

**DECISION V/9K CONCERNING COMPLIANCE BY SPAIN WITH ITS OBLIGATIONS  
UNDER AARHUS CONVENTION**

**OCTOBER 15<sup>TH</sup> 2015**

**I. INTRODUCTION**

1. At its fifth session (Maastricht, 30 June-1 July 2014), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters adopted decision V/9k on compliance by Spain with its obligations under the Convention.

**II. FOLLOW-UP ACTION WITH DECISION V/9K**

**II. a) Murcia City Council's fees for provision of environmental information**

2. By email of 12 September 2014, the Focal Point informed the Committee that an Ordinance regulating the fees for environmental information at **the national level** had been formally adopted and published in the Party's Official Gazette, as well as in the website of the Ministry of Agriculture, Food and the Environment (MAGRAMA). The content of this Ordinance was notified to the Communicant, and the Murcia City Council. Spain also reported that the Ordinance had been posted on the website of the Ministry of Agriculture, Food and the Environment (MAGRAMA).

3. In its first progress report, Spain reported that, in accordance with paragraph 5 of decision V/9k, the necessary measures had been taken as a matter of urgency to ensure that the fees charged by the Murcia City Council for the provision of copies of land use and urban planning information were reasonable. The Party stated that Murcia City Council had confirmed that as of 1 January 2015, municipal taxes would be modified, inter alia, with the purpose to put the fees for urban planning information at the same level as environmental information and to reduce the taxes for environmental information to the same level as for environmental information in the State General Administration.

4. The Committee invites the Party to provide

- a) The relevant excerpt of the Murcia Official Gazette, together with an English translation to demonstrate that the fees described in paragraph 8 of the first report has entered into force.
- b) The necessary documentation together with an English translation thereof, to demonstrate that the fees described are set out in a publicity available schedule.

5. The new fees were modified by the Murcia City Council on 30/10/2014 published in ther Oficial Gazzette **24/12/2014 and entered into force from 01/01/2015**. (see Annex)

6. Article 8º of the Murcia's Ordinance provides the following:

## EXEMPTIONS AND BONUSES

### Article 8.

#### 1. Delivery of administrative documents:

- a) The deliveries of copies or photocopies dispatched from documents, agreements or records held by the municipal offices or files relating to section 1.2 of the tariff, as well as records relating to urban planning and environmental information, less than 20 pages of A4 format, and sending information electronically, **are exempted of payment**

#### 7. Fees

Copies or photocopies of documents, agreements or records held by the Offices or municipal archives, even simple without authentication, each page:

a) Hard copy:

For every copy in black and white (A4). From the twentieth  
(19 first pages exempted) ..... 0.03 euros / page  
For every copy in black and white (A3) .....0.04 euros / page  
Each color photocopy (DIN A4). From the twentieth  
(19 first pages exempted) ..... 0.12 euros / page  
Each color photocopy (DIN A3) .....0.25 euros / page  
Per m2 flat in black and white .....0.42 euros  
Per m2 of flat color .....1.10 euros

#### 8. The fees in force in Murcia City are available in the following website:

[www.murcia.es/web/portal/normativaylegislacion](http://www.murcia.es/web/portal/normativaylegislacion)

### **II. b) Legal aid for environmental ONGs**

9. In the context of the implementation of decision IV/9f of the Meeting of the Parties Spain carried out a Study on Access to Justice in environmental matters. Concerning free legal aid to NGOs, it expressed that, even article 23.2 of the Law 27/2006 on access to information, public participation in decision making and access to justice in environmental matters, provides the following:

***“Non-profit legal persons referred in the precedent section will have the right to free legal aid in the terms provided by Law 1/1996 (10 January) on Free Legal Aid”,***

The sense of interlinkages between the Law 1/1996 on Free Legal Aid and Law 27/2006 was not as clear and unambiguous as would be desirable and, thus,

MAGRAMA had expressed its positive approach for a possible review of the current regulation in order to redress the current disparity of interpretation on legal aid to NGOs.

10. Spain stated in various opportunities that the review of the Spanish national legislation on legal aid, as previously reported to the Compliance Committee, was still ongoing, and has informed the Committee about the procedural steps of this dossier.
11. 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 of their economic resources, understanding that because of human rights, this new provision was essential.
12. In any case, we have to take into account that Law 27/2006 remains in force, recognizing in its Article 23.2 the right to legal aid to environmental NGOs that meet a number of requirements and under the terms provided in Act 1 /1996:
  1. Their bylaws must include as the association's goal the protection of the environment or of any of its elements
  2. The association must be legally constituted at least 2 years before the date in which the action is initiated; it must remain active in achieving its goals.
  3. A geographical connection (established in their bylaws) with the area affected by the act or omission.
13. Legal Aid Commissions as well as Judges and Courts are increasingly recognizing that right within the scope of Law 27/2006.
14. **In conclusion,**

The elimination of economic barriers for access to environmental justice is one of the objectives of article 9 of the Aarhus Convention, according to which *“each Party... shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice”*.

The Spanish environmental legal system to comply with the Convention's provisions is the award of free legal aid to non-profit legal persons meeting the requirements mentioned above, as provided by article 22 et seq. of Law 27/2006 regulating the rights of access to information, public participation and access to justice in environmental matters. The disparity of interpretation of this provision is progressively overcome.