

**AT's comments on the draft advice by the ACCC to CZ**  
**concerning the implementation of paragraph 2 (b) (i) and (ii) of decision VII/8e**

We welcome the draft advice of the ACCC as it will help the Parties to the Convention to better understand how the obligation under the Aarhus Conventions need to be transposed into national law. We agree with many of the clarifications, but we would like to make a comment regarding the notification of the public outside of the CZ territory:

In a transboundary EIA procedure with regard to the notification of the affected public outside of the territory of the Party of origin necessary arrangements have to be set in place. The Espoo Convention orders a (hopefully cooperative) collaboration between the Party of origin and the affected Party. Nevertheless, it is common understanding and practice that the notification of the public is arranged by the affected Party in its own territory.

This is in line with the interpretation of the ACCC. However, the ACCC stipulates that if the affected Party refuses to notify the affected public in its territory or the notification is inadequate or ineffective, it is the obligation of the Party of origin to carry out the notification of the foreign public itself. The Party of origin should then request a notice to be published in the print media of the affected Party. The announcement should be made in the national language of the foreign public.

Our concerns are the following:

It is not clear how a refusal to notify can be recognized (if there is no response, delayed response, explicit refusal, must the refusal be justified, if so how, etc.). The advice should not lead to legal uncertainty and a delay in the proceedings.

The second concern that arises is that it might not always be possible for the Party of origin to inform the affected public outside its territory and this rule should therefore not be considered as a binding obligation.