



REPUBLIKA HRVATSKA

MINISTARSTVO ZAŠTITE OKOLIŠA

I PRIRODE

10000 Zagreb, Ulica Republike Austrije 14

Tel: 01/ 3717 111 fax: 01/ 3717 149

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Zagreb, 11 February 2012

**UNITED NATIONS ECONOMIC
COMMISSION FOR EUROPE
Environment Division
Aarhus Convention Compliance Committee
Ms Aphrodite Smagadi, Secretary
Bureau 332, Palais des Nations
CH-1211 Geneva 10, Switzerland**

**SUBJECT: Communication to the Aarhus Convention Compliance Committee
concerning compliance by Croatia with provisions of the Convention in
relation to public participation in the adoption of waste management plans
(Ref.ACCC/C/2012/66)**

Dear Ms Smagadi,

The Ministry of Environmental and Nature Protection has given a close consideration to your letter regarding the communication ACCC/C/2012/66. Following your invitation to address a number of questions that were annexed to your letter, we are hereby submitting our statements clarifying the matter after discussion that was held on 13 December 2012.

Sincerely yours,


MINISTER
Mihael Zmajlović

Cc: Permanent Mission of the Republic of Croatia to the United Nations Office in Geneva
Ms. Zrinka Jakl, Association for Nature, Environment and Sustainable Development 'Sunce'

**TO THE COMPLIANCE COMMITTEE OF THE
CONVENTION ON ACCESS TO INFORMATION, PUBLIC
PARTICIPATION IN DECISION MAKING AND ACCESS TO
JUSTICE IN ENVIRONMENTAL MATTERS**

**Complainant: Association for Nature, Environment and Sustainable
Development “Sunce”**

Ref. ACCC/C/2012/66

**RESPONSE OF THE MINISTRY OF ENVIRONMENTAL AND
NATURE PROTECTION OF THE REPUBLIC OF CROATIA
TO FURTHER QUESTIONS OF THE COMPLIANCE
COMMITTEE**

Zagreb, 11 February 2013

Introduction

1. Ministry of Environmental and Nature Protection of the Republic of Croatia has on 17 May 2012 received a communication from the Compliance Committee of the Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (the Aarhus Convention).
2. The applicant, Association for Nature, Environment and Sustainable Development "Sunce", from Split, Croatia, has lodged a communication regarding a possible non-compliance with Article 7 of the Aarhus Convention. The applicant's communication concerns possible non-compliance regarding public participation in adoption of waste management plans at local and regional level.
3. The Compliance Committee has invited the parties to address a number of questions regarding the case. Ministry of Environmental and Nature Protection sent answers to the questions on 8 October 2012.
4. The Compliance Committee has invited Party concerned and communicant to discuss of the substance of communication on their thirty-ninth meeting (Palais des Nations, Geneva, 13 December 2012).
5. The Committee had discussion in open session of communication ACCC/C/2012/66 (Croatia), with the participation of representatives of the Party concerned and the communicant. The Committee confirmed that communication ACCC/C/2012/66 was admissible. At the end of the discussion, parties were invited to address some additional questions in writing. Official Letter from Compliance Committee was received on 8 January 2012 and both parties were invited parties to reply to the questions not later than 11 February 2013.

1. Please clarify the relationship between article 14 of the Regulation on Information and Participation of the Public and Public concerned in Environmental Matters; and articles 16, paragraph 3, and 142, paragraph 1, of the Environmental Protection Act.

Article 16, paragraph 3 contains the general provision whereby the right of the public is prescribed to participate in the procedures of establishing the starting points, development and adoption of strategies, plans and programmes, and development and adoption of regulations and general acts related to environmental protection. Article 142, paragraph 1 is related to the elaboration of the general provision referred to in Article 16, paragraph 3 since the said Article prescribes that the public shall also have the right to present its opinions, comments and proposals to draft proposals of plans and programmes related to the environment and for which the act does not envisage implementation of strategic assessment.

Furthermore, in this regard Article 14 of the Regulation on information and participation of the public and public concerned in environmental matters serves for the implementation of previously mentioned provisions since the said Article prescribes the obligation of the body competent for development of the plan and programme for which strategic assessment is not carried out to publish at its website information on the development of the draft proposal of the plan or programme. The said Article further prescribes the parts which the information has to contain, while paragraph 3 contains the definition that plans and programmes for which strategic assessment is not carried out are all plans and programmes for which the law does not prescribe the obligation of strategic assessment, their adoption is prescribed by the Act and are related to the environment.

2. On the basis of the clarification provided under question 1 above, please consider to what extent and how the requirements of article 6, paragraphs 3, 4 and 8, of the Convention are implemented in the environmental decision-making leading to the adoption of waste management plans.

As a basic principle, Article 16, paragraph 3 prescribes that the public shall also have the right to present its opinions, comments and proposals to draft proposals of plans and programmes related to the environment and for which the act does not envisage implementation of strategic assessment. As mentioned before, this principle is elaborated by the provision of Article 142, especially by the obligation from paragraph 2 of the mentioned Article that obliges public authorities to ensure timely and efficient participation of the public in the process of drafting and amending plans and programmes, which they adopt within the scope of their competence. As for the reasonable time-frames allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making, Article 140 of the Environmental Protection Act prescribes that the minimum deadline for public participation for plans and programs and for all other drafts shall be 30 days. The competent authority can, depending on the complexity of the issue and importance of the plan or program, decide on a longer period for public participation. There is no upper limit for the deadline. By this way the requirement of Article 6, Paragraph 3 of the Convention is implemented into Croatian legislation.

Notwithstanding the answer under 1, requirements of the Paragraph 4 of Article 6 of the Convention are implemented by the Article 139 of the Environmental Protection Act

which prescribes that in the early phase of the decision-making procedure for environmental issues relating to the relevant activity of the developer or the operator, the public and public concerned must be appropriately, timely and efficiently informed of their right to participate in the procedure pursuant to the Regulation on Information and Participation of the Public and Public concerned in Environmental Matters.

Finally, regarding the requirements of Article 6, Paragraph 8 of the Convention, which imposes obligation to the parties to ensure that in the decision due account is taken of the outcome of the public participation, Article 21 of the Regulation on information and participation of the public and public concerned in environmental matters provides for a detailed report on public debate. The report includes the information on the subject of public debate or the indication that the subject is an integral part of that report; the list of the invited public debate participants in accordance with a special notification; the list of the public debate participants whose proposals and objections related to the subject of public debate were accepted; the indication of the objections and proposals of the participants which were not accepted, or were partially accepted, as well as the explanation of reasons for their non-acceptance or partial acceptance; the list of the public debate participants whose opinions, proposals and objections were not submitted within the period prescribed. This document is published at the website of the competent body.

3. What are the time-frames provided by law and practise for the public participation procedure?

According to the Article 140, paragraph 3 of the Environmental protection Act, The minimum deadline for public participation within the meaning of Article 141 (implementing regulations and other generally applicable legally binding rules) paragraph 1 of this Act and within the meaning of Article 142 paragraph 1 (plans and programmes regarding environment) of this Act shall be 30 days.

4. What is the law on how comments from public should be taken in to account? What is the practise followed in this respect?

According to the Article 140, paragraph 4 of the Environmental Protection Act In establishing proposals of decisions on requests made by the developer, company or operator, draft proposals of plans or programmes and proposals of acts and implementing regulations as well as other generally-applicable legally binding rules which may have a significant environmental impact, the results of public participation and participation of the public concerned, when participation of the public concerned is prescribed by this Act, must be reviewed.

The practice in this respect is that the competent authority that is in charge of preparation of the draft of a document displays that draft on its webpage, with an online application for entering proposals of the public. The proposals are examined by the civil servants in charge of the draft proposal, and entered into a table. For all the proposals that were not taken into account an explanation is given. The table with all the proposals of the public is displayed on the website of the competent authority.

5. What is the law implementing the requirements of article 7 of the Convention that the necessary information is provided to the public? What is the practise followed in this respect?

As previously mentioned in the answer under question 1, Article 142 is the relevant provision that implements the requirements of Article. 7. of the Convention. As for the reasonable time-frames allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making, Article 140 of the Environmental Protection Act prescribes that the minimum deadline for public participation for plans and programs and for all other drafts shall be 30 days. The competent authority can, depending on the complexity of the issue and importance of the plan or program, decide on a longer period for public participation. There is no upper limit for the deadline.

As for the early public participation, when all options are open and effective public participation can take place, the Environmental Protection Act prescribes in the Article 139 that in the early phase of the decision-making procedure for environmental issues relating to the relevant activity of the developer or the operator, the public and public concerned must be appropriately, timely and efficiently informed of their right to participate in the procedure pursuant to the Regulation on Information and Participation of the Public and Public concerned in Environmental Matters. In the decision-making procedure for environmental issues, the public and public concerned have the right to express their opinion, proposals and objections in relation to the issuing of a specific decision or official act by a public authority, in the manner and within the deadlines set out in the Regulation on Information and Participation of the Public and Public concerned in Environmental Matters. The usual practice is that an early phase of the draft is displayed to the public for comments, before distribution to other public authorities. The comments of the public are processed and implemented before the draft plan or program is delivered for comments and opinions to other public authorities. As for the obligations of the parties to ensure that in the decision due account is taken of the outcome of the public participation, the competent authority prepares and publicly displays all the comments on the draft plan or program, shortly displaying reasons for not accepting comments or suggestions of the public.

The Regulation on Information and Participation of the Public and Public concerned in Environmental Matters gives detailed provisions on the manner of conducting a public debate, public inspection and public display in the procedures of preparation of plans and programs. Details on report on public debate are given in the answer under question 2.

6. The communicant provided “provisional” translations in English of the legal instrument at issue. Please review the translations and confirm that you agree with the translated text provided to the Committee.

The delivered translations are accessible on the website of the Ministry of Environmental and Nature Protection. Although those are not official translation, they can be used as working translations in the current case.

7. The communicant alleges that out of more than 100 waste management plans in Croatia, many were adopted without public participation. From the total of these waste management plans adopted, how many included public participation? Please provide evidence (such as, a copy of the public notice on the web site of the relevant authority) to show that the general pattern is that the decision-making procedure for the adoption of waste management plans includes public participation.

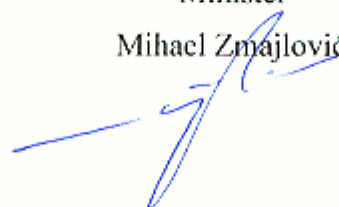
National Environmental Agency base of the environmental protection documents lists 261 documents that are defined as waste management plans for counties, towns and

municipalities. This means that more than the half of the local and regional authorities adopted waste management plans. However, there is also possibility that some waste management plans were not delivered to the Agency since there is no legal obligation to deliver the plan to the Agency.

Unfortunately we cannot provide information on whether all waste management plans on local level have undergone process of public participation since there is no obligation to inform central administration body on such procedures.

Please find attached unofficial translation of Contents of the Waste management plan of the Ivanjska municipality (3 510 inhabitants) and the city of Cres (2 954 inhabitants) as an example of the typical structure of the plan.

Minister
Mihael Zmajlović



Waste Management Plan of the Town of Cres for the period until 2015

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2011 – 2016 PERIOD**

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