general schedule of charges is published in the official gazette. Moreover, this can be consulted online at [http://www.saarland.de/SID-3E724395-](http://www.saarland.de/SID-3E724395-)
Charges for the provision of environmental information as requested are made in accordance with § 18a(4) of the IFG, § 16 of the IFG in conjunction with the Act on Charges and Fees (Gesetz über Gebühren und Beiträge) and tariffs 1001, 1004a of the scale of administrative charges. The handling charge amounts to a maximum of EUR 500, plus further costs for specially prepared materials, such as photocopies (EUR 0.15 each). § 18a(4), third sentence, of the IFG contains special exemptions from charges. Refusal decisions are free of charge.

Rhineland-Palatinate:

In the Land Order on fees for official acts of a general nature (Landesverordnung über die Gebühren für Amtshandlungen allgemeiner Art) (general schedule of charges) of 8 November 2007 (GVBl. 2007, p. 277), provision is made – also in relation to the right of access under the LUIG – for a range of charges for written or electronic information and the production and transmission of information media amounting to EUR 1 to a maximum of EUR 500. No charge is made in the following cases:

- provision of oral or simple written or electronic information;
- granting of examination in situ of environmental information;
- granting of examination of the water register and of the decisions to which the entry refers at a public authority;
- expenses are also charged even where an official act is free of charge. Charges and expenses are not levied if an application for the provision of environmental information is withdrawn or refused.

Saxony:

Costs are charged in accordance with the current Saxon schedule of costs, which sets out the graduated range of charges (EUR 5 to EUR 1 000). § 13 of the SächsUIG furthermore lays down the concrete provisions of the Directive, e.g. oral information free of charge and special arrangements for opposition procedures (preliminary proceedings EUR 5 to EUR 100).
6.2 Please explain how it has been ensured that the applicants are aware of a schedule of charges and circumstances in which a charge may be levied or waived.

The Costs Orders are published in the German Law Gazette (or in the Länder Law and Ordinance Gazettes). They are freely available on the Internet, *inter alia*. Information is also provided on the costs and access to information via the websites of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Federal Environmental Agency.

At times, it has proved to be expedient in individual cases to inform an information-seeker of the costs he can expect to pay before a decision.

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

On charging costs, the question may arise of the relationship between the arrangement in the Environmental Information Directive and the arrangements in Directive 2003/98/EC on the reuse of public sector information and Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Community (INSPIRE Directive). This question arises, for example, when information is made accessible which the applicant would like to use for commercial purposes. The relationship between these Directives is not quite clear with regard to possibly charging of costs.

7. Access to justice (Article 6)

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

The opposition procedure, which is also known as the preliminary proceedings, is provided for as review procedure within the meaning of Article 6(1) of the Directive at bodies subject to the obligation to provide information which are public authorities in Germany, with the exception of Hessen and Bavaria, at both Federal and Land levels. This is enshrined in law in §§ 68 to 73 of the Code of Administrative Procedure (*Verwaltungsgerichtsordnung* - VwGO). According to this, in the event of a refusal of the request in whole or in part, the applicant may lodge opposition to this refusal. As a rule, the next highest authority decides on the opposition. If the next highest authority is a supreme Federal or supreme Land authority, the authority which has taken the refusal decision decides (§ 73(1) of the VwGO).
At **Federal level**, § 6(2) of the UIG provides that an opposition procedure is to be carried out in any case, i.e. even if the decision was taken by a supreme Federal authority (NB: normally an opposition procedure is then unnecessary according to § 68(1), second sentence, point 1 of the VwGO). The same applies for the majority of Länder with regard to the supreme Land authorities: **North Rhine-Westphalia** (§ 3(2) of the UIG NRW), **Schleswig-Holstein** (§ 10(2) of the UIG-SH), **Mecklenburg-Western Pomerania** (§ 4(1) of the LUIG M-V), **Saxony-Anhalt** (§ 2(2) of the UIG LSA), **Lower Saxony** (§ 4 of the NUIG), **Hamburg** (§ 1(2) of the HmbUIG in conjunction with § 6(2) of the UIG), **Baden-Württemberg** (§ 4(1) of the LUIG), **Bremen** (§ 3(1) of the BremUIG), **Rhineland-Palatinate** (§ 6(2), (3) and (4) of the LUIG), **Thuringia** (§ 6(2) of the ThürUIG), **Berlin**, **Brandenburg** and **Saarland**.

If the applicant is of the opinion that a private body subject to the obligation to provide information has not answered his request in full, at **Federal level** he has the possibility to have the decision reviewed again by the body subject to the obligation to provide information in accordance with § 6(3) and (4) of the UIG. This is an optional self-review procedure, i.e. the procedure – contrary to an opposition procedure at public authorities – is not a prerequisite for bringing action before the courts. The same optional self-review procedure is provided for in **Schleswig-Holstein** (§ 10(3) and (4) of the UIG-SH), **Mecklenburg-Western Pomerania** (§ 3 of the LUIG M-V), **Saxony-Anhalt** (§ 2(3) and (4) of the UIG LSA), **Lower Saxony** (§ 4 of the NUIG), **Baden-Württemberg** (§ 3(1) of the LUIG), **Thuringia** (§ 6(3) and (4) of the ThürUIG), **Brandenburg**, **Berlin** and **Saarland**, as well as **Rhineland-Palatinate** (§ 6(3) of the LUIG). In **Hamburg** (§ 2 of the HmbUIG) and **Saxony** (§ 9 of the SächsUIG), the same self-review procedure is obligatory to bring action before the administrative court. In this connection, **Baden-Württemberg** also provides for monitoring of the bodies subject to the obligation to provide information in accordance with § 6 of the LUIG).

In **Hessen**, § 9 of the HUIG provides that there are no preliminary proceedings within the meaning of the VwGO, but that the applicant has the possibility to have a request which has not been dealt with at all or not adequately by the body subject to the obligation to provide information reviewed, without this being a prerequisite for bringing action before the administrative court.

In **Bavaria**, Article 9(1) in conjunction with (2) of the BayUIG stipulates that the applicant can have a decision by the body subject to the obligation to provide information reviewed again by the latter. This further review is not a prerequisite for taking action.

**7.2 What kind of procedure is provided for an applicant in cases mentioned in Article 6(2)? Please specify the institutions entitled to review.**
Action before the courts is provided for as a procedure within the meaning of Article 6(2) of the Environmental Information Directive in the Federal Republic. The procedure is governed by the general rules.

For actions under the UIG against Federal bodies subject to the obligation to provide information, the administrative courts are competent under § 6(1) of the UIG.

The same applies for the Länder, on the basis of the following provisions: North Rhine-Westphalia (§ 3(1) of the UIG NRW), Hessen (§ 9(1) of the HUIG), Schleswig-Holstein (§ 10(1) of the UIG-SH), Mecklenburg-Western Pomerania (§ 4(1) and (2) of the LUIG M-V), Saxony-Anhalt (§ 2(1) of the UIG LSA), Lower Saxony (§ 4 of the NUIG), Bavaria (Article 9(1) of the BayUIG), Hamburg (§ 1(2) of the HmbUIG in conjunction with § 6(1) of the UIG), Baden-Württemberg (§ 3(1) of the LUIG in conjunction with § 6(1) of the UIG and § 4(2) of the LUIG), Saarland (§ 6(1) of the SUIG), Berlin (§§ 18a(2) in conjunction with 14(3) of the IFG, § 18a(3) of the IFG), Bremen (§ 3(2) of the BremUIG), Rhineland-Palatinate (§ 6(1) of the LUIG), Thuringia (§ 6(1) of the ThürUIG), Saxony (§ 10 of the SächsUIG – also in the case of disputes against a private body subject to the obligation to provide information) and Brandenburg.

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

Appeal before a Higher Administrative Court is possible against a judgment in first instance by an Administrative Court if the appeal is admissible. This is governed by the general provisions of the Code of Administrative Procedure (Verwaltungsgerichtsordnung) (§§ 124 to 130b). Appeal before the Federal Administrative Court is possible against a judgment on appeal of the Higher Administrative Court if the appeal is admissible. This is also governed by the general provisions of the Code of Administrative Procedure (Verwaltungsgerichtsordnung) (§§ 132 to 144).

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

No.

8. Dissemination of environmental information (Article 7)

8.1 Which measures have been taken to ensure that public authorities organise the environmental information, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunications and/or electronic technology?
The obligation of active dissemination of environmental information is adopted at Federal and Land levels in the Environmental Information Acts.

The environment portal of Germany, PortalU, which is operated by the Federal Government and the Länder, alongside the general search engine, provides a separate access to various environmental topics, readings, maps and service pages. Access to 21 specific environmental topics plays a key role here. Under this heading, access, structured by subject area, is offered to particularly relevant Internet sites with a view to easy entry to the individual topics especially for citizens. The environmental topics heading is considered as a means for active dissemination of official environmental information in accordance with Directive 2003/4/EC.

Systematic dissemination is also ensured via the above-mentioned Internet site of the Federal Environmental Agency "Umweltdaten Deutschland Online" (online environmental information for Germany) (http://www.umweltbundesamt-umwelt-deutschland.de/umweltdaten/open.do).

In addition, the Länder have adopted a large number of measures geared to their respective territories. For example, mention is made here of the measures in Baden-Württemberg, North Rhine-Westphalia, Saxony-Anhalt and Berlin.

**Baden-Württemberg:**

The Ministry of the Environment of Baden-Württemberg cooperates at Federal, Land and EU levels with municipalities, the Länder, the Federal Government and EU bodies, as well as with the academic world and trade and industry. With the environmental information system of Baden-Württemberg (UIS BW), the Ministry of the Environment (UM) coordinates the entire cross-departmental processing and organisation of environmental information in Baden-Württemberg. Data on various environmental topics, such as water, soil, air and noise, but also on nature and landscape conservation, are collected from a large number of bodies and administered. The UIS BW brings together these widely distributed databases. Uniform standards and formats ensure access and usability of the data for various bodies. They support the exchange of data with Federal Government and Länder and the municipal sector in Baden-Württemberg. On the Internet, the UIS-BW is described under http://www.lubw.baden-wuerttemberg.de.

Standing working bodies have been set up for both the cooperation and the coordination. Agreements cover the common development of software solutions, cooperation at operational level and the exchange of data. With the help of the existing and well-maintained data pools, environmental information is organised in a large number of applications which are accessible to the public via the Baden-Württemberg environment portal (www.umwelt-bw.de). Cooperation at Federal Government-Länder level is ensured with Germany’s environment portal "PortalU".

A key application is the interactive service Umwelt Daten und -Karten Online (online environmental data and maps – UDO) of the State Institute for the Environment, Measurements and
Nature Conservation of Baden-Württemberg (Landesanstalt für Umwelt, Messungen und Naturschutz Baden-Württemberg – LUBW). It allows access to environmental data and digital map series. The data come from LUBW monitoring and research programmes and from the information pool of the municipal and State environmental services of the Land of Baden-Württemberg. Databases can be researched and presented according to various criteria. This database can be consulted, for example, via the LUBW Internet site.

For the dissemination of the legal provisions relating to the environment, a link was created on the website of the Ministry of the Environment to the legal information service of the trade inspectorate (Gewerbeaufsicht) which allows use free of charge (in this respect, see http://www.gaa.baden-wuerttemberg.de/servlet/is/16032). In addition, there is a link to the webpage of the Federal Ministry of the Environment, on which all laws and regulations from its area of responsibility can be downloaded free of charge. Environment-related legal provisions are also easily accessible via the LUBW website.

Since 2008, the Ministry of the Environment of Baden-Württemberg, in cooperation with the Länder of Thuringia and Saxony-Anhalt, have been using the in-house search engine Google Search Appliance (GSA). Often after only 1 or 2 clicks, users find content via the Baden-Württemberg environment portal from environmental databases and environmental maps which until recently were not found at all via search functions. Multifarious information sources are integrated directly in the search. In this respect, for example, picture archives or the web applications of the nature conservation administration are browsed through simultaneously and the hits are also supplied. For instance, the search for place names today also provides, for example, a map of the nature conservation areas in the place sought. Likewise, immission data of the monitoring network centres of the Land, such as, for example, current ozone readings or further environmental data relevant to the place, are shown. When searching for a river, all current water levels already appear after one click.

North Rhine-Westphalia:

North Rhine-Westphalia coordinates the active obligation to publish environmental information via the Circular on active dissemination of environmental information under the Environmental Information Acts (Runderlass zur aktiven Verbreitung von Umweltinformationen nach Maßgabe der Umweltinformationsgesetze) of 28 April 2009, Mbl. 2009, p. 264. This Circular covers the following tools:

- information on the application of the active obligation to publish of the UIG;
- information on the application of the exemption provision under §§ 8 and 9 of the UIG;
- survey form for an inventory (model with examples).
Since the entry into force of the Environmental Information Act, the environmental administration in North Rhine-Westphalia has constantly expanded the supply of environmental data on the Internet, for example in the fields of environmental noise and water management.

**Saxony-Anhalt:**

Saxony-Anhalt has set up a central environment portal, through which all suppliers of environment-related information can disseminate their active information. In the "Umweltinformationsnetz Sachsen-Anwalt" (Saxony-Anhalt Environmental Information Network) (http://www.umwelt.sachsen-anhalt.de), in addition to the general search engine, there is separate access to environmental topics, such as, for example, readings, maps and service pages. The access to 21 specific environmental topics plays an important role in this respect. Under this heading, access, structured by subject area, is offered to particularly relevant Internet sites with a view to easy entry to the individual topics especially for citizens. The environmental topics heading is considered as a means for active dissemination of official environmental information in accordance with the Environmental Information Directive. Systematic dissemination also takes via the direct offers of the information suppliers.

**Berlin:**

A large volume of environmental information is actively disseminated on the Internet via the Berlin environment portal (www.berlin.de/umwelt). For example, an abundance of georeferenced environmental information on the state and development of the environment is also made actively available via the Internet through the Berlin environmental atlas (www.stadtentwicklung.berlin.de/umwelt/umweltatlas).

**Bremen:**

Environmental information, including on the topics of waste, soil, contaminated sites, air, noise, chemicals, climate protection, nature and water, is actively disseminated on the Internet via the environment portal of the Senator for the Environment, Construction, Transport and Europe in Bremen: www.umwelt.bremen.de.

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

§ 10(2), third sentence, of the UIG provides by law at Federal level that the published environmental information is updated at appropriate intervals. The form in which this is implemented is left to the internal organisation of each body subject to the obligation to provide information. In the Länder too, with corresponding application of the § 10(2), third sentence, of the UIG, the basic requirement exists that the information should be kept as up to date as possible: Mecklenburg-Western Pomerania (§ 3 of the LUIG M-V), Saxony-Anhalt (§ 1(3) of the UIG LSA), Lower Saxony (§ 5(1) of the NUIG), Hamburg (§ 1(2) of the HmbUIG), North Rhine-Westphalia (§ 2(2)
of the UIG NRW), Baden-Württemberg (§ 3(1) of the LUIG), Berlin (§ 18a(1) of the IFG) or a regulation corresponding or comparable to this, Thuringia (§ 7(3) of the ThürUIG), Schleswig-Holstein (§ 11(2) of the UIG-SH), Hessen (§ 10(2), third sentence, of the HUIG), Saarland (§10(2), third sentence, of the SUIG), Saxony (§12(1), fourth sentence, of the SächsUIG) and Rhineland-Palatinate (§ 7(3) and § 10(6) of the LUIG). The concrete review cycles are organised and established under the internal responsibility of the public authority according to the justified importance and priority of the subject and considering the respective user demands.

In Bavaria, Article 10(6) in conjunction with Article 5(3) of the BayUIG stipulates that the environmental information published by the body subject to the obligation to provide information must be updated as far as possible.

Under the e-Government concept of Baden-Württemberg, the necessary means for the public disclosure are earmarked in the budget. The implementation then takes place within the context of the available financial and human resources.

Standardised update arrangements exist for the data in the data pool. The working bodies referred to under point 8.1 also play an important role. Current legal developments are also taken up especially in the Land-municipality working bodies or in the context of the geodata infrastructure of Baden-Württemberg, and their implementation is initiated in the electronic media.

A regular exchange of information and experience takes place with the persons in charge of the individual applications, during which suggestions and hints, especially by the users from public bodies, are taken up and discussed. Changes to the general conditions are announced in a regularly published newsletter for the persons in charge of user support and these are available promptly for the adjustment of the respective applications.

Hessen publishes an updated list each year, which summarises the data of the total environmental information published in the Hessen Land administration (apart from the municipalities) with corresponding references and is available as a download on the website of the Hessian Ministry of the Environment, Energy, Agriculture and Consumer Protection (HMUELV).

Examples of frequent updates in Brandenburg are the air quality monitoring network (updated hourly) and the bathing water quality (updated daily).

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

Reports on the state of the environment are drawn up and published at intervals of no more than four years only in North Rhine-Westphalia (§ 4 of the UIG NRW), Schleswig-Holstein (§ 13 of the
The other Länder provide for no legal requirement to draw up comprehensive reports on the state of the environment. Despite this lack of legal obligation, reports on the state of the environment in many fields are drawn up and published in Baden-Württemberg, Berlin, Saxony and Saarland.

For instance, in Baden-Württemberg the results of the groundwater sampling under the groundwater monitoring programme are published in an annual report. An annual waste report is drawn up in accordance with § 16(2) of the LAbfG. A further example is the annual report of the trade inspectorate, which provides information, inter alia, on undertakings which require a permit under immissions control law or which work with chemicals. Reference can also be made in this connection to environmental indicators coordinated at Federal/Länder level, which are published by the LUBW. The environmental data of Baden-Württemberg have already been compiled and published cross-departmentally at regular intervals since 1979. In these, the quality of the environment is presented media-oriented on the basis of current data, for example in the fields of "sustainable Baden-Württemberg", "natural resources", "climate", "air quality management", "noise", "water", "soil", "nature and landscape", "waste management", "plant security", "radioactivity", "electromagnetic fields", "contaminated sites" and "food monitoring". They contain further presentations on the changes over time of the most important environmental indicators (e.g. on emissions and immissions of air pollutants, nitrate contents in groundwater or on waste generation).

In Berlin, current air quality reports are published daily, weekly, monthly and annually on the Internet in accordance with the requirements of Article 26 of Directive 2008/50/EC. The updating/maintenance of the strategic noise maps and noise action planning takes place every five years in accordance with the Environmental Noise Directive.

Saarland publishes the reports on the state of the regional environment, which in part result from EU and Federal requirements, on its theme portals. These are, for example: Natura 2000 areas (contains: Birds Directive, Habitats Directive, species and biotope mapping), water quality maps, red list, landscape programme, immissions monitoring network of Saar (IMMESIA), Saarland soil information system (SARBIS), flood warning service. The publication and updating intervals range from annual (IMMESIA) to five-yearly (water quality map).

In Saxony, part reports are published regularly – e.g. forest report, environment report, wood status report – on the state of the environment (also see www.umwelt.sachsen.de).

8.4 What mechanisms are used to publicise these reports?
At **Federal level**, the Federal Government’s report on the state of the environment is adopted by the Cabinet and published as a Bundestag paper (also via the Internet).

At **Land level** too, the publication of reports on the environment mostly takes place via the Internet (Baden-Württemberg, Bavaria, North Rhine-Westphalia, Schleswig-Holstein, Saxony, Thuringia, and Lower Saxony). North Rhine-Westphalia, Thuringia, Saxony, Schleswig-Holstein and Baden-Württemberg also often make the environmental reports available in paper form.

In **Bavaria**, the report on the state of the environment is published, on behalf of the Bavarian Ministry of the Environment and Health, by the Bavarian State Office for the Environment. In **Bremen**, the Environment Senator is competent for the publication of the report on the state of the environment (§ 5 of the BremUIG).

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

No.

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

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

This results from the public duties of the authorities and the specialised laws which represent the basis for the information gathering. Each body subject to the obligation to provide information is itself responsible for the implementation.

A large number of questions concerning the existing official environmental information are discussed by the corresponding bodies through the Federal-Länder initiative PortalU. In this connection, joint concepts have been adopted on the group of suppliers, the definition of the theme pages and the making available of environmentally relevant metadata. Furthermore, the coordination point PortalU supports the bodies subject to the obligation to provide information in quality assurance by checking that the information is up to date, as well as the regular organisation of the information supplies in PortalU.

9.2 *To ensure that information is comprehensible, accurate and comparable, the method used in compiling the information is important. Have you received any request about the method used?  
Please give any other information you consider useful.*
The methods used in compiling environmental information themselves represent environmental information and as such are accessible. Requests especially relating to these methods play no role in practice.

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

No.

10. Statistics

Where statistical data have been collected on the items below, it would be useful to forward these data to the Commission:

- Number of requests made;
- Areas to which the requests for information relate;
- Percentage of requests handled within the one-month period and those within the extended term;
- Percentage of requests accepted/refused; in the case of refusal, please give a breakdown by exemption cited in support of the refusal;
- Number of procedures introduced according to Article 6(1) and (2) of the Directive; average duration and average cost of the procedures; percentage failures and successes at the end of the procedures.

The number of requests and of opposition procedures and complaints are not collected at Federal level. However, the number of requests refused is estimated to be relatively small. On the other hand, there are a very large number of requests from citizens which are answered irrespective of the existence of a right under the UIG.

The same applies for most of the Länder.

Only in Mecklenburg-Western Pomerania are statistical data collected. The bodies subject to the obligation to provide information there have to complete six-monthly evaluation forms, in which the number of requests, the content of the requests by area, the time taken to handle them, the number of requests refused, the number of oppositions and complaints must be entered. The evaluation is however still in progress at present.

As at Federal level, formal requests are also very rare in Thuringia. General requests on environmental information without explicit reference to the UIG are by far the most common. In Berlin, written requests to examine documents are received only infrequently at the main nature conservation authority. In the field of soil conservation, statistical data are possible on the following
points: number of applications (listed by year or month), breakdown by districts of the Land of Berlin, handling time, amount of charges (average and total), percentage of requests accepted/refused.

In Rhineland-Palatinate, under an evaluation of the new Act from 2005 to 2008, the Land authorities in the area of responsibility of the Ministry of the Environment, Forests and Consumer Protection were questioned on the application of the LUIG. In this period, about 142 requests were made – with express reference to the LUIG; access was refused for about 14% of these requests. Systematic statistics are not collected here either, however, since it is not possible to carry out a meaningful evaluation of them. On the one hand, the requests are often specifically oriented towards current authorisation procedures and not towards environmental topics as such and on the other, this does not reflect the number of contacts with citizens, which is considerably higher.