

5 October 2018

Ms. Seray Özsöylemez-Martherus  
Senior Policy Advisor  
DG Environment & International  
Ministry of Infrastructure and Water Management  
The Netherlands

Dear Ms. Özsöylemez-Martherus,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the Netherlands with the provisions of the Convention on access to information in connection with two coal-fired power plants (ACCC/C/2014/124)**

In the course of the preparation of its draft findings on communication ACCC/C/2014/124, the Committee has identified some points which it considers important to clarify with the Party concerned in order to proceed with its deliberations. To this end, please find **enclosed** some questions from the Committee to the Party concerned for its reply.

I would be grateful to receive your reply to the enclosed questions on or before **2 November 2018**. Please send your reply to [aarhus.compliance@unece.org](mailto:aarhus.compliance@unece.org), copying the communicant. The communicant will have four weeks from the receipt of your answer to provide the Committee with any comments it wishes to make on your reply.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



---

Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Kingdom of the Netherlands to the United Nations Office and other international organizations in Geneva  
Stichting Greenpeace Nederland, communicant of communication ACCC/C/2014/124

Enc: Questions from the Committee to the Party concerned

### Questions from the Committee to the Party concerned

1. Please provide the text of article 2, paragraph 3 of the Protected Animal and Plant Species (Exemption Decree), as well as an English translation thereof.
2. Please provide the Province of Groningen's reply of 19 July 2011 setting out the reasons for refusing to disclose those documents withheld, together with an English translation thereof.
3. Please provide English translations of the complete text of the District Court's judgment of 18 July 2012 and the Council of State's judgment of 16 July 2014.
4. Please provide the judgment of the Council of State, 4 November 2009, ECLI:NL:RVS:2009:BK1977 (referred to in paragraph 23 of the Party's response to the communication), together with an English translation thereof.
5. In its letter to the Committee of 3 June 2016, the Party concerned refers to the exception in article 4, paragraph 3(c) of the Convention for "materials in the course of completion" which it states is incorporated in section 11, paragraph 1 of the Government Information (Public Access) Act. Did any institutions of the Party concerned (Province of Groningen the District Court or Council of State) rely on the "materials in the course of completion" exemption as a basis for refusing the information requested by the communicant?
6. Please provide the relevant caselaw, together with English translations thereof, that establishes that the "materials in course of completion" has been incorporated into section 11, paragraph 1 of the Government Information (Public Access) Act.
7. At paragraphs 52-54 of its response to the communication dated 27 November 2015, the Party concerned states that some of the documents not disclosed "refer to", but do not "contain", environmental information. In order to assist the Committee to have a clear picture of what "refer to" means in this context, please provide examples of sentences that, in the Party concerned's view do not contain environmental information, but which:
  - (a) "Refer to studies on the question whether the power plants in the *Eemshaven* serve an imperative reason of overriding public interest";
  - (b) "Refer to imperative reasons of overriding public interest" regarding the power plants in the *Eemshaven*.