



19 APRIL 2017

**COMMENTS BY SPAIN ON THE DRAFT FINDINGS AND RECOMMENDATIONS MADE BY
THE COMPLIANCE COMMITTEE OF THE AARHUS CONVENTION, REGARDING THE
COMMUNICATION ACCC/C/2014/99**

On 30 March 2017, the Secretary of the Compliance Committee of the Aarhus Convention forwarded to this Party the agreed revised draft findings regarding communication ACCC/C/2014/99, for consideration and possible comments.

The recommendations adopted by de Compliance Committee are the following:

The Committee recommends to this Party to take the necessary legislative, regulatory or other measures as well as practical arrangements to ensure that the public is promptly informed of decisions taken under Article 6, paragraph 9, of the Convention, not only through the Internet but also through other means, including but not necessarily limited to, the methods used to inform the affected public pursuant to Article 6.2 of the Convention.

Also, taking into consideration that no evidence has been presented to substantiate that the non-compliance with article 6, paragraph 2 was due to a systemic error, the Committee refrains from presenting any recommendations in this respect.

**Comments from the Party concerned on the revised draft findings and recommendations the
communication ACC/C/2014/99**

In relation with the Committee recommendation about taking the necessary legislative, regulatory or other measures to ensure that the public is promptly informed of the decisions taken *not only through the Internet but also through other means*, this Party considers that the environmental legislation in force makes possible to adequately meet the requirements of the Convention, without being necessary to undertake legislative reforms:

-As this Party has been shown on other occasions, during this procedure, the Spanish Law 16/2002, of 1 July, on the Integrated Prevention and Control of Pollution, lays down, in Article 23, obligations on the notification and publication of authorizations awarded. The changes in this regulation from its original wording to the present are also detailed in the response made by this Party on 17 September 2015.

- Also, the Spanish Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, regulates the conditions for the validity and effectiveness of administrative acts and the common administrative procedure at all levels of the Spanish State. Article 26, concerning the issuance of documents by Public Administrations, states that the latter will issue the documents in writing, by electronic means, unless their nature requires a more suitable form of expression or record. Article 36 also states that administrative acts will take place in writing, by electronic means, unless their nature requires a more suitable form of expression and record. Similarly, Article 12.1 of the said Law establishes that Public Administrations must ensure that stakeholders are able to contact the Government using electronic means, and therefore they shall make available to them the access channels that may be necessary as well as the systems and applications



determined in each case. Therefore, the Law provides for the existence of so-called assistance offices in registry matters.

- In accordance with the Spanish current existing legislation and with standard practice, authorizations are not only published on the website of the Ministry, but also in the *Official Journal of the Government of Catalonia*:

Catalan Law 20/2009, of 4 December, on environmental prevention and control of activities, in particular, paragraph 2 of Article 30 states: 2. *The operative part of a decision granting or amending the environmental authorization of the activities in Annex I and, as the case may be, the environmental impact statement, are published in the Official Journal of the Government of Catalonia and are recorded in the environmental activities database, with the information determined by regulation.*

Also, paragraph 3 of Article 30 expressly states that: 3. *The full content of the environmental authorizations is publicly accessible, subject to the limitations on the right of access to environmental information and other applicable regulations.*

Pursuant to these regulations, since 2011, all the environmental authorization decisions are published in full on the website of the Cataluña Ministry of Territory and Sustainability together with the environmental impact statement, if the latter is required.

Similarly, the operative parts of the decision of the environmental authorization and of the environmental impact statement are published in the *Official Journal of the Government of Catalonia*. An example was enclosed of the publication in the *Official Journal of the Government of Catalonia* of environmental authorization decisions with environmental impact statements and substantial modification decisions with environmental impact statements. In fact, according to the database of said *Official Journal*, more than 2,000 announcements have been published containing Decisions relating to the award or modification of environmental permits (http://dogc.gencat.cat/ca/pdogc_base_de_dades_del_dogc/).

Regarding access to the *Official Journal*, as indicated by this Party in the response to the request for supplementary information made by the Committee on 2 February 2016, from the entry into force of Law 2/2007, of 5 June, the said *Official Journal* is published only in a digital format and this Party believes that this does not lead to the exclusion of any members of the public that do not use the Internet or do not have easy access to it. In fact, the purpose of Law 2/2007 is to regulate this *Official Journal* as a universal and freely accessible public service and to grant official capacity, full authenticity and legal validity to its digital edition.

With regard to the querying of this *Official Journal*, Article 9.1 of Law 2/2007 provides that the Administration of the Government of Catalonia, local authorities, citizen service offices and universities and public libraries must facilitate public and free consultation of the digital edition of the *Official Journal*. Paragraph 2 of that same article indicates that the Government of Catalonia must provide to those persons requesting it a paper copy or digital download of the editions of the *Official Journal*.

Mention should be also be made to the EU Council Regulation 216/2013, of 7 March, on the electronic publication of the *Official Journal of the European Union*; under this regulation the electronic edition of the *Official Journal of the European Union* is the only edition with legal force since 1 July 2013. While it is possible to obtain from the Publications Office a printed version of the *Official Journal*, the printed version currently has no legal value and is not easily and freely accessible, as is the electronic edition. Therefore, since 2013 the *Official Journal* of the European Union has been applying the same publication criterion as the *Official Journal of the Government of Catalonia*.

Finally, with regard to the recommendation of the Committee, related with Article 6.9, about the desirability of carrying out the communications also by other means apart from Internet, this Party must say that the decisions relating to the authorization of activities are published in Catalonia using the same means as those used to inform the affected public. For this reason we therefore believe that Article 6.9 of the Convention has not been violated.