

## COMMUNICANTS STATEMENT TO THE 52<sup>nd</sup> MEETING OF THE AARHUS CONVENTION COMPLIANCE COMMITTEE

To the Aarhus Convention Compliance Committee members,

Firstly we would like to thank this Committee for letting us to participate through phone in the 52<sup>nd</sup> Meeting, to express our views about the Second Progress Report regarding Decision V/9k and to make comments in relation of the declarations and the position of the Party concerned (Spain) in this meeting.

Secondly we recall again, as in previous comments to the Progress Reports made by the Party concerned, the clear statements made by the Meeting of the Parties in the Decision V/9k regarding *"the need of overcome the remaining obstacles to the full implementation of article 9, paragraphs 4 and 5, of the Convention with respect to legal aid to NGOs"* and by the Compliance Committee in the Findings and Recommendations of Case ACCC/C/2009/36 (paragraphs 66 and 73) and in the First Progress Review of the implementation of Decision V/9k, where *"the Committee awaits the Party concerned's confirmation that the new Law on Free Legal Aid, including the provisions on free legal aid for environmental NGOs, has been adopted"*.

Thirdly we want to remark the declarations of the Party concerned in the Second Progress Report assuming that *"near the end of the current Legislature, (December 2015) Law 1/1996 on Legal Aid, **has not been extensively modified. Only**, in the context of the amendment of the Civil Procedure Law and in order to optimize the economic resources available, two types of beneficiaries: victims of terrorism and victims of domestic violence, can obtain free legal aid irrespective their economic resources, understanding that because of human rights, this new provision was essential."*

After five years of struggle, participation and continuous campaigning from the side of environmental NGOs, once the Law of Free Legal Aid's reform has failed to comply with the Aarhus Convention, we can affirm that we are in the same position as at the beginning: the facts for the Communication ACCC/C/2009/36 remain in our country, it means, there is no clear framework for NGOs for legal aid schemes in environmental cases and may NGOs are having the same troubles as the communicant of Case 36.

Despite the opinion of MAGRAMA (Ministry of Environment) about the need of the law reform expressed in the "Study on Access to Justice" dated in December 2013 regarding Decision IV/9f, no authority of legislative body in the Party concerned has taken seriously the "non-compliance" status declared by the Aarhus Convention's Meeting of the Parties and the international duty to change the legal situation of legal aid.

Curiously, the Aarhus Focal Point of the Party Concerned in its last Reports, after the failure of the Free Legal Aid Law Reform, affirms that:

- The Spanish environmental legal system complies with the Convention's provisions in the award of free legal aid to environmental NGOs.
- Legal Aid Commissions as well as Judges and Courts are increasingly recognizing that right within the scope of Law 27/2006.

Sadly, we want to express our deep concerns regarding these declarations as we:

- Support the need of a "law reform" as the only way to comply with the Aarhus Convention.
- Proof with administrative and judicial documents attached to our Second Report's comments, that the Legal Aid Commissions as well as Judges and Courts are not recognizing the right of legal aid within the scope of Law 27/2006 and they ask for financial requirements of Law 1/1996, as analyzed in Case 36.

We strongly recommend the Party concerned to persevere and insist on the law reform to fulfill its obligation with the Aarhus Conventions articles 9.4 and 9.5, putting the serious argument of the attention by the national authorities to an international duty recognized in a ratified Treaty.

For the above mentioned reasons we ask the Compliance Committee, in accordance with the previous declarations of the MOP and the own ACCC, to declare or to keep the "non-compliance" status of Spain as the situation regarding legal aid for environmental NGOs remains as in 2009.

Almendralejo and Murcia (Spain), 12 April 2016.

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