Summary of events regarding the UK's progress in implementing the recommendations of the Compliance Committee in communications ACCC/C/2008/33 and others
June 2011

1. We would like to draw the attention of the State parties to the Convention to the United Kingdom's (UK) lack of progress in implementing the recommendations of 24 September 2010 of the Aarhus Convention Compliance Committee in relation to communication ACCC/C/2008/33.

2. The Compliance Committee found that court costs in England & Wales were prohibitively expensive, the system as a whole did not remove financial barriers to access to justice and time limits in judicial review were unclear, all in breach of Article 9 of the Aarhus Convention.

3. In previous correspondence, the UK has explained to the Compliance Committee a number of actions it intended to take to ensure compliance with the Aarhus Convention, including

   a. Changes to the rules on protective cost orders in England and Wales, which were to take place in April 2011: The proposals made were inadequate because, among other reasons, the suggested £25,000 cost cap would have continued to be prohibitively expensive for most ordinary citizens. In any case, none of the promised changes have been made. Their implementation is still being considered 'in the light of recent developments', thereby causing a potentially indefinite delay to the necessary changes.

   b. Changes to the costs regime, in particular through the introduction of 'qualified one way cost shifting': On 29 March 2011, the government published its response to its consultation exercise on this. The response shows no intention of applying 'qualified one way costs shifting' to environmental cases. Therefore, a change of the current rules is unlikely in this context.

   c. Consultation on cross-undertakings in damages in environmental judicial review: The government have yet to respond to this consultation.

4. In addition, changes to the rules on legal aid in England & Wales will further restrict the availability of legal aid, making it impossible for the UK to implement the findings of the Compliance Committee on complying with Article 9(5) of the Aarhus Convention.

Conclusion

5. The UK has failed and continues to fail to address the Compliance Committee's findings in relation to costs so as to ensure compliance with the Aarhus Convention.

6. We therefore call on all the State Parties to the Convention to support the decision to endorse the findings of the Compliance Committee[1] with regard to breaches of Article 9 of the Aarhus Convention.

Anais Berthier
Environmental Justice Lawyer
T 00 32 (0)2 808 34 68
e aberthier@clientearth.org

ClientEarth is a non-profit environmental law organisation based in London, Brussels and Warsaw. We are activist lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.

As legal experts working in the public interest, we act to strengthen the work of our partner organisations. Our work covers climate change and energy system transformation, protection of oceans, biodiversity and forests, and environmental justice

ClientEarth is funded by the generous support of philanthropic foundations and engaged individuals and with operational support from the European Commission's Life+ programme

ClientEarth

Brussels	**London**	**Warsaw**
4ème Etage	274 Richmond Road	Aleje Ujazdowskie 39/4
36 Avenue de Tervueren	London E8 3QW	00-540 Warszawa
Bruxelles 1040	UK	Poland
Belgium		

www.clientearth.org
June 2011

---

[1] Findings and Recommendations with regard to communication ACCC/C/2008/33 (ECE/MP.PP/C.1/2010/6/Add.3)