

From: Carril Martinez, Joaquin

Sent: Thursday, November 26, 2020 11:16 AM

To: ECE-Aarhus-Compliance; Fiona Marshall

Cc: SG de Relaciones Internacionales MITECO; Escobar Paredes, Victor Andres

Subject: RV: Decision VI/8j (Spain) - communicant's comments on Party concerned's final progress report-communication ACCC/C/2014/99

Importance: High

Dear colleagues Aarhus Convention Compliance Committee,

In response to communicants comments to our final progress report we have to say as follow:

Decision VI/8j recommends Spain to take the necessary measures to ensure that the public is promptly informed of decisions taken under article 6, paragraph 9, of the Convention **not only through the Internet, but also through other means including but not necessarily limited to the methods used to inform the public concerned pursuant to article 6, paragraph 2, of the Convention.**

In this regard, article 6.9 of the Convention establishes that “Each Party shall ensure that, **when the decision has been taken** by the public authority, the public is **promptly** informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based”, and article 6.2 of the Convention states the “The public concerned shall be informed, either by public notice or individually as appropriate, **early in an environmental decision-making procedure**, and in an adequate, timely and **effective** manner, inter alia, of...”.

We can therefore deduce that the recommendation of the Committee is that once a decision has been taken concerning the granting of a permit, the public must be **promptly** informed **at least** through the internet, and by public notice or individually as appropriate. The articles of the Convention mentioned in Decision VI/8j refer to different moments of the procedure (article 6.2 refers to an early stage in the process, while dossier is being processed, and article 6.9 to once the decision has been adopted) but the recommendation brings article 6.2, even if is not the same stage, to set up a minimum of means by which public must be informed (“not necessarily limited”); taking this into account, we conclude that the only part of article 6.2 that is applicable to the present case are the methods used to inform the public, which the Committee would like to apply as well when a decision of article 6.9 has been taken.

As we said in our Final Progress Report, the Directorate-General for Environmental Quality and Climate Change of the Department of Territory and Sustainability of the Administration of the Autonomous Community of Catalonia issued an Instruction, on 28 September 2018, indicating that once an environmental authorization has been granted or refused, the units under the aegis of that Directorate-General must stipulate, when communicating said decision to the council of the municipality in which the activity is to take place, that the public must be informed of this decision on the corresponding municipal notice boards and on the municipal website. This Instruction has been forwarded to the different Administrations of Spain’s Autonomous Communities, through the regional Aarhus Convention focal points, so that they may adapt their actions in this regard in their respective territories to the contents of the Instruction and pursuant to the indications of Decision VI/8j.

This means that currently, a decision on a granting of a permit not only in Cataluña but in Spain must be published: in the Official Journal of the Autonomous Community where the installation is located and by

electronic means (article 24.3 of Spanish RDL 1/2016), on Internet (article 24.2 of IED and article 24.3 of Spanish RDL 1/2016), and in municipal notice boards and on the municipal website (Cataluña's Instruction on 28 September 2018).

From articles 6.2 (early stage) and 6.9 (decision adopted) of the Convention the European Union worded, respectively, paragraphs 1 and 2 of article 24 of the IED, which provides different means of public information for each of the stages in the granting procedure: paragraph 1 according to Annex IV, which leaves to the discretion of the Member States the determination of the detailed arrangements for informing the public, and paragraph 2 , which foresees that the granted decision must be published at least on the Internet.

We must bear in mind that the provisions included in the Industrial Emissions Directive (IED) regarding access to information and public participation in the granting, reconsideration or updating of permits (article 24.2), as well as the European Directives transposing the three pillars of the Aarhus Convention, comply with the legal requirements regarding this matter set forth in this Convention. We consider that the fact that Spanish legislation transposes the IED articles on access to information and public participation literally by means of article 24.3 of Royal Decree 1/2016, approving the consolidated text of the law on integrated pollution prevention and control, and that the publication of the corresponding decision regarding the reconsideration of the permit conditions meets all the requisites set forth in the aforementioned article 24.2, of the IED, provides assurance that the provisions of article 6. 9, of the Aarhus Convention have been respected and implemented in a legally appropriate manner.

Spain considers that the publication on the municipal notice boards and the municipal website correspond exactly to the additional methods recommended on Decision VI/8 for public information, Internet and public notice, and that all the public information means currently included in the Spanish legislation as listed in a previous paragraph complies with all the requirements included in article 6.9 of the Convention, as well as in article 24.2 of the Industrial Emissions Directive.

With respect to the comments made by the communicant, and taking into account what has been stated in this response, we consider that the communicant is mixing the two different stages of the granting procedure, and in consequence the methods for informing the public that the Convention and the IED foreseen, as both the effectiveness of the public information means and Annex IV of the IED are referred to an early step of the granting procedure (article 6.2 of the Convention and 24.1 of IED), not to when the decision has been already taken, which is what the present case and recommendation of the Aarhus Convention Compliance Committee are related to.

With respect to the Instruction of the Directorate General of Environmental Quality and Climate Change of the Department of Territories and Sustainability of the Autonomous Administration of Catalonia of 28 September 2018, it is necessary to stress that it is being applied in the filing carried out by the General Directorate by sending a public officio to the municipality where the installation is located specifying that once the permit is adopted it has to be made available to the public in the corresponding municipal notice boards and on the municipal website for a minimum period of 30 days.

You can find attached the most recent communications to the municipalities, which correspond to the following files:

TITULAR	EXPEDIENT	Tipologia	IDQA
Cal Ticó, SCP	B1AAI180036	AA+IA	EP004
Arrins, SL	B1AAI180006	AA	
Pavo y Derivados, SA	E1CS180055	MS+IA	2145
SARPI Constantí, SLU	T1CS180156	MS+IA	906
JOSEP ARMENGOL VILAR	B1RA180824	RA	2356
Germans Lleixà Colomé, CB	E1RA190021	RA	865
Griñó Ecològic SA	L2BCNS180784	MNS	3321
EDAFO GM, SA	E1CNS200006	MNS	3453
Avícola Perelló-Pairada SCP	L1RA180733	RECT	3359
GRANJA LUISIANA SL	E1CS180035	RECT	10027

Here are some examples of the announcement that is published by the municipalities in compliance with the mentioned Instruction of the General Directorate:

INFORMACIÓ PÚBLICA SUBVENCIONS PAM 2020 - Despesa corrent	1212/2020	Sol·licitades a Una altra Administració	Ajudes i Subvencions	actuacions incloses dins del Pla d'Acció Municipal 2020-2013, anualitat 2020 per la línia de despesa corrent "neteja edificis municipals".	04/11/2020
Projecte d'actuació específica per l'estesa de línia subterrània de MT-BT a petició de Endesa Distribució Elèctrica	2937/2018	Llicència Urbanística	Anuncis	Projecte d'actuació específica d'estesa CS 18/30 kV i 0,6/1 kV i instal·lació d'un nou CTR al terme municipal de Constantí	04/11/2020
INFORMACIÓ PÚBLICA SUBVENCIONS subvenció Diputació de Tarragona adreçada a les llars d'infants	3555/2019	Subvencions Sol·licitades a Una altra Administració	Ajudes i Subvencions	Subvenció adreçada del Programa extraordinari d'ajuts per al funcionament de les llars d'infants públiques de titularitat municipal i de primer cicle d'educació infantil en escoles rurals per al curs 2018-2019.	30/10/2020
2020-E-RC-5758 T2BCNS200024_Proposta_Def_Griño.pdf	2547/2020	Llicències d'Activitat	Anuncis	Resolució del Departament de Territori i Sostenibilitat de la Generalitat de Catalunya relatiu al canvi no substancial de GRIÑO (activitat annex I)	29/10/2020
2020-E-RC-5758 T2BCNS200024_Resolucio_Griño.pdf	2547/2020	Llicències d'Activitat	Anuncis	Resolució del Departament de Territori i Sostenibilitat de la Generalitat de Catalunya relatiu al canvi no substancial de GRIÑO (activitat annex I)	29/10/2020
Acta constitució i desenvolupament proves CONSTANTÍ_def.	2018/2020	Seleccions de Personal i Provisions de Llocs de treball	Ocupació pública	Acta constitució i desenvolupament proves tècnico de Recursos Humans	26/10/2020

https://tauler.seu.cat/iniid.do?idens=4307700000

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Llistat d'anuncis exposats

Hi ha 30 anuncis

Ordeneu per: Data publicació Data fi exposició 1-10 de 30

Renovació autorització ambiental Germans Lleixà Colomé,CB Renovació autorització ambiental Germans Lleixà Colomé,CB Tipus de documents: Resolució > Llicència Matèries: Medi Ambient > Activitats ambientals Procedència: Externa > Externa	del 03 de nov. al 15 de des.
Modificació de crèdit 3/2020 Aprovació definitiva de la modificació de crèdit 3/2020 Tipus de documents: Publicació > Anunci Matèries: Recursos Econòmics > Pressupost Procedència: Interna - Àrea de gestió > Àrea de Presidència	del 27 d'oct. al 31 de des.
Aprovació definitiva modificació de crèdit 2/2020 Anunci referent a l'aprovació definitiva modificació de crèdit 2/2020, transferències de crèdit. Tipus de documents: Publicació > Anunci Matèries: Recursos Econòmics > Pressupost Procedència: Interna - Àrea de gestió > Àrea de Presidència	del 18 d'ag. al 31 de des.
Aprovació definitiva modificació de crèdit 1/2020	del 18 d'ag.

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Procedència
 Ens ajudeu a millorar?

We would be very grateful if you can confirm the receipt of this email and attached documents.

Kind regards.

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