

Position of the Ministry of Climate and Environment of the Republic of Poland on Draft advice by the Aarhus Convention Compliance Committee to Czechia concerning the implementation of paragraph 2 (b) (i) and (ii) of decision VII/8e

The Committee in its findings with regard to communication ACCC/C/2012/71 exemplified a list of various measures that the Party which is a country of origin may use to inform the public concerned outside the territory of the Party of origin on proposed activities with potential transboundary impacts.

The Committee in its advice states that the Party need to “demonstrate that it provides the necessary arrangements to ensure that... when conducting transboundary procedures in cooperation with the authorities of affected countries, the competent public authorities make the necessary efforts to ensure that the public concerned in the affected countries is in fact notified in an effective manner.”

Moreover, the Committee in par. 32 (b) of the draft advice stated that if the competent authority of the affected State fails, or refuses, to provide such a report (report to the competent authority of the Party concerned on how it has notified the public concerned in its territory in a timely, adequate and effective manner), or if the report it provides indicates that the notification carried out was inadequate or ineffective, then the competent public authority of the Party concerned will have to carry out notification of the public concerned in the affected State itself.

Finally, the advice in par. 38 states that... since the rights under the Aarhus Convention are held by all members of the public “without discrimination as to citizenship, residence or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities”, the advice in paragraph 31 – 37 above applies both to the public concerned in an affected State that is a Party to the Aarhus Convention and/or the Espoo Convention and in an affected State that is not a Party to either or both of these Conventions. It also applies where the affected State is a Party to the Espoo Convention but no transboundary EIA procedure under the Espoo Convention will be conducted.

The Ministry of Climate and Environment is interested in interpretation by the Committee of such situation where the affected State not only does not cooperate with the Party of origin but also actively blocks efforts from the Party of origin to notify the public concerned in its territory in a timely, adequate and effective manner on planned activities. It must be taken into account that some States strictly control media and generally access to information on their territories. It might be impossible for the respective authorities from the State of origin to provide the public in such states with all the information about the planned activity. Moreover, any activity of authorities from the State of origin on territory of affected State and without involvement of authorities of the affected state, might be defined as hostile by the affected State, which might, in consequence, put in danger people who would be tasked with dissemination of information about planned activity on the territory of affected State. In current geopolitical situation in and around Europe we believe that such consideration is justified.

We would like the Committee also to address the question of potential misinformation that could be spread by the authorities of the affected State in relation to the proposed activity in State of origin. Even though, such situation is for the time being only hypothetical, it could not be perceived as impossible. We observe a rapid increase of organised misinformation campaigns that take place, especially in Internet but also in more traditional media.

How, in such situations, the Party of origin should present that it has notified the public concerned in the territory of the affected State in a timely, adequate and effective manner on planned activity?

Another thing that we wish to comment is an use of electronic information tools in the process of informing the public about planned activities. The Committee stresses in the advice the importance of using printing press. However, as the government of Czechia underlined in its request for advice, the

outreach of public press is falling considerably due to increased use of Internet. Therefore, in our opinion one of the most effective way of dissemination of information is to publish them in electronic press. Publishing information in both printed and electronic press could be disproportionately costly. Nevertheless, publishing in electronic media could be more cost-effective, which justifies spending public resources on it. Moreover, information published in electronic media is more likely to be reprinted by other media of this kind, shared in social media and most probably that would happen in more timely manner. It is also likely to be shared by people in affected areas in peer-to-peer conversations which could benefit to spreading information also among people that do not use electronic information tools or do not do that on a daily manner.