
I. Information on correspondent submitting the communication

John Damm Sørensen



II. Party concerned

The Danish Ombudsman and The Environmental Board of Appeal

III. Length of the communication

The communication should be no more than **ten A4 pages**. If in an exceptionally complex case more than ten pages are required, in no circumstances should the communication be longer than twenty A4 pages.

IV. Facts of the communication

In a case about assessing the possible environmental effects of plans (EIA) to expand a rowing stadium in Gladsaxe Municipality, Denmark I made some comments that the Gladsaxe Municipality chose to ignore.

In March 2015 the Gladsaxe and Lyngby-Taabæk Municipalities had invited any citizen interested in the project to comment the EIA.

Excerpt from the invitation found here <http://kortlink.dk/gladsaxe/pzpd> :

*"Borgermøde 4. marts
Som en del af VVM-processen inviteres både interessenter og almindelige borgere til dialog om projektet. VVM-redegørelsen sendes derfor i 8 ugers høring. Alle med interesse i projektet er velkomne til at komme med høringssvar til redegørelsen senest 24. marts 2015. Høringssvarene skal sendes til byplan-dinmening@gladsaxe.dk Der er desuden borgermøde på rådhuset 4. marts, hvor der vil være mulighed for at stille spørgsmål."*

My translation of the excerpt:

*"Public meeting on March 4
As part of the EIA process stakeholders and the general public are both invited to the dialogue about the project. EIA is therefore sent in the 8-week consultation. Anyone interested in the project are invited to submit their comments to the report by 24 March 2015. Consultation responses should be sent to byplan-dinmening@gladsaxe.dk There is a public meeting at City Hall on March 4, when there will be an opportunity to ask questions ."*

My comments were about not assessing alternatives to the proposed plans. In the comments I pointed out that a real alternative existed and that it would provide better living conditions for the protected species, bats. The proposed project will have a documented negative effect on the protected species. I also pointed out that the assessment did not purely relate to environmental issues, but merely dealt with the rowers conditions and interests.

As the Gladsaxe Municipality rejected my comments I filed an official complaint to The Environmental Board of Appeal. After some months the Board decided to refuse my complaint stating that because I live 1.2 km. from the lake in question I would have no legal interest in the case. The area around the lake is my primary recreational area that I have used on a regular basis during the last 40 years.

I challenged this decision by filing a complaint at The Danish Ombudsman who lately ruled that he would not consider my complaint at all stating that he unlikely would find reasons to criticize the decision made by The Environmental Board of Appeal.



Map showing Lake Bagsværd and my home address (blue dot in lower right corner)

V. Provisions of the Convention alleged to be in non-compliance

It is my believe that according to the Aarhus convention I as an individual am entitled to fast, easy and fair trial of comments to plans involving environmental issues in connection with the EIA process. It is further more me belief that The Aarhus Convention has no provision to exclude people from commenting plans regarding environmental issues. On the contrary The Aarhus Convention makes provisions for a wide definition of people with interests in EIA procedures.

From the preamble of the Aarhus Convention:

Recognizing also that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both

individually and in association with others, to protect and improve the environment for the benefit of present and future generations,

Denying me this access to a fair trial is in my opinion a non-compliance issue. Furthermore the Danish State has failed to put in place legislation that fulfils the requirements outlined in Article 9 of the Aarhus Convention.

Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In particular:

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention.

The Danish State has failed to implement laws defining “legal interest” and as such individuals filing a complaint are left without a chance to know whether they have a “legal interest” in the matter on beforehand.

Nevertheless it is my opinion that I as an individual in the light of the above mentioned objective has such “legal interest” that I should be entitled to have case judged by The Environmental Board of Appeal.

Therefor I urge the Aarhus Committee to investigate whether the Danish State has failed to correctly implement the Aarhus Convention in national law and failed to provide definitions of the term “legal interest” in EIA matters in any law.

VI. Nature of alleged non-compliance

The Environmental Board of Appeal and the Danish Ombudsman both denied my rights to have my complaints tried by a higher level. I believe this is not in compliance with the main purpose of The Aarhus Convention to involve the public in matters concerning environmental issues, especially EIA processes.

The Danish administrative rule “legal interest” is non-compliant with The Aarhus Convention as it is put in place in order to limit the (knowledgeable) public from participating in the official debate about environmental issues thereby eliminating valuable information from the process.

VII. Use of domestic remedies

See above description of how I have made comments to the Gladsaxe Municipality's assessment of plans (EIA process), the complaint to The Environmental Board of Appeal and The Danish Ombudsman.

I feel I have exhausted my domestic remedies in the same way as in a case formerly handled by the committee concerning the Danish database VetStat (Case 28 (2008): Denmark: Knud Haugmark).

VIII. Use of other international procedures

None.

IX. Confidentiality


I do not request confidentiality.

X. Supporting documentation (copies, not originals)

The Danish Ombudsman has declined to produce an English version of his rulings. As a retired person I have limited budgets and cannot afford an official translation.

XI. Signature

John Damm Sørensen

A handwritten signature in black ink on a light background. The signature is cursive and appears to read 'John Damm Sørensen'.

XII. Sending the communication

E-mail: aarhus.compliance@unece.org

“Communication to the Aarhus Convention Compliance Committee”