

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/9h
on compliance by Germany 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/9h.....	2	2
III. Considerations and evaluation by the Committee	9	3
IV. Conclusions and recommendations	13	3

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

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

2. 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/9h.

3. The Party concerned provided its first progress report on the implementation of decision V/9h on 16 December 2014.

4. At the Committee's request, on 2 January 2015 the secretariat forwarded the Party concerned's first progress report to the communicants of communication ACCC/C/2008/31, inviting them to provide their comments on that report by 23 January 2015. No comments were received from the communicants.

5. In its first progress report, the Party concerned reported that the Federal Government was currently examining in detail how the recommendations of decision V/9h could be reflected in national law. In 2015, the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (Federal Ministry for the Environment) would forward proposals on this to the other ministries.

6. The Party concerned also reported that the Federal Ministry for the Environment was developing draft legislation aimed at transposing the Seveso III Directive.¹ This Directive must be transposed into national law by 31 May 2015. In accordance with article 23(b) of the Seveso III Directive, Member States of the European Union must ensure that, in their respective national legal system, members of the public concerned have access to justice for cases subject to article 15(1) of the Directive. To ensure this, the Party concerned was looking into amending the law beyond the current scope of the Environmental Appeals Act.

7. The Party concerned confirmed it would submit its second progress report by 31 October 2015.

8. At its forty-eighth meeting (Geneva, 24-27 March 2015), the Committee reviewed the implementation of decision V/9h 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/9h 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 communicant of communication ACCC/C/2008/31.

¹ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

III. Considerations and evaluation by the Committee

9. In order to fulfil the requirements of decision V/9h, the Party concerned would need to provide the Committee with evidence that it had taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

(a) NGOs promoting environmental protection can challenge both the substantive and procedural legality of any decision, act or omission subject to article 6 of the Convention, without having to assert that the challenged decision contravenes a legal provision “serving the environment”; and

(b) Criteria for the standing of NGOs promoting environmental protection, including standing with respect to sectoral environmental laws, to challenge acts or omissions by private persons or public authorities which contravene national law relating to the environment under article 9, paragraph 3, of the Convention had been revised, in addition to any existing criteria for NGO standing in the Environmental Appeals Act, the Federal Nature Conservation Act and the Environmental Damage Act.

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

11. The Committee finds that the Party concerned has not yet fulfilled the requirements of decision V/9h, but welcomes the initial steps taken by the Party concerned to date in that direction.

12. The Committee considers that it would assist its review of the Party concerned’s second progress report if, together with that report, the Party concerned could provide an approximate timeline for the various stages of its internal procedures leading up to the final adoption of the legislative, regulatory and administrative measures and practical arrangements necessary to meet the requirements of decision V/9h. The Committee also invites the Party concerned to provide it with any drafts of the legislation aimed at implementing the requirements of decision V/9h available at the time of submitting of the second progress report, together with English translations thereof, or with summaries of the substantive contents of such drafts.

IV. Conclusions

13. The Committee finds that the Party concerned has not yet fulfilled the requirements of decision V/9h, but welcomes the initial steps taken by the Party concerned to date in that direction.

14. The Committee invites the party concerned to submit, together with its second progress report due on 31 October 2015:

(i) An approximate timeline for the various stages of its internal procedures leading up to the final adoption of the legislative, regulatory and administrative measures and practical arrangements necessary to meet the requirements of decision V/9h; and

(ii) Any drafts of the legislation aimed at implementing the requirements of decision V/9h available at the time of submitting the second progress report, together with English translations thereof, or with summaries of the substantive contents of such drafts.