

Ms Fiona Marshall

Secretary to the Aarhus Compliance Committee

**COMMUNICATION TO THE AARHUS CONVENTION COMPLIANCE COMMITTEE
CONCERNING COMPLIANCE BY SPAIN IN CONNECTION WITH THE CHANGE OF
ACTIVITY OF A CEMENT PLANT TO PROCESS SOLID WASTES AND SEWAGE
ACCC/2014/99**

By letter of 2nd February 2016 the Secretary to the Aarhus Convention Compliance Committee, communicate the deliberations of the Compliance Committee on the above communication at its 51st session held in Geneva on 15 and 18 December 2015, identifying two factual points to be clarified by the Party concerned and by the Communicant

1. Accordingly to article 23, paragraphe 3 of the Law 16/2002, as in force since 11 August 2010, the autonomous communities should publish in their respective official journals administrative decisions by means of which comprehensive environmental authorizations are granted or modified. Are these official journals mandatorily required to be accessible on the internet, and are they indeed accessible?

City councils and municipalities have to publish in its own provincial official journals administrative decisions. Eventually, when the decision is key also in the Autonomous Community Official Journal. Both have to be accessible on internet and when in fact published they are, indeed accessible. The question as stake is what happens when key information is not published or there is misinformation.

2. If in addition to publication in the official journals exists, under the current legislation in force, any other mandatory means by which the public is required to be promptly informed that the comprehensive environmental authorizations have been taken?.

Catalan Legislation in force at the time when the permit is processed is 23 Catalan Law 3/1998 of 27 February, on the integrated intervention of the environmental authorities related to information to public and art. 37 Decree 136/1999, of 18 May, which approves the general regulations for developing Law 3/1998. They stated that the decision by means of which environmental authorization is granted shall be notified to the public concerned. But the publication of this decision in the official journal is not required. It just says that environmental permits decisions are publicly accessible, without restrictions other than those that may derive from the right of access to environmental information or other rules that are applicable.

As we said in previous occasions, in this case, regarding the public, administrative ruling by means of which environmental authorization is granted was not publish in the official journal. Party answer to Question Three admits that it was not published at the official journal stating that –which is against the Spanish regulations--: “The legislation did not require the publication of these rulings in the official journal”. It also declares the full text of the ruling in question was published on the website of the department

immediately after 14 June 2010. Nevertheless it is undoubtedly that an informal web post can replace official publication.

Current Catalan legal framework (art. 30 Law 20/2009, of 4 December, on environmental prevention and control of activities) states that only operative part of environmental permits decisions must be published in the Official Journal and database of environmental activities: "The operative part of the ruling by means of which the environmental authorization for activities indicated in Appendix I is granted or modified, and, if applicable, the environmental impact statement, shall be published in the Official Journal of the Catalan Government and included in the database of environmental activities, with the information determined by the regulations."