

**Advice by the Aarhus Convention Compliance Committee to Spain
concerning the implementation of decision VI/8j**

I. Introduction

On 15 March 2018, Spain wrote to the Compliance Committee seeking its advice on whether the proposed text of a draft instruction about notifying the public about environmental permits/authorizations would, if adopted, meet the recommendation in paragraph 7 of decision VI/8j of the Meeting of the Parties concerning its compliance.

Pursuant to paragraph 36(a) of the annex to decision I/7, the Committee, in consultation with the Party concerned, may provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention. Accordingly, in reply to Spain's request of 15 March 2018, the Committee provides the following advice concerning the recommendation set out in paragraph 7 of decision VI/8j.

By way of background, the recommendation in paragraph 7 of decision VI/8j concerns the non-compliance found in paragraph 105 of the Committee's findings on communication ACCC/C/2014/99, endorsed by the Meeting of the Parties through paragraph 5 (b) of decision VI/8j.

II. Advice to the Party concerned

Paragraph 7 of decision VI/8j:

“That the Party concerned take the necessary legislative, regulatory or other measures and practical arrangements 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”.

The regional administration of Catalonia has proposed to adopt an instruction that would add “a paragraph to the advertisements of environmental permits/authorizations published in the Official Journal of the Catalanian Government, informing that the text of the pertinent Resolution is available to the public, and can be looked up in the official premises”¹. The Party concerned has sought the Committee's advice as to whether this proposed instruction would fulfil the recommendation in paragraph 7 of decision VI/8j.

The Committee emphasizes that the purpose of the recommendation in paragraph 7 of decision VI/8j is to ensure that the public is promptly notified of the fact that a decision to permit a proposed activity subject to article 6 has been taken, together with information on how that decision may be accessed. The key point is thus that the measures taken to implement the recommendation must actually be effective at ensuring that members of the public are indeed notified in practice.

In this regard, the Committee points out that, as a general rule, members of public cannot be expected to consult Official Journals (whether as an electronic source or hard copy publication) on a regular basis on the off-chance that there may at some point be a decision published of concern to them. Publication in an

¹ Question from the Party concerned to the Committee, 15 March 2018.

Official Journal thus cannot in itself be considered a sufficient means to ensure that the public is promptly informed that a decision to permit a proposed activity subject to article 6 has been taken.

Rather, the Party concerned should put in place measures to effectively inform the public in practice, such as posting notifications that the decision has been taken on local billboards and in the local press in the vicinity of the project, taking into consideration the size and the impact of the project. In this regard, the Committee reminds the Party concerned of paragraph 103 of its findings on communication ACCC/C/2012/99, which states:

The Committee considers that, as a good practice, the methods used to notify the public concerned under article 6, paragraph 2, should be utilized as a minimum for informing the public under article 6, paragraph 9, of the decision once taken, recalling that the latter requires the public generally to be informed, and not just the public concerned.

By the present advice, the Committee does not discourage the Party concerned from publishing in its Official Journal notifications of decisions to permit activities subject to article 6 nor to make the texts of environmental permits/authorizations available for consultation at the official premises. However, neither of these measures are in themselves sufficient to meet the recommendation in paragraph 7 of decision VI/8j.

In conclusion, the Committee considers that the proposed instruction by the regional administration of Catalonia does not meet the requirements of the recommendation in paragraph 7 of decision VI/8j.
