

12 March 2018

Ms. Seray Özsöylemez-Martherus
Ministry of Infrastructure and Water Management
The Hague
The Netherlands

Professor Albert Koers
Nederlandse Vereniging van Omwonenden Windturbines
The Netherlands

Dear Ms. Özsöylemez-Martherus,
Dear Professor Koers,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the Netherlands with access to information and public participation provisions of the Convention in connection with wind turbines (ACCC/C/2015/133)

I write to inform you the Compliance Committee has identified a number of questions to clarify with each of the Party concerned and the communicant. Please find the Committee's questions for the reply of each party enclosed.

I would be grateful to receive your replies to the enclosed questions on or before **3 April 2018**. Please send your replies to aarhus.compliance@unece.org, copying the other party.

The other party will have 10 working days 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

Enc: Questions from the Committee to the parties

Cc: Permanent Mission of the Netherlands to the United Nations Office and other international organizations in Geneva

Questions to the Party concerned:

1. Could the communicant have brought a challenge under the General Administrative Law Act with regard to the following decisions, and if so, please explain under which provisions:
 - a. The 2010 Action Plan?
 - b. The 2014 National Policy Strategy for Onshore Wind Power?
 - c. The Energy Agreement dated 6 September 2013?
2. Are there any challenges under the Civil Code (Burgerlijke Wet) that could have been utilized by the communicant with regard to each of the above decisions? If yes, what would the approximate costs of bringing such a challenge (filing fees etc.) have been?
3. Would the communicant have been able to challenge the alleged lack of quality of the information provided online?

Questions to the communicant:

4. Please provide your comments on the submission by the Party concerned that NLVOW could have brought a challenge against a governmental decision on a specific wind farm project but did not do so. In particular, please provide your views as to whether there would be anything that would prevent NLVOW bringing a claim to the Council of State to annul a decision on a wind farm in the same way as occurred in the Council of State's judgment of 27 May 2015 (ECLI:NL:RVS:2015:1621) on the wind farm "Den Tol" in Netterden (see paras. 7 and 8 of the response to the communication by the Party concerned)?
 5. Please specify the reasons why there is in your view "little chance of success" when bringing a claim against a final decision on permitting a wind farm alleging that the public participation procedure during the preparatory stages of the permitting procedure was inadequate (see para. 35 of your letter dated 23 November 2015)?
 6. Do you agree with the statement of the Party concerned that, with respect to issues for which no complaint could be submitted to an administrative court of law, your organization could have filed a complaint for tort with a civil law court (see para. 9 of the response to the communication by the Party concerned)? Please give reasons for your answer.
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