

19 September 2018

Prof. Dr. Remo Klinger
Geulen & Klinger Rechtsanwälte
Berlin
Germany

Dear Prof. Dr. Klinger,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Germany with article 9, paragraph 3 of the Convention in connection with the Environmental Appeals Act

I refer to the communication submitted by the Environmental Association of German Environmental Aid (DUH) on 9 April 2018. The communication alleges that Germany has failed to comply with article 9, paragraph 3, of the Convention in connection with the scope of the “acts” that may be challenged under the Environmental Appeals Act.

As indicated in my email of 26 June 2018, the Chair and the Vice Chairs of the Compliance Committee have reviewed the communication and instructed the secretariat to ask you to further elaborate and substantiate various aspects of the communication before being forwarded to the Committee for a possible determination of preliminary admissibility. I write to provide guidance regarding the points which the Chair and Vice Chairs have identified as requiring further elaboration and substantiation.

Facts of the communication

1. Please specify the provisions of national law relating to the environment that you allege to have been contravened by the “acts” which were the subject of the proceedings brought by the DUH in the Administrative Courts of Schleswig and Düsseldorf. Please also provide the text of these provisions of national law, together with an English translation thereof.

Use of domestic remedies

2. Please list the various instances through which the judgments of the Administrative Courts of Schleswig and Düsseldorf may be appealed through to the highest instance, together with evidence to substantiate your assertion that national appeals typically require 2-5 years to be final.
3. Please provide a copy, together with an English translation thereof, of the refusal by the relevant authorities regarding your client’s request to appeal directly to the highest instance. If not in the text of the refusal itself, please also provide the text of the reasons given by the authorities for the refusal, together with an English translation thereof.

4. Please provide brief documentary evidence of DUH's appeals from the judgments of the Administrative Courts of Schleswig and Düsseldorf. What is the current status of each appeal proceeding?
5. With respect to your statement that the Party concerned has "not reported completely and truthfully in the proceedings before the Committee", either clearly substantiate this statement with appropriate evidence in the resubmitted communication or omit this assertion.

English translation of all annexes

6. Please note that the working language of the Committee is English. Accordingly, each annex should be submitted both in its original language and with an English translation of all relevant parts.

Resubmitting your communication

I would be grateful to receive DUH's re-submitted communication by **Monday, 8 October 2018** in order that it may be considered for a possible determination of preliminary admissibility by the Committee at its sixty-second meeting (Geneva, 5-9 November 2018). If you consider that a longer timeframe would be necessary in order to prepare the revised communication, you may wish to submit it by Monday, 21 January 2019, in order that it might be considered for a possible determination of preliminary admissibility at the Committee's sixty-third meeting (Geneva, 4-8 March 2019). The communication should be re-submitted by email to aarhus.compliance@un.org in clean text, using the Committee's required format, available at http://www.unece.org/fileadmin/DAM/env/pp/compliance/Format_for_communications_v13.02.2015.docx

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee