

From: Alexandre Peñalver Cabre [REDACTED]

Sent: Friday, August 23, 2024 3:01 PM

To: ECE-Aarhus-Compliance <aarhus.compliance@un.org>

Subject: Re: Decision VII/8p (Spain) - letter from the Party concerned regarding Committee's first progress review

Importance: High

Dear Fiona,

First, sorry for the delay sending these comments for the letter from the National Focal Point to the Aarhus Convention to the First Progress Report Action Plan to address Decision VII/8p of the Meeting of the Parties. SPAIN.

Just in case that these comments can be taken into consideration, we would like to say that the Party remains not fully comply with paragraph 2 (b) of the Decision VII/8p concerning Spain.

The amendment introduced article 10 bis on Royal Decree 815/2013 which states: "(...) Likewise, they will send to the municipalities the announcement of said resolutions, making available to the public for exhibition on the bulletin boards of the *municipalities in which the facilities are located* for a minimum period of twenty calendar days."

The response of the Party does not comply with paragraph 2 (b) of the Decision VII/8p concerning Spain.

First, we must insist that, as the Compliance Committee have said, this requirement should be for all municipalities affected by the activity and not only in the municipality where the activity will be undertaken (for instance, Second progress review of the implementation of decision VI/8j on compliance by Spain with its obligations under the Convention, para. 44 and 48.c.iv).

The arguments of the Party based, especially in Environment Impact Assessment law, do not undermine the need for this requirement. The aim is that all public which may be affected must be informed of the environmental permit. And as usual the environmental impact assessment study (as in this case UNILAND) determine the scope of the activity and, by so many, the affected municipalities.

Second, also we must pay attention that, as the Compliance Committee have said, "individuals living in the immediate vicinity, parties with a specific interest and all members of the public who submitted comments during the public participation procedure on the proposed decision are personally notified of the decision on the integrated environmental permit once taken".

The response of the Party says that General Administrative Procedure Law (Article 40 of Law 39/2015) satisfies this requirement and therefore it would be redundant to modify Royal Decree 815/2013 with this purpose, since the Law has a higher hierarchy and is directly applicable.

But this response does not satisfy the requirement because this Article states the notifications only for one case “interested parties with rights or interests affected by the act’. But not for the other two cases (individuals living in the immediate vicinity and all members of the public who submitted comments during the public participation procedure on the proposed decision). Article 40 of Law 39/2015 states an administrative minimum general standard for notifications. But for environmental cases can be established, as usual, more exigent standards and specially when they are from international conventions (in this case, Aarhus Convention). And, finally, the general administrative standard (Article 20 of the Act 39/2015) is not higher hierarchy because Article 10 Royal Decree 815/2013 develops another different Act about environmental permits Royal Legislative Decree 1/2016).

Best regards,

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Alexandre Peñalver i Cabré
Professor Titular de Dret administratiu
Facultat de Dret
Universitat de Barcelona
Av. Diagonal 684
08034 Barcelona
Tel. [REDACTED]
Fax. [REDACTED]