



NATIONS UNIES
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17 April 2008

Ms. Emmanuelle Swynghedauw
Project Manager
Ministry of Ecology and Sustainable Development
20 avenue de Ségur
75302 Paris 07 SP
Fax: + 33 1 42 19 17 72

Dear Ms. Swynghedauw,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by France with the provisions of the Convention in connection with decision-making process for a domestic waste disposal plant (Ref. ACCC/C/2007/22)

On 21 December 2007, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication submitted by Mr. Jean-Daniel Chetrit of Cabinet Pichavant-Chetrit, Paris, on behalf of L'Association de Defense et de Protection du littoral du Golfe de Fos-sur-Mer, le Collectif Citoyen Sante Environnement de Port-Saint-Louis-du-Rhone and Fédération d'Action Régionale pour l'Environnement (FARE Sud) and addressed to the Compliance Committee of the Convention regarding compliance by the France with certain provisions of the Convention. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

Please find enclosed a copy of the communication, which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7. The communication has been registered under the symbol ACCC/C/2007/22, which you are invited to cite in future correspondence on the matter.

The Compliance Committee, having considered the admissibility of the communication at its nineteenth meeting (5-7 March 2008), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter, any written explanations or statements clarifying the matter referred to

in the communication and describing any response that may have been made in the mean time.

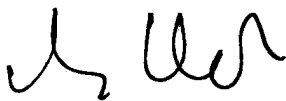
In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to submit further details related to some of the matters raised in the communication by addressing the following questions:

1. Please clarify how French legislation meets the Aarhus Convention requirements with respect to the issues raised by the Communicant.
2. What is the legal relationship between the different decisions made for the waste management plant? Is the decision made by Marseille Provence Métropole Urban Community (CUMPM) on 20 December 2003 binding in all respects for the subsequent decision-making concerning the waste management plant, or could it somehow be altered by later decisions in which public participation took place? For instance, after 20 December 2003, was the location of the plant in any respect reconsidered in the procedure leading to the decisions made on 13 May 2005 or 12 January 2006?
3. Some EC directives are intended to implement the Aarhus Convention in the EU member states. Please indicate how the different decision-making procedures in the case relate to the requirement for public participation set out in the applicable EC directives.
4. Waste management plants such as the one in Fos-sur-Mer are covered by the European Community legislation requiring environmental impact assessments, including public participation. How did applicable EC legislation affect the preparation for the decisions concerning the plant, if it did?
5. Please clarify the role of the Commission d'enquête in the decision-making and its legal impact for the decision-making in environmental matters. Please also explain if the Commission d'enquête is considered a means to implement the Aarhus Convention.

Additional questions have also been raised in a letter to the communicant, a copy of which is attached for your information. Should you wish to address them, you are welcome to do so.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates

Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Mr. Jean-Daniel Chetrit, Attorney, Cabinet Pichavant-Chetrit, Paris

Encs. Communication ACCC/C/2007/22 (incl. 52 addenda sent as part of the package by post only)
Informal English translation of the text of the communication and its Annex A
Preliminary determination on admissibility
Copy of letter to Mr. Jean-Daniel Chetrit, Attorney, Cabinet Pichavant-Chetrit, Paris
Datasheet on the communication