

Economic Commission for Europe

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Seventh session

Geneva, 18–20 October 2021

Excerpt from the addendum to the report of the seventh session of the Meeting of the Parties (ECE/MP.PP/2021/2/Add.1)*

Decision VII/81 concerning compliance by Lithuania with its obligations under the Convention

Adopted by the Meeting of Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters at its seventh session

The Meeting of the Parties,

Acting under paragraph 37 of the annex to its decision I/7 on the review of compliance,¹

Taking note of the findings of the Committee on communication ACCC/C/2013/98 concerning compliance by Lithuania in connection with public participation in decision-making regarding the construction of an overhead power line,²

Encouraged by the willingness of Lithuania to discuss in a constructive manner with the Committee the compliance issues in question,

1. *Endorses* the findings of the Committee that:

(a) By not correctly notifying the public concerned about the time frames during which relevant documentation would be available and in which comments could be submitted, the Party concerned failed to comply with the requirements in article 6 (2) (d) (ii) to adequately inform the public concerned about the envisaged procedure, including the opportunities for the public to participate;

(b) By limiting the options in practice for the location of the border crossing point for the overhead power line by setting that location through inter-State consultations before the public participation procedures had been concluded, the Party concerned precluded the possibility for the public to participate when all options on the crossing point were open and thus failed to comply with article 6 (4) of the Convention;

(c) By failing to ensure that all options regarding the choice of technology for the power line were not just legally open but also could clearly be seen to be open by the public concerned, the Party concerned failed to comply with article 6 (4) of the Convention;

(d) By establishing a system whereby comments submitted by the public during the environmental impact assessment procedure are to be in the first instance submitted to an

* The full text of addendum to the report of the seventh session of the Meeting of the Parties (ECE/MP.PP/2021/2/Add.1) will, in due course, be available in English, French and Russian from https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7.

¹ ECE/MP.PP/2/Add.8.

² ECE/MP.PP/C.1/2021/15, forthcoming.

entity not required to be independent from the developer, and not to the competent public authority itself, the Party concerned is in non-compliance with article 6 (7) of the Convention;

(e) By not ensuring that the competent public authority is required to take due account of the outcomes of the public participation, the Party concerned fails to comply with article 6 (8) of the Convention;

(f) By failing to demonstrate, either in or along with the decision, how due account was taken of the outcome of the public participation, the Party concerned failed to comply with article 6 (9) of the Convention regarding the decision on the overhead power line;

(g) The telephoning and visiting of persons linked to the communicant, in the context of the communicant's opposition to the overhead power line, by the State Security Department "to clarify the issues in the Rudamina community related to the electricity power line" constituted harassment, penalization and persecution by the Party concerned in non-compliance with article 3 (8) of the Convention;

2. *Recommends* that the Party concerned take the necessary legislative, regulatory and administrative measures to ensure that:

(a) Regarding decisions on whether to permit specific activities subject to article 6 of the Convention:

(i) The public is notified about all time frames for opportunities for public participation, including the period during which relevant documentation will be available and in which comments can be submitted;

(ii) Any international consultations concerning a specific cross-border activity by a public authority of the Party concerned prior to completion of the public participation procedure under article 6 must not, in law or in fact, preclude all options being open during the public participation procedure;

(iii) The range of options open at each stage of decision-making is adequately reflected in the information provided to the public at each stage;

(iv) A clear requirement is established that comments submitted by the public are sent to the competent public authority itself;

(v) The obligation to take due account of the comments, information, analysis or opinions submitted by the public during the environmental impact assessment procedure is placed on the competent public authority;

(vi) When publishing the decision, the competent public authority provides evidence to the public, either in or along with the decision, of how due account was taken of the outcome of the public participation;

(b) The State Security Department receives clear instructions to refrain from activities that could be perceived as harassment, penalization or persecution of persons seeking to exercise their rights to participate or seek access to justice under the Convention;

3. *Requests* the Party concerned to:

(a) Submit a plan of action, including a time schedule, to the Committee by 1 July 2022 regarding the implementation of the above recommendations;

(b) Provide detailed progress reports to the Committee by 1 October 2023 and 1 October 2024 on the measures taken and the results achieved in the implementation of the above recommendations;

(c) Provide such further information as the Committee may request in order to assist it to review the progress by the Party concerned in implementing the above recommendations;

(d) Participate (either in person or by virtual means) in the meetings of the Committee at which the progress of the Party concerned in implementing the above recommendations is to be considered;

4. *Undertakes* to review the situation at its eighth session.
