

Viewpoints from the communicant – Jan Haverkamp, Greenpeace Netherlands

0. It seems the Netherlands are not clear that compliance with the Convention does not only relate to finding paragraph 89 (recommendations), but also to finding paragraph 88 of non-compliance. It is important that the ACCC also consider the current (ongoing) practice.

1. Concerning ACCC findings paragraph 88 (non-compliance): The Netherlands have continued not to provide public participation on the environment in preparation of the latest change of license of 2018 – another update of the operating conditions that under art. 6(10) should involve public participation following art's 6(2) to 6(9). This is currently pending for appeal by Greenpeace Netherlands and WISE at the Raad van State.

Given the fact that the operation of the KCB is only possible when the KCB fulfils its license conditions, non-compliance with art. 6(10) and 6(4) could have been remedied in this case by carrying out public participation concerning the environment, while explicitly keeping open all options, including the option of closure of the KCB when the conditions of the (updated) license are not kept. This has not happened, and the responsible authority denies that this license update has influence on the operation duration.

2. Concerning the ACCC findings paragraph 89 (recommendations): The Netherlands continues to prepare changes in law (in this case the GALA and the nuclear energy law – Kernenergiewet – Kew) that proposes limited public participation without the systematic provision of environmental information in line with art. 6(6), nor taking viewpoints concerning the environment into due account (art. 6(8)).

See concerning this issue also point 19 of the last reaction of the Netherlands on the progress report:

“It follows from judgments of the highest Dutch administrative court (the Administrative Jurisdiction Division of the Council of State, referred to below as ‘the Council’) that such documents **may include** research reports on which the draft decision is based and which relate to the possible environmental consequences.” [emphasis added, JH]

“May include” is too little a guarantee for the public to know it can count on all necessary information.

It would be clearer if the changes in law would oblige to an EIA, as this procedure does guarantee the provision of the necessary information and public participation.