

19 May 2021

Nicolette Bouman
Ministry of Infrastructure and Water Management
DG Environment & International Affairs
The Netherlands

Albert W. Koers
On behalf of the NLVOW
The Netherlands

Dear Ms. Bouman,
Dear Professor Koers,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the Netherlands with access to information provisions of the Convention in connection with wind turbines (ACCC/C/2015/133)

In order to complete its draft findings regarding the above communication, the Committee has identified certain matters upon which it seeks clarification. To this end, please find enclosed questions prepared by the Committee for your attention. The Committee would be very grateful to receive your replies to aarhus.compliance@un.org by **Wednesday, 9 June 2021**.

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Marjolein Busstra, Legal Affairs/International law, Ministry of Foreign Affairs
Permanent Mission of the Kingdom of the Netherlands to the United Nations Office and other international organizations in Geneva

Enc: Questions from the Committee to the parties

Questions from the Committee to the parties:

Questions to the communicant:

1. Please provide an English translation of section 2.4 of the Circular of 2 April 2010 referred to in footnote 15 of your communication concerning noise limits.
2. With respect to each of the windfarm projects *Windpark Zuidlob* and *Windpark Noordoostpolder*, please provide:
 - (a) The Dutch text of the document setting out how the comments received from the public on each windfarm were taken into account.
 - (b) An English translation of the parts of the above documents for each windfarm that you consider support your allegations that:
 - (i) The location could no longer be changed as it had been laid down in agreements between the national government and the province in question;¹
 - (ii) The developer and the national government had already settled most issues relating to spatial planning and licenses, permits and exemptions in formal and informal agreements;²
 - (iii) No stricter limit for noise or shadow flicker than the levels set out in the Activities Decree and Activities Regulation could be imposed.
3. Please provide an English translation of the rows of the table in the explanatory memorandum for the SVIR which you allege demonstrate that the government did not take into account the comments received from the public concerning wind energy (Please make sure that the examples you provide indeed concern the draft text of the SVIR and not matters outside of its scope).
4. Please provide an English translation of the rows of the table in the explanatory memorandum for the SvWOL that you consider demonstrate your allegation that the specific locations for large scale wind farms had already been set through performance agreements entered in 2013 between the government and the provinces.³
5. For each of the following judgments please provide:
 - (a) The full text in Dutch;
 - (b) An English translation of the parts of the judgment that you consider demonstrate that the court did not review the substantive or procedural legality of the decision as required by article 9(2) of the Convention:
 - (i) *Windpark Duiven*;
 - (ii) *Windpark Tolhuislanden*;
 - (iii) *Windpark Noordoostpolder*;
 - (iv) *Windpark Ecofactorij*;
 - (v) *Windpark Neeltje Jans*;

¹ Communication, para. 44.

² Communication, para. 44.

³ Communication, para. 38.

Questions to the Party concerned:

6. Please provide an English translation of the provisions, if any, of the Activities Decree or Activities Regulation that provide that the prescribed limits for shadow flicker can be adjusted taking into account the specific circumstances.

7. During the preparation of the performance agreements that were entered in 2013 between the central government and the provinces,⁴ did the public have an opportunity to comment on the locations for windfarms included in the draft agreements? If so, please describe the nature of the public participation procedure.

8. With respect to the Netherlands' 2010 national renewable energy action plan (NREAP):
- (a) Please provide the English text of the NREAP;
 - (b) Was the draft NREAP made available to the public for comment? If so, please:
 - (i) Describe the public participation procedure including the relevant timeframes for the public to comment and how the public was notified of their opportunity to comment.
 - (ii) Provide the document summarizing how the public's comments were taken into account in the preparation of the NREAP.

⁴ Communication, para. 38.