



YOUR LETTER OF 8 February 2008

YOUR REF -

OUR REF DGE nv/AMS/Compliance Committee

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Mr. Jeremy WATES

Secretary

Aarhus Convention

UNECE - Environment, Housing and Land
Management Division

Palais des Nations, room 332

1211 Genève

SUISSE

SUBJECT Belgian case (Communication ACCC/C/2005/11) - New developments related to the implementation of recommendations made by the Compliance Committee

Dear Mr. Wates,

With regard to the above subject, I would like to inform the Compliance Committee on progress and development made on access to justice in Belgium since the Compliance Committee submitted its findings and recommendations in June 2006.

As already mentioned in a letter from the previous Minister of Environment (Mr. Tobback) on 27 April 2006, the communication made by Bond Beter Leefmilieu was first the occasion to hold a round table on access to justice within the Parliament. This event took place on 15 May 2006 and was very important in highlighting the problems that NGOs are facing in administrative and judicial procedures.

After this debate, a parliamentarian took a legislative initiative to amend the law on the Council of State in order to overcome the shortcomings arisen from its jurisprudence. Several others parliamentarians joined this initiative which became a proposal for a new bill aimed at modifying the coordinated laws on the Council of State in view with granting associations the right to introduce a collective interest action (See annex 1: Proposition de loi modifiant les lois coordonnées sur le Conseil d'Etat, en vue d'accorder aux associations le droit d'introduire une action en intérêt collectif). Unfortunately and as stated in the implementation report of Belgium, this private bill could not pass through the whole legislative process as the Parliament was dissolved on 1st May 2007 in view of the legislative elections of June 2007. On a legally point a view, this private bill was declared in a state of being null and void.

On 25 January 2008 the Council of Ministers, on the proposal of the current Minister of Environment (Mr. Magnette) and with the active support of NGOs, approved the reinstallation of this private bill for consideration and vote within the new parliament. On 31 January 2008 the Government introduced its proposal to the Chamber of the Representatives of the Parliament (see annex 2). On 18 February 2008, the Commission on internal affairs of the Chamber of Representatives considered and approved the proposal of the Government to reintroduce this bill as well as nine others concerning other topics. It is now up to the plenary assembly of the Chamber of the Representatives to have a vote on it.

After the vote on the bill reintroducing 10 private bills, the next step to be taken on the specific private bill on access to justice would be to launch the parliamentary procedure on that issue. So, even if a long way has still to be done before the private bill on access to justice could be approved, that is however a very good starting point and a positive message from the current government. We hope that for MOP3 Belgium would have a positive answer regarding the issue on this private bill on the Council of State.

Furthermore, in order to make also progress for judicial procedures, the previous Federal Minister of Environment had proposed a bill modifying the law of 12 January 1993 concerning a right of action in environmental matters. Indeed, it became apparent that after ten years of applying the law, it was time to assess its reach as well its efficiency. The main objective of this modification was to fill the gaps and restore the main objective of the law. This way, the bill could also have offered an extended access to justice for NGOs to contest infringements of the environmental law in accordance with article 9.3 of the Convention.

However, and as stated in the implementation report, it was not possible for the Parliament, due to a lack of time, to consider this bill due to its dissolution. When the new government will be put in place at federal level after the 23rd March 2008, it is the intention of the Ministry of Environment to propose this dossier as priority to the new Minister of Environment for further discussion and approval among the new government.

Next to those legislative initiatives, the Federal Ministry of Environment has also launched collaboration with the Ministry of Justice for promoting the awareness of the Convention and in particular its provisions on access to Justice. Two different actions were taken. First, it was decided to include the Aarhus Convention as a part of the training programme for magistrates and legal trainees for 2006 and 2007. Secondly, in order to promote the knowledge and consciousness of judges and future judges on environmental law, the participants in the training sessions received doctrine books from the Federal Ministry of Environment in 2007. Those two forms of collaboration should be extended in 2008 as well.

I hope in the next few months to be in a position to deliver to the Compliance Committee a positive message regarding the outcome of the private bill aimed at modifying the coordinated laws on the Council of State in view with granting associations the right to introduce a collective interest action.

Yours sincerely,



Maud ISTASSE
Federal Focal point for the Aarhus Convention