



16 September 2013

Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee
Economic Commission for Europe
Environment, Housing and Land
Management Division
Bureau 348
Palais des Nations
CH-1211 Geneva 10
Switzerland

Dear Ms. Smagadi,

RE: Following up with decision IV/9f of the Meeting of the Parties to the Aarhus Convention (Public participation)

Thank you for your e-mail of 30 August 2013, inviting Spain to provide information about progress with recommendations of Decision IV/9f relating the time frames applicable in public participation according to the Spanish laws.

TIME-FRAMES FOR PUBLIC PARTICIPATION IN DECISION-MAKING PROCESSES

Since the entry into force of the Aarhus Convention and the national Law 27/2006, of 18 July, regulating the rights of access to information, public participation and access to justice in environmental matters, public participation processes shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making.

In Spain, time-frames for public participation in decision-making in environmental matters are regulated very differently depending on various factors such as the public administration involved (State, Autonomous Communities, Municipalities), the kind of decision-making process (authorization for specific activities, programs, policies, regulations, etc) or the specific subject matter (wastes, GMOs, hydrological planning, etc.)

In general terms, legal dispositions set minimum time frames for public participation, meaning that public authorities can decide to extend the deadline depending on the circumstances. Some examples:



- Royal Decree 907/2007, of 6 July, regulating Hydrological Planning: the length of public consultation periods for each document will be a minimum of six months (article 74.3)
- Decree 54/2011, of 29 April, regulating Environmental Impact Assessment in Extremadura: the preliminary draft version of plans or programs, including the report on environmental sustainability, will be submitted to (...) public participation for a minimum period of 45 days (article 12.1.a)
- Law 8/2003, of 22 December, regulating the preparation of generally applicable dispositions in the Basque Country: the hearing and, eventually, the public participation, will take place during a reasonable time-frame and no less than 20 working days (article 8.4)

These time-frames may perfectly be extended in circumstances such as the volume of documentation to be examined, the nature or complexity of the case or if the period includes days of public holidays.

At national level, the elaboration, modification or revision of provisions, plans and programmes developed by the Ministry of Agriculture, Food and Environment (MAGRAMA) encourages public participation by publishing all relevant documents on the Ministry's website, prior to their approval, so that citizens can value them, ensuring the right of access to information and public participation in decision-making procedures relating the environment.

The following link lists the currently on-going procedures:

<http://www.magrama.gob.es/es/ministerio/servicios/participacion-publica/listado.aspx>

Time-frames of public consultation at MAGRAMA guarantee a minimum of three weeks and can achieve up to six months in the case of hydrological planning. Some recent examples:

Climate change Proposal for free allocation of allowances for the period 2013-2020

Start: 27/04/2012

End: 21/05/2012

Draft Proposal Law Environmental Impact Assessment

Start: 25/04/2013

End: 25/05/2013

The Ministry of Agriculture, Food and Environment has prepared a Draft Environmental Assessment Act that unifies in a single legal standard the assessment of plans, programs and projects, which so far is recorded in two laws: the Law 9 / 2006, of April 28 on the evaluation of the effects of certain plans and programs on the environment and the Royal Legislative Decree 1/2008, of 11



January, approving the revised text of the assessment Act Environmental Impact of projects.

The deadline to send comments and feedback was from the day April 25, 2013 until May 25, 2013, inclusive.

Draft Program for Waste Prevention

Start: 30/07/2013

End: 30/09/2013

The draft Program for Waste is submitted to public information in accordance with Article 29 of the Waste Framework Directive and Article 15 of Law 22/2011, of July 28, of waste and contaminated soil. The deadline for submitting comments is from July 30 to September 30 inclusive, taking into account the period of summer holidays (60 days instead of the minimum 45 days period)

Flood Risk. Preliminary Evaluation Plan. Guadalquivir River

3 months

Regarding the actions taken by this Ministry to raise awareness among competent authorities, we have to recall again that Article 137 of Spain's Constitution enshrines the autonomy of municipalities, provinces and ACs to manage their own interests. Besides, according to the jurisdictional order established by the Constitution, it is not ordinarily the competence of the National Government to review the action of other public authorities or to supervise the manner in which they exercise their powers, including those actions related to Aarhus issues.

For these reasons, the action taken by the Ministry of Agriculture, Food and Environment (MAGRAMA) in this particular case should be necessarily limited to exchange information, cooperate with and raise awareness among all administrations with responsibilities in Aarhus issues.

In this regard, Law 27/2006, of 18 July, regulating the right of access to information, public participation and access to justice in environmental matters, states that "*public administrations will provide the most appropriate means for effective exercise of the rights enshrined in this Law. For this purpose, they will adjust their action to the principles of mutual information, cooperation and collaboration*". Similarly, the Eighth Additional Disposition of Law 27/2006 provides that "*to ensure the compliance of the State with its international obligations, all Public Administrations will collaborate and exchange relevant information.*"

In this cooperation context, the MAGRAMA organized a meeting with Regional Focal Points (representing the Autonomous Communities) and representatives of the Spanish Federation of Municipalities and Provinces (FEMP), in order to give notice of the findings and recommendations of the Compliance Committee, raise awareness and call to the highest commitment in the implementation of the Aarhus dispositions, including those related to public participation time-frames.



Additionally, the MAGRAMA is currently collaborating with the General Secretariat of Local and Regional Coordination of the Ministry of Finances and Public Administration in order to bring this matter to the agenda of future meetings.

Lastly, specific line of training for officials is currently on-going under the MAGRAMA training program for civil servants in the MAGRAMA and its autonomous bodies. This line of training includes a number of courses focusing specifically on the Convention Aarhus, relevant EU directives and the Law 27/2006, with the aim of improving their knowledge and implementation. This training program is expected to be continued over the following years.

Please do not hesitate to contact us if you need any clarification on our response.

With best regards,

MARÍA JOSÉ GÓMEZ GARCÍA-OCHOA

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