Introduction

- The Bulgarian Constitution (1991) proclaims the right to information. Art. 41, paragraph 2 of the Constitution says: "Citizens shall be entitled to obtain information from State bodies and agencies on any matter of legitimate interest to them which is not a State or official secret and does not affect the rights of others"
- In Bulgaria there is a framework law on environmental protection – the Environmental Protection Law (EPL) - which was adopted in 2002. The framework EPL contains provisions for some horizontal matters including access to environmental information
- The Water Act (1999) is a specific act for regulating the use of water as a resource. It was drafted during the time when Bulgaria was preparing its accession to the EU. At the time when the WA was drafted, the Water Framework Directive (WFD) had not been yet adopted, but a draft was available

I. Status of laws/regulations on public access to environmental and water related information

- The EPL’s chapter 2, articles 17-31 is entirely dedicated to access to environmental information. It transposes most of the Aarhus Convention’s (AC) provisions for access to environmental information. However, it does not correspond to the provisions of the recently adopted new EU directive 2003/4/EC on public access to environmental information.
- The EPL (which contains specific provisions on access to environmental information) explicitly refers to the procedure for access to information provided by the general act for access to public information – the APIA. The procedure of the APIA requires that the authority should consider the application for access to information within the shortest time possible, but not later than 14 days from the date of registration. The deadline for answering can be extended with no more than 10 days.
- The authority can refuse to submit the asked information. The administration’s refusal can be appealed in court.
- Art.143 of the EPL proclaims the creation of a National Environmental Monitoring System (NEMS). The NEMS covers the entire territory of Bulgaria. The WA provides for the creation of a National Water Monitoring System (NWMS)
- Monitoring information gathered by the State consists of two parts – monitoring information gathered by State authorities and monitoring information collected by private bodies – self-monitoring information. The access to both parts/types of information is subject to the same rules – the Aarhus Convention and the internal legislation for access to information.
• The water-related environmental information is collected mainly by the state authorities responsible for the protection of the environment - the MOEW, the EXEA, the RIEW and the BD.

• The environmental public participation currently takes place within the procedures for issuing the EIA permit (chapter 6 of the EPL) and for issuing the water use permit (chapter 5 of the WA).

• The EIA procedure is most often used for participation in environmental decision-making. The Bulgarian EIA procedure meets the requirements of the AC’s art.6. In the EIA procedure citizens have right to access to environmental information related to the EIA.

• The procedure for issuing the water use permits provides for publication of the initial application for the permit. Any interested person can raise objections to the application or ask the same permit. The access to the objections and requests submitted is guaranteed by the law.

• Both EIA procedure and the procedure for issuing a water use permit finish by a decision issued by the respective authority. The decision can be appealed before court.

• The Bulgarian Constitution provides for international treaties which are ratified and later published in the State Gazette (SG) become part of internal legislation. The AC was ratified in 2003 and was published in the SG No 33/2004. So now the executive powers and the courts in cases of appeal, will have to interpret and to implement both the AC and the respective provisions of the EPL.

• The Government plans to transpose the new EU directive 2003/4/EC into the national legislation in the coming years, but not later than January 1st 2007. On January 1st 2007, which is the negotiated date of accession to the EU, the Bulgarian administration is expected to implement all EU legislation.

• Bulgaria has transposed all relevant EU water directives except the WFD (partially);

• The transposition of the WFD into the Bulgarian legislation is done partially. Thus there is no adequate transposition of art.6 of the WFD (the register of protected areas). Art.14 of the WFD is transposed partially. The full harmonization of the Bulgarian legislation with the WFD is planned to happen when the new Water Act will be voted.

II. Status of enforcement and implementation of laws on public accessibility and collection of environmental and water-related information

• In general the procedures for access to environmental information and the procedures for issuing the EIA permit and the water use permit are correctly followed and enforced in practice.

• In general the environmental authorities are better informed than the rest of authorities about details concerning the access to information procedure.

• The main difficulty in enforcement of access to environmental information regulation consist in the existence of three separate regulations for access to environmental information – the APIA, the EPL, and finally the AC.

• Bulgarian access to environmental information regulation is recent and some of its most important provisions are still to be tested in the courts. The administrations at the MOEW, RIEWs and RBDs has made very substantial
and timely advances and has acquired new skills and knowledge, but their efforts can not overcome the lack of clarity for how to implement certain stipulations.

- With respect to the active access to water related environmental information, there are no many cases reported in which the public needed certain information and the administration failed to provide it.
- Public participation in EIA procedure and in water permit issuing procedure is often ineffective because of low public awareness about the possibilities offered by both procedures. Announcements for applications for issuing water use permits are ineffective because interested persons do not often visit the places where announcements are made.

III. Institutional arrangements for provision of access to environmental and water related information

- There are a number of executive power ministries/agencies which collect environmental information. Among those the most important are the Ministry of environment and water and its regional/local agencies – the RIEW and the RBD, the EXEA, the Ministry for Health (MH), the Regional Hygienic and Epidemiological Inspectorates (RHEI), the Ministry for Agriculture and Forests (MAF), the Ministry for Regional Development and Planning (MRDP) and others.
- The NIMH at the Bulgarian Academy for Sciences collects information from the Surface Water Hydrometric Monitoring Network and the National Precipitation Network.
- The authorities practically use all available tools for sharing the environmental information – from paper archives to internet
- The main water related databases accessible on the Internet are available at the website of the EXEA – http://www.nfp-bg.eionet.eu.int. The website of the MEW – http://www2.moew.government.bg also contains such databases
- Two of the RBD have websites:
  - the Black sea district RBD – http://www.bsbd.org
  - the East Aegean sea district RBD – http://www.bd-ibr.org

On the website of the MOEW and the EXEA there are lists of useful website addresses. On these lists one can find links to the websites of European institutions, NGOs, Bulgarian State institutions, etc., which offer environmental and water related information.

- The tools for assuring access to the monitoring information collected by the State are as follows:
  - Yearly State of the Environment Report (Green Book), adopted by the Council of Ministers (CM) on proposal by the Minister of Environment and Water (MOEW). The report is discussed by the Parliament – art.22 of the EPL. It is accessible on the Internet at: http://nfp-bg.eionet.eu.int/soe/
  - Information on river water quality can be found at the following web address: http://cdr.eionet.eu.int/bg/eea/ewn1
There are several registers with monitoring data:
- a public register with data related to the EIA procedure – art. 102 of EPL. Among others this register contains data obtained during administrative control on how the administrative EIA decision is implemented;
- a public register provided by art. 129 EPL, which contains data on the results of the issuance of the integrated prevention and pollution control (IPPC) permit;

- There are not direct links among different databases/registers containing water related environmental information

IV. Legal and practical barriers to providing access to environmental and water-related information

- The authorities often refuse to disclose information with reference to confidentiality of personal data.
- Another reason for withholding information is business confidentiality. In Bulgaria there are no legal criteria for specifying what information is an industrial or trade secret.
- Access to information was also refused in relation to State/administrative confidentiality.
- A major barrier is the lack of awareness for the specifics of the EPL and the AC.
- The existence of too many registers for water related information is also a barrier to access to water related information. Some of them are not maintained in the least.
- There is still no legal tool for access to self-monitoring data which are held by operators and are not available at the administration.
- There is lack of adequate information flow from RBD to the municipalities. Municipalities receive only information on hard copy bearers.
- There is insufficient information on emergency cases and the authorities’ behavior in these cases. Lack of analysis of these cases.
- Primary information (measurement protocols and analysis) are not released.
- A small amount of data can be found on the Internet. The amount of such data should be larger.
- There is lack of information about the distribution of responsibilities and functions among EEA, BD, RIEW, RHEI, and the municipalities about the license issuing procedure, the monitoring and sanctions to the violators

VI. Problems and gaps identified with respect to all of points

A) Main problems that exist with regard to governmental agencies giving access to information in response to requests for information:
- Insufficient understanding of the access to environmental information legislation;
- Lack of legal criteria for interpretation of key provisions (e.g. trade and industrial secret);
- Lack of certain legal standards – e.g. for access to self monitoring data, held by operators;
• Lack of will to implement certain existing legal standards which imply conflict of interests:
  ✓ The release of primary information is refused;
  ✓ The administration does not insist that third persons mark the confidential information they submit to the authorities so that later the non-confidential information may be released to the public;

B) Main problems that exist with regard to governmental agencies giving access to information without being requested to do so:
• Lack of adequate flow of information between certain administrative institutions:
  ✓ Between RBD and the municipalities;
  ✓ Between NIMH and the MOEW;
  ✓ Between certain authorities responsible for drafting programmes and strategies in the water sector;
• Lack of vision for the scope of information needed for governmental purposes. Problems are solved on a piecemeal basis;
• Insufficient information on emergency cases and the authorities’ behavior in these cases. Lack of analysis of these cases;
• Lack of legal requirement to submit legislation enforcement reports to a public discussion;

C) Main problems that exist with regard to public participation in decision making:
• Lack of detailed provisions for public participation under the WFD;
• Announcements for applications for issuing water use permits are ineffective. Interested persons do not often visit the places where announcements are made;

VII. Priority issues proposed to be addressed in the project component activities

A) Regarding the legal barriers the two priority issues to be addressed in the project component activities are:
  • legal regulation of commercial and industrial secret;
  • the need for training on access to information;

B) Regarding the institutional barriers to access to information and public participation the two priority issues to be addressed in the project component activities are:
  • provision to the public of information of the right addressee that holds the needed information;
  • improvement of institutional capacity and information in the municipalities;

C) With regard to practical barriers to access to information and PP the priority issues to be addressed in the project component activities are:
  • necessity for public information campaign;
  • capacity building for officials.