

**COMMUNICATION DIRECTED TO THE STATE OF THE NETHERLANDS
(PROVINCE OF UTRECHT) CONCERNING NON-COMPLIANCE WITH THE
PROVISIONS OF THE AARHUS CONVENTION ON ACCESS BY THE GENERAL
PUBLIC TO DECISION-MAKING ON ENVIRONMENTAL MATTERS**

**Submitted to the Aarhus Compliance Committee of the United Nations Economic
Commission for Europe on August 17, 2016, by R.G.J. Dercksen and others as
mentioned in this communication.**

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2. THE PARTY TO THE CONVENTION ADDRESSED BY THE COMMUNICATION

This communication addresses the State of the Netherlands and concerns the province of Utrecht (address: Archimedeslaan 6, 3584 BA UTRECHT). The Netherlands consists of twelve provinces constituting the regional interlayer between national government and local municipalities. The province of Utrecht, with the city of Utrecht as its capital, is located in the centre of the country. Each Provincial Government consists of an executive committee (the Provincial Executive [*College van Gedeputeerde Staten*]) and a representative body (Provincial Council [*Provinciale Staten*]) elected by the residents of the province once every four years.

3. INTRODUCTION

3.1 This communication concerns decision-making on wind farms by the Utrecht Provincial Government. Said decision-making is not in accordance with the rights regarding access to decision-making safeguarded in article 6 and 7 of the 'Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters' (hereafter: 'Aarhus Convention' or 'Convention').

3.2 It should be noted, for the sake of completeness, that the Netherlands Association of People Living in the Direct Vicinity of Wind Turbines [*Nederlandse Vereniging Omwonenden Windturbines*] (NLVOW) submitted a communication to your Committee in a letter dated 30 June 2015 (an amended version thereof was submitted in a letter dated 9 November 2015) which was addressed to the State of the Netherlands and concerned the same issue in addition to non-compliance with the Convention regarding access to information and access to justice. However, the communication concerned limits itself to access to decision-making by the Utrecht Provincial Government..

3.3 There is no cause for extending this communication to the other two subjects dealt with in the NLVOW complaint. The first reason for not doing so is the Utrecht Provincial Government's decision to adopt the information on wind power provided by the national government as the starting principle in its decision-making. Said provision of information by the national government is already a subject in the NLVOW's communication, therefore there is no reason to submit an independent communication on the matter in relation to the Utrecht Provincial Government. Secondly, it is the national government's duty to safeguard the right of access to justice, which is also an issue in the NLVOW's communication, and the Utrecht Provincial Government does not have any control thereof.

3.4 The applicability of the Convention to wind farms will be addressed first, followed by a discussion of the use of national legal remedies. Both these introductory sections are partly derived from the NLVOW's communication. The alleged violation of the Convention by Utrecht Province is addressed next. The communication closes with requests to your Committee by the submitting parties as mentioned under 1.

4. THE APPLICABILITY OF THE CONVENTION TO DECISION-MAKING REGARDING WIND FARMS

4.1 It is important to point out that wind power has negative consequences for the environment in the form of, predominantly, nuisance caused by noise or shadow flicker. For example, G.P. van den Berg, senior advisor on environment & health care to the Community Health Care Service Amsterdam [*Gemeentelijke Gezondheidsdienst Amsterdam*] writes the following about noise pollution:

*'Nuisance caused by the noise of windturbines is, to date, the best studied effect. Three large studies carried out in the Netherlands and in Sweden show that the noise is annoying compared to other frequently occurring sources of noise. An important reason for this nuisance appears to be the regular variation in the sound of the rotor blades (swishing, whizzing or even thumping), which can be heard at great distances – especially in the evening or at night. Another contributory factor is the fact that the noise does not decrease at night but, on average, it even increases (a little) and becomes more prominent in the growing evening silence.'*¹

4.2 Also, the National Institute for Public Health and the Environment [*Rijksinstituut voor Volksgezondheid en Milieu*] (RIVM) identifies noise pollution as the most significant source of nuisance caused by wind turbines and has established that the noise of wind turbines can be heard 'up to several kilometres' depending on geographic and atmospheric factors².

4.3 Further, shadow flicker is also considered annoying. This refers to the moving, flickering shadow, caused by a turbine's rotor blades turning in the sun, on the ground or background and in homes and which results in a constantly changing pattern of shadow/no shadow.

4.4 The RIVM has established that

¹ G.P. van den Berg, 'Social and (non-)acoustic sides to wind energy' [*'Sociale en (niet-)akoestische kanten van windenergie'*], in: *Geluid*, December 2011, page 9.

² 'Wind turbines: influence on the perception and health of those living in the vicinity' [*'Windturbines: invloed op de beleving en gezondheid van omwonenden'*], RIVM Report 200000001 / 2013, page 26.

*'(...) ongoing nuisance or the sense that wind turbines diminish the quality of life or the surroundings can have a negative impact on the health and sense of well-being of those living in the vicinity of wind turbines.'*³

4.5 Therefore, wind turbines can infringe on the right of a person to live in an environment adequate to his or her health and well-being as stipulated in article 1 of the Convention. For the purpose of safeguarding this right, the Convention safeguards amongst others public access to the decision-making process. The general public having either no or unduly restricted access to the decision-making process results in decisions that take insufficient account of the importance of an environment adequate to people's health and well-being. Many wind farms are constructed at short distances to homes with all the associated negative consequences thereof on the quality of the living environment. The observation by the RIVM cited above is becoming the reality for ever more people as the number of wind farms increases. This practice furthermore undermines the legitimacy of the government: a decision-making process experienced as unfair will result in decisions with no or little acceptance among the population. Studies have even shown that negative experiences with regard to decision-making subsequently result in an increased experience of intrusion and nuisance by an activity authorized in such a way⁴.

4.6 The construction of wind farms is an activity within the meaning of section 20 of annex I to article 6, paragraph 1 sub a of the Convention, namely an activity 'that is not (covered) by paragraphs 1 to 19 above where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation'.

4.7 Wind farms are included in annex II of the Environmental Impact Assessment Directive⁵. Consequently, there is an obligation to assess whether it is necessary to draw up an environmental impact assessment [*milieueffectrapport*] (EIA). Under Netherlands law, this EIA duty applies at any rate to decisions on wind farms consisting of at least ten turbines or with a joint capacity of at least 15 megawatt (MW).⁶ The requirements applying to an EIA are set out in article 7.16 et seq. of the Environmental Management Act [*Wet milieubeheer*]. Wind farms of a smaller size are subject to a so-called 'duty to ascertain', which means that the competent authorities have to assess on the basis of the criteria set out in annex III to the EIA Directive whether an EIA is, in fact, necessary⁷. Said assessment has no prescribed form but it

³ Ibid., page 21.

⁴ G.P. van den Berg, 'Social and (non-)acoustic sides to wind energy' [*Sociale en (niet-)akoestische kanten van windenergie*], in: *Geluid*, December 2011, page 9 et seq.

⁵ Part 3(i): 'installations for the harnessing of wind power for energy productions (wind farms).'

⁶ Category 22.2 of Annex D to the Environmental Impact Assessment Decree [*Besluit milieueffectrapportage*].

⁷ Article 2, paragraph 5, of the Environmental Impact Assessment Decree.

has to be expressly stated in the corresponding decision to grant consent for the wind farm concerned.

4.8. Additionally, there always is an obligation to draw up an environmental impact assessment in relation to such overall plans as spatial policy strategies [*ruimtelijke structuurvisies*], general policy plans [*beleidsplannen*]) and zoning plans [*bestemmingsplannen*]⁸.

4.9 In view of the foregoing, the communication concerns an activity that falls within the scope of the Convention⁹.

5. EXHAUSTION OF DOMESTIC LEGAL REMEDIES

5.1 The communication concerns the absence or inadequate access to decision-making on wind farms. What national remedies can be used to redress these shortcomings? In answering this question it is important to distinguish between plans for wind farms as defined in article 7 of the Convention on the one hand and, on the other hand, decisions in the sense of article 6 of the Convention, which grant administrative permission for the construction of wind farms.

5.2 To the extent that the communication concerns the failure to offer, or the inadequate offering of, public participation in general plans and programmes (article 7 in conjunction with article 6, paragraph 4 of the Convention) – such as for example spatial policy strategies – fact is that in the Netherlands such acts cannot be appealed against in administrative courts¹⁰. So for general plans and programmes no administrative law remedies exist. Disputes regarding the legality thereof can nonetheless be submitted to a civil court although that involves an arduous process. First, because of the financial costs of such proceedings as proceedings under administrative law allow the parties to litigate in person whereas legal representation by counsel is obligatory in civil proceedings. The more substantial court registry fees and the risk of being given an order for costs are another aspect to be taken into account. Secondly, in such proceedings civil courts usually refer to the view of administrative law courts which held, as discussed hereafter, that the Dutch practice of decision-making is consistent with the Aarhus Convention.

⁸ Article 7.2, paragraph 2, of the Environmental Management Act in conjunction with article 2, paragraph 3 of the Environmental Impact Assessment Decree.

⁹ Cf. Implementation Guide, 2013, page 254.

¹⁰ Article 8:1 of the General Administrative Law Act [*Algemene wet bestuursrecht*] only allows an appeal against legal acts under public law, that is to say, decisions that have legal effect. Appeal against so-called policy strategies is expressly excluded under article 8:5 of the General Administrative Law Act.

5.3 With regard to absence or inadequate access to the decision-making on actual wind farms referred to in this communication: as previously mentioned, the administrative law courts have held consistently and still do to this day that the decision-making process for such decisions is in line with article 6 of the Convention. The courts consider it sufficient that public participation is offered in relation to a draft decision and/or a preceding intention to prepare an environmental impact assessment¹¹.

5.4 This trend in case law was once again confirmed in the judicial decision on the Utrecht wind farm *Autena* dated 27 May 2015 and on the wind farm *Wieringermeer* of 4 May 2016. The Administrative Law Division of the Council of State [*Afdeling Bestuursrechtspraak van de Raad van State*] held in both cases that the decision-making on both wind farms was in accordance with the Convention¹². In this respect, the Division considers merely the opportunity to submit an opinion on a draft version of a plan to be sufficient even though the decision-making in a substantive sense has already been completed. This will return in more detail below.

6. NON-COMPLIANCE WITH THE CONVENTION

6.1 Introduction

6.1.1 Article 6, paragraph 4 of the Convention requires that ‘early public participation, when all options are open and effective public participation can take place’ shall be provided in decision-making regarding wind farms. The outcome of such public participation shall subsequently be taken into due consideration (article 6, paragraph 8). When decisions are taken on overall plans and programmes, the same obligations apply under article 7, first and second sentence.

6.1.2 As set out hereafter, decision-making by the Utrecht Provincial Government regarding plans for wind power and for administrative consent for wind farms does not satisfy these requirements. Public participation only takes place after the decision-making in a substantive sense is complete and all real choices have been made. In doing so, the public concerned is by-passed and is only afterwards informed and consulted about the choices made in or by a draft plan or draft decision.

¹¹ For example: Administrative Jurisdiction Division of the Council of State [*Afdeling Bestuursrechtspraak van de Raad van State*], 19 January 2001, ECLI:NL:RVS:2011:BP1342 (*Rondweg Zutphen-Eefde*) and 7 December 2011, ECLI:NL:RVS:2011:BU7002 (*Buitenring Parkstad Limburg*), 19 January 2011, ECLI:NL:RVS:2011:BP1342.

¹² ECLI:NL:RVS:2015:1702 (*Autenasepolder*) en ECLI:NL:RVS:2016:1228 (*Wieringermeer*).

6.2 The Administrative Agreement on the National Development of Wind Power

6.2.1 In July 2001, the national government and provincial governments, including Utrecht Provincial Government, and the Association of Netherlands municipalities [*Vereniging van Nederlandse Gemeenten*] (VNG), entered into an agreement – the Administrative Agreement on the National Development of Wind Energy [*Bestuursovereenkomst Landelijke Ontwikkeling Windenergie*] (BLOW). The aim of this agreement was to build at least 1,500 MW of wind power on the mainland by 2010. The provinces were made responsible for the choice of locations with the provinces committing themselves to the obligation to realise a certain amount of MW within their territory. At the time, Utrecht Provincial Government would have had to realise 50 MW.

6.2.2 The then chairman of the Association of Provincial Governments [*Interprovinciaal Overleg*] (IPO) wrote in his introduction to the BLOW:

“The provinces endorse this approach and expressly choose for the role of regional director: working together to shape a common duty while resolving issues whenever necessary. In any event, the provinces accept the responsibility for a timely and adequate planning framework. Furthermore, the provinces shall strive to the actual realisation of the target of at least 1,500 MW.”

6.2.3 In the BLOW, the provincial duties have been qualified explicitly as a best efforts pledge. Therefore, the provinces had to make an effort to achieve the intended result – for Utrecht this was 50 MW, as mentioned before – but they did not guarantee that this result would be achieved. They did, however, commit themselves to actively seek to achieve the result (article 3.2.1 BLOW). In that context, every province had to adopt a plan of approach [*plan van aanpak*], containing ‘specific activities for the development of locations’ as well as a time schedule, within one year (article 3.2.2). If necessary, they had to ‘overrule’ reluctant municipalities with the help of powers to give instructions and suchlike under the Spatial Planning Act [*Wet ruimtelijke ordening*] (article 3.2.4).

6.2.4 On 9 July 2002, the Utrecht Provincial Government drew up a plan of approach in accordance with the aforementioned contractual obligations, under the title ‘Wind power in the province of Utrecht, Plan of Approach for the period 2002-2010’ [*Windenergie in de provincie Utrecht, Plan van Aanpak voor de periode 2002-2010*]. Furthermore, it adopted the ‘Wind Plan Utrecht’ [*Windplan Utrecht*] on the same date, which stated the province’s preferred based on an on-site assessment. The public of the province of Utrecht had neither been consulted about the entering into the best efforts pledge for 50 MW under the BLOW agreement, nor about the Plan of

Approach, nor about Wind Plan Utrecht with which the Provincial Government implemented the BLOW agreement.

6.2.5 However, during the on-site assessment that resulted in the Wind Plan, the Utrecht Provincial Governments did consult municipalities, promoters, land owners, property developers, and civil society organisations. The latter category included nature and environmental organisations that advocate wind power. The Association of (Prospective) Homeowners [*Vereniging Eigen Huis*], residents' organisations, foundations that are concerned with conservation and protection of the countryside and suchlike were not involved in this consultation.

6.2.6 Given the foregoing, the conclusion must be that the Utrecht Provincial Government made the most crucial choices in the area of wind power – that is (1) the choice to realise at least 50 MW and (2) the selection of the preferred locations – without complying with the obligation it had under the Convention to offer early public participation when all options are open and effective public participation can take place. Substantial decision-making, therefore, had been completed at a moment when formal decision-making (establishing a regional plan [*streekplan*] and a zoning plan and granting of licenses, permits and exemptions) – in which public participation is provided – still had to take place. As a result, when public participation could at last take place, it was only pro forma.

6.3 The Regional Plan for Utrecht 2005-2015

6.3.1 As mentioned above, the public in the province of Utrecht was consulted only after all essential choices had already been made. Said consultation took place in the course of preparations for and decision-making on the Regional Plan for Utrecht 2005-2015 [*Streekplan Utrecht 2005-2015*]. A regional plan contains a province's spatial policy and does not have binding effect in relation to citizens; it only binds the Provincial Government itself. However, a municipality has to pay full regard to a regional plan when adopting a local zoning plan (a regulation which does have statutory status). Deviations by a municipality from a regional plan may result in a province's intervention potentially leading to the non-implementation of the local zoning plan concerned.

6.3.2 Public participation for the Utrecht Regional Plan took place at two different moments. Public participation first took place when the Notification of Intent [*startnotitie*] for the environmental impact assessment (EIA), which had to be drawn up in the preparation of the Regional Plan, was made available for public scrutiny. At the time, anyone could present proposals for alternatives and issues to be examined

during the EIA. Subsequently, public participation in the draft of the Regional Plan 2005-2015 was again offered at a later stage of the decision-making process.

6.3.3 The participation responses to the Notification of Intent for the EIA did not result in any modifications, which was to be expected because all substantive choices had already been made. Consequently, the assessment carried out for the purposes of the environmental impact assessment was limited to:

'(...) the construction and exploitation of wind turbines at those large-scale sites that had been earmarked in the Wind Plan. Above in Chapter 2, it has been explained that there are no alternatives in terms of the choice of locations.'

6.3.4 As part of public participation in the draft version of the Regional Plan, the subject of wind power nonetheless drew a lot of attention. However, the approximately 4,500 opinions submitted by the public – mainly from opponents – did not result in any significant modifications. All these opinions played no part – or only a very insignificant part – in the earmarking of locations. The majority of the opinions was dismissed. On page 115 of the Regional Plan, the earmarking of locations is explained as follows:

'We have earmarked a number of locations for wind power in the province of Utrecht. The Wind Plan Utrecht, the EIA that was conducted and the initiatives known to us served as its starting principle.'

This quote once again confirms that public participation was only pro forma as the material choices had already been previously made.

6.3.5. Compared with the draft Regional Plan a number of locations were dropped in the final version of the Plan. However, this was caused by the fact that in these locations there were problems with the applicable noise and/or shadow flicker standard and not by public resistance or by the contributions from the public in relation to the draft Plan.

6.4 The Provincial Spatial Policy Strategy 2012-2028

6.4.1 The Utrecht Provincial Government's top-down approach to decision-making on locations was meanwhile opposed by the municipalities concerned. As a result thereof, further decision-making on the construction of wind farms at the locations earmarked in the Regional Plan came to a halt.

6.4.2 The Regional Plan 2005-2015 was succeeded by the Provincial Spatial Policy Strategy 2013-2028 [*Provinciale Ruimtelijke Structuurvisie 2013-2028*]. Three of the four aforementioned locations that had been earmarked in the 2005 Regional Plan turned out to be not-feasible by reason of municipal opposition. In the new Policy Strategy, Utrecht Province earmarked therefore a few other locations. These were selected because the municipalities involved could agree with them. Again, opinions submitted by the public played no a part in decision-making, something also apparent from page 47 et seq. of the Memorandum of Reply to the opinions from the public [*Nota van beantwoording*] where agreement with municipalities is made the sole condition for earmarking locations for wind turbines.

6.4.3 One particular case to illustrate the general pattern. In the Provincial Spatial Policy Strategy 2013-2028, the Provincial Government pre-announced that it would also offer space for a wind farm in a polder near the municipality of Vianen. This location could not yet be included in the Policy Strategy because the municipality of Vianen only proposed the location after the draft Policy Strategy had been made available for public scrutiny. Including the wind farm in the final version of the Policy Strategy would have meant that local residents could not express their opinion as the draft was silent on this plan. Accordingly, the Utrecht Provincial Government announced that the plan would require a partial revision of the Policy Strategy so that the public could submit opinions.

6.4.4 At first glance, this procedure appears to recognize the Convention's requirement of public participation. However, on closer consideration this is not the case. First, a not-to-be-changed fact was that the wind farm could be constructed with the Provincial Government's approval as soon as the municipality and developer had agreed on the conditions for the wind farm in question. Second, another not-to-be-changed fact also was that as early as June 2012 the municipality had already agreed to provide spatial planning assistance for the proposed wind farm. Accordingly, the Utrecht Provincial Government had already committed itself to revising the Provincial Policy Strategy to make room for the farm regardless of whatever opinions the public would submit in the future. Public participation was therefore an empty legal formality devoid of any influence or chance thereof. This applies both to public participation in relation to the revised draft of the Provincial Policy Strategy and to public participation in relation to municipal decision-making on the zoning plan. Needless to say that both did not result in any changes in the proposed decisions.

6.5 Revisions of the Provincial Spatial Policy Strategy 2013-2028

6.5.1 As previously discussed, the Provincial Spatial Policy Strategy was amended soon after in order to allow the wind farm near the municipality of Vianen. Simultaneously with this amendment, the provincial target in the Policy Strategy was also increased to 65.5 MW to be reached in 2020. This increased target was the result of a new agreement between national government and the provinces. Once again, a decision with important consequences for the well-being of the public was taken without any opportunity for public participation, not at the national level (see the NLVOW communication), nor at the provincial level (see this communication for the Utrecht Provincial Government).

6.5.2 The refusal on the part of the Utrecht Provincial Government to engage in meaningful public participation on the aspects of wind energy and wind farms that are most important to the health and well-being of the public (need for wind energy, the number and size of wind farms and especially their location) is also apparent from the following quote taken from the response of the Provincial Government to the opinions received from the public when the Vianen wind farm was added to the Policy Strategy.

“The benefits of and need for wind power has been established nationwide. Furthermore, it was set out that, in the realisation thereof, provinces would be the competent authorities for locations between 5 MW and 100 MW and would receive the necessary mandate. The making available of planning space (a zoning plan) may be delegated to municipalities. In this partial revision of the PSPS [Provincial Spatial Policy Strategy], non-compliance of national government’s policy with the Aarhus Convention in respect to the benefits of and need for wind power as well as the scope of the targets is not relevant.”

6.5.3 Later, Utrecht Province once again revised the Policy Strategy. In this second revision a location in the city of Utrecht was abandoned as the Utrecht city council opposed the plan. In abandoning this location the Utrecht Provincial Government explicitly stated that this decision was not final and could be reversed if the target of 65,5 MW in 2020 could not be met otherwise. Reaching the 65,5 MW target is the dominant factor in decisions-making.

6.5.4 The example also shows once again that the Utrecht Provincial Government operates in a closed loop with municipalities – if the town council of Vianen wants a wind farm, it gets one and if the city council of Utrecht is opposed to a wind farm, it is dropped. In this situation there is no room for public participation at a stage that options are still open and there is even less room to give effect to the opinions expressed by the public. See also the communication of the NLVOW which outlines the very same situation from a national perspective.

6.6 Conclusion

6.6.1 In view of the foregoing, decision-making by the Utrecht Provincial Government on wind power does not comply with the requirements imposed by the Aarhus Convention. This is primarily due to the Provincial Government's acceptance of the obligation to realize in 2020 50 MW (later increased to 65.5 MW) of wind power. The Convention requires that such policy decisions are subject to public participation with such participation having to take place early on when all options are open and effective public participation can take place (see article 7, paragraph 2 in conjunction with article 6, paragraphs 3, 4 and 8). Such public participation did not take place, at least not at a stage where such participation could have had any impact on decision-making.

6.6.2 Public participation was only offered for the first time on the occasion of decision-making on the Regional Plan 2005-2015. By that time, however, all essential decisions had already been taken, such as the acceptance of the target of 50 MW in 2020, and the selection of preferred locations in the initial 2002 Wind Plan. As a result, public participation was merely pro forma.

6.6.3 More recent decision-making on the Policy Strategy and the revisions thereof are still based on decisions taken in earlier years without any public participation and is, as a result, also not in accordance with the Convention. On the issue of earmarking locations, it should be noted that some of the preferred locations selected in the 2002 Wind Plan Utrecht were later abandoned (although they may come back later) not because the Utrecht Provincial Government took account of the outcome of public participation, but solely because municipal governments considered those locations unacceptable.

6.6.4 It follows from the above that the provincial target of 65.5 MW of wind power together with the Provincial Governments insistence that a municipality has to agree to a wind farm are the decisive elements in the selection of locations and that the outcome of public participation is systematically ignored. Public participation is merely pro forma and it is offered solely because the law requires it and not because the Utrecht Provincial Government is in any way receptive to contributions from the public or willing to consider options suggested by the public. Consequently, the Provincial Government misses out on the advantages of effective public participation – which are among the reasons for concluding the Convention and which are explicitly mentioned in it - such as enhanced quality of decision-making and a strengthening of public support for the decisions taken. Ultimately, public participation that in essence does not take citizens seriously will affect the legitimacy of all levels of government.

6.6.5 For the sake of completeness, it should be noted that the policies and practices of the national government in respect of wind power to which Utrecht Province committed itself are in themselves also not in accordance with the Aarhus Convention. The NLVOW's communication sets out how these policies and practices were and are developed and implemented in a closed loop involving all levels of government, the commercial wind sector and nature and environmental organisations. All this while the public was systematically sidelined.

6.6.6 Finally, although it is evident that provincial governments must adhere to laws, regulations and policies set by the national government in The Hague (and the European Union), they also have powers and responsibilities of their own. This is true certainly relation to wind power and wind farms. Yes, the national government sets national targets and, yes, provincial governments are expected to do their share in achieving these targets. But provincial governments also have a great deal of freedom in determining how to proceed. There is no national law, nor are there national policies prohibiting the Utrecht Provincial Government to organize public participation in relation to decisions making on wind farms in accordance with the Convention; in fact such laws and policies would be in violation of the Convention. Accordingly, the fact that the Utrecht Provincial Government failed to meet the requirements of the Convention is the responsibility of that Government and of that Government only.

7. REQUESTS TO THE COMMITTEE

The parties submitting this application present the following requests to your Committee:

7.1. To establish that decision-making with regard to wind farms by the Utrecht Provincial Government is not in accordance with the Convention and, more particularly, is not in compliance with article 6, paragraphs 2, 4, and 8; and article 7, first three sentences.

7.2. If and in so far as your Committee grants this request, we hereby also request you to recommend to the Netherlands that the Utrecht Provincial Government takes the following measures:

- To review decision-making on wind power policy, in particular on the scope of the commitments undertaken by the Utrecht Provincial Government, as well as on the number, size and locations of the wind farms required to that end in that:
 - (a) choices to be made are presented to the public without excluding any options in advance;
 - (b) subsequently due account is taken of the contribution made by the public when reviewing previously-made choices; and
 - (c) finally, results of said reconsideration extend to decisions already taken, in so far as still possible.
- To implement or recommend every other measure that your Committee considers fitting to ensure that the Utrecht Provincial Government complies with the Convention.