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12 December 2015

## Secretary to the Aarhus Convention Compliance Committee

Economic Commission for Europe

Environment, Housing and Land

Management Division

Bureau 348

Palais des Nations

CH-1211 Geneva 10

Switzerland

### Re: Decision V/9k concerning compliance by Spain with its obligations under the Aarhus Convention

After reading the second report sent by Spain related to the DECISION V/9K CONCERNING COMPLIANCE BY SPAIN WITH ITS OBLIGATIONS UNDER AARHUS CONVENTION of OCTOBER 15TH 2015, we can extract two main conclusions in relation with point II.b (FOLLOW-UP ACTION WITH DECISION V/9K):

**First:** Spain has not taken any measure to remove the barriers to access to justice as maintained by DECISION V/9K. Apart of words Spain has not done anything, this is so evident that it will be a waste of time to add anything more.

**Second:** Spain maintain that "Legal Aid Commissions as well as Judges and Courts are increasingly recognizing that right within the scope of Law 27/2006."

Actually, the stubborn facts show another different thing. As attached annex 1, we send a copy of the judgment of ADMINISTRATIVE CHAMBER OF THE VALENCIA SUPERIOR COURT OF JUSTICE - SECTION 1.

The judgment argues that *"Since Spanish legislation does not recognize the right to access to legal aid to environmental organizations, non-profit organizations that meet the requirements for the exercise of popular action, as set out above, thus being lawful reason invoked by the Commission for the denial of legal aid, Article 23.2 of Law 1/1996 not be the plaintiff, an association of public utility under Article 32 of the organic Law 1/2001 regulating the right of association."*

We must remember the FINDINGS AND RECOMMENDATIONS OF THE COMPLIANCE COMMITTEE WITH REGARD TO COMMUNICATION ACCC/C/2009/36 CONCERNING COMPLIANCE BY SPAIN WITH ITS OBLIGATIONS UNDER THE CONVENTION, of the Committee of the Aarhus Convention:

66. The Committee notes that the present system on legal aid, as it applies to NGOs, (see para. 15 above) appears to be very restrictive for small NGOs. The Committee considers that by setting high financial requirements to an entity to qualify as a public utility entity and thus enable it to receive free legal aid, the current Spanish system is contradictory. Such a financial requirement challenges the inherent meaning of free legal aid, which aims to facilitate access to justice for the financially weaker. The Committee finds that instituting a system on legal aid which excludes small NGOs from receiving legal aid provides sufficient evidence to conclude that the Party concerned did not take into consideration the establishment of appropriate assistance mechanisms to remove or reduce financial barriers to access to justice. Thus, the Party concerned failed to comply with article 9, paragraph 5, of

the Convention, and failed to provide for fair and equitable remedies, as required by article 9, paragraph 4, of the Convention.

73. Finally, the Committee finds that by failing to consider providing appropriate assistance mechanisms to remove or reduce financial barriers to access to justice to a small NGO, the Party concerned failed to comply with article 9, paragraph 5, of the Convention, and failed to provide for fair and equitable remedies, as required by article 9, paragraph 4, of the Convention (see para. 66 above); and also stresses that maintaining a system that would lead to prohibitive expenses would amount to non-compliance with article 9, paragraph 4, of the Convention (see para. 67 above).

There is no doubt that we are as at the beginning. No measure has been taken to correct the Spanish legislation.

Almendralejo, 12 December 2015  
The President

A handwritten signature in blue ink, appearing to read 'Félix Lorenzo Donoso', is written over a light yellow rectangular background.

Félix Lorenzo Donoso  
*Plataforma Contra la Contaminación de Almendralejo*