

NORWAY'S CLOSING STATEMENT AT THE 47TH MEETING OF THE COMPLIANCE  
COMMITTEE 17 DECEMBER 2014

Chair, Communicant, ladies and gentlemen,

As Norway sees it, there are five main issues in relation to the Communication;

The first issue is the content of the documents in which the requested information is contained. We have referred to several documents because they contain the information requested. Our intention has not been to complicate the matter for the Communicant or the Committee. As explained in our response and our previous statement there were no specific requests for or presentation of legal advice on the geographical scope of the Nature Diversity Act in view of public international law. The assessment on whether and how certain provisions of the Act may be applied outside the territorial waters (12 nautical miles) was carried out through written and oral discussions between ministers, state secretaries and ministries, in which the legal and political arguments were not distinctly separated.

*Norway's opinion is therefore that the information contained in the documents referred to in our response are covered by the exemption in Article 4 (3)(c) of the Aarhus Convention, and that it is not possible to make available the remainder of the requested environmental information pursuant to Article 4(6) because the exempted information cannot be separated out without prejudice to its confidentiality.*

The second issue is whether and how the public interest served by disclosure has been taken into account and weighed against the interests served by exempting the information requested.

*Norway's opinion is that we have shown in our response and statement that the public interest has been taken into account. There is a difference of views on whether the public interest or the interests served by exemption prevail in this case. Our opinion is that the latter interests prevail.*

The third issue is how detailed the reasons for a refusal of a request for information should be in order to comply with the requirement in Article 4(7) of the Aarhus Convention to state the reasons for the refusal.

*Norway's opinion is that although the reasons given in the initial rejection may be considered a bit brief, they were extended and supplemented during the handling of the complaint to the Ombudsman and of the Communication to the Committee and are detailed enough to fulfil the requirements of Article 4(7) of the Aarhus Convention.*

The fourth issue is whether the specific time-limits in Article 4(7) or the more general requirements of Article 9 apply to a reconsideration of a refusal of a request for environmental information, and whether they were fulfilled by the Ministry and the Ombudsman in this case.

*Norway's opinion is that the more general requirements of Article 9 apply and that the requirements for an expeditious and timely procedure have been fulfilled even though the reconsideration could have been handled more swiftly.*

The fifth issue is whether the measures for improvement introduced by Norway are sufficient or not.

*Norway's opinion is that they are sufficient. Further measures may be considered based on the experience gained from those already introduced.*

To sum up, Norway's opinion is that the requirements of Articles 4 and 9 of the Aarhus Convention have been fulfilled. There may have been shortcomings with regard to the reasons given initially, but they were corrected later in the process. Admittedly the handling of the reconsideration could have been done more swiftly, but was not contrary to the requirements of Article 9. Appropriate improvement measures have been introduced.

We leave it up to the Compliance Committee to decide upon the issues of compliance raised and the need for and content of any recommendations based on the arguments presented during the proceedings in this case.