

Compliance Committee to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters (Aarhus Convention)

**Second progress review of the implementation of decision V/9e
on compliance by Croatia with its
obligations under the Convention**

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I. Introduction

1. At its fifth session (Maastricht, 30 June–1 July 2014), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision V/9e on compliance by Croatia with its obligations under the Convention (see ECE/MP.PP/2014/2/Add.1).

II. Summary of follow-up action with decision V/9e since the Committee's first progress review

2. By letter of 13 October 2015, the secretariat sent the Committee's first progress review on the implementation of decision V/9e to the Party concerned together with a reminder of the request by the Meeting of the Parties to provide its second progress report to the Committee by 31 October 2015 on the measures taken and the results achieved thus far in implementation of the recommendations set out in decision V/9e.

3. The Party concerned provided its second progress report on the implementation of decision V/9e on 10 November 2015 (dated 28 October 2015).

4. At the Committee's request, on 27 November 2015 the secretariat forwarded the Party concerned's second progress report to the communicant of communication ACCC/C/2012/66, inviting it to provide its comments on that report by 18 December 2015. The communicant did not provide comments.

5. At its fifty-second meeting (Geneva, 8-11 March 2016), the Committee reviewed the implementation of decision V/9e in open session taking into account the Party concerned's second progress report. Despite invitation neither the Party concerned nor the communicant took part in the session.

6. Following the discussion in open session, the Committee commenced the preparation of its second progress review on the implementation of decision V/9e in closed session. The Committee expressed its regret, that despite invitation, the Party concerned did not participate in the audio conference scheduled to discuss the implementation of decision V/9e in open session during the meeting. The Committee agreed to request the secretariat to write to the Party concerned to invite it to provide some further information with respect to the implementation of decision V/9e and to finalize its second progress review at its virtual meeting to be held on 13 May 2016.

7. On 11 April 2016, the secretariat invited the Party concerned to provide the additional information requested by the Committee by 25 April 2016. On 27 April 2016, the Party concerned provided additional information (dated 22 April 2016).

8. The Committee continued its preparation of the second progress review at its virtual meeting on 13 May 2016, taking into account the Party concerned's second progress report and the additional information provided on 27 April 2016. The Committee adopted its second progress review through its electronic decision-making procedure on 14 October 2016 and instructed the secretariat to thereafter send it to the Party concerned and the communicant of communication ACCC/C/2012/66.

Party concerned's second progress report

9. With respect to paragraph 14(a) and (b) of the Committee's first progress review, the Party concerned stated in its second progress report submitted on 10 November 2015 that article 22 of the Act on Sustainable Waste Management (Official Gazette 94/13), which prescribes public participation in the development of waste management plans of local self-government units, stipulates that:

“(1) The draft Plan and the draft waste management plans of units of local self-government and of the City of Zagreb shall be made public so as to obtain public opinion, proposals and comments.

(2) The Ministry, or local self-government units and the City of Zagreb shall inform the public via mass media of where to access the draft Plan and the draft waste management plans of local self-government units and the City of Zagreb, respectively, and of how and when to submit their opinion, proposals or comments.

(3) The period during which the public can express their comments, proposals and opinions shall not be less than 30 days from the date of publication.”

10. With respect to paragraph 14(c) of the Committee's first progress review, the Party concerned in its second progress report stated that, in accordance with the Environmental Protection Act, all waste management plans and programmes at the local level, hence of local self-government units, were subject to the preparation of strategic environmental assessment and there were no exceptions.

11. The Party concerned also reported that a new Waste Management Plan for the Republic of Croatia for the period 2015-2021 was currently being drafted. It further reported that after the adoption of this plan, pursuant to the Act on Sustainable Waste Management, all local self-government units must in accordance with the national plan prepare their local waste management plans taking into account the procedures related to public participation during development of plans.

12. Further to paragraph 11 above, in its additional information provided on 27 April 2016, the Party concerned reported that the draft new Waste Management Plan for the period 2015-2021 was still under preparation. It was currently posted on the Ministry website.¹ Once adopted it would be communicated to the local authorities with a note concerning their legal obligation to undertake public participation during the development of local waste management plans.

13. In response to the Committee's request of 11 April 2016, in its additional information of 27 April 2016, the Party concerned provided the Croatian text of Article 22 of the Act on Sustainable Waste Management as well as the English and Croatian texts of articles 63 and 64 of the Environmental Protection Act (Official Gazette No 80/13 and 78/15). The Party concerned stated that those provisions required that all waste management plans and programmes at the local level were to be subject to strategic environmental assessment (SEA).

14. The Party concerned also confirmed that it would submit its final progress report on the implementation of decision V/9e to the Committee by the end of October 2016.

¹ <http://www.mzoip.hr/hr/okolis/procjene-utjecaja-na-okolis.html>, see under “SPUO”.

III. Considerations and evaluation by the Committee

15. In order to fulfil the requirements of the decision V/9e, the Party concerned would need to provide the Committee with evidence that it ensures that a transparent framework is in place providing for appropriate practical and/or other provisions for the public to participate during the preparation of municipal waste management plans, by, inter alia, including municipal waste management plans in the list of plans relating to the environment which are not formally subjected to strategic environmental assessment but for which public participation is required, so that article 7 of the Convention is clearly applicable to such plans.

16. In its first progress review, which reviewed the Party concerned's first progress report, the Committee invited the Party concerned together with its second progress report to provide:

- (a) The relevant excerpt of the Official Gazette 94/13, together with an English translation thereof, to demonstrate that a transparent framework regarding public participation in the preparation of municipality waste management plans is in place;
- (b) Evidence that the legislation in force in the Party concerned provides for a consistent and uniform application throughout the territory and is clear as regards public participation in the preparation of municipality waste management plans;
- (c) Confirmation that municipal waste management plans are in the list of plans relating to the environment which are not formally subjected to strategic environmental assessment but for which public participation is required.

17. The Committee welcomes the second progress report of the Party concerned, and the information contained therein.

18. With respect to paragraph 16(a) and (b) above, the Committee notes that in its second progress report the Party concerned has included an English translation of the text of article 22 of the Act on Sustainable Waste Management (Official Gazette 94/13). Article 22, paragraph 1, states that the draft waste management plans of units of local self-government and of the City of Zagreb must be made public in order to facilitate public participation. Article 22, paragraph 2 provides that the Ministry, or local self-government units and the City of Zagreb, must inform the public, using mass media, of where the draft waste management plans may be accessed and how and when to submit their opinions, proposals or comments. Article 22, paragraph 3 states that the period during which the public can express their opinions, proposals or comments must not be less than 30 days from the date of publication of the draft waste management plan.

19. On the basis of the above and having received no evidence from the communicant of communication ACCC/C/2012/66 or observers to the contrary, the Committee finds that the Party concerned has put in place a regulatory framework providing for appropriate practical and/or other provisions for the public to participate during the preparation of municipal waste management plans. On the same basis, the Committee also finds that article 22 of the Act on Sustainable Waste Management is clear as regards public participation in the preparation of municipality waste management plans and appears to provide for a consistent and uniform application throughout the territory.

20. As regards the requirement in article 7 to provide a "transparent" framework, the Committee invites the Party concerned to clarify how the public participation procedure in article 22 of the Act on Sustainable Waste Management interacts with

the SEA procedure in articles 63 and 64 of the Environmental Protection Act (i.e. whether the public participation procedure should be conducted before, after or at the same time and the relative legal weight given to the outcome of the public participation procedure and the SEA procedure).

21. With respect to paragraph 16(c) above, the Committee notes that in its second progress report the Party concerned states that, under the Environmental Protection Act, all waste management plans and programmes at the local level are subject to strategic environment assessment and, therefore, there are no exceptions to this requirement. The Committee accordingly finds that the Party concerned has clarified that municipal waste management plans are in fact included among the plans that are subject to mandatory strategic environmental assessment.

22. In the light of the above, while welcoming the significant progress made, the Committee finds that the Party concerned has not yet fulfilled the requirements of decision V/9e.

IV. Conclusions

23. The Committee finds that the Party concerned has not yet fulfilled the requirements of decision V/9e, but welcomes the significant steps taken to date to do so.

24. The Committee reminds the Party concerned that, in accordance with paragraph 4 of decision V/9e, the Party concerned's final progress report on the implementation of that decision is due on 31 October 2016.

25. In order for the Committee to be in a position to fully examine the implementation of decision V/9e with respect to the requirement in article 7 of the Convention to provide a "transparent" framework, the Committee invites the Party concerned, in its final progress report or otherwise by 31 December 2016, to clarify how the public participation procedure in article 22 of the Act on Sustainable Waste Management interacts with the SEA procedure in articles 63 and 64 of the Environmental Protection Act (i.e. whether the public participation procedure should be conducted before, after or at the same time and the relative legal weight given to the outcome of the public participation procedure and the SEA procedure).

26. The Committee informs the Party concerned that all measures necessary to implement decision V/9e must be completed by, and reported upon by no later than 31 December 2016, as that will be the final opportunity for the Party concerned to demonstrate to the Committee that it has fully met the requirements of decision V/9e.
