

CHAPTER 2

Further Improvement of the Implementation of the Aarhus Convention in Malta: A Review

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Introduction

The Twinning project MT/06/IB/EN/01 “Further Institution Building in the Environment Sector” aimed at supporting the Maltese Government in improving the implementation of the Aarhus Convention on public access to environmental information, public participation in environmental decision making and access to justice in environmental matters.

The project was carried out by MEPA as Beneficiary Institution and the Austrian Environment Agency as Lead Member State Partner. The project duration was 15 months as from 16th April 2008. The project was co-funded by the European Union and the Maltese Government under the 2006 Transition Facility Programme for Malta.

The project consisted of four components:

- Component 1: Assessment of the current situation and development of recommendations,
- Component 2: Implementation of recommendations,
- Component 3: Development of guidance documents,
- Component 4: Training and awareness-raising.

In Component 1, the legal instruments and institutional arrangements in place for the implementation of the Aarhus Convention in Malta were assessed, and recommendations were drawn up on how to improve the existing situation with regard to public access to environmental information, public participation in environmental decision-making and access to justice in environmental matters.

In Component 2, the recommendations were discussed with a wide range of stakeholders, and consequently applied in the practice, establishing an efficient and effective administrative system to implement the Aarhus Convention. Amongst other

measures, its implementation formulated a series of agreements between the beneficiary and key holders of environmental information in Malta, with the aim of securing the availability, timeliness and quality of environmental data, supported by efficient information management systems.

In Component 3, guidelines were produced addressing the public authorities, the industry and the general public in Malta.

Component 4 provided training for public officers and awareness-raising for key stakeholders and the general public.

The most relevant project results are summarised below, as achieved under each Component.

Component 1:

Assessment of the current situation and development of recommendations

Legal Analysis

Generally, the Aarhus Convention and the related EU legislation are transposed into the Maltese law. Positive trends exist amongst government and authorities to broaden the scope of acts and the rights of the public, as well as to progress towards greater transparency in their work, both in line with the requirements set by the Aarhus Convention.

Project recommendations included the following.

1. Access to Environmental Information:

a) Lists of public authorities and their remits could be made publicly accessible, in order to facilitate the general public towards optimised orientation in terms of the public authority being most appropriate to address with a request for environmental information.

b) Lists and registers of the information held by them could be disseminated in line with similar provisions envisaged in the proposal for Freedom of Information Act. An introduction of an “information officer” and of the single-counter-approach would be also in line with the practice widely accepted in EU operations.

c) The use could be promoted of electronic databases containing reports on the state of the environment, legislation, national plans and policies and international conventions. Provisions with regard to this would have been required to be added to the national legislation.

2. Public Participation in Environmental Decision-making

a) A simplification of the SEA procedure was envisaged through the merging of the two rounds of consultation on the draft environmental report for consultations with the public based on the revised reports.

3. Access to Justice in Environmental Matters

With regard to the issue of legal remedies, the establishment of a review body under the Environmental Protection Act was envisaged, similar to the Planning Appeals Board established under the Development Planning Act. This Review Body could also be open to appeals of NGOs and eventually other identified stakeholders. It could also be considered to establish a right of any member of the public to challenge administrative acts in the sense of an *actio popularis*. This procedural institution can be applied in civil law and in consumer and environmental protection. Whereas normally an interest has to be stated to enter formally a procedure (e.g. permitting procedures) as a third party, under the *actio popularis*, everybody can “challenge” the respective act, i.e. in this context this means to file a complaint against the decision with an appeal board or a court of law. In other words, *actio popularis* broadens the legal standing from a limited group of people to everybody. Survey of Current Public Sector Implementation Procedures Implementing the Aarhus Convention.

a) Access to Environmental Information

The practice for public access to environmental information held by Maltese institutions was deemed to be generally in line with the requirements of both the Aarhus Convention and the Freedom of Information Act pending adoption of various issues.

1. Type of environmental information held by public institutions

a) Specific conflicts between personal or business data protection and public access rights need to be analysed case by case by the respective institutions.

2. Opportunities for the public for online access to environmental data

a) As in all EU Member States, improvements in the subsequent years focused on enhanced use of electronic information systems as recommended by Directive 2003/4/EC, in cooperation between the major institutional holders of environmental information on Malta.

b) It was therefore recommended to embark on a systematic inter-institutional cooperation exercise to establish a Maltese national portal for environmental information, for which the major partners - Department for Environmental Health (DfEH), Malta Resource Authority (MRA), National Statistics Office (NSO) and MEPA – had already identified on a technical level mutual interests and cooperation models. Such a national

portal on environmental information will also facilitate the implementation of the Maltese participation in the European Shared Environmental Information System (SEIS) and in the harmonised European Spatial Data Infrastructure established by the INSPIRE Directive 2007/2/EC. A first pilot demonstrator for inter-institutional portal was recommended to be developed in Component 2 of the current project. This pilot project was maintained for a specific period until the creation of a SEIS portal through which environmental information became more readily accessible, as resultant from further initiatives post this project.

Interestingly, this process was achieved through the ERDF156 project, an achievement that few other countries can term as their own. The Twinning and ERDF project meshed to provide society with a veritable and tangible outcome.

c) While focussing on electronic information tools and information mainly in English, sufficient consideration will be required for providing also satisfactory information to those target groups or parts of the general public who still do not use electronic information services and/or require specific or general information in Maltese.

b) Public Participation in Environmental Decision-making

Good practice with regard to public participation exists in Malta, in particular on the level of public consultation. As such examples identified in this field, public hearing exercises or the Code of Practice on Consultation developed by the beneficiary were commended. However, the assessment of the participative procedures revealed potential for further improvement. Below, the need of action towards optimising the practice of public participation in Malta is summarised, represented by those issues and the respective recommendations which were considered of high priority.

1. Typical levels of public participation

a) The quality of public consultation process is closely linked with the timeframes available for its implementation. The existing timeframe of 15 days for objections for all projects was perceived as short. In line with the latest amendments to national legislation, an extension to a minimum of four weeks was envisaged.

b) With regard to the good practice of actively notifying the public concerned in major projects, a joint development of corresponding procedural standards was also envisaged for the larger non-major projects.

2. Costs and eventual financial barriers for stakeholders

a) Options were sought for providing the interested general public with affordable or free-of-charge expertise for interpreting architectural plans. Possible solutions could have included the provision of interpretation of complex technical contents at public hearings

on development application.

b) Options were also sought for provision of expert and affordable assistance to persons experiencing lack of specialised knowledge to formulate an appeal.

3. Training needs

a) Awareness of the public rights and the resulting obligations for public authorities holding environmental information in Malta in the context of the Aarhus Convention should be actively raised both among the general public and the civil servants. The benefits for both sides concerned by the implementation of the Convention should be communicated, for example, the possibility for the general public to participate directly in the environmental decision-making, and the facilitation for the public authorities towards more efficient development permitting procedures, the latter being closely related to environmental decision-making.

b) The existing good practice of the EIAs could be encouraged, and information of its advantages should be disseminated, as example for conflict reduction in the planning process.

c) Training could be provided for institutional staff on techniques for successful dealing with challenging situations and on how to create a positive, open and constructive atmosphere during e.g. public hearings. Examples for such challenges might include methods for dealing with polarisation (participants representing opposing views), or for steering a discussion in which a participant or group of participants gains dominant influence on the discussion process.

d) Training could be provided also for NGOs and the general public on techniques for successful avoidance of challenging situations and for a constructive concentration on eventual conflicting issues.

c) Access to Justice in Environmental Matters

With regard to the Access to Justice in Environmental Matters “pillar” of the Aarhus Convention, good practice was demonstrated by the Voluntary Organisations Act (Act XXII of 2007), which granted juridical personality upon NGOs.

Potential fields for action of highest priority were identified:

1. Opportunities for administrative and judicial appeal

a) Similar access to complaint procedures could be introduced for environmental permits, such as was available during the project’s lifetime under the EIA, IPPC and

Environmental Liability Regulations and the planned Environmental Permitting Regulations.

2. Costs currently involved should a judicial procedure be required

a) Art. 9 paragraph 4 of the Aarhus Convention requires that the procedures granting access to justice should not be “prohibitively expensive”. With regard to this, particular attention is recommended to be paid to avoiding prohibitive fees which might result in the public not making use of the rights granted, respectively, options should be introduced for fee exemption for parties (e.g. NGOs, members of the public) who cannot afford them. A possibility that could be considered refers to the concept of legal aid centres, as existing in Austria, Hungary, Slovenia and other European countries.

3. The ombudsperson system in Malta

a) As a middle- and long-term perspective, a broadening of the rights of the MEPA Auditor could be envisaged, for example following a concept similar to that applied under the Austrian Environmental Ombudsman System.

4. The standing of NGOs in open procedures

a) The current state of implementation of the Access to Justice in Environmental Matters “pillar” of the Aarhus Convention in Malta could be improved by considering, for example, solutions similar to the concept of citizens groups with legal standing, as is the practice in Austria and Germany: if a comment is supported by 200 persons or more who have the right to vote in municipal elections in the host municipality or in a directly adjoining municipality at the time of expressing their support, this group of persons (citizens’ group) is granted, according to the Austrian EIA Act, locus standi in the development consent procedure for the project and is considered to be a party involved. Citizens’ groups having locus standi are also entitled to claim the observance of environmental provisions as a subjective right in the procedure and to complain to the Administrative Court or the Constitutional Court in Austria.

5. Availability of information on how to challenge other acts and omissions of public administration that violate environmental legislation

a) Provision of more information on the MEPA website on Access to Justice, and especially on the relevance of the “Voluntary Organisations Act”, in the environment sector could result in a relevant advantage for the NGOs in the context of an improved implementation of the Access to Justice in Environmental Matters “pillar”.

b) In view of the strong role of the NGOs in environmental planning, information could be provided on the MEPA website on the new “Voluntary Organisations Act” (how NGOs can register, etc.), as well as details on the connection with planning and environmental procedures (e.g. information on legal standing, right of appeal, etc.).

6. Communication of the rights of the general public (both individuals and NGOs) in

EIA, IPPC and SEA procedures and availability of assistance mechanisms for removing/reducing financial and other barriers to Access to Justice in Environmental Matters

a) Stakeholders could be facilitated by providing information on the right of third party appeal for NGOs in permitting decisions and consider designation of an information officer for the issue of access to justice.

b) With regard to the implementation of appeal procedures in Malta, the duration of appeal procedures of a number of years was considered excessively long. Given the requirements of the Aarhus Convention (but also other international treaties) that legal remedies should be timely and effective, it was recommended to shorten (or otherwise improve) procedures at the Planning Appeals Board. The duration of the appeal procedure should ideally not exceed one year, and in regular cases should be around 6 months.

d) Systems Analysis

The Information Technology systems in the beneficiary were deemed to be well established and were being regularly updated in the light of the latest technological developments. This was supported by a quality-certified system management which guarantees short response times to user requests. The priority need of action suggested in this project refers to the following key issue and respective recommendations.

1. The basis of solid competence enabled the beneficiary to lead and facilitate the IT technical development of a Maltese national portal on environmental information in cooperation with the other main institutional holders of environmental information. Following the priorities arising from communication with the cooperating institutions, namely, the NSO, the MRA and the DfEH, priority should be given in a first development phase to a pilot inter-institutional portal with four participating institutions (MEPA, NSO, MRA and DfEH) towards optimising the presentation of information also required for reporting to the European institutions.

2. The availability of sufficient accompanying “metadata” or “methodological notes” on collected and presented environmental data had been identified by all institutions as a major challenge to ensure that data or information is not re-used in a wrong context.

3. The introduction of a Content Management System on the website was deemed essential to considerably facilitate content update, harmonised design and integration of content into the envisaged pilot and, in future, full-scale inter-institutional portal.

4. The beneficiary and partners made the best possible use of ICT and centralised

information services to enhance the project outputs.

Component 2: Implementation of recommendations

1. Presentation of Assessment and Recommendations to Stakeholders

The Aarhus project team presented the most relevant findings from the assessment phase and ideas on potential options for further improvement to the key stakeholders in Malta in the context of the Aarhus Convention, to the beneficiary and to the three National Focal Points on the Aarhus Convention. The beneficiary provides strategic guidance for the Planning and Environment Protection Directorates, and ensures that the organisation fulfils its legal obligations in an efficient and effective way. The beneficiary members have different technical backgrounds, including, amongst others, urban planning, environmental health and urban conservation. As a result, all remits relating to the three “pillars” of the Aarhus Convention were represented.

2. Formulation of a Series of Agreements for Inter-Institutional Environmental Information Exchange

This activity concentrated on formulating first agreements (Memoranda of Understanding – MoUs) between the beneficiary and other Maltese public institutions-holders of environmental information, coinciding with the development of the pilot inter-institutional environmental portal. Three MoUs were concluded between the beneficiary and its partners in the pilot portal development, i.e. the National Statistics Office (NSO), the Malta Resources Authority (MRA) and the Department for Environmental Health (DfEH)). The MoUs facilitate the inter-institutional cooperation towards ensuring a smooth environmental information flow as well as efficient and user-friendly communication of the information to the public as foreseen by the Aarhus Convention. The MoUs entered into force on 01.01.2009.

Similarly to the perspective for further institutions to join the pilot inter-institutional environmental portal at a later stage, agreements with them on environmental data exchange could be also arranged in the future. The consultation on the first MoUs has demonstrated a commendable example for shaping an open and constructive discussion, which could prove a useful base for further consultation processes on inter-institutional environmental information exchange.

This system of MoUs was in turn employed in the running of the information flows emanating from the ERDF156, having been established as a staple from the Twinning project and fully employed by the beneficiary and related parties.

3. Development of effective information management systems

3.1 Development of a pilot inter-institutional environmental portal

The implementation of this Activity addressed the practical provision of timely, high-quality and easily accessible environmental information to the general public, as recommended during the assessment component of this project, as well as its prerequisite, the establishment of effective information management systems. The agreed solution to best meet the requirements of the Access to Environmental Information “pillar” of the Aarhus Convention considers embarking on a systematic inter-institutional cooperation exercise to establish a Maltese national portal for environmental information.

A first pilot version of this inter-institutional portal was developed (<http://www.ambjent.org.mt>), with four institutions participating: MEPA, the NSO, the MRA and the DfEH. The portal was officially promoted during the training and awareness-raising seminars (visibility actions) for civil servants and the general public in Malta during 24.-26.03.2009. The pilot portal was foreseen to be gradually extended to link the environmental data held by all institutions, but was subsequently superseded by the SEIS portal emanating from the ERDF156 project, which was launched on the link www.seismalta.org.mt.

The Twinning project portal was deemed necessary as it would have facilitated in turn the Maltese participation in the European Shared Environmental Information System (SEIS) and in the harmonised European Spatial Data Infrastructure established by the INSPIRE Directive 2007/2/EC which was subsequently transposed into Maltese law.

3.2 Synergies with the upcoming Shared Environmental Information System

In addition to the foreseen activities referring to the establishment of effective systems for environmental information management in Malta, a review was carried out on preparedness of the Maltese Environmental Information System with regard to the development of the Shared Environmental Information System (SEIS) proposed by the European Commission (Commission Communication towards a Shared Environmental Information System (SEIS) [COM (2008) 46 final]).

Key results of this review stated, that while the implementation of SEIS by the European Commission was still being shaped towards a Regulation or a Directive on electronic reporting of environmental information to be proposed in early 2010, both Malta and Austria were in a position to continue the ongoing developments of their national systems according to the general principles of the SEIS Communication, and that both countries should actively participate in the European technical pilot project on e-Reporting envisaged to be launched in autumn 2009. As at 2014, the SEIS work at EU level is still underway and has matured to incorporate other initiatives and dataflows.

A further relevant result was the decision by the project partners on the electronic systems developed by the beneficiary were to be documented within the European NESIS Network project (NESIS Network, in order to enhance a European Environmental

Shared and Interoperable Information System) as national good-practice examples to be considered for the establishment of SEIS:

a) The Maltese Inter-institutional Environment Web Portal www.ambjent.org.mt established within this project (cf. previous section) in cooperation between MEPA, NSO, MRA and DfEH in its pilot version, i.e. provided access to information on air, waste and water, as described in the previous section.

b) MEPA e-Applications – the web-based system facilitating the electronic application to MEPA for environmental permits and activity notification. The global aim and functionalities of the system are comparable to the Electronic Data Management (EDM) system developed by the Austrian environment administration.

c) The Reporting Obligations Database developed in order to facilitate the management of Maltese national reporting on European level. The logic and function of this application can provide valuable inspiration for the European e-Reporting pilot project.

In addition, the Austrian experts assisted their Maltese counterparts in preparing the NESIS good-practice forms for the Environment Portal and the Reporting Obligations Database. Also, the latest update of the NESIS Status Report on the National Environmental Information System for Austria was provided to the Maltese counterparts.

Component 3: Development of guidance documents

Three types of guidance documents on the Aarhus Convention were produced during this project:

1. Guidelines for civil servants: these guidelines contained a detailed overview of the contents of the Aarhus Convention and its interpretation within the Maltese context (legal framework and practical considerations with regard to the implementation mechanisms in place). The guidance documents for civil servants were published on the MEPA website.

2. Guidelines for the general public: these guidelines consisted of an overview and detailed versions, tailored to the needs and the interest of the members of the general public and their representatives, such as NGOs and Local Councils in Malta. The guidelines also marked the limits of the scope of the Convention, i.e. the circumstances are indicated when, for example, environmental information should not be released by the authorities (e.g. for reasons of national security or of personal data protection). The guidance documents are available, free of charge, on the MEPA website and could be freely used by all interested stakeholders.

3. Guidelines for the industry: these guidelines included a general Guidance Note on the Aarhus Convention for the industry, GBRs (General Binding Rules – GBRs) and on options to comply with it. A number of the GBRs had already been developed under a parallel MT-2004 Twinning Light Project “Improving regulatory effort and compliance

with EU environmental directives”. Under the project under discussion, these were adjusted to the specific requirements of the Convention, and in addition, further GBRs were developed. All GBRs were supplied also with explanatory guidance notes.

All guidance materials for the industry were published, online and free of charge, on the beneficiary website.

The guidelines were promoted at the visibility seminars for civil servants (24.-25.03.2009) and for the general public (26.03.2009), as well as at the informative seminar on the guidelines for the industry (30.03.2009).

Component 4: Training and awareness-raising

1. Visibility Actions on the Implementation of the Aarhus Convention in Malta

The guidelines for civil servants and for the general public were presented during visibility actions organised for civil servants (24.-25.03.2009) and for NGOs, local councils and the public (26.03.2009) in Malta. The initially foreseen training and awareness-raising seminars were enhanced to the extent of visibility actions, in order to address as many civil servants and members of the general public as possible, in compliance with the core contents of the Aarhus Convention. Nominated civil servants from public agencies and institutions, the general public and its representatives (11 NGOs, the Association of the Local Councils and all 68 Local Councils in Malta) were invited.

Further to the basic contents of the guidelines, the visibility seminars focused also on specific legal and practical details, case examples and discussions. Also, the pilot inter-institutional environmental web portal www.ambjent.org.mt, as initiated and developed under the auspices of this Twinning project was presented and discussed in detail. In addition, another relevant initiative that was presented, although not under the auspices of the current project but advantageously coinciding with the visibility seminars and allowing for synergies to be exhausted, was the promotion at both visibility seminars of the consultation strategy on the implementation of the Water Framework Directive (WFD) in Malta.

All presentations, relevant links and respective guidelines were distributed among the participants within two weeks after the visibility actions, as announced at the events. A brochure informing on the core contents of the Aarhus Convention was also produced and distributed at the events, respectively, is freely available at the beneficiary afterwards. The guidelines were made available online, free of charge, at the the beneficiary website:

- a) for the general public;
- b) for civil servants;

The highlights of the outcome of the visibility seminars are presented below.

1. Access to Environmental Information

1. By facilitating the access to environmental information through the launch of the pilot inter-institutional environmental web portal <http://www.ambjent.org.mt> within less than a year, the practice in Malta set a commendable example on the international level of fast action towards an optimal implementation of the Aarhus Convention under its first “pillar”.

2. A further example of best practice on international level is the information and updated system for the progress of major developments and of development permit applications, offered by MEPA.

2. Public Participation in Environmental Decision-making

1. In Malta, commendable practice on public consultation and participation exists in the case of EIA procedures. The procedures are transparent and clear and detailed. A further valuable attribute of the EIA procedure in Malta is the tendency of formulating policy options, i.e. of following the principle of aiming at alternatives (options). These techniques and approach are recommended to be applied also to SEA procedures, which had been introduced within the environmental permitting in Malta during the lifetime of the project.

2. A further consideration recommended in the field of public consultation refers to an early launch of negotiations on conflicting issues between the parties involved. A commendable option in cases of strong contradicting interests may further suggest to not directly include the parties themselves, but to entrust the negotiation process to neutral representatives, at least in the first instance, in order to facilitate the achievement of a joint proposal.

3. For small countries like Malta it should not be excluded that NGOs might reach a point of “consultation fatigue” due to the small number of NGOs and the large spectrum of issues to be consulted on in public.

4. A fundamental prerequisite for successful public participation is to build trust among the parties. One of the best ways to involve stakeholders is to constitute “representative consultative” bodies, for example, stakeholder committees to draft legislation.

5. It could also be considered that stakeholders often might not distinguish between the results of the consultation process and the process itself, transferring their attitude to the achieved process results on the quality of the process.

6. Generally, it was recommended to consider training in negotiation skills for key national staff, in order to facilitate them in dealing with issues related to the implementation of the Aarhus Convention and in therefore preventing court-based procedures.

7. It was also generally recommended to evaluate participation exercises afterwards, in order to enable identification of strengths to further build on. A key question to be addressed to the general public in this context is whether the public understands the reasons for making the plan/project/ programme, in order to ensure that a clear distinction is made between the process and the result.

3. Access to Justice in Environmental Matters

1. In terms of the third “pillar” of the Convention, namely Access to Justice in Environmental Matters, the suitability of both the MEPA Auditor and the Appeals Board as an instrument was emphasised, because they represent a cost-efficient means for legal redress (since the procedure does not require the employment of a lawyer and is not subject to the legal formalities of a Court) and from the legal point of view, they can offer a pre-stage to judicial review in this process.

4. General Conclusions on the Visibility Actions for Civil Servants and the General Public

1. It was generally noted that Malta is broadly in alignment with the legal provisions of the Aarhus Convention. In the event that the Convention may not be applied, the right of appeal is provided for within the beneficiary institutional mechanisms that can be utilised, and finally, judicial review is provided for, even though it is not suggested that the latter is used before other means for remedies are exhausted. In general, low number of the participants having attended both visibility seminars, despite the publicity employed, may suggest that in the epoch of multimedia, seminars may often not be the only form to disseminate knowledge and to induce discussion, e.g. television and internet broadcast could be considered to be a more appropriate option for this purpose.

2. Seminar on the Aarhus Guidelines and General Binding Rules (GBRs) for the Industry

A workshop to disseminate the implications of the Aarhus Convention for the industry in Malta among civil servants was held on 30.03.2009. The seminar aimed at informing the public authorities on a large body of relevant material emerging from this Twinning project, inclusive of:

1. A Guidance Note on the Aarhus Convention for the industry,
2. Proposed General Binding Rules for enterprises in Malta,
3. Guidance to enterprises and good environmental practices,
4. Details of the emerging system for environmental permitting in Malta.

An overview was offered to the participants of the new environmental permitting system in Malta and on how the associated administrative procedures will incorporate the provisions of the Aarhus Convention with regard to public participation procedures in permitting of industrial enterprises. A demonstration was also offered at the seminar of how the recently pilot permitting system served as an important vehicle for obtaining feedback from enterprises on practical aspects of the emerging environmental permitting system. Finally, the implications were presented of the Aarhus convention for Small- and Medium-sized Enterprises (SMEs) MEs and for public bodies involved in the administration of the environmental permitting systems and development consent. The participants displayed a considerable level of interest in the topic, and a lively discussion on many of the issues in the presentations concluded the seminar. This indicated that also in future, the need for further information and clarification will remain.

International Traineeships (Study Visits)

1. Overview

This Activity allowed for experience exchange and for on-the-spot obtaining of tailored knowledge by Maltese civil servants, related to the daily implementation of the Aarhus Convention in other EU Members States (MS) beyond the scope of the visibility and training seminars in Malta.

At a relative weighting of 5:3:2 person training visits per theme, the distribution of the performed study visits among the three Aarhus “pillars” approximates well their actual relative importance in current Aarhus implementation activities also in other MS. Alternative opportunities had also been identified and taken towards a maximal benefit for the Beneficiary Institution, such as:

a) to exhaust synergies between the Access to Environmental Information “pillar” of the Aarhus Convention under the auspices of this Twinning project and the current launch of pilot projects aiming at implementing the SEIS, and

b) to enable Maltese key experts to attend international conferences addressing the Aarhus Convention, e.g. conferences under the auspices of the Czech EU Presidency of the Council of the EU addressing the Aarhus “pillars” Access to Environmental Information and Access to Justice in Environmental Matters.

Figure 1: Aarhus “pillars”

Aarhus “pillar	Planned study visits	Performed study visits	EU Member State
Access to Environmental Information	3	5	Austria, Italy, the Czech Republic
Access to Environmental Information and Public Participation in Environmental Decision-making	2	-	-
Public Participation in Environmental Decision-making	4	3	UK, Austria, the Netherlands
Access to Justice in Environmental Matters	1	2	the Czech Republic, the Netherlands
Total	10	10	

The duration of the study visits could not be extended in all cases to the initially foreseen one week each. The reasons for this relate either to the actual availability of the staff at the MS institutions who acted as hosts, or the need for rescheduling of some of the study visits.

For the organisation of all study visits, including the additional ones, 25 institutions in 9 MS (UK, Ireland, Scotland, the Netherlands, Spain, Italy, the Czech Republic, Austria, Hungary) were contacted in total, respectively 64 MS officers, during the period 03.11.08 – 12.06.2009. The general conclusions which can be made on this Activity are that:

a) Most MS institutions lack human resources to supervise visiting experts and therefore refuse to act as hosts, something that Malta may face in the future when asked to host other countries’ experts.

b) The study visits are not attractive for the potential host institutions, because the latter cannot be reimbursed for their effort.

c) The study visit coordination is a significantly time-consuming process until the potential host institution in another MS provides a clear statement on accepting or refusing to act as host. Upon confirmation of the MS institution for accepting this role, a further period of time (several weeks) elapses for the preparation of the work programme. This impedes the successful organisation of the study visits within a limited timeframe.

d) Despite these disadvantageous factors, the study visits proved to be very fruitful, not only for the Maltese experts, but also for the host institutions in the MS: synergies were exhausted with interlinked initiatives, such as the upcoming implementation of the SEIS

and the INSPIRE Directives on a national level, and mutual enrichment was achieved through knowledge and experience exchange related to practical tackling of these tasks.

2. Experience Exchange Seminar

In continuation with the process of expanding on knowledge gain, on 24.06.2009, a half-day experience exchange seminar was held in Malta for the Maltese experts who have attended study visits in other EU Member States, in order to exchange their experience and inform on the knowledge gained during the study visits, with a particular emphasis on an interdisciplinary discussion towards contributing to further improvement of the daily implementation of the Aarhus Convention and towards efficient fulfilment of emerging obligations also under related upcoming EU initiatives (e.g. implementation of the SEIS and of the INSPIRE Directive), and therefore to ensure a sustainable dissemination of the results from the study visits.

The interdisciplinary discussions led during and after the presentations allowed for the following key conclusions for further actions to be drawn towards sustainably ensuring improved implementation of the Aarhus Convention and the related upcoming EU initiatives (SEIS, INSPIRE Directive, e-Reporting) after the end of the Twinning project:

2.1. Streamlining of the requests for environmental information

In order to provide for a durable and efficient management of incoming requests for environmental information in the future, the related existing structures and procedures could be reviewed in the light of the following options emerging from the discussions:

- a) streamlining of the incoming requests for environmental information, i.e. the requests should be collected, respectively, directed to a central receiving place, in order to ensure their being optimally processed,
- b) mechanisms should be established allowing for the traceability of each request and its processing,
- c) a policy should be elaborated on what information accompanying the processing of the requests could be released to the general public.

In order to ensure the successful overall tackling of this complex task, a task force group could be recommended to be established within the competent authority for the implementation of the Aarhus Convention in Malta.

2.2. Modernisation of the current procedures for reporting of national environmental information to the EC

The current dataflow process is dependent on a series of approvals across different agencies that form an efficient flow that ensures Malta's adherence to the reporting cycle.

2.3. Ensuring of implementability of law (Legal Notices) prior to their adoption

With regard to further ensuring durable enforcement of environmental legislation proposed in the future, the following actions may be considered:

- a) an amplified inclusion of the Chamber of Advocates as a consultee in the Public Participation and Consultation processes during the drafting of Legal Notices,
- b) an amendment to the Environment Protection Act to include the remedy of appeal before an independent administrative board, i.e. a measure similar to the appeal procedure contemplated in the Development Planning Act, and
- c) handing down of more executive powers to planning and environment enforcement officials, in order to ensure a more effective all-round enforcement.

2.4. Definition of information to be released together with the requested environmental information

An interesting option with regard to the transparency of the processing of the requests for environmental information by the competent authority for the implementation of the Aarhus Convention is practiced, for example in the UK. Within the competent authority, a system has been set up to register the requests for environmental information and to follow them up. The requests are logged by the so-called Public Liason Unit into the system, and are further passed to the responsible unit handling the requested information. When replying to the applicant, the authority is entitled to release not only the information requested, but also any additional information related to the request, e.g. from emails to internal correspondence and public documents.

The establishing of a similar "Public Liason Unit" within the beneficiary (as competent authority for the implementation of the Aarhus Convention in Malta) could:

- a) be considered also an option towards greater transparency in the process of making environmental information public,
- b) significantly contribute to streamlining the incoming requests for environmental information, and
- c) provide assistance in the policy development for defining of the information to be made public.

2.5. Sustainable dissemination of the knowledge gained through the study visits in other EU MS

The knowledge gained by the Maltese civil servants / experts during their study visits in other EU MS was disseminated in two ways:

- a) online through materials on the Aarhus Convention produced during this project and relevant for civil servants in Malta, and
- b) proactively, through specific expert discussions on the respective technical issues within the individual concerned units in the public authorities in Malta.

Conclusion

In conclusion, this Twinning project served more than its targeted purpose. Away from the various measures to identify lacunae, widen knowledge on the Aarhus Convention and initiate implementation measures, the project also effectively served as the launching pad for the ERDF project which took up the baton that sought to implement the dissemination of environmental information. In both arenas, the project has excelled and laid the groundwork for many a thematic aspect, ranging from theoretical approaches to implementation outcomes.

List of Abbreviations

CDR	Central Data Repository (European Environment Agency)
COCP	Maltese Code of Organization and Civil Procedure
COM	European Commission Proposal for a Directive
COREPER	Committee of Permanent Representatives
DfEH	Department for Environmental Health
DPA	Development Planning Act (under the Maltese legislation)
EC	European Commission
EEA	European Environment Agency
EIA	Environmental Impact Assessment
EPA	Environmental Protection Act (under the Maltese legislation)
ESTAT	(previously EUROSTAT) Statistical Office of the European Commission
EU	European Union
EUMA	EU and Multilateral Affairs Unit (MEPA)
GBRs	General Binding Rules
GMO	Genetically Modified Organisms
INSPIRE	Infrastructure for Spatial Information in the European Community, Directive 2007/2/EC
IPPC	Integrated Pollution Prevention and Control
LN	Legal Notice
MEPA	Malta Environment and Planning Authority
MoU	Memorandum of Understanding
MRA	Malta Resource Authority
MS	Member State
NESIS Network	Network to enhance a European Environmental Shared and Interoperable Information System
NFP	National Focal Point
NGO	Non-governmental Organisation
NSO	National Statistics Office
OPM	Office of the Prime Minister
PDS	Project Description Statement
SEA	Strategic Environmental Assessment
SEIS	Shared Environmental Information System
SME	Small- and Medium-sized Enterprises
UNECE	United Nations Economic Commission for Europe
WISE	Water Information System for Europe