

From: Ole Kristian Fauchald <o.k.fauchald@jus.uio.no>
To: aarhus compliance <aarhus.compliance@unece.org>, Fiona Marshall
<Fiona.Marshall@unece.org>
Cc: Ekeberg Beate Berglund <Beate-Berglund.Ekeberg@kld.dep.no>, "Prum Norry Long" <Norry-Long.Prum@kld.dep.no>, "mission.geneva@mfa.no" <mission.geneva@mfa.no>
Date: 02/05/2017 16:22
Subject: RE: ACCC/C/2013/93 (Norway) - Party concerned's comments on draft findings

To the Aarhus Compliance Committee, att. Fiona Marshall,

Thank you for forwarding the Party concerned's comments on draft findings. I note that while I submitted my comments within the deadline set by the Committee, the Party concerned failed to comply with the deadline without providing any reasons as to why it was unable to comply with the deadline. Moreover, I note that the Party concerned only sent me a copy of its submission the day after the submission had been forwarded to me by the Secretariat.

The submission of the Party concerned includes several paragraphs which argue against my comments. Moreover, it includes new materials that the Party concerned could have submitted previously, which in my view raises new issues in the case (the question concerning whether the measures taken by the Ombudsman to secure timely proceedings in these cases are in line with the requirements of Article 9).

I refer to page 2 of my comments where I write the following: "Finally, I hope that if the Party concerned is allowed to present new facts or arguments in response to my comments, the Committee will provide me an opportunity to comment on such facts or arguments." If the Committee intends to consider the arguments related to my submission as presented by the Party concerned, or to consider the new materials submitted by the Party concerned, I hope to be given such an opportunity.

Finally, I note the following statement at the end of the Party concerned's submission: "Should the Committee despite this consider making changes to its findings, we would like to ask for reasonable time to comment upon the comments from the Communicant before any changes are considered." I encourage the Committee to consider whether such a procedure would be in accordance with the Committee's mandate, in particular in light of Article 15 of the Convention which requires the procedure to be of a "non-confrontational, non-judicial and consultative nature".

Yours sincerely,
Ole Kristian Fauchald