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

Task Force on Public Participation in Decision-making

Eleventh meeting

Items 2, 3, 4 and 6 of the provisional agenda
Geneva, 12-13 December 2024

SELECTED CONSIDERATIONS, FINDINGS AND REPORTS OF THE AARHUS CONVENTION COMPLIANCE COMMITTEE RELATING TO EFFECTIVE PUBLIC PARTICIPATION

Background paper[1]

Prepared by the secretariat

This background paper is not intended to be exhaustive but to outline a selection of considerations, findings and reports of the Aarhus Convention Compliance Committee[2] (hereinafter – the Committee) in regard to items 2, 3, 4, and 6 of the agenda of the eleventh meeting of the Task Force on Public Participation in Decision-making under the Aarhus Convention: (i) participation of groups and people in vulnerable situations in decision-making; (ii) public participation in decision-making in a transboundary context; (iii) public participation in decision-making related to agriculture and fisheries; (iv) public participation in decision-making related to climate change. The paper is also relevant for other agenda items.

Participants are invited to consult this document in advance of the meeting in order to gain an overview of issues to be discussed under agenda item 2, 3, 4 and 6, the challenges encountered by the Parties in implementation, and to discuss good practices and further needs to be addressed under the auspices of the Task Force on Public Participation in Decision- making.

[1] The document was not formally edited.
[2] Available from http://www.unece.org/env/pp/cc.html

Reports/cases	Consideration and evaluation by the Committee	Findings and recommendations of the Committee
Participation of people in vulnerable situations in decision-making		
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 3 (2)	As a first step, since it may not be possible to apply the modalities typically deployed in public participation procedures in the Party concerned, a needs assessment should be carried out, at the time of preparing the relevant legal framework or on a case-by-case basis, to identify what modalities will, in practice, ensure effective opportunities for the public to participate in decision-making under the Convention during the pandemic. The needs assessment should identify any barriers to the participation of the public due to technology, language, literacy or disability, as well as any particular obstacles to participation experienced by marginalized groups or by members of the public whose opportunities to participate may be limited due to their duties during the pandemic. This should also include an assessment of the portion of the public facing each such barrier. As a good practice, the needs assessment should be prepared in consultation with the public. *(Paragraph 26 of document ECE/MP.PP/C.1/2021/6)* Any alternative modalities for public participation applied during the pandemic should not result in any additional costs on the public who seek to participate. For example, toll-free phone numbers should be provided during the virtual public hearing in order that the public without access to the Internet may still participate without charge. (*Paragraph 28 of document ECE/MP.PP/C.1/2021/6*)	
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 6 (6)	[I]f the public concerned cannot visit the public authority's premises to examine the information relevant to the decision-making, it must also be possible for those without access to the Internet to easily access that information. This may entail posting information packs containing all the relevant information to such persons. In accordance with article 6 (6), these information packs must be provided free of charge. If further relevant information subsequently becomes available, this should then also be posted to those members of the public concerned. The rights of members of the	

	public concerned who do not have access to technology should not be prejudiced; rather, extra effort will need to be made to ensure their opportunities to participate effectively. (*Paragraph 42 of document ECE/MP.PP/C.1/2021/6*)	
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 6 (7)	Care should be taken to ensure that the registration procedure, if any, for the virtual hearing does not present a barrier to participation (including if the registration form could present a barrier due to language or for those without literacy or technical skills) and, insofar as practicable, participants who have not registered to participate should still be allowed to take the floor. (*Paragraph 47 of document ECE/MP.PP/C.1/2021/6*)	
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 6 (7)	Technical barriers to the public's participation in the virtual hearing may include a lack of access to a high quality Internet connection or a lack of technical skills to participate in online activities. In both circumstances, alternatives should be provided so that members of the public lacking access to technology or appropriate technical skills are still able to participate effectively. First, members of the public who do not have access to the Internet, or who experience technical difficulties, should still be able to participate in the hearing by calling a toll-free phone number to listen to the proceedings and to ask questions and make statements. Second, […] all members of the public should be entitled to submit written comments. If a significant portion of the public do not have access to the Internet, alternative lowtechnology means should be used to broadcast the hearing and to enable the public to make statements and to ask questions. For example, the hearing may be broadcast live on television or radio. However, since radio and television do not themselves enable members of the public to speak remotely, it should in every case be possible for members of the public to make statements and ask questions via a toll-free phone number or, for those with access to the Internet, through the Internet.	

	Depending on the restrictions in place in the Party concerned during the pandemic, it may be possible for several members of the public to come together to participate in the hearing through one person's Internet connection. However, since for many members of the public such an option may not exist, the Party concerned should ensure that it provides low technology means such as a toll-free phone number to enable persons without access to the Internet to connect to the virtual hearing. (*Paragraphs 48-53 of document ECE/MP.PP/C.1/2021/6*)	
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 6 (7)	As for hearings held in person, appropriate interpretation should be provided on request in order to ensure the effective participation of the public. To that end, the notice of the virtual hearing to be published under article 6 (2) of the Convention should, as appropriate, indicate the language(s) in which the virtual hearing will be conducted and inform the public of the possibility to request interpretation, if required. For those members of the public who do not speak or understand the language in which the virtual hearing will be conducted, a toll-free phone number could be provided for the virtual hearing with interpretation into their language. In this way, they could both listen to, and participate in, the proceedings in their own language. *(Paragraphs 55-56 of document ECE/MP.PP/C.1/2021/6)*	
ACCC/A/2022/3 (Ukraine) (Advance unedited version) Article 6 (3)	[…] The Committee recognizes that some, perhaps many, members of the public concerned may have the possibility to view the EIA documentation directly at the locations identified by the Party concerned […], without having to wait until they receive the EIA documentation from the competent public authority upon request. However, in the context of the ongoing war, it cannot be assumed that all members of the public concerned will be able to access the EIA documentation in person at these locations. Many members of the public have had to leave their homes, and regions, due to the war. Members of the public concerned who have had to do so will need to make an information request to receive the EIA documentation, by submitting the two prescribed forms. Environmental NGOs among the public concerned may not necessarily be located in the vicinity of the proposed activity either. The effective timeframe for these members of the	

	public concerned to review the EIA documentation will accordingly be reduced by the number of days it takes for them to receive that documentation following their submission of the prescribed forms. *(Paragraph 47 of ACCC/A/2022/3)* The Committee also recognizes that members of the public concerned able to access the EIA documentation in person may themselves face challenges when reviewing and commenting upon the EIA documentation, including practical constraints such as power cuts and internet outages or due to having to deal with the competing priorities and uncertainties of daily life in the midst of an ongoing war. For this reason, the Committee considers that the timeframes for the public to prepare and to submit comments on proposed activities subject to the requirements of article 6 of the Convention in time of war should be at least as long as the time-frames provided by the Party concerned for that purpose during peacetime. *(Paragraph 49 of ACCC/A/2022/3)*	
ACCC/C/2009/43 Case concerning compliance by Armenia (Document ECE/MP.PP/2011/11/Add.1) Article 6 (2)	Whether the notification is effective depends on the particular means employed, which in this case include the national press, local TV and the Internet (websites of the Ministry and the Aarhus Centre). Sometimes, it may also be necessary to have repeated notifications so as to ensure that the public concerned has been notified. The Committee notes that the Teghout is one of the rural communities of the Lori region, close to the border with Georgia, approximately 180 km north from the capital Yerevan, while the nearest urban centre is at approximately 30 km. These circumstances make it obvious that the rural population in the area would not possibly have regular access to the Internet, while local newspapers may be more popular than national newspapers. However, the use of local television may be a useful tool to inform the public concerned in an appropriate manner. Hence, the Committee does not find here that the Party concerned failed to give effective public notice. *(Paragraph 70 of document ECE/MP.PP/2011/11/Add.1)*	
ACCC/C/2009/44 Case concerning compliance by Belarus (Document ECE/MP.PP/C.1/2011/6/Add.1)	The fact that public notice was published in the local press and the project related documentation could be accessed in Ostrovets compensates for the fact that Internet access is not widespread in rural areas. For these reasons,	

Article 6 (2)	the Committee is not convinced that the Party concerned failed to comply with article 6, paragraph 2. *(Paragraph 73 of document ECE/MP.PP/C.1/2011/6/Add.1)*	
ACCC/C/2014/99 Case concerning compliance by Spain (Document ECE/MP.PP/C.1/2017/17) Article 6 (9)	In the view of the Committee, informing the public about the decision taken exclusively by means of the Internet does not meet the requirement of article 6, paragraph 9, of the Convention. The Committee commends the practice of making the full text of the decision available electronically on the website of the competent authority (and also, but not only, on the website of the developer). However, relying solely on publishing the decision electronically may exclude members of the public who do not use the Internet regularly or do not have easy access to it from the possibility of being effectively informed about the decision that has been taken. *(Paragraph 104 of document ECE/MP.PP/C.1/2017/17)*	The Committee finds that: […] b) By not informing the public about the decision to permit the activity subject to article 6 of the Convention by any other means than publishing the decision on the Internet, the Party concerned failed to comply with article 6, paragraph 9, of the Convention (para. 105). The Committee, […] recommends that the Party concerned take the necessary legislative, regulatory or other measures and practical arrangements to ensure that the public is promptly informed of decisions taken under article 6, paragraph 9, of the Convention not only through the Internet, but also through other means, including but not necessarily limited to the methods used to inform the public concerned pursuant to article 6, paragraph 2, of the Convention. *(Paragraphs 108-109 of document ECE/MP.PP/C.1/2017/17)*
Public participation in decision-making in a transboundary context		
ACCC/A/2020/2 Request for advice by Kazakhstan (Document ECE/MP.PP/C.1/2021/6) Article 3 (9)	With respect to decision-making on proposed activities that may have potential transboundary impacts, the Committee reminds the Party concerned that special arrangements may need to be put in place during the pandemic in order to ensure that the foreign public have the possibility to participate in that decision-making without discrimination as to citizenship, nationality or domicile. *(Paragraph 32 of document ECE/MP.PP/C.1/2021/6)*	
ACCC/A/2020/2 Request for advice by Kazakhstan	For proposed activities that may have potential transboundary impacts, the current status of the pandemic and the measures taken by public authorities	

(Document ECE/MP.PP/C.1/2021/6) Article 6 (7)	in those areas should be borne in mind. Going forward, it may be that the public within the Party concerned are once again able to participate in person, but the foreign public are still under restrictions regarding their freedom of movement and can only participate in the decision-making procedure remotely. In such a situation, the Party concerned should put in place appropriate arrangements to enable the foreign public to nevertheless participate effectively. This is in line with the requirement in article 3 (9) of the Convention to ensure that the foreign public is not discriminated against due to receiving less favourable treatment than the public in the Party concerned. *(Paragraph 58 of document ECE/MP.PP/C.1/2021/6)*	
ACCC/S/2015/2 Submission concerning compliance by Belarus (Document ECE/MP.PP/C.1/2021/13) General considerations	[…] The Committee makes clear that, while arrangements between Parties under the Espoo Convention may contribute to compliance with the Aarhus Convention in transboundary contexts, the Committee's role is to review compliance with the provisions of the Aarhus Convention, the requirements of which stand in their own right. *(Paragraph 89 of document ECE/MP.PP/C.1/2021/13)*	
ACCC/S/2015/2 Submission concerning compliance by Belarus (Document ECE/MP.PP/C.1/2021/13) Article 6 (2)	[T]he means of notification used to notify the public concerned in the Party of origin may not be sufficient to notify the public concerned in the transboundary context. *(Paragraph 97 of document ECE/MP.PP/C.1/2021/13)*	The Committee finds that: […] (b) By failing to ensure that the means used to notify the Lithuanian public of the 2009 Ostrovets hearing were effective, either by carrying out the notification itself or by making the necessary efforts to ensure that Lithuania had done so effectively, the Party concerned failed to comply with article 6 (2) of the Convention; *(Paragraph 161 of document ECE/MP.PP/C.1/2021/13)* The Committee, […] recommends that the Party concerned take the necessary legislative, regulatory and administrative measures and establish practical arrangements in order to ensure that in decision-making on proposed activities with potential transboundary impacts: […] (b) Adequate and effective notification is provided to the

		public concerned in the affected States, in its national languages, including in widely published media in each State […] *(Paragraph 162 of document ECE/MP.PP/C.1/2021/13)*
ACCC/S/2015/2 Submission concerning compliance by Belarus (Document ECE/MP.PP/C.1/2021/13) Article 3 (9)	The Committee considers that, while certainly a good practice, the Aarhus Convention, including article 3 (9), does not require a Party of origin to translate all relevant information into the languages of all affected countries. […] Thus, the Committee does not find that the allegedly poor quality of the Lithuanian translation of the EIA report as such implied a breach of article 3 (9) of the Convention. The Committee considers that practical arrangements for public hearings in the transboundary context should as far as possible be settled by written agreement between the States beforehand […] *(Paragraphs 150-152 of document ECE/MP.PP/C.1/2021/13)*	
ACCC/S/2015/2 Submission concerning compliance by Belarus (Document ECE/MP.PP/C.1/2021/13) Article 3 (2)	[…] As a minimum, article 3 (2) requires that, before a public participation procedure takes place, Parties endeavour to ensure that their officials provide guidance to the public so that the public has an adequate understanding of the relevant law, the decision-making procedure and its opportunities to participate. This obligation applies to each Party to the Convention, whether it be the Party of origin or the affected Party. Since the Committee has already addressed the various aspects of the public participation procedure on the 2010 and 2013 expertizas in the preceding paragraphs, it will not make a separate finding on this point. *(Paragraphs 158-159 of document ECE/MP.PP/C.1/2021/13)*	
ACCC/C/2010/51 Case concerning compliance by Romania (Document ECE/MP.PP/C.1/2014/12) Article 3 (9)	[…] While article 3, paragraph 9, is intended to prevent not only formal discrimination but also factual discrimination, this provision cannot be interpreted as generally requiring the authorities to provide a translation of the information into any requested language. If, on the other hand, national law provides for translations to different official languages or sets criteria	

	also for other translations, article 3, paragraph 9, of the Convention implies that these criteria must be applied in a non-discriminatory way. Moreover, if the authority at the time of the request was in possession of such a translation, it would have been obliged under article 4 of the Convention to disclose the translated version to the public. In the present case, however, the Party concerned confirmed that at that time the public authorities did not hold such a translation, and the communicant did not provide evidence to the contrary. The fact that the Party concerned did not provide English translations of the requested information cannot be considered as discrimination, and therefore the Committee finds that the Party concerned did not fail to comply with article 3, paragraph 9, of the Convention. *(Paragraphs 105-106 of document ECE/MP.PP/C.1/2014/12)*	
ACCC/C/2012/71 Case concerning compliance by Czechia (Document ECE/MP.PP/C.1/2017/3) Article 6	It is clear from the wording of article 6 that the obligations imposed by that article are not dependent on obligations stemming from other international instruments. An international treaty may envisage that a Party of origin and an affected Party share joint responsibility for ensuring public participation in the territory of the affected Party (as under the Espoo Convention), or even that the affected Party has sole responsibility for this. However, the obligation to ensure that the requirements of article 6 are met always rests with the Party of origin. The situation in such cases is akin to those where the domestic legal order delegates administrative tasks for public participation to other domestic bodies. Accordingly, as the Maastricht Recommendations state, if “the legal framework seeks to delegate any administrative tasks related to a public participation procedure to persons or bodies other than the competent public authority, it should be borne in mind that the ultimate responsibility for ensuring the public participation procedure complies with the requirements of the Convention will still rest with the competent authority”. The Committee considers this wording applies equally to situations where the responsibility for certain tasks related to public participation in the affected country’s territory rests (by virtue of an international instrument or ad hoc agreement) on that country’s public authorities.	

	In the light of the above, the Committee stresses that, whether in a domestic or transboundary context, the ultimate responsibility for ensuring that the public participation procedure complies with the requirements of article 6 lies with the competent authorities of the Party of origin. *(Paragraphs 67-69 of document ECE/MP.PP/C.1/2017/3*)	
ACCC/C/2012/71 Case concerning compliance by Czechia (Document ECE/MP.PP/C.1/2017/3) Article 6 (2)	Though the Convention does not expressly address a Party's responsibilities when organizing a public participation procedure in the transboundary context, it nevertheless makes clear that, for all decision-making subject to article 6, the Party must ensure that the public concerned is informed in an adequate, timely and effective manner. […] The Committee recalls its findings on communication ACCC/C/2006/16 concerning Lithuania, where it noted that "the requirement for the public to be informed in an "effective manner" means that public authorities should seek to provide a means of informing the public which ensures that all those who potentially could be concerned have a reasonable chance to learn about proposed activities". *(Paragraph 71 of document ECE/MP.PP/C.1/2017/3*) As indicated above, ultimately it is for the competent public authorities of the Party of origin to ensure that the public participation procedure complies with the Convention's requirements, also in situations where the foreign public is involved. In cases which are not subject to a transboundary procedure under an international treaty (e.g. Espoo Convention), the requirement to inform the public concerned in the affected countries in an adequate, timely and effective manner will be the sole responsibility of the competent authority of the Party of origin. Ensuring that the notification is effective may include, inter alia, publishing announcements in the popular newspapers and by other means customarily used in the affected countries, as well as by exploring possibilities for using more dynamic forms of communication (e.g., through social media). In cases that are subject to a transboundary procedure under an international treaty, the Party of origin remains responsible under the Aarhus Convention for the adequate, timely and effective notification of the public concerned in the affected country, either by carrying out the notification itself or by making the necessary efforts to ensure that the affected Party has done so effectively. *(Paragraph 72 of document ECE/MP.PP/C.1/2017/3)*	The Committee finds that, by not providing a clear requirement in its legal framework to ensure that public authorities, when selecting means of notifying the public, are bound to select such means which, bearing in mind the nature of the proposed activity, would ensure that all those who potentially could be concerned, including the public outside the territory of the Party concerned, have a reasonable chance to learn about the proposed activity, the Party concerned has failed to comply with article 6, paragraph 2, of the Convention with respect to its legal framework. *(Paragraph 113 of document ECE/MP.PP/C.1/2017/3)* The Committee, […] recommends that the Party concerned provides: (a) A legal framework to ensure that when selecting means of notifying the public under article 6, paragraph 2, public authorities are required to select such means as will ensure effective notification of the public concerned, bearing in mind the nature of the proposed activity, and including, in the case of proposed activities with potential transboundary impacts, the public concerned outside the territory of the Party concerned; (b) (i) 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; (ii) There will be proper possibilities for the public concerned, including the public

	The Committee is convinced that in the case of decision-making on ultrahazardous activities like an NPP, being activities invariably of wide public concern, particular attention must be taken at the stage of identifying the public concerned and selecting the means of notification in order to ensure that all those who potentially could be concerned in the decision-making, including the public concerned outside its territory, have a reasonable chance to learn about the proposed activities and their possibilities to participate. In this regard, the public may potentially be concerned both because of the possible effects of the normal or routine operation of the NPP and because of the possible effects in case of an accident or other exceptional incident. In both cases, the decision-making may impact not only on matters, such as property or health, but also on less measurable aspects, like quality of life. For an ultrahazardous activity such as an NPP, members of the public may be affected or be likely to be affected by, or have an interest in, the environmental decisionmaking within the scope of the Convention even if the risk of an accident is very small. In determining who is concerned by the environmental decision-making, the Committee also considers the magnitude of the effects if an accident should indeed occur, whether the persons and their living environment within the possible range of the adverse effects could be harmed in case of an accident, and the perceptions and concerns of persons living within the possible range of the adverse effects. It is clear to the Committee that with respect to NPPs, the possible adverse effects in case of an accident can reach way beyond State borders and over vast areas and regions. *(Paragraph 74 of document ECE/MP.PP/C.1/2017/3)* More generally, the Committee notes that, while a legal framework that chiefly relies on the affected territorial self-governing units using locally specific ways of informing the public may well be adequate for activities whose potential effect on the environment would be confined to that locality, it may be insufficient for ultrahazardous activities that are invariably of wide public concern (whether specific activities subject to article 6 or in the context of plans and programmes subject to article 7). Moreover, notice on the Ministry's web page would not in itself be enough in order to ensure effective notification of the public, as it is not reasonable to expect members of the public to proactively check the Ministry's website on a regular basis just in case at some point there is a decision-making	outside the territory of the Party concerned, to participate at the subsequent stages of the multi-stage decision-making procedure regarding the Temelín NPP. *(Paragraph 117 of document ECE/MP.PP/C.1/2017/3)*

	procedure of concern to them. In this respect the Committee recalls paragraph 64 (c) of the Maastricht Recommendations, which provides that public notice should be placed also in "the newspaper(s) corresponding to the geographical scope of the potential effects of the proposed activity and which reaches the majority of the public who may be affected by or interested in the proposed activity". *(Paragraph 76 of document ECE/MP.PP/C.1/2017/3)* […] If a hearing is to be held, the public concerned should be notified of its opportunities to participate in that hearing, e.g., the format of the hearing, the format in which the public may make interventions, and any time limits on those interventions. This is particularly important in the case of a foreign public concerned, which may be entirely unfamiliar with how hearings are conducted in the Party of origin, though it should not be presumed that all members of the public concerned from the Party of origin will necessarily know this either. *(Paragraph 80 of document ECE/MP.PP/C.1/2017/3)*	
ACCC/C/2012/71 Case concerning compliance by Czechia (Document ECE/MP.PP/C.1/2017/3) Article 3 (9)	In deciding whether the Party concerned has complied with article 3, paragraph 9, the Committee considers the general test to be whether the public concerned in Germany was given any less favourable treatment than the public concerned in Czechia with regard to its opportunities to participate in the procedure. […] On the basis of the information before it, there is nothing to indicate that the public in Czechia was provided with any additional information about the format of the hearing and its opportunities to participate than was provided to the public in Germany. Thus, the Committee does not find there to have been discrimination within the meaning of article 3, paragraph 9, in this respect. It notes, however, that, in public participation procedures involving the public in countries other than the country of origin, the competent public authorities should be mindful of the need to give clear and full explanations of the relevant procedures, as the foreign public cannot be presumed to be familiar with how such procedures work in the Party of origin. This being said, it should not be assumed that all members of the public concerned from the country of origin are familiar with such	

	procedures either. The Committee notes that neither Czech nor international law require that the country of origin organize a formal hearing in the territory of the affected country. Moreover, article 6, paragraph 7, does not require a hearing to be conducted in all cases, but, rather, as appropriate, bearing in mind the need to ensure effective public participation in the decision-making. While there is no express requirement under national or international law, including the Convention itself, to conduct a hearing in the affected country, neither is there anything to prevent it. The Committee finds, however, that there is no legal basis to conclude that in this case the failure of the Party concerned to organize an official hearing in Germany constituted a breach of article 3, paragraph 9. In the light of its findings in paragraphs 108–110 above, the Committee does not find the Party concerned to have failed to comply with article 3, paragraph 9. *(Paragraphs 107-111 of document ECE/MP.PP/C.1/2017/3)*	
ACCC/C/2013/91 Case concerning compliance by the United Kingdom (Document ECE/MP.PP/C.1/2017/14) Scope of obligations towards the foreign public	[T]he Committee notes that the definitions of the public and the public concerned in article 2, paragraphs 4 and 5, of the Convention do not contain any wording that limits their scope to only the public in the Party concerned. Rather, the Committee considers that those definitions should be seen in the context of the requirements set out in article 3, paragraph 9, of the Convention, which requires that the public shall have access to information, have the possibility to participate in decisionmaking and have access to justice in environmental matters without discrimination as to the citizenship, nationality or domicile. In the light of the above, and given that no provision of the Convention states otherwise, the scope of obligations related to public participation in decision-making with respect to proposed activities subject to article 6 of the Aarhus Convention is not limited to the public only in the Party concerned. The Committee emphasizes that in cases where the area potentially affected by a proposed activity crosses an international border, members of the public in the neighbouring country will be members of the “public	

	concerned" for the purposes of article 6. Moreover, as the Committee observed in its findings on communication ACCC/C/2004/03 (Ukraine), "foreign or international non-governmental environmental organizations that have similarly expressed an interest in or concern about the procedure would generally fall under these definitions as well." *(Paragraphs 68-69 of document ECE/MP.PP/C.1/2017/14)* [I]n cases which are not subject to a transboundary procedure under another international instrument such as the Espoo Convention, ensuring the effective participation of the public concerned, both domestic and foreign, is the sole responsibility of the competent public authority of the Party of origin. *(Paragraph 71 of document ECE/MP.PP/C.1/2017/14)*	
ACCC/C/2013/91 Case concerning compliance by the United Kingdom (Document ECE/MP.PP/C.1/2017/14) Article 2 (5)	In cases concerning ultra-hazardous activities, such as nuclear power plants, members of the public may be affected or likely to be affected by, or have an interest in, environmental decision-making within the scope of the Convention, even if the risk of an accident is very small. When determining who is concerned by the environmental decisionmaking, the magnitude of the effects if an accident would indeed occur, whether the persons and their living environment within the possible range of the adverse effects could be harmed in case of an accident and the perceptions and worries of persons living within the possible range of the adverse effects should be considered. It is clear to the Committee that with respect to nuclear power plants, the possible adverse effects in case of an accident can reach far beyond State borders and over vast areas and regions. For decision-making that relates to complex and ultra-hazardous activities such as nuclear power plants, it is therefore important to secure public participation appropriate to that activity with respect to these areas and regions both within and beyond the State borders of the Party concerned. *(Paragraph 75 of document ECE/MP.PP/C.1/2017/14)*	
ACCC/C/2013/91 Case concerning compliance by the United Kingdom (Document ECE/MP.PP/C.1/2017/14)	Having reviewed the applicable provisions of the legislation of the Party concerned […] it appears to the Committee that the legal framework of the Party concerned still does not contain a sufficient guarantee that in case of decision-making regarding activities having clearly more than national	The Committee finds that: (a) By not ensuring that the public concerned in Germany had a reasonable chance to learn about the proposed activity and the opportunities for the public to participate in the

Article 6 (2)	scope, such as decision-making regarding nuclear power plants, all those who potentially could be concerned, including the public concerned outside its territory, have a reasonable chance to learn about proposed activities. In this regard, the Committee refers to its findings on communication ACCC/C/2012/71, where it held that "it is not reasonable to expect members of the public to proactively check the Ministry's website on a regular basis just in case at some point there is a decision-making procedure of concern to them." *(Paragraph 82 of document ECE/MP.PP/C.1/2017/14)*	respective decision-making, the Party concerned failed to comply with article 6, paragraph 2, of the Convention with regard to the decision-making on Hinkley Point C; (b) By not providing a clear requirement in its legal framework to ensure that public authorities, when selecting means of notifying the public, are bound to select such means which, bearing in mind the nature of the proposed activity, would ensure that all those who potentially could be concerned, including the public concerned outside its territory, have a reasonable chance to learn about the proposed activity, the Party concerned fails to comply with article 6, paragraph 2, of the Convention with respect to its legal framework. *(Paragraph 89 of document ECE/MP.PP/C.1/2017/14)*) The Committee […] recommends that the Meeting of the Parties […] recommend that the Party concerned put in place a legal framework to ensure that: (a) When selecting the means for notifying the public under article 6, paragraph 2, public authorities are required to select such means as will ensure effective notification of the public concerned, bearing in mind the nature of the proposed activity and including, in the case of proposed activities with potential transboundary impacts, the public concerned outside the territory of the Party concerned; (b) When identifying who is the public concerned by the environmental decisionmaking on ultra-hazardous activities, such as nuclear power plants, public authorities are required to consider the magnitude of the effects if an accident would indeed occur, even if the risk of an accident is very small; whether the persons and their living environment within the possible range of the adverse effects could be harmed in case of an accident; and the perceptions and worries of persons living within the possible range of the adverse effects. *(Paragraph 90 of document ECE/MP.PP/C.1/2017/14)*)

ACCC/C/2013/92 Case concerning compliance by Germany (Document ECE/MP.PP/C.1/2017/15) Article 3 (2)	There is nothing in the wording of article 3, paragraph 2, or elsewhere in the Convention to imply that the obligation to "endeavour to ensure that officials assist and provide guidance to the public … in facilitating participation in decision-making" applies only with respect to the authorities competent to take a decision under articles 6, 7 or 8 of the Convention. Likewise, there is nothing in its wording to imply that the obligation applies only with respect to decision-making procedures inside the Party concerned. Rather, it is apparent to the Committee that the provisions in article 3 contain a number of obligations (such as those in article 3, paragraphs 2, 3, 4, 7 and 8) that stand alone as well as complement the other articles of the Convention. Moreover, in the light of the eighth preambular paragraph to the Convention […] it is clear to the Committee that this obligation must be seen in the context of rights of the public under the Convention generally. In this regard, the Committee notes that the twenty-third preambular paragraph to the Aarhus Convention specifically refers to various United Nations Economic Commission for Europe instruments, including the Espoo Convention, which envisage public participation in decision-making in the transboundary context. The Committee considers that in doing so, the Convention's preamble recognizes the importance of including the public concerned across borders in relevant decision-making. With respect to the claim by the Party concerned that article 3, paragraph 6, of the Convention gives precedence to the Espoo Convention, the Committee stresses that article 3, paragraph 6, of the Convention requires that there be no derogation from existing rights of the public — not the rights of Parties under any international agreements — and it therefore cannot be interpreted as giving precedence to any right of the Party concerned under the Espoo Convention. The same facts trigger different obligations under the different domestic or international legal instruments. While indeed under the Espoo Convention it is within the discretion of the potentially affected Party to decide whether or not to reply positively to the notification and enter into the transboundary procedure, the Party is free to have domestic criteria and procedures instructing its decision in this respect. Bearing in mind the role of transboundary procedures in ensuring the participation of the public concerned on both sides of the borders in the relevant decision-making, it seems inconceivable to the Committee for the	

	Parties to the Aarhus Convention to exclude such procedures from the ambit of the obligation to "endeavour to ensure that officials assist and provide guidance to the public ... in facilitating participation in decision-making". In the light of the above, it is clear to the Committee that the obligation on the Party concerned to "endeavour to ensure that officials assist and provide guidance to the public ... in facilitating participation in decision-making" applies also to decision-making procedures outside the Party concerned where authorities of the Party concerned are not competent to take decisions. For the avoidance of doubt, the Committee points out that this means that both the Party of origin and the affected Party have obligations under article 3, paragraph 2, to endeavour to ensure that their officials assist and provide guidance to the public concerned of the affected Party to facilitate their participation in the relevant decision-making. […] Article 3, paragraph 2, of the Convention requires that each Party "shall endeavour" to ensure that officials and authorities assist and provide guidance to the public in facilitating participation in decision-making. While this is an obligation of effort, rather than of the result, nevertheless the efforts taken may be subject to due diligence scrutiny. Moreover, while the obligation to "endeavour to ensure", just like all other obligations in the Convention, is addressed to the Party concerned, the Committee may examine in specific cases whether a public authority or an official, as a representative of the Party concerned, took the efforts needed to meet the requirement of this provision. In cases concerning ultrahazardous activities, such as nuclear power plants, it is clear to the Committee that, generally speaking, the possible adverse effects in case of an accident can reach far beyond State borders and over vast areas and regions. The obligation to take efforts to ensure that officials facilitate the public's participation in decision-making concerning these activities, being activities invariably of wide public concern, must be seen in this context. While the Committee considers that the obligation in article 3, paragraph 2,	

	of the Aarhus Convention to "endeavour to ensure that officials assist and provide guidance to the public ... in facilitating participation in decision-making" should not be interpreted as requiring a Party to necessarily always use all of the rights and competences that it has under international or national law with respect to a decision-making procedure in another country, a level of effort appropriate to the actions open to it in the particular context is required. For instance, whether or not a Party should facilitate the participation of its public, if its public so requests, by itself requesting to enter into a transboundary procedure under applicable international or European Union regimes may differ depending on whether the Party was formally notified or not. In the case of a formal notification from another country, the Committee considers that when deciding whether to enter into a transboundary procedure under applicable international or European Union regimes, a mere awareness by the Party of a strong interest of its own public in the outcome of the decision-making subject to the environmental impact assessment procedure is a relevant consideration to be taken into account, even without a clear request from its public, when deciding whether to enter into the transboundary procedure in order to facilitate the participation of its public in that decisionmaking. *(Paragraphs 84-91 of document ECE/MP.PP/C.1/2017/15)* [T]aking into account that the obligation in article 3, paragraph 2, of the Convention is to "endeavour to ensure" rather than "to ensure", and bearing in mind the factual circumstances of the case, in particular the awareness of the Party concerned that the decision on the Hinkley Point C nuclear power plant was required to be taken in less than three weeks, and noting the fact that the Party concerned has subsequently informed the United Kingdom that it wishes to be notified for the purposes of a transboundary environmental impact assessment procedure under the Espoo Convention that will include the opportunity for the German public to comment on the project (see para. 37 above), the Committee does not find the Party concerned to be in non-compliance with article 3, paragraph 2, in this case. *(Paragraph 94 of document ECE/MP.PP/C.1/2017/15)*	
ACCC/C/2013/98	The hearing on the special plan concept was notified by publication in five	

Case concerning compliance by Lithuania (Document ECE/MP.PP/C.1/2021/15) Article 6 (2)	newspapers (four local, one national). Notification for the SEA and special plan hearings was published in two local newspapers, on the billboards of 12 municipalities and subdistricts, and the developer's websites. Notice of the EIA report hearing was published in the same two local newspapers, in one national and one local newspaper, and on the same billboards as for the 18 May 2010 hearing. No information has been provided indicating that these newspapers had very low circulation. These methods of informing the public are not per se insufficient. Whilst the fact that no members of the public participated in the 18 May 2010 hearing on the SEA and special plan is significant, lack of attendance does not necessarily mean that the notice was ineffective. However, public authorities should take care to choose effective methods of notification, and if experience shows that the methods used do not result in the participation of the public concerned, they should be reconsidered. Lithuanian legislation refers to notification "if possible" by radio and television, which may have been a useful method in this case. However, the communicant has not provided sufficient evidence to show that the methods used did not ensure effective notification and the Committee accordingly does not find non-compliance with article 6 (2) in this regard. *(Paragraphs 97-98 of document ECE/MP.PP/C.1/2021/15)*	
Public participation in decision-making relating to agriculture		
ACCC/C/2004/8 Case concerning compliance by Armenia (Document ECE/MP.PP/C.1/2006/2/Add.1) Article 7	The government decrees referred to in the communication, in particular decrees 503-A, 745-A (paras. 2 and 3) and 1281-A (para. 2), deal with the designation of land for a particular type of commercial activity. Typically, this would be considered as a type of decision falling within the scope of article 7 of the Convention. However, some of the decrees specify not only the general type of activity (e.g. manufacturing, agriculture) that may be carried out in the designated areas but also the specific activity (e.g. watch-making factory, construction of a diplomatic complex) and even the names of the companies or enterprises that would undertake these activities. These elements are more characteristic of a type of decision falling within the scope of article 6 of the Convention. […]	The Committee also finds that by failing to provide for public participation in decisionmaking processes for the designation of land use, the Government of Armenia was not in compliance with article 7 of the Convention. *(Paragraph 43 of document ECE/MP.PP/C.1/2006/2/Add.1)* The Committee recommends that Armenia: […] (b) ensure practical application of public participation procedures at all levels of decisionmaking in accordance with article 7 of the Convention and relevant domestic legislation;

	Decree 1941-A, provisions of paragraph 1 of decree 745-A and paragraph 1 of decree 1281-A, and decree 397-A, in the Committee's opinion, relate to land-use planning. The first three change the designation of land use in the existing zoning plan, while the fourth adopts the territorial zoning plan of the area and modifies the designated use of lands. In the Committee's view, such plans fall under article 7 of the Convention and are subject to the public participation requirements contained therein, including, inter alia, the application of the provisions in paragraphs 3, 4 and 8 of article 6. *(Paragraphs 23-25 of document ECE/MP.PP/C.1/2006/2/Add.1)*	*(Paragraph 45 of document ECE/MP.PP/C.1/2006/2/Add.1)*
ACCC/C/2008/35 Case concerning compliance by Georgia (Document ECE/MP.PP/C.1/2010/4/Add.1) Article 6 (1)	The Committee notes that even if paragraph 20 of annex I to the Convention refers to the taking place of an EIA, national legislation may provide for a process that includes all basic elements for an EIA, without naming the process by the term "EIA". Such a de facto EIA process should also fall within the ambit of annex I, paragraph 20. It is critical, however, to define the extent to which the de facto EIA process qualifies as an EIA process, even if it is not termed as such. Within the jurisdiction of the Party concerned, there is presently a process termed EIA (for instance under the 2008 Law on Permits for Impact on the Environment), which encompasses public participation for the issuance of licences of an exclusive list of activities, in which forest use and management are not included; and there is also a process preceding the issuance of other licences, such as the forest use licences under Resolution No. 132 where, according to the submissions of the Party concerned, the key elements of an EIA process, including public participation (under the administrative code) are integrated (de facto EIA). In this case, however, the Committee is not convinced that the de facto EIA process for the issuance of forest use licences amounts to an EIA in the meaning of annex I, paragraph 20. In that regard, the Committee notes that Georgian legislation already provides for EIA under specific activities listed in its 2008 Law on Permits for Impact on the Environment, among which forest use activities were not included. This is an indication that the national legislature did not have the intention to subject forest use and management activities to an EIA process. Therefore, the Committee finds that licences issued by the auctions	

	of 1 May 2007 and 7–8 October 2008 are not decisions within the scope of article 6, paragraph 1 (a), of the Convention. *(Paragraphs 46-47 of document ECE/MP.PP/C.1/2010/4/Add.1)* As regards the alleged non-compliance with the provisions of article 6, paragraphs 2 and 4, the Committee finds that Georgia is not in a state of non-compliance, because the decisions at issue do not fall within the ambit of article 6, paragraph 1 (see paras. 47 and 48 above). While the Committee does not find that the Party concerned fails to comply with the Convention, it finds that the Georgian legislation relating to public participation in respect of forestry is rather unclear and complicated and this in the view of the Committee should be remedied (see para. 41 above). *(Paragraphs 49-50 ECE/MP.PP/C.1/2010/4/Add.1)*	
ACCC/C/2014/120 Case concerning compliance of Slovakia (Document ECE/MP.PP/C.1/2021/19) Article 8	[T]he Committee considers that article 8 of the Convention applies also to the preparation of legislation by executive bodies to be adopted by national parliaments, and that public authorities, including Governments, do not act in a legislative capacity when engaged in preparing laws until the draft or proposal is submitted to the body or institution that adopts the legislation. The Committee thus confirms that, in the present case, article 8 applied to the preparation of the draft Forestry Act by the Ministry of Agriculture and Rural Development and also during the subsequent stages of its preparation by the Legislative Council of the Government. In concluding that article 8 of the Convention applies also to the preparation of legislation by parliaments, the Committee notes that that article obliges the Parties to “strive to promote effective public participation at an appropriate stage”. This expresses an obligation of a somewhat “softer” nature than the obligations set out in articles 6 and 7, meaning that the Parties must show that they make efforts to provide for public participation in the preparation of legislation and other generally applicable legally binding normative instruments. In comparison with articles 6 and 7, article 8 gives the Parties greater leeway in deciding how to fulfil this obligation. *(Paragraphs 101-103 of document ECE/MP.PP/C.1/2021/19)*	

Public participation in decision-making relating to climate change		
ACCC/C/2010/54 Case concerning the European Union (Document ECE/MP.PP/C.1/2012/12) Article 7	The Committee finds that Ireland's [National Renewable Energy Action Plan] NREAP constitutes a plan or programme relating to the environment subject to article 7 of the Convention because it sets the framework for activities by which Ireland aims to enhance the use of renewable energy in order to reduce greenhouse gas emissions, based on Directive 2009/28/EC. […] It follows from article 7 of the Convention that when an NREAP is prepared by a Party to the Convention, the requirements for public participation set out in article 6, paragraphs 3, 4 and 8, of the Convention apply, albeit that in the context of article 7 of the Convention "[t]he public which may participate shall be identified be the relevant public authority, taking into account the objectives of the Convention". *(Paragraph 75 of document ECE/MP.PP/C.1/2012/12)* A proper regulatory framework for the implementation of article 7 of the Convention would require Member States, including Ireland, to have in place proper participatory procedures in accordance with the Convention. It would also require Member States, including Ireland to report on how the arrangements for public participation made by a Member State were transparent and fair and how within those arrangements the necessary information was provided to the public. In addition, such a regulatory framework would have made reference to the requirements of article 6, paragraphs 3, 4 and 8, of the Convention, including reasonable time-frames, allowing for sufficient time for informing the public and for the public to prepare and participate effectively, allowing for participation when all options are open and how due account is taken of the outcome of the public participation. *(Paragraph 80 of document ECE/MP.PP/C.1/2012/12)* […] Public participation under article 7 of the Convention must meet the standards of the Convention, including article 6, paragraph 3, of the Convention, which requires reasonable time frames. A two week period is not a reasonable time frame for "the public to prepare and participate effectively", taking into account the complexity of the plan or programme	The Committee finds that the Party concerned: (a) By not having in place a proper regulatory framework and/or clear instructions to implement article 7 of the Convention with respect to the adoption of NREAPs by its member States on the basis of Directive 2009/28/EC has failed to comply with article 7 of the Convention (para. 85); (b) By not having properly monitored the implementation by Ireland of article 7 of the Convention in the adoption of Ireland's NREAP has also failed to comply with article 7 of the Convention (para. 85); *(Paragraph 97 of document ECE/MP.PP/C.1/2012/12)* The Committee […] recommends that the Party concerned adopt a proper regulatory framework and/or clear instructions for implementing article 7 of the Convention with respect to the adoption of NREAPs. This would entail that the Party concerned ensure that the arrangements for public participation in one of its member States are transparent and fair and that within those arrangements the necessary information is provided to the public. In addition, such a regulatory framework and/or clear instructions must ensure that the requirements of article 6, paragraphs 3, 4 and 8, of the Convention are met, including reasonable time frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively, allowing for early public participation when all options are open, and ensuring that due account is taken of the outcome of the public participation. Moreover, the Party concerned must adapt the manner in which it evaluates NREAPs, accordingly. *(Paragraph 98 of document ECE/MP.PP/C.1/2012/12)*

	(see findings on communication ACCC/C/2006/16 (Lithuania), ECE/MP.PP/2008/5/Add.6, para. 69). […] The Committee furthermore points out that a targeted consultation involving selected stakeholders, including NGOs, can usefully complement but not substitute for proper public participation, as required by the Convention. *(Paragraph 83 of document ECE/MP.PP/C.1/2012/12)*	
ACCC/C/2010/54 Case concerning the European Union (Document ECE/MP.PP/C.1/2012/12) Article 3 (1)	Taking into account the distinctive structure of the Party concerned and the allocation of responsibilities between the EU and its member States, the only way for the Party concerned to implement article 7 by means other than legislative measures would be to provide a clear regulatory framework and/or clear instructions to member States on how to ensure public participation with respect to NREAPs, to be enforced through appropriate measures by the Party concerned. […] *(Paragraph 87 of document ECE/MP.PP/C.1/2012/12)*	The Committee finds that the Party concerned: […] c) By not having in place a proper regulatory framework and/or clear instructions to implement and proper measures to enforce article 7 of the Convention with respect to the adoption of NREAPs by it member States on the basis of Directive 2009/28/EC has failed to comply also with article 3, paragraph 1, of the Convention (para. 86). *(Paragraph 97 of document ECE/MP.PP/C.1/2012/12)* The Committee […] recommends that the Party concerned adopt a proper regulatory framework and/or clear instructions for implementing article 7 of the Convention with respect to the adoption of NREAPs. This would entail that the Party concerned ensure that the arrangements for public participation in one of its member States are transparent and fair and that within those arrangements the necessary information is provided to the public. In addition, such a regulatory framework and/or clear instructions must ensure that the requirements of article 6, paragraphs 3, 4 and 8, of the Convention are met, including reasonable time frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively, allowing for early public participation when all options are open, and ensuring that due account is taken of the outcome of the public participation. Moreover, the Party concerned must adapt the manner in which it evaluates NREAPs, accordingly. *(Paragraph 98 of document ECE/MP.PP/C.1/2012/12)*

ACCC/C/2012/68 Case concerning the European Union and the United Kingdom of Great Britain and Northern Ireland (Document ECE/MP.PP/C.1/2014/5) Article 7	NREAPs are plans or programmes under article 7 of the Convention (see findings on communication ACCC/C/2010/54, para. 75) and as such are subject to public participation. The fact that the United Kingdom's Renewable Energy Strategy, which informed the NREAP, was subject to public participation does not affect this conclusion, given their different legal status and functions in the EU and United Kingdom legal framework, respectively. *(Paragraph 100 of document ECE/MP.PP/C.1/2014/5)*	The Committee finds that because the United Kingdom's NREAP was not subjected to public participation, the Party concerned (United Kingdom) failed to comply with article 7 of the Convention. *(Paragraph 106 of document ECE/MP.PP/C.1/2014/5)* The Committee, […] recommends that the Meeting of the Parties, […] recommend to the Party concerned (United Kingdom) to in future submit plans and programmes similar in nature to NREAPs to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention. *(Paragraph 108 of document ECE/MP.PP/C.1/2014/5)*
ACCC/C/2012/70 Case concerning the Czech Republic (Document ECE/MP.PP/C.1/2014/9) Article 7	Whether the application at issue falls under article 7 of the Convention is determined by the following two criteria: whether the document is a plan or programme and whether it is related to the environment. First, what constitutes a "plan" is not defined in the Convention. The fact that a document bears in its title the word "plan" does not necessarily mean that it is a plan under article 7 of the Convention; rather, it is necessary to consider the substance of the document (see findings on communications (ECE/MP.PP/C.1/2006/4/Add.2), para. 29; ACCC/C/2005/11 (Belgium) ACCC/C/2005/12 (Albania) (ECE/MP.PP/C.1/2007/4/Add.1), para. 65; and ACCC/C/2008/27 (United Kingdom of Great Britain and Northern Ireland) (ECE/MP.PP/C.1/2010/6/Add.2), para. 41). For instance, in the present case, the document at issue was an "application" that included the "national investment plan". The Committee looks at the contents and the legal effects of the application as a whole, to determine whether it falls under article 7 of the Convention. It is acknowledged that the application relates to the environment since it proposes measures in the energy sector that affect or are likely to affect the elements of the environment. This is further supported by the fact that paragraph 60 of the 2011 Guidance Document states that "any application submitted by a member State should be considered environmental information".	The Committee finds that: (a) The application, including its national investment plan, prepared by the Party concerned under the revised rules for the EU ETS is a plan within the purview of article 7 of the Convention and therefore article 6, paragraphs 3, 4 and 8, apply to its preparation (para. 53). *(Paragraph 65 of document ECE/MP.PP/C.1/2014/9)*

	Among other things, the Czech application for the allocation of free emission allowances proposed measures for investment into equipment and for the modernization of infrastructure and clean technologies in the electricity sector for a period of seven years. To this end, the accompanying plan envisaged the implementation of 350 projects throughout the territory. Through the application, including the accompanying documentation, the Party concerned set out its investment direction in the sector and proposed specific projects for the accomplishment of the plan. On the basis of this, the Committee finds that the application, including the accompanying documentation, is a plan under article 7 of the Convention. It is submitted by the Party concerned that once approved by the Government and submitted to the Commission, the application underwent considerable changes. The Committee notes that article 7 requires appropriate provisions to be made for the public to participate during the preparation of the plan. Whether the plan was further amended when it passed to the next level of government (i.e., the Commission) before its finalization and adoption does not alleviate the obligations arising for the Party concerned during the period that it carried the main responsibility for the preparation of the substantive elements of the application. For these reasons, the Committee finds that the application, including its national investment plan, prepared by the Party concerned under the revised rules for the EU ETS, is a plan within the purview of article 7 of the Convention and therefore article 6, paragraphs 3, 4 and 8, apply to its preparation. *(Paragraphs 48-53 of document ECE/MP.PP/C.1/2014/9)*	
ACCC/C/2012/70 Case concerning the Czech Republic (Document ECE/MP.PP/C.1/2014/9) Article 6 (3)	The Committee considers that providing the public with seven days to get acquainted with the draft documents and to submit comments, let alone allowing it one day for the same purpose, cannot be considered a reasonable time frame for the public to prepare and participate effectively in the preparation of a document of the magnitude of the national investment plan. *(Paragraph 57 of document ECE/MP.PP/C.1/2014/9)*	The Committee finds that: […] (b) By not providing sufficient time for the public to get acquainted with the draft and submit comments, the Party concerned failed to comply with article 7, in conjunction with article 6, paragraph 3, of the Convention (para. 57). *(Paragraph 65 of document ECE/MP.PP/C.1/2014/9)*

		The Committee […] recommends that the Party concerned, in future, submits plans and programmes similar in nature to the national investment plan to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention. *(Paragraph 67 of document ECE/MP.PP/C.1/2014/9)*
ACCC/C/2012/70 Case concerning the Czech Republic Document (ECE/MP.PP/C.1/2014/9) Article 7	[A]rticle 7 provides that "the public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention". This provision should not be used by public authorities in a way so as to restrict public participation, but rather as a way of making public participation more effective. In the present case, it is accepted that the input by private stakeholders engaged in electricity production was essential in that it provided specific technical details indispensable for the preparation of the application. The Committee considers that there was a considerable span of time for participation of private stakeholders compared to that granted to other members of the public, to the extent that the authority exercised its discretion in a way that ran counter to the objectives of the Convention; in particular "to encourage widespread public awareness of, and participation in, decisions affecting the environment and sustainable development" by involving, among others, NGOs promoting environmental protection. While the closer inclusion of the private stakeholders in the process may have been justified, there was still an obligation on the public authority to act in accordance with the objectives of the Convention and not to abuse this provision to effectively bar or significantly reduce the effective public participation of other members of the public. *(Paragraph 59 of document ECE/MP.PP/C.1/2014/9)*	
ACCC/C/2012/70 Case concerning the Czech Republic (Document ECE/MP.PP/C.1/2014/9) Article 6 (8)	The Committee notes that for decisions on specific activities, fulfilment of the requirement of article 6, paragraph 8, is to be proven through fulfilment of article 6, paragraph 9. In contrast, a requirement to make accessible the reasons and considerations on which the decision is based is not expressly provided for in article 7 of the Convention. Nevertheless, the Party concerned has the obligation to demonstrate that it has fulfilled its obligations under article 6, paragraph 8. The Committee notes that in the process of preparing a plan this obligation could be fulfilled by following the procedure set out in article 6, paragraph 9, or any other way the Party	The Committee finds that: […] By failing to show through its written and oral submissions how the outcome of public participation was duly taken into account, the Party concerned failed to comply with article 6, paragraph 8, of the Convention (para. 63). *(Paragraph 65 of document ECE/MP.PP/C.1/2014/9)* The Committee […] recommends that the Party concerned,

	concerns chooses to demonstrate that it has taken "due account" of the outcome of the public participation. […] The Party concerned was not able to show through its written and oral submissions how the outcome of public participation was duly taken into account. The Committee appreciates that the Party concerned had to operate under extremely tight deadlines to ensure that its application to the Commission was submitted within the set deadline and that free allowances were eventually awarded for the transitional period 2013–2019 according to the new EU regime on ETS. Nevertheless, the Committee considers that the application at issue certainly did not constitute an emergency situation and that there would have been a possibility for enhanced openness and transparency of the process from its start in October 2009, so that public participation would not have been jeopardized. *(Paragraphs 62-63 of document ECE/MP.PP/C.1/2014/9)*	in future, submits plans and programmes similar in nature to the national investment plan to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention. *(Paragraph 67 of document ECE/MP.PP/C.1/2014/9)*