

Compliance Committee to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters (Aarhus Convention)

**First progress review of the implementation of decision VII/8j
on compliance by Italy with its
obligations under the Convention**

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I. Introduction

1. At its seventh session (Geneva, Switzerland, 18-21 October 2021), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/8j on compliance by Italy with its obligations under the Convention (see ECE/MP.PP/2021/2/Add.1).

II. Summary of follow-up

2. At its seventy-third meeting (Geneva, 13–16 December 2021), the Committee held an open session to provide guidance on preparing the plan of action that each Party subject to a decision or request of the Meeting of the Parties was requested to submit by 1 July 2022. Though invited, the Party concerned did not take part in the open session.

3. On 8 February 2022, on the Committee's instructions, the secretariat sent an information note and a template for its plan of action to the Party concerned to assist it to prepare its plan of action.

4. At its seventy-fourth meeting (Geneva, 15–16 March 2022), the Committee held a further open session on the preparation of Parties' plans of action. The purpose of the session was to answer any specific questions from Parties regarding the format or content of their plan of action. A representative of the communicant of communication ACCC/C/2015/130 took part in the open session. Though invited, the Party concerned did not take part in that session.

5. On 3 December 2022, the secretariat wrote to the Party concerned to inform it that, as of that date, the Committee had still not received its plan of action due on 1 July 2022. The Committee therefore invited the Party concerned to attend an open session at its seventy-seventh meeting (Geneva, 13–16 December 2022), to discuss its outstanding plan of action. Representatives of the Party concerned and the communicant of communication ACCC/C/2015/130 took part in the open session. During the session, the Committee requested the Party concerned to submit its outstanding plan of action as soon as possible.

6. On 7 December 2023, the Party concerned submitted its first progress report on decision VII/8j, more than two months after the deadline of 1 October 2023 set by the Meeting of the Parties in paragraph 3 (b) of decision VII/8j.

7. On 8 December 2023, the secretariat forwarded the Party concerned's first progress report to the communicant of communication ACCC/C/2015/130 and registered observers, inviting their comments by 5 January 2024.

8. On 5 January 2024, the communicant of communication ACCC/C/2015/130 submitted its comments.

9. After taking into account the information received, the Committee prepared its first progress review on decision VII/8j at its virtual meeting on 25 January 2024 and adopted it through its electronic decision-making procedure on 19 February 2024. The Committee thereafter requested the secretariat to forward the first progress review to Italy, the communicant of communication ACCC/C/2015/130, and the registered observers.

III. Considerations and evaluation by the Committee

10. In order to fulfil the requirement of paragraph 2 of decision VII/8j, Italy would need to provide the Committee with evidence that it has taken the necessary legislative, regulatory, administrative or other measures, such as establishing appropriate assistance mechanisms, to ensure that:

- (a) Court filing fees at first instance and again at second instance for review procedures within the scope of article 9 (2) and (3) of the Convention are not prohibitively expensive;
- (b) Any fee to amend a claim at first and/or second instance in a review procedure within the scope of article 9 (2) and (3) of the Convention is not prohibitively expensive;
- (c) Any cost orders against unsuccessful claimants in review procedures under article 9 (2) and (3) of the Convention are not prohibitively expensive;
- (d) Any costs that may be imposed for “manifestly unfounded”, “frivolous” or “vexatious” claims within the scope of article 9 (2) and (3) of the Convention are not prohibitively expensive;
- (e) The legal framework for determining costs orders against unsuccessful claimants in review procedures under article 9 (2) and (3) of the Convention is clear, transparent and consistent;
- (f) The legislation exempting environmental non-governmental organizations from the payment of court filing fees in review procedures under article 9 (2) and (3) of the Convention is applied in a clear, transparent and consistent manner.

Party concerned’s first progress report

11. In its first progress report, the Party concerned reports that it is strongly engaged in finding the most appropriate options and measures to implement the recommendations of decision VII/8j. It further states that, as a result of the efforts of the Ministry of the Environment and Energy Security (MEES), an inter-ministerial working group was established with the purpose of identifying possible options and appropriate legislative measures to be adopted to address the Committee’s recommendations. This working group is composed of representatives from the Ministry of Economy and Finance, the Ministry of Justice, the Presidency of the Council of Ministers, the Council of State and the State General Accounting Office. The Party concerned further reports that the dialogue between the different ministries, promoted by MEES, has resulted in a work programme composed of the following stages:

- (a) Preliminary analysis on the type of appeals filed before civil, criminal, “accounting” and administrative jurisdictions in the field of access to justice in environmental matters;
- (b) Data collection from all jurisdictions in relation to pending or concluded proceedings brought by non-governmental organizations in environmental matters and its analysis;
- (c) Identification of possible options to implement the recommendations contained in decision VII/8j;
- (d) Assessment and evaluation of the economic impact that the different options would entail;
- (e) Drafting of a regulatory act;
- (f) Process for adopting the regulatory act, including public consultation.¹

12. The Party concerned reports that the phase of data collection (stage (b) above), which is essential to quantify the economic impact of any proposal to exempt or reduce the filing fee, is still ongoing. The Party concerned states that, while awaiting the results of the data collection phase, MEES is engaged in identifying possible options, including legislative measures, to fulfil the recommendations in decision VII/8j. It further reports that on 14 November 2023, the inter-ministerial working group held a meeting to progress on its work.²

¹ Party’s first progress report, 7 December 2023, p. 2.

² Party’s first progress report, 7 December 2023, p. 3.

13. The Party concerned states that it hopes to be able to submit an advanced progress report in the near future.³

Comments from the communicant

14. The communicant of communication ACCC/C/2015/130 submits that the vagueness of the information provided by the Party concerned in its progress report means that the communicant is not able to express any opinion thereon. It highlights the delay with which the Party concerned is implementing decision VII/8j and the failure to provide a date by which it will present a proposal for a legislative amendment addressing the Committee's recommendations.⁴

Committee's evaluation

15. The Committee welcomes the first progress report of the Party concerned, while expressing its disappointment that it was submitted more than two months after the deadline of 1 October 2023. The Committee also expresses its serious disappointment that the Party concerned has still not provided its plan of action, due on 1 July 2022. The Committee reminds the Party concerned that the above deadlines have been set in decision VII/8j by the Meeting of the Parties and are therefore not flexible deadlines.

16. The Committee welcomes the steps taken to date by the Party concerned to make progress in implementing the recommendations set out in paragraph 2(a)–(f) of decision VII/8j. However, the Committee expresses its serious concern that, as of the date of the Party concerned's first progress report, a bare ten months out from the final deadline of 1 October 2024 for the Party concerned to demonstrate that it has fully met the requirements of decision VII/8j, the Party concerned is still only at the stage of identifying possible options to pursue.

17. The Committee also regrets that the Party concerned has not provided at least a tentative timeline for each of the phases identified in paragraph 11 above. The Committee stresses the urgency for the Party to proceed with the next stages of its work programme as soon as possible, ensuring the participation of the public at an appropriate stage of its decision-making when options are still open.

18. In light of the above, while welcoming the steps taken to date, the Committee considers that the Party concerned has not yet demonstrated that it has met the requirements of paragraph 2(a)–(f) of decision VII/8j.

IV. Conclusions

19. The Committee welcomes the first progress report of the Party concerned and the steps taken by the Party concerned to date to make progress in implementing the recommendations set out in paragraph 2(a)–(f) of decision VII/8j.

20. The Committee however expresses its serious concern that, just ten months out from the final deadline of 1 October 2024, the Party concerned is still only at the stage of identifying possible options to pursue to implement the requirements of paragraphs 2(a)–(f) of decision VII/8j.

21. The Committee invites the Party concerned to provide, as soon as possible, and at the latest together with its final progress report, the text of all legislative, regulatory, administrative and other measure that it has by then taken to fulfil paragraphs 2(a)–(f) of decision VII/8j.

22. The Committee reminds the Party concerned that all measures necessary to implement decision VII/8j must be completed by, and reported upon, by no later than 1 October 2024,

³ Party's first progress report, 7 December 2023, p. 3.

⁴ Comments from the communicant of communication ACCC/C/2015/130, 5 January 2024.

as that will be the final opportunity for the Party concerned to demonstrate to the Committee that it has fully met the requirements of decision VII/8j.
