

To: **The Aarhus Convention Compliance Committee**
Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10, Switzerland

e-mail: aarhus.compliance@un.org

Conc.: PRE-C187 the Netherlands

Geneva, 19 October 2021

Dear members of the Aarhus Convention Compliance Committee,

In the name of *Stichting Greenpeace Nederland*, WISE and LAKA, I hereby send you our requested views on the question from the Committee why, in our view, a compliance assessment procedure is necessary in this case, and another process of deliberation and advice would, in our eyes and experience, not be sufficient to resolve the issues raised in our communication.

- The “where appropriate” in art. 6(10) is in these cases used as an escape route from the obligation of public participation in environmental issues in a general political atmosphere of deregulation. When this is not dealt with in a way that sets clear jurisprudence, a weak interpretation is likely to spread.
- The issue of falsely categorising changes in nuclear installations (Aarhus Annex I(1) in conjunction with (22)) in category D of the Annex to the Dutch EIA Regulation cannot be resolved over a track of advice and deliberation, but needs a clear act of setting jurisprudence.
- The current Dutch governance structure around environmental issues, and especially in the realm of nuclear energy, is characterised by constant changes. The initial responsible authority for the cases mentioned in the communication was the Dutch nuclear regulator ANVS, who had no mandates relating to the implementation of the Aarhus Convention outside of its limited focus on nuclear safety. It has released this role recently to the Ministry of Infrastructure and Water Management. A next government will likely change this structure again. It is for that reason not to be expected that a route of advice and deliberation would yield lasting results in line with the Convention, when they are not formally endorsed by findings from the ACCC and the MoP.

Stichting Greenpeace Nederland
Postbus 3946
1001 AS Amsterdam
the Netherlands
+31 206 261 877

info@greenpeace.org
www.greenpeace.org/nl

LAKA
Ketelhuisplein 43
1054 RD Amsterdam
the Netherlands
+31 206 168 294

info@laka.org
www.laka.org

WISE
Minihassastraat 1, 110
1094 RS Amsterdam
the Netherlands

kantoor@wisenederland.nl
www.wisenederland.nl



- We have offered the Party before and during both appeal procedures the suggestion of an advice and deliberation route, which the Party completely ignored.
- The issues addressed in this communication (more case clarity on “where appropriate” in art. 6(10); the need for consistency in implementation of Annex I to the Convention; the need for all decisions (“where appropriate”) to be informed by environmental information optimised by public participation) are going well beyond the nuclear sector and one specific Party. We as communicants are currently struggling with similar problems in at least 10 other Aarhus Party countries. Findings on this communication will deliver clarity that will reduce the need for future communications from throughout the Parties.

Our constructive argumentation towards the competent authorities and the *Raad van State* before the decisions and during the appeal procedures over the period of well over a decade (including the cases ACCC/C/2014/104 and this PRE-C187) have so far fallen on maybe not completely deaf ears, but were certainly met by too much skepticism from the side of the Party and other Parties.

For those reasons, we kindly ask the Compliance Committee to review the communication on its merits and come with findings and recommendations on the basis of its assessment that can set broader jurisprudence for the issues raised.

In the mean time, we remain open to dialogue with the Party concerned to find possibilities to overcome the problems indicated in our communication over alternative routes. If that happens in a way that is satisfactory and that also sets a clear sign for other Parties, we will gladly withdraw our communication. But as long as this is not the case, we feel that compliance assessment by the Committee is a necessary step.

Sincerely,



Jan Haverkamp