

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/8m concerning compliance by the Netherlands 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 Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters on communication ACCC/C/2014/104 concerning compliance by the Netherlands with respect to public participation in the decision-making on the extension of the design lifetime of Borssele nuclear power plant,² the Committee's report on the progress made by the Netherlands in implementing the recommendations contained in those findings³ and also the findings of the Committee on communication ACCC/C/2014/124 concerning compliance by the Netherlands with respect to access to environmental information in connection with the permitting of two power plants,⁴

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

1. *Endorses* the findings of the Committee with respect to communication ACCC/C/2014/104 that, by not having at any stage provided for public participation meeting the requirements of article 6, where all options were open, in regard to setting the end date of 31 December 2033 for the operation of Borssele nuclear power plant, the Party concerned failed to comply with article 6 (4) in conjunction with article 6 (10) of the Convention with respect to the licence amendment of 18 March 2013;

2. *Endorses* the findings of the Committee with respect to communication ACCC/C/2014/124 that:

* 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.1/2019/3.

³ ECE/MP.PP/2021/54, forthcoming.

⁴ ECE/MP.PP/C.1/2021/20, forthcoming.

(a) By refusing to disclose documents relating to, or referring to, the imperative reasons of overriding public interest regarding a Natura 2000 site on the basis that those documents were not “environmental information”, the Party concerned failed to comply with article 4 (1) in conjunction with article 2 (3) of the Convention;

(b) By applying the exception for internal communications contained in article 4 (3) (c) of the Convention in order to exempt from disclosure environmental information exchanged between a public authority and the permit holders, including the representatives of the latter, the Party concerned failed to comply with article 4 (1) in conjunction with article 4 (3) (c) of the Convention;

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

(a) When a public authority reconsiders or updates the duration of any nuclear-related activity within the scope of article 6 of the Convention, the provisions of article 6 (2)–(9) are applied;

(b) Public officials, including the judiciary, are under a legal and enforceable duty to ensure that documents relating to, or referring to, the imperative reasons of overriding public interest regarding a Natura 2000 site are considered to be environmental information within the meaning of article 2 (3) (b) of the Convention;

4. *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;

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