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Sent: 31 October 2018 9:42 PM
To: ECE-Aarhus-Compliance [redacted]
Cc: [redacted] rep.ginebraoi (maec.es) [redacted]
Subject: Re: Decision VI/8j (Spain) - first progress report of the Party concerned for your possible comments

Comments to the progress report by the Party concerned on its implementation of decision VI/8j (Spain and Catalonia) ACCC/C/2014/99

We don't consider as appropriate the measure adopted by the Regional Government of Catalonia of issuing an instruction which orders that permits are available for access not only on the internet and in the Official Journal, but also for physical consultation at the offices of the Department's territorial services.

As Compliance Committee states, the key point is that the measures taken must be genuinely effective to ensure that the public is, in practice, effectively informed. And, in practice, more effective measures should be implemented, such as putting up posters announcing the authorization of the project in the area in which it is to be carried out and placing notices in the local press.

The Party proposes now that permits will be made available for physical consultation at the offices of the Department's territorial services. This is a minimum requirement of the right to access to environmental information. The question is how public will know that permits were issued and how are they available at the offices? Also the Party confuses the requirements of Aarhus Convention and the European Union Law (Directive 2010/75/EU).

Comments to the progress report by the Party concerned on its implementation of decision VI/8j (Spain) regarding ACCC/C/2009/36.

The Focal Point informs that a meeting took place in April 2018 between representatives of the Spanish Ministry of Justice and the Spanish Ministry with environmental competences.

The purpose of that meeting was "to analyse the *possible* legal discrepancies within Spain, as regards access to justice, between the provisions of Act 27/2006 of 18 July, regulating the Rights of Access to Information, of Public Participation, and of Access to Justice in Environmental Matters (incorporating Directives 2003/4/EC and 2003/35/EC) and Act 1/1996, of 10 January, on Legal Aid".
During the meeting, the participants "discussed the latest judicial developments in this area". The final conclusion was to "continue working together in order to adequately coordinate them to ensure compliance with the provisions of the Convention".
We considers it is not enough for a serious "follow up" process that after eight years since the Compliance Committee's findings and recommendations took place, and seven years since they were endorsed by the MOP, after many opportunities for the Party to join other legal changes to the 1/1996 Act on Legal Aid to introduce and make easy that "environmental NGOs" could be beneficiaries/holders of the financial aid, the focal point offers as "progress" a meeting with the Ministry of Justice representatives last April.

Firstly, because we consider a step back to propose a meeting considering the legal discrepancies between the two laws (1/1996 Act and 27/2006 Act) as "possible". The work before the Compliance Committee proofed the legal discrepancies and the Findings and Recommendations concluded that the system was contradictory for small environmental NGOs (para. 66). It is not a question of explore with the Ministry of Justice if there are discrepancies between the two laws, but to solve the problem with a strong and determined legal step. To consider as possible the discrepancies means to come back to a legal discussion, which was judged by the ACCC.

Secondly, in our opinion, such a meeting should not only discuss the recent judicial developments, which are influenced by the legal situation, but try to find a solution for the systematic contradiction identified by the ACCC.

Thirdly, the rhythm or tempo of the negotiations between both Ministries is too slow, if the final conclusion was to “continue working together”. On what?

Many specific NGOs (consumers, terrorism’s victims and the Red Cross) were recognized in 1/1996 Act as beneficiaries/holders for the financial aid without the requirement of “public utility” label (see Second Additional Disposition). It means it is not an “impossible crazy idea” to do the same with environmental NGOs. This was the idea with the last 1/1996 Act legal reform, but the initiative was stopped in the legislative process.

Knowing all this situation, a meeting between Ministries without a legal roadmap seems to us as a waste-timing strategy and that Spain is not taking seriously the compliance process and the successive MOP’s Decisions.

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