

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

**First progress review of the implementation of decision V/9k
on compliance by Spain with its
obligations under the Convention**

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1	2
II. Summary of follow-up action with decision V/9k	2	2
III. Considerations and evaluation by the Committee	12	3
IV. Conclusions and recommendations	18	4

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/9k on compliance by Spain with its obligations under the Convention (see ECE/MP.PP/2014/2/Add.1).¹

II. Summary of follow-up action with decision V/9k

2. By email of 12 September 2014, the Party concerned informed the Committee that an Ordinance regulating the fees for environmental information at the national level had been formally adopted and published in the Party's Official Gazette. The Ordinance contained a schedule of charges, including A4 black and white photocopies for €0.03 per page from the 20th page and A4 colour photocopies for €0.12 per page from the 20th page, with the first 19 pages in both cases free of charge. The Party concerned reported that the Ordinance had been posted on the website of the Ministry of Agriculture, Food and the Environment (MAGRAMA) and both the Murcia City Council and the communicant had been informed.

3. By email of 13 November 2014, the communicant of ACCC/C/2008/24 commented that it was its understanding that the new Ordinance applied to information provided by state agencies. It congratulated this initiative at the national level. It stated that the fees at the local level for requesting environmental (planning) information from Murcia Council remained unchanged.

4. By letter of 28 November 2014, the Committee sent a reminder to the Party concerned of the request by the Meeting of the Parties to provide its first detailed progress report to the Committee by 31 December 2014 on the measures taken and the results achieved thus far in implementation of the recommendations set out in decision V/9k.

5. The Party concerned provided its first progress report on the implementation of decision V/9k on 23 December 2014.

6. At the Committee's request, on 2 January 2015 the secretariat forwarded the Party concerned's first progress report to the communicants of communications ACCC/C/2008/24 and ACCC/C/2009/36, inviting them to provide their comments on that report by 23 January 2014. No comments were received from either communicant.

Murcia City Council's fees for provision of environmental information

7. In its first progress report, the Party concerned reported that, in accordance with paragraph 5 of decision V/9k, the necessary measures had been taken as a matter of urgency to ensure that the fees charged by the Murcia City Council for the provision of copies of land use and urban planning information were reasonable. The Party concerned stated that Murcia City Council had confirmed that as of 1 January 2015, municipal taxes would be modified, inter alia, with the purpose to put the fees for urban planning information at the same level as environmental information and to reduce the taxes for environmental information to the same level as for environmental information in the State General Administration. These modifications were subjected to a period of 30 days for

¹Decisions of the Meeting of the Parties concerning compliance by Parties and documents related to their follow-up can be found on the Convention website at <http://www.unece.org/env/pp/ccimplementation.html>.

public participation, ending 30 November 2014. They were then to be published in the Murcia Official Gazette and to enter into force 1 January 2015.

8. A document from Murcia City Council annexed to the Party concerned's first progress report set out the proposed fees, including inter alia:

- Copies of less than 20 A4 pages and information sent electronically would be free of charge;
- Black and white A4 photocopies for €0.03 per page from the 20th page, with the first 19 pages free of charge;
- Colour A4 photocopies for €0.12 per page from the 20th page, with the first 19 pages free of charge.

Legal aid for environmental NGOs

9. With respect to paragraph 6 of decision V/9k, in its first progress report the Party concerned recalled that its study on access to justice in environmental matters carried out in the context of its implementation of decision IV/9f of the Meeting of the Parties had found that the wording of article 23.2 of the Law 27/2006 was not as clear and unambiguous as would be desirable and that MAGRAMA had expressed its support for the possible review of the current regulation in order to redress to the extent possible the current disparity of jurisprudence on legal aid to NGOs.

10. The Party concerned stated that the review of its national legislation on legal aid that it had previously reported to the Compliance Committee was still ongoing. In this regard, the Party concerned recalled that it had (in the previous intersessional period) informed the Committee that on 29 April 2014 the Ministry of Justice had announced the draft of a new Law on Free Legal Aid, that would, inter alia, extend the right to free legal aid to legally recognized environmental NGOs, regardless of their financial capacities. The Party concerned reported that the Council of Ministers had now approved the draft new Law on Free Legal Aid and it was currently being discussed in the Parliament (Senate and Congress) prior to its final approval. The Party concerned indicated that it would keep the Committee updated regarding the ongoing legislative progress.

11. At its forty-eighth meeting (Geneva, 24-27 March 2015), the Committee reviewed the implementation of decision V/9k in open session taking into account the comments received from observers present. Following the discussion in open session, the Committee commenced the preparation of its first progress review on the implementation of decision V/9k in closed session. The Committee adopted its first progress review at its fiftieth meeting (Geneva, 6-9 October 2015) and instructed the secretariat to thereafter send it to the Party concerned and the communicants of communications ACCC/C/2008/24 and ACCC/C/2009/36.

III. Considerations and evaluation by the Committee

12. In order to fulfil the requirements of the decision V/9k, the Party concerned would need to provide the Committee with evidence that:

- (a) The necessary measures have been taken to ensure that the fees charged by the Murcia City Council for the provision of copies of land use and urban planning information are reasonable and are set out in a publicly available schedule of fees; and

(b) Measures have been taken by 30 November 2014 to ensure that the remaining obstacles to the full implementation of article 9, paragraphs 4 and 5, of the Convention with respect to legal aid to NGOs are overcome.

13. The Committee welcomes the first progress report of the Party concerned, which was submitted on time, and the information contained therein.

14. The Committee finds, however, that the Party concerned has not yet fulfilled the requirements of decision V/9k.

15. With respect to paragraph 5 of decision V/9k, the Committee welcomes the information that the Murcia City Council should have, by 1 January 2015, adopted the schedule of fees described in paragraph 8 above. The Party concerned has not, however, to date provided the Committee with the relevant excerpt of the Murcia Official Gazette demonstrating that these fees are indeed now in force.

16. Also with respect to paragraph 5 of decision V/9k, the Party concerned has not yet confirmed that the new fees are set out in a publicly available schedule.

17. With respect to paragraph 6 of decision V/9k, the Committee welcomes the information provided by the Party concerned regarding the draft new Law on Free Legal Aid currently before Parliament. The Committee awaits the Party concerned's confirmation that the new Law on Free Legal Aid, including the provisions on free legal aid for environmental NGOs, has been adopted and to be provided with an English translation of the relevant provisions of the Law once adopted.

IV. Conclusions and recommendations

18. The Committee welcomes the first progress report of the Party concerned, which was submitted on time, and the information contained therein.

19. The Committee finds, however, that the Party concerned has not yet fulfilled the requirements of decision V/9k.

20. The Committee invites the Party concerned to provide, together with its second progress report:

(a) The relevant excerpt of the Murcia Official Gazette, together with an English translation thereof, to demonstrate that the schedule of fees described in paragraph 8 above has entered into force;

(b) The necessary documentation, together with an English translation thereof, to demonstrate that the fees described in paragraph 8 above are set out in a publicly available schedule;

(c) The relevant provisions of the new Law on Free Legal Aid once adopted, in particular the provisions on free legal aid for environmental NGOs, together with an English translation thereof.
