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Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Compliance Committee

Thirty-first meeting

Geneva, 22–25 February 2011

Report of the Compliance Committee on its thirty-first meeting

Addendum

Compliance by Albania with its obligations under the Convention

I. Implementation of decision III/6a of the Meeting of the Parties

1. At its third session, 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 III/6a on compliance by Albania with its obligations under the Convention (ECE/MP.PP/2008/2/Add.9).

2. Through decision III/6a, inter alia, the Meeting of the Parties endorsed the findings of the Compliance Committee with regard to the failure of Albania to comply with (a) the provisions of article 6, paragraphs 3, 4 and 8, in connection with article 7, of the Convention, in its decision-making process on an industrial and energy park; (b) article 6, paragraphs 3, 4 and 8, in connection with the construction of the first power plant project in Vlora; and (c) article 3, paragraph 1, owing to the lack of a clear, transparent and consistent framework to implement the provisions of the Convention in Albanian legislation.

3. The Meeting of the Parties also invited Albania to continue taking relevant measures to implement the recommendations of the Committee with a view to bringing about full compliance with the relevant provisions of the Convention, inter alia, through the implementation of the action plan developed by it (ECE/MP.PP/2008/2/Add.9, para. 4), and

to submit to the Committee periodically information on the progress in implementing the recommendations of the Committee (ECE/MP.PP/2008/2/Add.9, para. 5).

4. On 2 October 2008, the secretariat forwarded decision III/6a to Albania with a reminder concerning the requests and recommendations of the Meeting of the Parties contained therein. Upon failure of Albania to submit its report due in November 2008, on 5 February 2009, the secretariat sent a letter to Albania conveying the concern of the Committee for not having received the requested information.

5. On 23 February 2009, the secretariat received and forwarded to the Committee the progress report and action plan prepared by Albania.

6. At its twenty-third meeting (31 March–3 April 2009), the Committee took note of the information received. While expressing its regret at the failure of Albania to submit the report within the deadline prescribed in decision III/6a, the Committee expressed its general satisfaction at the content of the report, which it considered reflected genuine efforts by Albania resulting in significant progress.

7. On 30 October 2009, the secretariat sent a reminder to Albania about the progress report due end November 2009.

8. Further to a request by Albania for an extension of the deadline for its progress report to the end of December 2009, and a second reminder by the secretariat on 15 January 2010, on 19 January 2010 the Party concerned submitted its progress report dated 31 December 2009. The progress report included the action plan and also a copy of decision No. 994 of 2 July 2008 “On public participation in environmental decision-making”.

9. At its twenty-seventh meeting (16–19 March 2010), the Committee reviewed the information submitted by Albania and expressed its general satisfaction at the progress with the implementation of the action plan and the content of the report.

10. On 7 October 2010, the secretariat sent a reminder to Albania about the report due end November 2010. Upon the failure of Albania to submit the requested report, on 11 January 2011 the secretariat sent a second reminder on behalf of the Committee.

11. The Committee has not received the report due in November 2010. The review and recommendations in the following paragraphs are based on the progress reports submitted by Albania on 23 February 2009 and 19 January 2010 (originally due in November 2008 and November 2009, respectively), and on the national implementation report by Albania for the period 2008–2011, which involves a comprehensive overview of Albanian legislation with respect to public participation. The Committee considered this material at its thirty-first meeting.

12. The Committee notes that the implementation of the action plan by Albania has two main components: (a) improvement of the existing legal framework; and (b) organization of training and awareness-raising activities with various actors about the Convention. In addition, a working group has been established by the Ministry of Environment, Forests and Water Administration (the Ministry) to supervise the work done for the implementation of the action plan.

13. The Committee notes that the Party concerned is working intensively to provide a detailed and clear framework on public participation, as applicable under activities within article 6, or plans and programmes within article 7, of the Convention.

14. With regard to public participation and, in particular, the requirements in article 6, paragraphs 3, 4 and 8, of the Convention, the Committee took note of the information provided in the national implementation report. Accordingly, the Law on Environmental Impact Assessment requires public participation according to article 6 of the Convention,

namely, for activities under annex I to the Convention and other unlisted activities which might have a negative impact on the environment. The Law closely follows European Union (EU) legislation on environmental impact assessment, further to technical assistance provided by the EU. The Ministry and the Regional Environment Agencies subject any related licensing procedure to these provisions.

15. In this regard, the following instruments have been adopted to enhance public participation procedures: the Decree of the Cabinet of Ministers No. 884 of 2 July 2007 “On the participation of the public in environmental decision-making”, which requires the monitoring of the activities and requires the Ministry and the local authorities to organize public participation processes open to the public and the media; Instruction No. 1 of 7 January 2008 “On the documents needed when applying for an environmental permit”; and Decree No. 994 of 2 July 2008 “On public participation in environmental decision-making”. The latter instrument, in particular, was one of the main actions taken by the Party concerned after the findings and recommendations of the Committee; it determines the bodies that are directly responsible for carrying out the public participation process within the environmental impact assessment procedure, and is supplemented by Instruction No. 1 of 3 March 2009 “On the duties of environmental bodies to ensure the participation of the public and the environmental non-governmental organizations in the process of environmental impact assessment”.

16. In addition, the Party concerned noted in its action plan that the Advisory “On procedures on public participation in environmental impact assessment” had been completed during 2009. The process of its completion included discussions with non-governmental organizations.

17. With respect to the application of several requirements under article 6 in plans and programmes under article 7, the Party concerned draws attention to Decree No. 994, which requires that all planning authorities identify the public concerned, organize and facilitate public participation procedures during the phase of drafting sector policies, strategies or plans of a regional or national character. In addition, Law No. 10119 of 23 April 2004 “On land use planning” requires the carrying out of a strategic impact assessment, including public participation in the planning process, as a condition for drafting national land use planning at all levels.

18. There is currently a plan, according to the Party concerned, to transpose EU Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment into Albanian legislation so as to strengthen the requirements for public participation in the assessment of specific plans and programmes subject to the Directive’s requirements.

19. As a follow-up on the industrial and energy park and associated projects in Vlora (decision III/6a, para. 4(b)), the national implementation report states that a discussion is ongoing between the competent central and local authorities and the affected community of Vlora, as well as with other interested groups at the national level, on the possibility of building a thermopower plant and oil tankers at the seaside. The Party concerned states that after the review by the Compliance Committee of the Vlora case, every effort is being made to fulfil all the requirements under the Convention in that respect.

20. Notable is the increased collaboration of the Party concerned with a number of international and regional organizations, such as the EU, the United Nations Economic Commission for Europe (and, in particular, the secretariat of the Convention on Environmental Impact Assessment in a Transboundary Context), the Organization for Security and Cooperation in Europe and the World Bank, all of which have been providing financing and/or technical assistance to Albania to reach compliance with the Aarhus Convention.

21. In order to ensure the comprehensive review of compliance by Albania, the Committee invited Albania, as well as the communicant whose communication had initially triggered the review, to comment on the draft of the present report. Comments were received from the Party concerned on 8 March 2011. The Party concerned was satisfied with the evaluation of the Committee and the conclusions of the report.

II. Conclusions

22. The Committee wishes to note the engagement of the Party concerned, demonstrated by its correspondence with the Committee and its effort to meet the deadlines set by decision III/6a to the extent possible. Having reviewed the information provided in two progress reports and the national implementation report for 2008–2011, the Committee notes with appreciation that the Party concerned has seriously and actively engaged to follow the recommendations of decision III/6a. The Committee considers that the information provided by Albania during the intersessional period provides a basis to find that the Party concerned is not in a state of non-compliance with the provisions of article 3, paragraph 1, and the requirements of paragraphs 3, 4 and 8, in connection with article 6 and article 7 of the Convention.

III. Recommendations

23. In the light of the above, the Committee, pursuant to paragraph 35 of the annex to decision I/7, recommends that the Meeting of the Parties endorses the above findings of the Committee with regard to compliance by Albania.
