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**IDENTIFIED LEGAL, INSTITUTIONAL AND PRACTICAL  
BARRIERS TO PUBLIC ACCESS TO ENVIRONMENTAL  
INFORMATION TO SUPPORT PUBLIC INVOLVEMENT IN  
HUNGARY FOR DANUBE POLLUTION REDUCTION GOALS:  
THE NEEDS ASSESSMENT FOR SLOVENIA**  
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**Introduction**

**1. State of law on public accessibility and collection of environmental information**

**1.1. Public access to environmental information**

**1.1. 1. General regulations**

**1.1.2. Environmental framework laws**

**1.1.2.1. The EPA**

**1.1.2.1.1. General principle of freedom of environmental information**

*(Definition of environmental information. Data or information. Duties of public authorities. Question of the legal interest for obtaining environmental information. Accessibility of information concerning pollution caused by private persons. Question of implementing regulations)*

**1.1.2.1.2. Access to information gathered by the State's monitoring**

**1.1.2.1.3. Access to information within the environmental impact assessment (EIA) procedure**

**1.1.2.2. The Nature Conservation Act**

**1.1.2.2.1. Access to information within licensing procedure for activities affecting the nature**

**1.1.3. Water specific regulations**

**1.1.3.1. Development of legislation on access to information concerning waters**

**1.1.4. Natural and Other Accidents Prevention and Safety Act**

**1.2. Requirements for collection of environmental information**

### **1.2.1. The EPA**

#### **1.2.1.1. New institutes important for collection of environmental information**

*(Environmental protection officer, Environmental information system, Environmental record-keeping)*

#### **1.2.1.2. Environmental monitoring and reporting requirements**

*(State's environmental monitoring, Polluters' environmental self-monitoring and reporting requirements, Enforcement of polluter's self-monitoring and reporting requirements, Requirements for implementing regulations)*

### **1.2.2. Water specific regulations**

#### **1.2.2.1. Monitoring and reporting requirements for polluters**

#### **1.2.2.2. Collection of data concerning waters**

## **2. Status of enforcement and implementation of law on public accessibility and collection of environmental information**

### **2.1. General findings**

### **2.2. Administrative enforcement**

### **2.3. Public accessibility of data bases concerning waters**

*(Accessibility of data concerning water discharges, Accessibility of data concerning ambient quality of surface and ground water, Accessibility of data concerning quantity of water resources, Accessibility of data contained in the Water Book)*

## **3. Institutional arrangements for provision of access to environmental information**

### **3.1. Institutions dealing with collecting, processing and disseminating of environmental information related to waters**

### **3.2. Personnel, infrastructure and budget for providing access to environmental and water related information**

### **3.3. Database linkages**

*(Domestic databases accessible on internet, Inclusion of Slovenia in the European network EIONET)*

## **4. Number of requests**

## **5. Procedural rules for gathering environmental information**

## **6. Legal and practical barriers to providing access to environmental information**

### **6.1. Grounds for refusal of access to information**

### **6.2. Confidentiality of information.**

#### **6.2.1. State secrets**

#### **6.2.2. Military secrets**

**6.2.3. Business secrets**  
**6.3. Other barriers to access to information**  
**6.3.1 Price of information**

**7. Access to information gathered by Danube programs and other programs relevant to information on discharges into the Danube**

**8. Problems and gaps identified with respect to all of points 1-7**

**9. Priority issues to be addressed**

**10. Limitations of the needs assessment itself - information which was impossible to obtain and reasons**

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**Introduction**

In this paper is given the overview of Slovenian law providing free access to environmental information with focus on information related to water pollution and management of water resources. Practical aspects concerning enforcement and implementation of such law, including institutional arrangements, are given as well. Special regard is given to barriers to providing access to information.

Since the law provisions regulating freedom of environmental information are rather unclear and poor in scope, they are analyzed in detail. The analyses are based on commentaries of laws, where available, and/or the legal theory, taking into account public discussions on this topic opened in a number of round tables and workshops in Slovenia during last five years where officials, independent experts and non-governmental organizations were meeting.

Practical aspects concerning implementation of Slovenian law on access to information are given on the basis of interviews made with responsible officials for the purpose of this study<sup>1</sup> as well as taking into account experiences in this field described by participants in before mentioned roundtables and workshops, including rich experiences of our center.

We conclude this study with priority issues which are, in our opinion, to be addressed in order to improve access of environmental and, particularly, water related information.

**1. State of law on public accessibility and collection of environmental information**

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<sup>1</sup> See the list of interviewed officials in the appendix.

## **1.1. Public access to environmental information**

### **1.1.1. General regulations**

Slovenian Constitution provides the right of the public to have access to information of public nature.<sup>2</sup> This right can not be exercised directly, on the basis of the constitution itself, but it needs implementing law. The constitutional provision is rather conservative, requiring that a person asking information should have a *legal interest* based in the law in order to obtain such information. The right of access to information may also be limited in cases determined by the law (e.g. state, official, military and business secrets).

So far, Slovenia does not have a framework law dealing with access to information of public nature. Access to information within the particular spheres of social life are regulated by different laws if any. Environmental laws are ones of pioneers in this field.

### **1.1.2. Environmental framework laws**

#### **1.1.2.1. The EPA**

Freedom of environmental information is covered primarily by the *Environmental Protection Act* (hereinafter termed the EPA)<sup>3</sup>, a framework environmental law from 1993. General rules on accessibility of environmental information provided by the EPA apply to information concerning waters as well.<sup>4</sup>

##### **1.1.2.1.1. General principle of freedom of environmental information**

Free access to environmental information is provided by the EPA, Article 14. The law deals with this issue on the level of a general principle, providing a general statement that environmental information is to be open to the public (the law does not explicitly speak about the *right* of access to information), and a broad but vague definition of environmental information. It also gives several basic rules concerning access to environmental information upon request. Its provision concerning public accessibility of information concerning pollution caused by private persons are particularly scope and unclear.

##### ***Definition of environmental information***

The EPA defines environmental information as data concerning (1) the state and changes of the environment, and (2) the procedures and activities of public authorities, namely bodies of the State and local authorities, the parties involved in the delivery of

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<sup>2</sup> The 1991 *Constitution of the Republic of Slovenia*, Art. 39(2); published in the *Official Gazette of the RS*, No. 33/91-I.

<sup>3</sup> The EPA is published in the *Official Gazette of the RS*, No. 32/93, 44/95, 1/96, 9/99, 56/99, and 22/00.

<sup>4</sup> Specific water regulations do not provide any additional rules concerning public access to information related to management and protection of waters.

public services and holders of public authorizations relating to the environment (hereinafter termed *public authorities*).<sup>5</sup>

### ***Data or information***

In Slovenian law we can find inconsistency in the use of terms “data” and “information”. There is no any regulation defining these terms. The EPA, Art. 14, use the term *data* while the Constitution, Art. 39 (2), use the term *information*.

Having in mind commonly used distinction between the notion *information* and *data*, that is, under term *information* is meant *processed, aggregated data* and under the term *data* is meant *raw, unprocessed data*, it might be interpreted that the EPA obligates public authorities to provide upon the request only raw, unprocessed data. This is also prevailing opinions of officials dealing with data gathered from annual waste water monitoring reports in the MoE/SANC who work on provision of such data when requested by the public.<sup>6</sup>

### ***Duties of public authorities***

According to the EPA, Art. 14 (1) and (2), *public authorities* are obligated to

- (1) “inform the public” i.e. disseminate environmental information, and to
- (2) provide environmental data/information upon the request.

### ***Informing the public – dissemination of information***

The general obligation of public authority to inform the public and, therefore, to disseminate environmental information on their ones initiative is further developed only in the EPA’s section regulating environmental State’s monitoring.<sup>7</sup>

The EPA additionally provides that annual environmental reports, being prepared by the MoE in cooperation with other ministries and adopted by the parliament, are to be made available to the public. This reports should contain data concerning the state and changes of the environment in the country, ecological influences on the health of the population, environmental damage, rehabilitation programs, environmental research and the introduction of new technologies, financial transactions and activities of public authorities in the field of environmental protection, etc.<sup>8</sup>

### ***Provision of information upon request***

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<sup>5</sup> The EPA, Art. 14 (1).

<sup>6</sup> This finding was got during interviews made with officials which deal with data collected from annual monitoring reports of wastewater discharges.

<sup>7</sup> See more under point 1.1.2.1.2. *Access to information gathered by the State’s monitoring*.

<sup>8</sup> The first annual report prepared by the MoE on the basis of the EPA is from the year 1996. It contains data concerning waters, too. The Chapter designed to waters, 50 pages long, provides information concerning the quality of ground water and sources, the quality of surface waters, lakes and the sea, emissions into waters, the use of water and the protected water areas. It also has a general part giving information about domestic legislation, international agreements and international cooperation. Within the latter, a short information on progress made in the execution of the Danube Pollution Reduction Programme is given as well.

Regarding access to information upon request, the EPA has only one provision saying that *public authorities* are to provide environmental data requested by members of the public at latest within one month of the request and at price which may not exceed the material costs of provided information.

### ***Question of the legal interest for obtaining environmental information***

To this point it should be stressed that the EPA does not required any interest to be stated or proved by a person asking environmental information. If we go back to the Constitutional provision requiring that a person asking information of public nature should have a *legal interest* based in the law, we see that in the field of environmental protection the EPA implicitly gives a legal interest for gathering environmental information to anybody or literary to “interested individuals and organizations”.

However, we notice that in practice, having in mind particularly authority responsible for dealing with information concerning waste water discharges, officials tend to ask the reason of the request for information.<sup>9</sup>

### ***Accessibility of information concerning pollution caused by private persons***

Further, according to the EPA, Art. 14 (3), polluters and other persons whose business operations cause in any way or in any form an *environmental strain*,<sup>10</sup> that is, parties who cause a risk or damage to the environment, or depreciation of the environment, or who use or exploit natural resources, must provide public access to information concerning such *environmental strain* through the competent local authority’s agency/office or - in the case of urban municipalities (cities) - trough a competent institute. If we take look at the definition of the *environmental strain*, provided in the EPA in Art.5( 6), we will see that it includes emissions, as well. So, data concerning emissions are to be open to the public.

Regarding the way in which information concerning *environmental strain* caused by polluters should be provided, the law use analogy referring to the previous paragraph dealing with disclosure of information by public authorities (stated above). The law is particularly unclear in this part. It does not contain any additional provisions concerning flow of information from polluters to local authorities. If we analyze wording of the 2. and 3. paragraphs of the Art.14 in detail, we will find out that polluters are obligated to provide information concerning *environmental strain* to local

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<sup>9</sup> About practice see more in Section 2.3. *Public accessibility of data bases concerning waters.*

<sup>10</sup> Definition of the “*environmental strain*” is given in the EPA, Art. 5(6): “Environmental strain, regardless of whether the strain itself or its consequences are involved, is any *activity affecting the environment* or any effect of such *activity* which exclusively or in concert with others has caused or is causing environmental pollution, the depreciation of the environment, risk or damage to the environment, as well as the use or exploitation of natural resources.” Further, the term “*activity affecting the environment*” is defined as “any permanent or temporary human activity or omission whose impact is likely to, or endangers health or the environment, resulting in an artificial change in the environment, in an environmental strain, or restriction of its natural process of change, and pertaining in particular to the following: (1) exploitation and use of natural resources; (2) exploitation and use of space; (3) production and other activities; (4) transport and use of goods; (5) emissions into water, air, or soil, the disposal and collection of waste, and other environmental impacts.”

community “actively”, on their own initiative, and/or upon the request of the local community. Therefore, polluters and others causing *environmental strain* are obligated to inform local authorities about data concerning *environmental strain* they caused. In reverse, local authorities may request polluters to provide information about such *environmental strain*. Further, local authorities are obliged to provide information gathered from polluters to the public actively and/or upon the request.

### ***Question of implementing regulations***

The EPA does not request issuance of any implementing regulations/guidelines or establishment of any practical arrangements for the purpose of implementation of the general principle of freedom of environmental information. This has negative consequences on accessibility of environmental information in practice, especially on accessibility of information concerning pollution caused by private persons.

#### **1.1.2.1.2. Access to information gathered by the State’s monitoring**

The EPA obligates the State to ensure that the information about the results of the State’s monitoring<sup>11</sup> performed and related warnings shall regularly be made available to the public, local authorities and other interested organizations through public media and other means. Therefore, agencies and departments, which ensure State's monitoring, are regularly to inform the public about data gathered by it. The State should also insure early warning against possible dangers.<sup>12</sup>

#### **1.1.2.1.3. Access to information within the environmental impact assessment (EIA) procedure**

The EPA also has few provisions concerning access to information within the environmental impact assessment procedure (EIA). According to the Art. 60, the environmental impact report/statement (EIS) and the draft of the decision concerning the license for the activity/project are to be available to the public during public presentation, a phase within public participation process, which should last at least 15 days. The public announcement concerning presentation of documents, public hearing etc. must include summary of the EIS containing a final appraisal/judgement and being in form comprehensible to the general public. The announcement is to be published in public media and announced in the usual local manner. The final decision concerning the license of the activity/project, as well as the environmental consent made by the MoE in the licensing procedure are to be published in public media within eight days of issuing the consent.

#### **1.1.2.2. The Nature Conservation Act**

##### **1.1.2.2.1. Access to information within licensing procedure for activities affecting the nature**

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<sup>11</sup> State’s monitoring encompasses the immission monitoring, emission monitoring of diffuse sources of pollution, intervention monitoring and monitoring of natural phenomena. See more under point 1.2.1.2. *Environmental monitoring and reporting requirements*.

<sup>12</sup> The EPA, Art. 67, 68 (1) and (2).

Another environmental law, currently in effect, which deals with access to information to some extent is the 1999 *Nature Conservation Act* (herein after termed the NCA).<sup>13</sup> This law, which introduce public participation in licensing procedure for activities affecting the nature,<sup>14</sup> has some scope provisions concerning access to information within such procedures. It provides that the application for the license and the draft of the license decision must be published in at least one public media including a notice identifying a place where background material might be publicly obtained and the period of time when it will be available for public inspection.<sup>15</sup>

Further, the NCA authorizes the minister responsible for the environment to prescribe additional detailed rules concerning access to information in such licensing procedures. Up to date these additional rules were not prescribed yet. The time limit for issuance of these rules is not provided by the NCA.

### **1.1.3. Water specific regulations**

Legislation which provides public access to environmental information in general (described above) apply to information related to water pollution as well. Specific regulations dealing with water protection (water management, water pollution control, monitoring, etc.), currently in effect, do not provide any additional rules regarding public access of environmental information in this field. EPA's implementing regulations concerning water pollution control regulate only flow of information from polluters to state authorities (reporting requirements for polluters). Some improvement in accessibility of water related information anticipates a new proposal of a law dealing with the management of water resources, proposed to the Slovenian parliament in 1999.

#### **1.1.3.1. Development of legislation on access to information concerning waters**

The proposal of the new framework law on water management, named the *Law on Waters* like the current one, was proposed to the Slovenian parliament on March 2000.

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<sup>13</sup> Published in the *Official Gazette of the RS*. No. 56/99.

<sup>14</sup> According to the definition provided by the NCA, the *activities affecting the nature* are activities affecting the natural valuableness (e.g. species, habitats, ecosystems, minerals, geomorphological phenomena, water bodies ), activities within protected and other ecologically important areas as well as activities concerning the protection of species, genetic resources and natural valuableness itself (the NCA, Arts. 4 and 104 (2)). For more detailed definition of the *activity affecting the nature*, the NCA uses analogy referring to the EPA's definition of the *activity affecting the environment* (the NCA, Art. 11(15)). According to the EPA, Art. 5 (4.1), the *activity affecting the environment* is "any permanent or temporary human activity or omission whose impact is likely to, or endangers health or the environment, resulting in an artificial change in the environment, in an environmental strain, or restriction of its natural process of change, and pertaining in particular to the following: (1) exploitation and use of natural resources; (2) exploitation and use of space; (3) production and other activities; (4) transport and use of goods; (5) emissions into water, air, or soil, the disposal and collection of waste, and other environmental impacts."

<sup>15</sup> Such notice is to provide also a time limit for submission of public comments and the identification of the official body to which comments can be submitted.



This law proposal provides that two main data bases called a *Water Book* and a *Water Cadaster* are to be accessible to the public.<sup>16</sup>

The *Water Book* will comprise records on all *water rights*<sup>17</sup> being granted, *water consents*<sup>18</sup> and *water permits*<sup>19</sup> being issued, as well as decisions concerning the selection of concessionaires and concessionaire contracts. The *Water Cadaster* will comprise *inventory of waters*,<sup>20</sup> *inventory of water management facilities*, and *water protection inventory*. The latter will contain data concerning pollution of waters, sources of water pollution, and other data relevant for water protection.

Members of the public will have a right to examine data contained in the *Water Book* and *Water Cadaster* as well as to get extracts from these data bases. Provision of such extracts will be charged but such costs may not exceed the material costs of provided information.

This law proposal requests the minister of the environment to issue a regulation in order to regulate in more detailed manner how material costs for provision of information are to be determined, how requested documents are to be provided to the applicant, how data contained in *Water Book* and *Water Cadaster* is to be provided to the public, as well as how and in what form the records are to be kept in these books.

#### **1.1.4. Natural and Other Accidents Prevention and Safety Act**

The *Natural and Other Accidents Prevention and Safety Act*,<sup>21</sup> which concerns ecological and industrial accidents as well, provides that data on dangers related to such accidents as well as data on activities of the State and local governmental bodies and of others who perform tasks related to the accidents' prevention and safety (e.g. producers, transporters, etc.) are to be accessible to the public.<sup>22</sup>

In the case when an accident occurs, inhabitants of the region affected must be informed about dangers related to the accident. Provision of such information is the responsibility of the State and of local communities. The tasks related to professional and analytic processing of data, provision of information, and alarming, is on the state level in the competence of the Department of Information Support, an agency of the Ministry of Defense. Centers for dissemination of information (information centers) are organized on the state, regional and county level.

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<sup>16</sup> The proposal of the Law on Waters, Arts. 167-170; the law proposal is published in the official bulletin of the parliament named "The Reporter of the National Assembly of the RS", No. 21 from March 28, 2000.

<sup>17</sup> *Water right* will entitle the use and exploitation of the water or sea asset.

<sup>18</sup> *Water consent* will be obtained for any *action/activity into the space* which might permanently or temporarily impact water regime.

<sup>19</sup> These permits concern the use of water (e.g. by power plants), but not discharges.

<sup>20</sup> Inventory of waters will contain data concerning surface and ground waters, submerged and riparian land, and land within protected and endangered water areas.

<sup>21</sup> Published in the *Official Gazette of the RS*, No. 64/94.

<sup>22</sup> *Law on natural and other accidents prevention and safety*, Art. 11.

Local communities i.e. municipalities regulate this issue with their ordinances. Per example, the *Ordinance No. 8-2/97* of the Municipality of Ljubljana provide that the tasks of the municipality is *inter alia* collection of information and data relevant for protection against accidents and rescue, as well as informing, warning and alarming inhabitants about threatening dangers. This obligation concerning collection and dissemination of data is not further developed by the ordinance.

The *Natural and Other Accidents Prevention and Safety Act* also obligates business entities, institutes and other organizations which use, produce, transport or storage hazardous substances during their business operations and whose activity represent a danger for the occurrence of an accident, to ensure on their own costs providing of information concerning such danger to their workers and neighboring population.<sup>23</sup> This law requirement is not further developed.

## **1.2. Requirements for collection of environmental information**

### **1.2.1. The EPA**

#### **1.2.1.1. New institutes important for collection of environmental information**

The EPA introduces three new institutes which will provide valuable sources of environmental information when implemented in practice: environmental protection officer, information system of environmental protection, and ecological record keeping. Up to date, enabling regulations required by the EPA for implementation of these institutes are still not issued although time-limit for their issuance passed on April 2, 1994. Slovenian legal system does not provide any remedy or lawsuit that can be brought to force the executive government to fulfill this obligation.

#### ***Environmental protection officer***

The EPA provides that all legal persons whose business operations directly cause environmental strains must appoint an environmental protection officer<sup>24</sup> whose duty, *inter alia*, is to provide information concerning such environmental strain to the competent agency of local authorities or to a competent institute in a case of urban municipalities (cities), in order to make them accessible to the public. He also has duty to cooperate with state and local authority's agencies competent for environmental protection, as well as with citizens' associations and other non-governmental organizations (hereinafter termed NGOs) dealing with environmental protection and being interested in such cooperation. The environmental protection officer may be employed or hired person by polluters (and other persons causing *environmental strain*) provided that he/she fulfill all conditions prescribed by the minister responsible for the environment.

Up to date, the statutory provisions concerning the appointment and activities of the environmental protection officer have not been implemented in practice since the

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<sup>23</sup> *Law on natural and other accidents prevention and safety*, Art. 38 (2) and (3).

<sup>24</sup> The *EPA*, Art. 41.

regulation on conditions, which the environmental protection officer must satisfy, has not been prescribed yet.

### ***Information system of environmental protection***

Within the Geo-Information Center of the MoE, a global information system is being set up, within which a comprehensive information system for environmental protection shall be established. In addition to the latter, the global informational system will include the following information data bases: geological data, meteorological and hydrological data, seismological data, radiological data, water management information system, and data from the Inspectorate of the MoE.

Environmental protection system<sup>25</sup> is to include *inter alia* data bases on emissions according to their sources, parties responsible for *environmental strain*, the use of material and energy, hazardous substances, the generation and scope of waste, health-related ecological conditions of the population, regulations and standards, etc.

Up to date, this information system is still not established since enabling regulations concerning the structure, the common bases, categories and the aggregate levels of data contained in it,<sup>26</sup> the regulation on the content of and authorities responsible for maintaining and holding cadasters, registers, records and other data bases, and the regulations concerning the reporting units, the methodology of data collection, storage, processing, and distribution, the official status of such data, and the mandatory inclusion of data in international information systems,<sup>27</sup> are still not promulgated.

Once established and regularly maintained, the environmental protection system will be a valuable sources of environmental information. In this moment, it is hard to say anything about the way of gathering data, reporting requirements and public accessibility of data containing in such system, since all these issues should be prescribed by needed implementing regulations, stated above. However, according to the EPA, Art. 14, all data once collected in these data bases which will fall within the definition of environmental information should be accessible to the public.

According to the *Intergovernmental Conference on Accession of the RS to the EU, Starting-point for Negotiations of the RS for the fied 22 – the Environment*“, the establishment of the integral environmental protection system should be done up to the end of the year 2002.

### ***Ecological record keeping***

The EPA, Art. 42, introduces obligation of ecological record keeping for all persons engaged in business activities, whether “productive or non-productive”, causing *environmental strain*<sup>28</sup> and being determined as a subject to such record keeping by the

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<sup>25</sup> Establishment of environmental protection information system is required by the EPA, Art. 73.

<sup>26</sup> The adoption of this regulation is in the competence of the National Government (the prime minister and cabinet of all ministers).

<sup>27</sup> The adoption of this regulations is duty of competent ministers.

<sup>28</sup> See definition of “environmental strain” in fn 10.

MoE. Ecological record keeping should encompass energy and material consumption balances as well as data concerning the nature/type and characteristics of *environmental strains* caused by business operation.

Reporting requirements from to the MoE are to be prescribed by implementing regulations as well as types of activities which are subject to the ecological record keeping, scope and content of ecological records, and the manner of their keeping for specific types of activities.

Issuance of these implementing regulation is in the competence of the MoE provided that opinions of other responsible ministers are previously obtained. Up to date these regulations are not issued yet.

### **1.2.1.2. Environmental monitoring and reporting requirements**

Environmental monitoring is regulated by the EPA, Arts. 67-72.

#### ***State's environmental monitoring***

The State is responsible to ensure directly or in the form of a public service:<sup>29</sup>

- 1) *immission*<sup>30</sup> *monitoring* - observation and supervision of quality of environmental media (soil, waters and air, including radiation and noise), of flora and fauna, and of health-related ecological conditions of the population;
- 2) *emission monitoring of diffuse sources of pollution* (e.g. pollution caused by the traffic of motor vehicles or by the use of pesticides and fertilizers in agriculture), and
- 3) *intervention monitoring* (e.g. ecological and industrial accidents);
- 4) *monitoring of natural phenomena* – observation and supervision of meteorological, hydrological, erosive, seismological, radiological, and other geophysical natural phenomena.

Data gathered by the State's monitoring have the status of official data and are to be stored by competent ministries.<sup>31</sup>

In cases where it is in the interest of a local authority or other persons to provide more detailed or special type of monitoring of natural phenomena, immissions, emissions from diffuse sources of pollution, or intervention monitoring, the statute foresees the possibility that a local authority or such interested person can exercise such monitoring by themselves, but in agreement with a ministry responsible for particular type of monitoring.<sup>32</sup>

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<sup>29</sup> The State also can impose on the private party an obligatory concession for the performance of individual monitoring tasks, especially to companies in the field of air or water transport. The *EPA*, Art. 68 (5).

<sup>30</sup> "Immission" means "the concentration of substances and other phenomena in the environment as a result of emission and the working of natural and anthropogenic factors" (the *EPA*, Art. 5 (5.2)).

<sup>31</sup> The *EPA*, Art. 71(3).

<sup>32</sup> The *EPA*, Art. 68 (3).

Urban municipalities (cities) have the statutory duty to establish an immission monitoring network for more detailed and special type(s) of monitoring, as well as the monitoring of emissions from diffuse sources of pollution.<sup>33</sup>

In regard to waters, establishment of such special monitoring in urban municipalities is mostly limited to water resources - captures for drinking waters. The two biggest cities of Slovenia, Ljubljana and Maribor, ensure only more detailed immission monitoring of under ground water within protected water zones, designated for drinking water supply.<sup>34</sup>

### ***Polluters' environmental self-monitoring (operation monitoring) and reporting requirements***

Individual polluters have a duty to ensure *operation monitoring*<sup>35</sup> which includes:

- (1) *emission monitoring* of particular sources of pollution they operate,
- (2) *monitoring of immissions*<sup>36</sup> resulting from environmental strains caused by their operations, and
- (3) when necessary, the *monitoring of natural phenomena* influenced by their operations.

Additionally, individual polluters and other persons who are dealing with activity which represent an *environmental risk*<sup>37</sup> have a duty to ensure *preventive monitoring*<sup>38</sup> in order to prevent the *excessive environmental strain*<sup>39</sup> or endangerment.<sup>40</sup> In the case of imposed rehabilitation measures upon polluters and other persons who cause *environmental strain*, such persons must ensure *monitoring of the effects of rehabilitation measures*, as well.<sup>41</sup>

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<sup>33</sup> The EPA, Art. 68 (4).

<sup>34</sup> This issue is regulated in the Municipality of Ljubljana by the 1988 *Ordinance for the protection of water resources for drinking water within the Municipality of Ljubljana*, and in the Municipality of Maribor by the 1989 *Ordinance on protection zones and measures for the protection of store of drinking water within Plateau Vrbanško, the Island of Maribor, Woodland Limbuska and the Field of Drava*.

<sup>35</sup> The EPA, Art. 70 (1).

<sup>36</sup> "Immission monitoring" includes "the observation and supervision of immissions in the soil, water, air, the flora and fauna, and of health-related ecological conditions (the EPA, Art. 67 (2)). "Immission" means "the concentration of substances and other phenomena in the environment as a result of emission and the working of natural and anthropogenic factors" (the EPA, Art. 5 (5.2)).

<sup>37</sup> The "environmental risk" is the possibility that an *activity affecting the environment* will directly or indirectly harm the environment or human life or health (the EPA, Art. 5 (7.3.1.)). This is the case where violation of emissions' standards will have consequences in the harm of the environment or of human life or health.

<sup>38</sup> The EPA, Art. 70 (2).

<sup>39</sup> The "excessive environmental strain" is defined as an *environmental strain* which exceeds the prescribed limit values or framework of allowed *activity affecting the environment* (the EPA, Art. 5 (6.2.)).

<sup>40</sup> Definition of a "environmental endangerment" is given in the EPA, Art. 5 (7.3.2.): "(It) is an excessive risk which, in view of high degree of probability of an event happening or the extend of possible damage, is no longer acceptable, except subject to the fulfillment of particular measures which are specially required."

<sup>41</sup> The EPA, Art. 70 (3).

The State is responsible for quality control of environmental monitoring with respect to measurements, the application of methodologies, the qualification of staff and the equipment use.<sup>42</sup>

Monitoring of pollution caused by emissions of individual polluters may perform only a person who fulfils prescribed condition and has an authorization for such work from the MoE. This person may be polluter itself or another hired person. Concerning the waste water monitoring, the 1996 *Rule Book on First Measurements and Operating Monitoring of Waste Waters and on Conditions for their Performance*<sup>43</sup> prescribes that the performer of monitoring tasks must (1) be a business corporations, an institute or a freelance entrepreneur, (2) have a headquarters in Slovenia, and (3) be accredited by national accreditive office for the performance of measurements and analyses. In transitional period up to the end of the year 2004, the waste water monitoring may perform also persons who are not accredited by national accreditive office, but instead of that, fulfill the following: (1) they must have a proper number of technically and professionally qualified workers for performance of waste water measurements and analyses using prescribed methodology, (2) they must have equipment for performance of such measurements/analyses, and (3) they have proved their qualification for such measurements/analyses within the last two years in international inter-laboratory comparative measurements/analyses for parameters for which they apply, or in inter-laboratory comparative measurements/analyses organized by the MoE for the purpose of acquirement of monitoring authorizations. Fulfillment of these last three conditions controls the MoE in cooperation with the national accreditive office of Slovenia.

Authorization of persons performing monitoring of immissions in the ground water resulting from operations of individual polluters is similarly regulated by the *Rule book on monitoring of pollution of ground water caused by dangerous substances*.<sup>44</sup>

According to the EPA, Art. 71(1), data resulting from all types of self-monitoring must be reported by polluters to the competent ministries. In the field of water pollution monitoring, the data concerning emission monitoring and prevention monitoring are to be reported to the MoE, data concerning immission monitoring and monitoring of the effects of rehabilitation measures to the MoE as well as to the ministry responsible for agriculture and forestry and to the ministry responsible for health.

### ***Enforcement of polluter's self-monitoring and reporting requirements***

The EPA prescribes that a fine of not less than SIT 100.000 (cca. 500 USD) is to be imposed on polluters and/or other persons causing *environmental strain* for:

- failing to ensure operational monitoring, preventive monitoring, or the monitoring of the effects of rehabilitation measures;
- violating the prescribed conditions which must be fulfilled by persons currying out monitoring or for failure to use the prescribed equipment; and

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<sup>42</sup> The EPA, Art. 72.

<sup>43</sup> Published in the *Official Gazette of the RS*, No. 35/96 and 29/00.

<sup>44</sup> Published in the *Official Gazette of the RS*, No. 5/00.

- failing to report the monitoring data or for failing to report such data in the prescribed manner and form to competent ministries.<sup>45</sup>

The EPA also prescribed the same fine for polluters and/or other persons causing *environmental strain* for failing to provide data to local authorities about environmental strain they caused.<sup>46</sup> This enforcement provision is related to the EPA's Article 14 (3). To this point it should be stressed that this enforcement provision is formulated in a vague and unclear way, as well as the EPA's provision of Art. 14 (3).

### ***Requirements for implementing regulations***

The EPA requires National Government to issue implementing regulations in order to prescribe limit values for the emission of substances and energy into the ground, water, and air, immission limit values, rates of decrease and other mandatory measures, as well as warning and critical immission levels.<sup>47</sup> Further, minister responsible for the environment is competent to issue implementing regulations in order to specify the categories of emission, immission, and phenomena subject to self-monitoring of polluters, and to determine the cases for which, because of the specificity of monitoring, monitoring is to be ordered by the decision of the minister itself.<sup>48</sup> Implementing regulations are also required for determination of the methodology of sampling, measuring, and recording the data, as well as the conditions which must be fulfilled by persons carrying out monitoring, the quality of the equipment, and the necessary accreditation.<sup>49</sup>

The manner and form in which data gathered by operational monitoring should be reported are to be prescribed by ministers responsible for acquirement of such reports according to the EPA, Art.71(1).

## **1.2.2. Water specific regulations**

### **1.2.2.1. Monitoring and reporting requirements for polluters**

#### ***Monitoring requirements***

In the field of water pollution control the National Government has already issued, on the basis of the EPA, a general regulation, the *Decree on Emission of Substances and Heat by Discharges of Waste Water from Sources of Pollution*<sup>50</sup> which prescribes limit values for waste water and apply to all point sources of water pollution as well as to water treatment plants which are not covered by special decrees prescribing limit values for waste water originated by particular categories of industry or facilities. Such

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<sup>45</sup> The EPA, Art. 100 (1)(22), (1)(23), and (1)(24).

<sup>46</sup> The EPA, Art. 100 (1)(2).

<sup>47</sup> The EPA, Art. 27.

<sup>48</sup> The EPA, Art. 70 (4) and (5).

<sup>49</sup> The EPA, Art. 70 (4) and (6).

<sup>50</sup> The *Official Gazette of the RS*, No. 35/96.

special decrees are issued so far for 27 types of industry/facilities: production of alcoholic drinks; production of mineral and non-alcoholic drinks; production of fish products; production of food and deep frozen vegetable and processing of fruits and vegetables; processing of potatoes, production of phyto-pharmaceutical substances; production of glass and glass products; production of plant and animal oils and greases; production of meat and meat products; production of milk and milk products; production of beer and malt; production of paper, pasteboard and cardboard; production of cellulose; production of leather and fur; production and processing of textile fabrics; production of metallic products; production of perborates; processing of coal and production of briquettes and coke; petrol pumps, facilities for car's mending and washing; facilities for processing of water; facilities for cooling and production of steam and hot water; facilities for cleaning smoky gasses; slaughterhouses; facilities for medical and veterinary activities, facilities for livestock breeding, and garbage dumps. Additionally, special decrees regulate emissions of dangerous halogens of hydrocarbons, of cadmium and mercury contained in waste water.

Emission monitoring and reporting requirements are regulated by the *Rule Book on First Measurements and Operating Monitoring of Waste Waters and on Conditions for their Performance*.<sup>51</sup> Emission monitoring is to be performed for all point sources of water pollution regardless of the fact whether they discharge waste water directly to the fluent surface waters or to the municipalities' sewage systems.<sup>52</sup> Industrial, municipal or joint water treatment plants (hereinafter termed WWTP) are subject to such monitoring as well.

In Slovenian system of water pollution control there is no requirement for issuance of permits to particular polluters in order to allow them to discharge particular substances to the extent as denoted in the permit itself. All facilities of a particular industry must only respect limit values prescribed in the decrees mentioned above. Therefore there are no special permit report requirements.<sup>53</sup>

Monitoring of immissions in the ground water which are a consequence of individual polluters' operations, as well as of persons who cause *environmental risk* or *excessive environmental strain*, is regulated by the *Rule book on monitoring of pollution of ground water caused by dangerous substances*.<sup>54</sup> This monitoring is to be performed on the basis a special program for such monitoring which should be prepared by the

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<sup>51</sup> Published in the *Official Gazette of the RS*, No. 35/96 and 29/00.

<sup>52</sup> According to the 1996 *Decree on Emission of Substances and Heat by Discharges of Waste Water from Sources of Pollution* it is forbidden to discharge waste water directly to the standing surface waters, ground water or waters designated for drinking water supply. Discharge of industrial or municipality waste water directly to the ground/soil is forbidden as well, except in areas where there is no fluent surface waters and if (1) parameters of such waste water do not exceed standards prescribed for direct discharges into fluent surface waters, (2) discharges of such waste water will not influence the quality of ground water or soil, and (3) such discharges are not placed within the catchment area of lakes or waters designated for drinking water supply, the use of thermal waters and similar, provided that a special permit on such discharges is issued by the MoE.

<sup>53</sup> Otherwise, the *Law on Waters* from 1974, which is currently in effect, prescribed permits for the use of water and/or for discharges of waste water, but such permits – in regard to quality of waste water discharged – contain only a general statement that it must meet limit values for particular substances as it is prescribed by law. These permits are named *water management permits*.

<sup>54</sup> Published in the *Official Gazette of the RS*, No. 5/00.



performer of the monitoring (i.e. polluter or another hired person) and confirmed by the MoE.

The *Rule book on waste disposal*<sup>55</sup> requires waste disposal sites to perform monitoring of leaching water, run-off and ground water within influential area of the site.

### ***Reporting requirements***

Polluters must report data gathered by *operational monitoring* to responsible ministries. Data from such reports have the status of official data and are to be stored by competent ministries.<sup>56</sup>

Reporting requirements for data gathered by polluters' self-monitoring of their waste water discharges are prescribed by the *Rule Book on First Measurements and Operating Monitoring of Waste Waters and on Conditions for their Performance*. Polluter are obligated to report to the MoE data concerning the first monitoring measurements<sup>57</sup>, the periodical and/or the permanent measurements<sup>58</sup> of waste water they originate.

The manner and form required for reporting of such data are prescribed by the *Order on the Form of the Report of Periodical or Permanent Measurements in Framework of Operation Monitoring of Waste Waters*.<sup>59</sup>

Reports concerning the first measurements of waste waters must be submitted to the MoE within 30 days after the measurements take place. Reports concerning periodical and/or permanent measurements of waste water must be made annually and submitted to the MoE every year by March 31. These annual reports are to contain (1) data concerning a polluter and his activity/operation, and data concerning a performer of monitoring, (2) data on measurements made for each outflow of waste water respectively, and (3) data concerning evaluation of measurements made in regard to prescribed limit values, as well as an assessment of an annual *environmental strain* caused by each outflow of waste water respectively or an assessment of the average annual efficiency of cleaning in case of municipal WWTP or joint (municipal & industrial) WWTP. The assessment of the annual *environmental strain* and/or efficiency of cleaning of waste water treatment plant must be done in accordance with the *Order on the Form of the Report of Periodical or Permanent Measurements in Framework of Operation Monitoring of Waste Waters* which provides a formula for this calculation.

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<sup>55</sup> Published in the *Official Gazette of the RS*, No. 5/00.

<sup>56</sup> The EPA, Art. 71(3).

<sup>57</sup> The first measurements are the first time measurements taken for a new or reconstructed facilities. They are to be taken within the probation period of function of facilities.

<sup>58</sup> The permanent measurements must be performed for all facilities which originate more than 100.000 m<sup>3</sup> of waste water annually as well as for all municipal or joint (municipal & industrial) waste water treatment plants with capacity which exceeds 10.000 PE. Permanent measurement means a measurement of flow proportional sampling per 24 hour a day. The periodical measurements are to be taken in equal intervals during the year. Their frequency depends on the facility's capacity.

<sup>59</sup> Published in the *Official Gazette of the RS*, No. 22/98.

Reporting requirements concerning data gathered by measurements of immissions in the ground water as a consequence of individual polluters' operations are prescribed by the *Rule book on monitoring of pollution of ground water caused by dangerous substances*. Polluters are obligated to prepare annual reports concerning such measurements. These reports are to be submitted to the MoE every year by March 31 as well. They are to contain (1) data concerning a polluter and his activity/operation, and data concerning a performer of monitoring, (2) data on measurements made; the extend of the main and indicative parameters; the place, time and the way of taking samples; the way of beforehand pumping and values being measured for the main parameters of ground waters; measurement methodology and equipment used; and (3) results of each measurement made and the calculation concerning changes of indicative parameters, as well as evaluation of changes of indicative parameters in regard with warning changes of such parameters.<sup>60</sup>

#### **1.2.2.2. Collection of data concerning waters**

Legal basis for collection of data concerning waters is given in the EPA and its above mentioned enabling regulation related to monitoring of water pollution, in the 1974 *Law on Waters*, which is still in effect, and in the 1995 *Law on the State's Statistics*.

##### *The EPA's implementing regulation related to waters*

Data gathered by polluters self-monitoring of water discharges as well as of immissions in the ground water resulting from their operation are collected in the MoE's agency, the State Authority for Nature Conservation (the SANC), the Department for Environmental Protection.

Reports on monitoring measurements submitted to the SANC are collected in a form of paper document since polluters are not obliged to submit reports to the agency in electronic form.

To the extend feasible (considering officials' time available), some data from monitoring reports are entered the internal electronic data base which is maintained by the SANC for the purpose of taxation of water polluters. This data base includes data concerning the quantity of waste water and data on annual average concentrations of particular substances contained in the waste water originated from particular polluters.

To this point it should be stressed that data base of polluters' self-monitoring reports concerning water discharges can provide only partial picture of pollution caused by stationary sources of pollution in the country since 31,8 % of polluters do not perform monitoring of discharges as required by law and, consequently, do not report data.

##### *The Law on Waters*

The 1974 *Law on Waters* provides that two data bases /record keeping systems are to be maintained by responsible bodies i.e. the MoE: the *Water Cadaster* and the *Water Book*.

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<sup>60</sup> The *Rule book on monitoring of pollution of ground water caused by dangerous substances*, Art.14.

According to the law, the *Water Cadaster* should include data concerning quantity of water resources, the quality of waters and the water management buildings and facilities in the country.

In practice there are two data bases established and maintained: (1) data on the quantity of water resources and (2) data on ambient quality of surface and ground waters, both maintained by the MoE's agency, the Hydro-Meteorological Institute (HMI). Data contained in these both data bases are gathered by the State's environmental monitoring performed by the HMI.

Data basis concerning buildings and facilities for water management is in the state of establishing and it is not completed up to date. Its completion is in the competence of the Center for Information Science, a department of the SANC.

The data base named *Water Book* comprises all *water management permits*<sup>61</sup> and *water management consents*<sup>62</sup> issued from the year 1945. It includes also *projects* ordered by public authorities for the purpose of management of waters. This data base is maintained by the SANC, the Department for Water Management.

### *The Law on the State's Statistics*

On the basis of the *Law on the State's Statistics* and the *National Program for Statistical Researches*, one research concerning waters is held every year. It encompasses the use of water by industry, namely mining, supply with electricity, gas and water, and processing industry. Data collected under such research concern the quantity of water used for technological process or cooling, and, in regard to discharges, only the annual quantity of unclean/untreated waste water and the quantity of cleaned/threatened waste water per facility. The Statistics Office does not collect information concerning concentrations of substances in the waste water discharged.

## **2. Status of enforcement and implementation of law on public accessibility and collection of environmental information**

### **2.1. General findings**

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<sup>61</sup> *Water management permit* must be obtained for the use of water and/or for discharges of waste water by facilities which might pollute waters or have impact on water regime. To this point it should be stressed that in regard to the quality of waste water being discharged by facility, this permit contains only a general statement that it must meet limit values for particular substances as it is prescribed by law. Concerning monitoring measurements, this permit designates a place (out-fall) where they should be taken. It also states which regulation is to be respected for performing the measurements.

According to the 1999 annual report of the EPI, only 12 % of all polluters in the country have obtained a water management permits.

<sup>62</sup> *Water management consent* must be obtained in licensing procedure for construction and/or reconstruction of buildings and facilities, which might have impact on water regime.

According to the 1999 annual report of the EPI, only 52,2 % of investors have obtained a water management permits.

Generally speaking, Slovenian legislation concerning public accessibility and collection of environmental information, including information related to waters, is not properly implemented and enforced.

The major obstacle for proper implementation of law regulating access of the public to environmental information, is the fact that the right of the public to be informed and to obtain environmental information upon request is regulated only on the level of a general principle. Vagueness of the respective EPA's provisions, lack of enabling regulations and poor institutional and practical arrangements for provision of information, especially upon request, has negative consequences on accessibility of environmental information in practice.

Since there are no guidelines prepared for officials who provide information upon requests, they have, in practice, a broad discretion in deciding whether or not and how to disclose concrete information. It also should be stressed that the general administrative procedure, which apply in cases of requesting/providing information, requires skilled personnel to follow procedural rules in concrete cases. Officials who provide information upon request were not trained in applying this procedure. It is understandable, since public authorities do not have personnel particularly designed for provision of information upon request. Information requested is usually provided by overloaded officials working in different departments, and sometimes by officials working in public relations offices (if the public authority has one).

Bad implementation of law concerning public access to environmental information upon request, particularly to information concerning pollution caused by individual polluters, was particularly exposed in the 1999 annual report of the Ombudsman of Slovenia.<sup>63</sup>

Environmental information is collected by particular authorities. Integral information system, required by the EPA, is not yet established.<sup>64</sup> Data bases held by different authorities, like water pollution data bases of the HMI and SANC, are not connected. Available information, collected by particular authorities, are many times incomparable because of different level of their aggregation.

Flow of information between authorities is not on the satisfactory level, particularly in relation the State – local communities, i.e. municipalities.

Flow of information from polluters to local authorities (the EPA, Art. 14 (3)) is particularly badly implemented in practice if it is implemented at all.<sup>65</sup> As a rule,

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<sup>63</sup> The bulletin of the parliament, the *Reporter of the National Assembly*, No. 32, May 15, 2000, pg. 58.

<sup>64</sup> The MoE is in the sixth year of delay concerning the issuance of enabling regulations required by the EPA for the establishment of this information system. In Slovenian legal system there is no remedy for such situation. [Where authorities failed to issue enabling regulations timely, citizens/NGOs do not have any legal instrument to enforce issuance of such regulations.](#)

<sup>65</sup> We can give some examples. On the roundtable focused on access to environmental held in 1999, a representative of the urban municipality, city of Celje, exposed the fact that polluters do not provide information concerning pollution they caused to the municipality although the municipality put forward such requests (the purpose was preparation of a local, municipal program form environmental protection). Polluters denied to provide information on the pretext that they submit such information

polluters are not willing to provide information concerning pollution they caused (i.e. discharges) to municipalities. Since the EPA has very vague and unclear provision concerning the way in which polluters are to report monitoring data to local communities, it is particularly hard to enforce this requirement regardless the EPA impose a fine for failure to ensure such reporting (the EPA, Art. 100 (1)(2)). It is an open question whether local communities may regulate this issue by their own regulations. In this case, the enforcement of such reporting should be in the competence of municipalities' inspections. In our research we did not find any such example.

## **2.2. Administrative enforcement**

The EPA

Administrative enforcement of law is ensured by the Environmental Protection Inspectorate (the EPI), a department of the MoE. There is a common public opinion that enforcement of environmental law by the EPI is inefficient. It is overloaded by work and presently employs only 35 inspectors. Employment of additional 23 inspectors up to the end of the year 2000 was recently approved by the National Government.

The EPI prepares half-yearly reports on its work. They are accessible to the public. The annual report for 1999 is available on the MoE's home page on the internet. The EPI also present summaries of reports on press conferences.

According to the 1999 annual report of the EPI, there are 785 registered polluters having industrial waste water discharges. The EPI visited and made inspection of all of them during the year. 68,2 % of all polluters performed monitoring of their water discharges in 1999, and 40,6 % of all polluters have met prescribed standards for waste water discharges.

Water management permits are obtained by only 12 % of all polluters and "users" of water in the country, and only 52,2 % of investors have obtained a water management consents.

Further, all municipal 135 WWTP was checked up in the year 1999. The 125 of them are acting presently. 88 % of all municipal WWTP performed monitoring of their discharges in 1999, and 49 % of all of them met prescribed standards (19 % more then in previous year). Only 12,8 % of all municipal WWTP have obtained water management permits. 88,8 % of all of them have obtained water management consents.

## **2.3. Public accessibility of data bases concerning waters**

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to the MoE. It was also exposed that flow of information between the MoE and municipality is not satisfied. It was hard and extremely time-consuming for the municipality to obtain information from the MoE, and finally the provision of information was highly charged. Another case was in the municipality of Borovnica. After a citizen requested the municipality office information concerning discharges of a factory of phenols »Fenolit«, the municipality unsuccessfully asked the polluter for these information.

### ***Accessibility of data concerning water discharges***

Data base concerning waste water discharges of individual polluters, which is maintained by the SANC, the Department for Environmental Protection, is in the practice the least accessible among data bases concerning waters.

According to official sources,<sup>66</sup> reports on *operational monitoring* of polluters are not available to the public in copies of actual documentation, since they, beside data concerning actual concentration of substances in water discharges, includes also data which might represent business secret, such as data concerning »quantity of products produced, technologies used and other information about producers«. Data concerning emissions such as data on concentration of particular substances in water discharges might be obtain by applicant after they are excluded from the reports. Although this requires a time-consuming work of officials, there is no, so far, any internal rules which might entitle the charges for such work. The same situation is with eventual charges of material costs. Therefore, it is - so far - the rule that when information is provided, it is provided free of charge.

There are no any guidelines or other detailed rules regarding provision of information upon request provided to officials. In practice, the director of the agency, or the chief of the department where authorized by the director (what is usually the case), confirms in every particular case whether information requested are to be disclosed or not. When deciding on this, he/she tries to find out whether the applicant has a »legal interest« to obtain information requested. Such »legal interest« is undoubtedly given in cases where information is requested by persons concerned by pollution caused by particular polluters (neighbors and similar). It is usually presumed that such »legal interest« is not given where information is requested by foreigners or for research purposes. The latter was reasoned that collecting and processing of data needed for research purposes of applicants is time consuming for officials and despite of this the agency may not charge the applicant for such work, what is otherwise in discrepancy with the fact that the applicant is paid for his/her research work.

### **Accessibility of data concerning ambient quality of surface and ground water**

Data gathered by the immission monitoring of surface and ground water are collected in the MoE's agency, the Hydro-Meteorological Institute (HMI) which is also responsible for this monitoring. Data are stored in an integral internal electronic data base. This data base is not publicly accessible by electronic means, but HMI provides any of data stored in it upon a written request. Data are provided in the form of paper document and/or in the electronic form.

The HMI does not employ a particular official responsible for provision of information upon requests. This work is made by officials in different HMI departments according to the sort of information being requested. Records on requests for information are not kept separately from other in-coming mail.

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<sup>66</sup> Information is gathered by the interview made with the chief of the Department for Environmental Protection of the SANC.

The HMI has a library open to the public. Data gathered by the immission monitoring of surface and ground water are available in the form of brochures. The latest brochures which may be obtained in the library at the moment contain data gathered by immission monitoring of ground water and of sources/springs in the year 1999 and data gathered by immission monitoring of surface waters in the year 1997. These brochures contain raw data in a form of reports made by performers of the monitoring.

The HMI publishes annual reports on the quality of waters in the country. These reports are published in the form of a brochure. They are made in the way understandable to wider public. They contain descriptive text as well as diagrams, tables, maps, etc. These reports are usually published with some delay. The latest brochure, which contains data from the year 1995, was published in 1997. This brochure contains chapters concerning hydrological and meteorological data of waters, quality of ground water and sources, quality of surface waters, quality of lakes, and the quality of the sea, as well as a chapter designed to information system of the HMI. The latest describes the way of collection of data gathered by the immission monitoring of waters.

The HMI also publish a monthly bulletin with permanent columns. One of them concerns quality of surface waters, concretely results of monitoring measurements held on automatic measurement stations. It provides a short descriptive text, a table with concentrations for nine parameters (pH, conductivity,  $\text{NH}_4$ ,  $\text{NO}_2$ ,  $\text{NO}_3$ ,  $\text{o-PO}_4$ ,  $\text{tot-PO}_4$ ,  $\text{KMnO}_4$  and  $\text{K}_2\text{Cr}_2\text{O}_7$ ) measured at 3 measurement stations, several diagrams and very short summary in English. These bulletins may be ordered by anyone. The yearly price of such order is about 15.000 SIT (cca. 75 USD).

### **Accessibility of data concerning quantity of water resources**

Data base comprising data of quantity of water resources and other hydrological data, which is maintained by the HMI, is in electronic form. It is not directly accessible to the public by electronic means, but all data are available upon request.

### **Accessibility of data contained in the Water Book**

The *Water Book*, a data base maintained by the SANC, the Department for Water Management, is the most open data base for the public. It is maintained mostly in the form of paper documents. All data stored are accessible to the public. It is possible to arrange meeting with the official responsible for this data base and review actual documentation in the office. It is also possible to make photocopies.

## **3. Institutional arrangements for provision of access to environmental information**

### **3.1. Institutions dealing with collecting, processing and disseminating of environmental information related to waters**

The main institutions responsible for collecting, processing and disseminating of water related information are agencies of the MoE: the SANC and the HMI. National Statistics Office also deals with water related information, but mostly with data concerning quantity of water resources.

As we have seen Section 1.2.2.2. there are four main data bases concerning waters: (1) data base of water discharges – in the competence of the SANC, (2) data base of quality of waters – in the competence of the HMI, (3) data base of quantity of water resources – in the competence of the HMI, and (4) data base on permits and consents (*Water Book*) – in the competence of SANC.

All these data bases are internal ones and they are not connected with each other. There is not ensured special flow of information between public authorities responsible for them. Data from data bases of water discharges and of quality of waters do not have common indicators to be easily connected.

### **3.2. Personnel, infrastructure and budget for providing access to environmental and water related information**

Public authorities usually have not an official appointed particularly for provision of environmental information upon request. Environmental information is provided by officials working in the field concerned by the request and/or by officials responsible for public relations (general PR offices). The MoE's headquarters employs 5 officials in PR office. No one is particularly authorized for the work related to the provision of environmental information upon request. Some requests are proceeded from the secretary's post to the PR office and some go directly to officials working in different departments. Some requests are coming by e-mail to the PR officials as well. There is no a particular register of requests/applications for environmental information received (they are recorded in the general records keeping of in-coming mail), therefore it is hard to figure out the number of such requests.

The MoE's agencies SANC and HMI do not have their own PR offices. Information requested by the public is provided by officials working in different departments according to the sort of information being requested.

According to circumstances stated above it is almost impossible to figure out the budget being spent for provision of environmental information.

### **3.3. Database linkages**

#### *Domestic databases accessible on internet*

Headquarters and main agencies of Slovenian public authorities usually have their own home page on internet. They provide basic information about such bodies and in some cases they also provide to certain level information on legislation concerned by their work. The Parliament has its own WEB site providing information on current development of legislation and also, to certain level, texts of legislation in effect. The MoE's WEB site provides data base on environmental legislation. I contains registers and, to certain level, also texts of environmental legislation adopted on the basis of the



EPA (after the year 1993). The MoE's WEB site provides timetable of legislative development in the field in the ongoing year, too. Such information provide titles and short description of goals of laws (including those which propose ratification of international treaties), regulations, programs and strategies which are planned to be prepared and adopted. Unofficial translation of Aarhus Convention is available on this site as well.

The following WEB sites provide relevant data related to water protection in the country:

- The MoE' headquarters home page ([www.sigov.si:90/mop/](http://www.sigov.si:90/mop/)) provides:
  - The report on the quality of waters in Slovenia for the year 1997. This report, 11 pages long, concerns the quality of ground water (tables: average concentrations of pesticides and nitrates), sources, surface waters (tables: concentrations of metals), lakes, and the sea.
  - The guideline concerning the issuance of decisions on concessionary rights for the use of waters. This guideline is primarily designed to the MoE's offices.
  - The annual 1999 report of the Environmental Protection Inspectorate.
  
- The SANC's home page ([www.sigov.si/uvn/slo/podrocja/vode/](http://www.sigov.si/uvn/slo/podrocja/vode/)) provides a list of legislation concerning water protection, organization and point of contact of water management authorities, and the rubric "answers to the most frequent questions" which is related to water management permits.
  
- The HMI's home page ([www.rzs-hm.si/podatki/stanje\\_voda.html](http://www.rzs-hm.si/podatki/stanje_voda.html)) provides daily results concerning hydrological data (level of water, flow, temperature) from cca. 20 automatic measurement stations on surface waters.
  
- The Municipality of Ljubljana's home page ([www.ljubljana.si/onesna/vode.html](http://www.ljubljana.si/onesna/vode.html)) provides the report on the quality and endangerment of ground water which is source of drinking water in the area of the Municipality during the period 1992-1998. This report, 13 pages long, has sections concerning the control of the quality of ground water, a resource of drinking water; extend of measurements and analyses made; results of researches concerning drinking waters; present protection of water resources in Ljubljana; the state of protected water belts and impacts of particular activities on them; and measures in cases of accidents concerning hazardous substances.

#### *Inclusion of Slovenia in the European network EIONET*

Slovenia is a member of the EIONET network from 1996. The MoE progressively work on the establishment of domestic home page within the network. According to official sources, it will also provide different information related to waters, including information concerning quality of waters, and, to the extend possible, discharges into waters. A catalogue of sources of data concerning environment is also being prepared. For this purpose it is running a pilot study which concerns waters. Slovenia co-operates in the establishment of Eurowaternet as well.

#### 4. Number of requests

In this study we was not able to figure out the number of requests for environmental information concerning waters submitted to public authorities since they do not keep records of such requests in the way that they can be obtained easily. During interviews made, we came to the conclusion that the approximate number of requests which particular officials were able to provide can not give reliable result.

#### 5. Procedural rules for gathering environmental information upon request

Regarding procedural rules, the EPA only prescribes that *public authorities* must provide environmental information requested by the public, namely by »interested individuals and organizations«, in »the prescribed manner not later then one month of the request and at price which may not exceed the material costs of provided information«. <sup>67</sup>

Since the EPA does not provide any other explanation concerning the procedural rules in cases where environmental information is requested, the question is what has the legislator meant with the words “prescribed manner”. Although the EPA does not explicitly refer to the administrative procedure, we are of opinion that its wording “the prescribed manner” refers to the rules of the administrative procedure. <sup>68</sup> This is obvious since filling the request for environmental information, which is otherwise based on the right provided by the law, establishes a relationship between an individual/private person and the public authority, what forms, according to the legal theory, a matter of the public law. In Slovenian law system, according to the 1999 *General Administrative Procedure Act* <sup>69</sup> (hereinafter termed the GAPA), Art. 4, the

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<sup>67</sup> The EPA, Art. 14 (2).

<sup>68</sup> The commentary of the EPA is silence about this question. Up to date there is no any court decision providing judicial opinion regarding the question of applicability of the general administrative procedure to cases where environmental information is requested under the EPA. This is an important question since on it depends the fact whether the right of free access to environmental information is enforceable. Because of that, this question has been raised in public debate between the NGOs and the MoE. They had opposite opinions up to late 1999, when - within the process of screening of Slovenian legislation in relation to the EU legislation, particularly to the Directive 90/313/EEC - the National Government takes the same position as of NGOs that the general administrative procedure (and also, consequently, the procedure of administrative dispute before administrative courts) apply in cases where environmental information is requested. This is stated in the »Intergovernmental Conference on Accession of the RS to the EU, Starting-point for Negotiations of the RS for the fied 22 – the Environment« which was adopted in 1999 by the Slovenian parliament. Since the parliament is otherwise competent body to provide the official interpretation of the law provisions, we are of opinion that the statement in the above stated document has obligatory character.

In the near future we might expect the first court decision on this issue, since in 1998 an administrative dispute was initiated before the administrative court by a citizen which did not receive any answer from the MoE on the request for environmental information. To this point it should be stressed that the Supreme Court of the RS is competent to give a final decision if the complaint is filled. (The case: U 989/98, the Administrative Court of the RS.)

<sup>69</sup> Published in the *Official Gazette of the RS*, No. 80/99.

administrative procedure apply to all matters of the public law which are not regulated by the rules of other, specific procedure.<sup>70</sup>

According to Art. 3 (2) of the GAPA, the rules of the general administrative procedure should subsidiary apply in all procedural questions arose in the administrative procedure which are not regulated by the rules of a special administrative procedure (if) prescribed by a special law. In regard to disclosure of environmental information upon request that means, that the general administrative procedure apply in all procedural questions not covered by the EPA or eventually by another environmental law providing additional rules of special administrative procedure for access to information in such particular field of environmental protection.

To this point should stressed that, except the rules concerning access to environmental information within licensing procedures provided by the NCA, as described in previous chapter, we can not find any additional procedural rules concerning access to information in Slovenian environmental legislation.

The general administrative procedure, having its roots from 1930, is a comprehensive procedural law. We will state only the main procedural rules which are important for the purpose of this paper. The general administrative procedure pays attention to eventual untaught of a party being involved in the procedure and requires public authorities to warn the party to protect his/her rights within the procedure. Incomplete or incomprehensible application may be reject only if the party does not make good a deficiency of it after a call made by the public authority conducting the proceeding. A decision of the public authority should be issued in writing<sup>71</sup> and it should contain reasoning for the decision made, esp. in cases of negative decision (e.g. denial of information), as well as a statement what a legal remedy is available for an unsatisfied party in the procedure.

### *Right to complaint and judicial review*

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<sup>70</sup> This is the lowest threshold for the application of the administrative procedure prescribed by the GAPA. It is obviously passed in the case of requesting/providing environmental information. In our opinion, it is passed even another, a higher one – the question whether the requesting/provision of environmental information falls within the term “the administrative matter”. The GAPA, Art. 2 (2), prescribes that the presumption of »administrative matter« is given if the obligation of the public authority to carry out administrative proceeding arises from the character/nature of a particular matter provided that the public interest requires so.

For better understanding we will add one thought more concerning interpretation of the EPA’s words “prescribed manner”. In our opinion, they can not be interpreted as an authorization given by the law to the executive government to issue enabling regulation(s). Executive government must be authorized by the law/statute for issuance of regulations in cases where they regulate how citizens exercise their rights and obligations. This authorization is requested by the 1993 *Law on the National Government*, Art. 26 (1). It is common in Slovenian law that such authorization is given where the law explicitly prescribes that the National Government is obligated to issue a regulation dealing with a particular issue. In such cases, the law usually prescribes also a term for issuance of executive regulation. The same practice we can find where executive regulations are to be issued by the state administration (ministries and their agencies). The latter is regulated by the 1994 *Law on Administration* (Art. 2 and 8).

<sup>71</sup> An exception of this rule may be made only by the law.

The right of complaint is available against decisions of the first instance of the administrative procedure where issued by administrative agencies.<sup>72</sup> Such complaints are considered by responsible ministries. The ministries are also competent to review decisions issued by holders of public authorizations if the law does not provide another body competent for such complaints. The time-limit for filing the complaint is 15 day after receipt of the decision. In a case that public authority ignores the application and does not issue the decision in the prescribed term (what is in case of gathering environmental information one month), the complaint is allowed without any time-limit. The body competent to make decision on the second level of the administrative procedure is to decide about complaint as soon as possible and, at latest, within two months after receipt of the complaint. A party unsatisfied by the decision concerning his/her complaint can commence the administrative dispute by filling an action before the administrative court.<sup>73</sup> The competence for deciding on the second instance of the administrative dispute is given to the Supreme Court of the RS.

### *Public interest test*

It should be stressed that neither the EPA, nor the GAPA, has any provision concerning the *public interest test* which, according to the Aarhus Convention, should be made in cases of eventual refusal of information requested. However, after the ratification of the Aarhus Convention in Slovenia, this Convention's rule, as well as all others, will become directly an integral part of domestic law.<sup>74</sup>

## **6. Legal and practical barriers to providing access to environmental information.**

### **6.1. Grounds for refusal of access to information.**

Ground for refusal of access to environmental information is a difficult question in present situation of the development of Slovenian law. As we saw before, the Constitution, Art 39 (2), provides the possibility that information of public nature may be excluded from disclosure only by the law. In one hand it might be a kind of secret data provided as such by the law. In other hand it might be a procedure or activity of public authorities declared as secret by the law.

### **6.2. Confidentiality of information**

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<sup>72</sup> If the decision of the first instance of the administrative procedure is issued by minister, the complaint is allowed only if the law explicitly provides so and determines a body competent to decide about the complaint. Otherwise, the complaint is not allowed. It is also not allowed against decisions made by the parliament, elected bodies of local government, and the National Government. But, in such cases, unsatisfied party can, according to the 1997 *Administrative Dispute Act*, commence directly the administrative dispute before the administrative court.

<sup>73</sup> Procedure concerning administrative dispute is prescribed by the *Administrative Dispute Act* from 1997 (the *Official Gazette of the RS*, No. 50/97).

<sup>74</sup> In accordance with the *Constitution*, Art. 8, international treaties ratified by the Parliament come into effect immediately after they are published. Adoption of implementing legislation is not required for their inclusion in domestic law.

As stated above, the Constitution, Art 29 (2), provides that information of public nature may be excluded from disclosure only by the law/statute.

The following laws deal with different kind of secret data: the 1993 *Law on Business Companies*,<sup>75</sup> a law governing business companies and freelance entrepreneurs, which determines *business secret*; the 1995 *Law on State's Statistics*,<sup>76</sup> which excludes from disclosure those data which were collected by the national program of statistical researches only for the purpose of statistical researches; the 1994 *Law on the Administration*,<sup>77</sup> a framework law on function and organization of the executive government, which only delegates the authority for determination of the *state, military, official* and/or *business secret* within particular branches of executive government to ministers responsible thereof; and the *Law on Defense*,<sup>78</sup> which also delegates the authority for determination of the secret, in this case of the *military secret*, to the executive government, namely to the National Government.

The next source of law regulating the determination of different secrets are executive regulations, the 1993 *Rule Book on Determination of Secret Data and Protection of Secret and Personal data*,<sup>79</sup> which determines the *state* and *official secret* within the framework of the ministry responsible for internal affairs, and the 1992 *Ordinance on the Protection Measures in the Field of Defense*<sup>80</sup>, which defines the *military, state, and official secrets* in the field of national defense.

To this point it should be stressed that the Constitution, Art.39(2), gives authority for determination of any exemptions of access to information of public nature to the law/statute - which adoption is in the competence of the parliament - and not to the executive regulation – which is in the competence of the executive government. This follows the principle of the Constitution that all social relations which might restrain basic human rights and freedoms are regulated by laws.

According to this, we are of opinion that the provisions of the above stated *Law on Administration* and the *Law on Defense* are unconstitutional in their part where they transmit the authority for determination of *secrets* to the executive government.

We are also of opinion that the above stated executive regulations, the 1993 Rule Book and the 1992 Ordinance are, on the same basis, unconstitutional in their parts where they define the *military, state and/or official secrets*.

However these laws and regulations are currently in effect and regulate determination of secrets in the field of national defense and police. The answer to the question whether they are in accordance to the Constitution or not, is in the competence of the

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<sup>75</sup> Published in the *Official Gazette of the RS*, No. 30/93, 29/94 and 82/94.

<sup>76</sup> Published in the *Official Gazette of the RS*, No.45/95.

<sup>77</sup> Published in the *Official Gazette of the RS*, No. 67/94, 20/95, 29/95 and 80/99.

<sup>78</sup> Published in the *Official Gazette of the RS*, No. 82/94, 44/97, and 87/97.

<sup>79</sup> Published in the *Official Gazette of the RS*, No. 8/93. This rule-book is currently in effect on the basis of the *The Law on Police* (the *Official Gazette of the RS*, No. 49/98 and 66/99).

<sup>80</sup> Published in the *Official Gazette of the RS*, No. 49/92. This rule-book is currently in effect on the basis of the *The Law on Defense* (the *Official Gazette of the RS*, No. 82/94).

Constitutional Court of Slovenia. This issue might be raised before this court in eventual practical case. In other hand, the national parliament is competent to give the obligatory interpretation of laws.

#### *The Law on the Administration*

The *Law on the Administration (the LA)*, Art. 6, provides that administrative bodies (executive agencies) are to protect from the disclosure data which are determined “by laws or other regulations” as a *state, military, official or business secret*. Additionally, this law authorizes ministers to issue regulations determining what data from the framework of their ministries represent the state, military, official or business secret, as well as the level of secrecy thereof, and measures and procedures for their protection from the disclosure.

As we pointed before, the Article 6 of the LA is obviously not in accordance with the Constitution, Art. 39(2), in its part where it transmits the authority for determination of *secrets* to the executive government. However, there is no, so far, any regulation issued on the basis of the *Law on the Administration* in order to determine what data, within the framework of particular branches of the executive government, represent a secret.

#### *New Development of Law: the proposal of the Law on Secret Data*

The new proposal of the framework law concerning determination and protection of secret data, as well as access to such data, named the *Secret Data Act*, was proposed to the Slovenian parliament in February 2000.

This law proposal lists the fields within the framework of the government where secret data may be declared as a kind of secret data, provided that (a) such declaration is necessary for the protection of the interests of the Republic of Slovenia (the RS) and that (b) there is a sound expect that harmful consequences may occur if such declaration is not made. These fields are: (1) state security, (2) national defense and defense matters, (3) international activity and international relationships of the RS, (4) informative/intelligence and safety activities of the state authorities of the RS, (5) systems, facilities, projects, and plans, which are important for the security and defense of the State, and (6) scientific, research, technological and economic/business matters, which are important for the security and defense of the State.

This law proposal provides procedure by which secret data are accessible to officials of the state authorities/bodies where they need these data for the execution of their working tasks. It provides *inter alia* that the document which contains secret data must be marked as a secret in whole. In case that the only a minor portion of the document contains secret data, such portion of the document must be, if it is possible, separated, marked and enclosed to the main document. There is no particular provision on accessibility of the remaining portion of the main document.

This law proposal has only one provision which concerns accessibility of information of public nature.<sup>81</sup> It provides that (1) the public authority must refuse the request for information of public nature if the information requested concerns secret data, (2) the decision must state the reasons for the refusal, and (3) the applicant has the right of complaint.

### 6.2.1. State secrets

The *Rule Book on Determination of Secret Data and Protection of Secret and Personal data*<sup>82</sup> defines the state secret and determines what data represent state secret within the framework of the Ministry of the Interior (Internal Affairs). According to this rule book the *state secret* are data which are declared as a state secret and which are so important that their disclosure may cause harmful consequences for the state security or political or economic interests of the State. Categories of the *state secret* are listed (security assessments on which is based the security and defense policy of the RS, plans concerning organization and activities of services for internal affairs in the case of war, etc.).

This Rule Book also defines *official secret* in the field of internal affairs. *Official secret* are data which are declared as an *official secret* and which are so important that their disclosure may cause harmful consequences to the function of services of internal affairs. *Official secret* may have different level of confidentiality: “strictly confidential”, “confidential”, or “internal”. Categories of these three kinds of official secret are listed.

### 6.2.2. Military secrets

The 1994 *Law on Defense*, Art. 28 (3), provides that the National Government is to prescribe criteria for determination of secret data as well as measures for their protection. The new regulation concerning such criteria was not issued up to date. The executive regulation, currently in the effect, which concretely determines the *military, state, and official secrets* in the field of national defense, is the 1992 *Ordinance on the Protection Measures in the Field of Defense*.<sup>83</sup>

According to this Ordinance, the secret data in the field of national defense are “all kind of data whose disclosure (...) would cause harmful consequences for the readiness of the defense”. According to the level of their confidentiality, these data are (1) the *state secret*, designated as “defense-state secret”, whose disclosure might cause *highly seriously harmful consequences*, (2) the *military and/or official secret*, designated as “strictly confidential”, whose disclosure might cause *seriously harmful*

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<sup>81</sup> The law proposal *Secret Data Act*, Art. 4.

<sup>82</sup> Published in the *Official Gazette of the RS*, No. 8/93. This Rule Book is in effect on the basis of the Article 137 of the 1998 *Law on Police* (the *Official Gazette of the RS*, No. 49/98 and 66/99) which prolongs the use of this “old” executive regulation issued on the basis of the previous law governing internal affairs.

<sup>83</sup> This 1992 Ordinance is currently in effect on the basis of the Article 107 of the 1994 *Law on Defense*, which prolongs the use of the “old” executive regulations (issued on the basis of the previous law on defense) for “regulation of responsibilities” of officials in the field of national defence.

consequences, and (3) the military and/or official secret, designated as “confidential”, whose disclosure might cause *harmful consequences* for the national defense.

Special measures for handling with secret documents and records are prescribed by the 1993 *Guideline on carrying out special measures for the protection of documents and other records determined as ‘defense-state secret’ and/or military or state secrets with the level of secrecy ‘strictly confidential’*.<sup>84</sup>

### 6.2.3. Business secrets

Business secret is regulated by the *Law on Business Companies* (the LBC).<sup>85</sup>

According to this statute business secret are to be (1) data which a business company defines as such by a written decree known to business partners, workers, members of the board(s) and/or others persons responsible for the protection of business secret<sup>86</sup> or (2) data for which is obvious that their disclosure to unqualified persons will cause a significant damage, provided (in both cases) that such data has not been declared as public (i.e. accessible to the public) by the law or that such data does not represent a breach of the law or good business practices.<sup>87</sup>

Business companies should determine by a written decree also the way how business secrets is to be protected and the responsibility of persons which have a duty to protect it. Further, business secret must protect also persons outside the company, if they know or should know, because of the nature of the data, that they are a business secret. This law also declares that any act of a person outside the company by which this person try to get data on the contrary to the law or a will of the company, is forbidden.<sup>88</sup>

Disclosure of business secret or an unjustified acquirement of business secret is determined by the *Penal Code* as a legal offence. A penalty imposed for the commitment of this legal offence is imprisonment up to 3 years. In a case that data, subject of the committed offence, are particularly important, the imposed penalty is imprisonment up to 5 years. If the commitment of the offence was made by negligence, the penalty is imprisonment up to 1 year. The *Penal Code* also provide a more precise definition of a business secret for the need of the implementation of the Code itself. It says that the business secret are “documents and data, which are declared for an industrial, bank, or other secret by the law, standing rule/ordinance, rules or other general legal act or order of the competent body or other legitimate person, and which are so important that a worse harmful consequences are occurred or might occurred by their disclosure”.<sup>89</sup>

In our opinion, it is also an open question whether the very provision of the Article

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<sup>84</sup> Published in the *Official Gazette of the RS*, No.38/93.

<sup>85</sup> Published in the *Official Gazette of the RS*, No. 30/93, 29/94 and 82/94.

<sup>86</sup> The LBC, Art. 39 (1).

<sup>87</sup> The LBC, Art. 39 (2) and (3).

<sup>88</sup> The LBC, Art. 40.

<sup>89</sup> The *Penal Code*, Art. 241. Published in the *Official Gazette of the RS*, No. 63/94, 70/94 and 23/99.



39 (1) of the LBC is in accordance with the Constitution, since it does not provide any definition of a business secret but delegate this competence to business companies. Nevertheless, we provide below the analysis of the collision of respective provisions of the LBC and the EPA.

#### *Business secret in relation to environmental information in general*

The LBC, Art. 39, basically provides that data which are declared as public ones by the law, may not be declared as a business secret. In the case of environmental data, this law is the EPA, which provides that environmental data are public data (the EPA, Art.14(1)). Additionally, in subparagraph (3) of the same Article, the EPA provides that data concerning an *environmental strain* caused by business operations of any person are to be public.<sup>90</sup> So, following the letter of the law, information related to environmental strain can not be declared as a business secret. Additionally, it should be stressed that the definition of the *environmental strain*<sup>91</sup> includes *inter alia* emissions into the environmental media, including waters, what means that these data may not be withhold from the disclosure on the basis of a business secret.

#### *Business secret in relation to environmental information in the public participation procedure within the licensing procedure of the activity affecting the nature*

A relation of law provisions determining the business secret and those determining freedom of information within the public participation within the licensing procedure for an *activity affecting the nature*<sup>92</sup> is more complicated.

The new law dealing with nature conservation, the 1999 *Nature Conservation Act* (NCA), which has introduced public participation within the procedure concerning the issuance a permit for an *activity affecting the nature*, provides that within a such procedure the public has not the right to obtain those information which are protected from the disclosure by the law (i.e. secret data).<sup>93</sup> So, what will happen in a case that a particular information, relevant for the issuance of a permit for the activity affecting the nature, is declared by the investor as a business secret? It seems that the NCA provision regulating public access of information in such procedure will not prevent that information declared as a business secret will be retained from disclosure. But, we also must not forget the EPA's provisions which declare that environmental information, and particularly data related to *environmental strain*, are public data. Therefore, if data declared by the investor as a business secret, fall within the definition of environmental information/environmental strain, they should not be retained from disclosure.

### **6.3 Other barriers to access to information**

#### **6.3.1 Price of information**

##### *Price of provision of information*

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<sup>90</sup> The EPA, Art. 14 (3).

<sup>91</sup> For definition see fn 10.

<sup>92</sup> For definition see fn 14.

<sup>93</sup> The *Nature Conservation Act*, Art. 107 (3).

The EPA provides only the rule that the price of information provided upon request “must not exceed material costs of provided information”. There is no prescribed any possibility for a waiver of costs for non-governmental organizations structured as non-for-profits (NGOs), neither by the EPA, nor by any other law.

The practice among public authorities is different. The SANC does not charge any costs for provision of information upon request. The HMI charges for the provision of information using a general tariff which provide a prices for a working hours of employees concerning different services, including processing of data, and elaboration of products (like studies, etc). Working hours of officials are charged only if they have to process data in order to provide information which was requested. Otherwise only material costs are charged. The price of working hour for processing of data is, including taxes, 7.696 SIT (cca. 35 USD). The price for a photocopy (one page) is 11 SIT (cca. 0,5 USD). The tariff also includes service of the library. It is not expensive. Where the users of HMI’s services are another consumers of the State budget (another agencies, etc.), they are charged only for materials costs and taxes. The HMI’s tariff was issued by the HMI after obtaining a consent of the National Government. It is not published, but it is available for examination in the HMI.

#### *Price of litigation costs in administrative disputes*

Litigation costs in the administrative disputes are rather high, per example, in a case with subject matter concerning access to environmental information, a cost (a judicial tax) of filling the action amounts 4,500 SIT (cca. 22,5 USD), and of filling the complaint 6,000 SIT (cca. 30 USD). Presently an average (brutto) salary in Slovenia is in the amount of cca. 900 –1,000 USD monthly.

The *Law on Administrative Disputes* does not prescribe a possibility of a waiver of costs for NGOs or for a party which brings an action in the public interest.

## **7. Access to information gathered by Danube programs and other programs relevant to information on discharges into the Danube**

### *Danube Pollution Reduction Programme*

Two brochures in English, with the title the *National reviews 1998, Technical reports: Social and economic analysis, Financing Mechanisms, Water Quality, and Water Environmental Engineering* were published by the MoE in cooperation with the Programme Coordination Unit UNGP/GEF Assistance. Results of the National Planning Workshop, held in Slovenia (June 1997) in order to provide elements for the revision of the Strategic Action Plan (SAP) of the ICPDR, are published in the same format.

## **8. Problems and gaps identified with respect to all of points 1-7**

- absence of the EPA's enabling regulation concerning the establishment of the integral environmental protection information system and implementation of the institutes of environmental record keeping and environmental protection officer;
- absence of implementing regulations/guidelines and practical arrangement, including appointment of skilled personnel for provision of environmental information upon requests;
- absence of law requirements (e.g. of the EPA) for issuance of implementing regulations/guidelines and practical arrangement for the implementation of the right to obtain environmental information upon request;
- because of the absence of detailed rules and guidelines, it is too broad discretion left to officials in deciding whether or not and how to disclose information requested;
- flow of information and co-operation between public authorities responsible to maintain data bases concerning waters is not ensured, especially between the state and local authorities;
- data already collected and maintained by different authorities mostly are not comparable because of the absence of common indicators;
- citizens and NGOs have a low level of legal culture; in cases where request for environmental information is not answered, wrongfully refused or not properly answered, they do not try to enforce their right using legal instruments;
- there is no prescribed a possibility of a waiver of costs for NGOs or for a party which brings an action in the public interest.

## **9. Priority issues to be addressed**

- establishment of detailed rules, guidelines and practical arrangements, in order to provide public access to environmental information;
- education programs for officials;
- establishment of the integral data base concerning water pollution;
- establishment of publicly accessible electronic data bases;
- education programs for citizens and NGOs;
- capacity building of NGOs.

## **10. Limitations of the needs assessment itself - information which was impossible to obtain and reasons**

It was impossible to figure out number of requests for information submitted to public authorities, because they are not subject to special record keeping by authorities.

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