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Unofficial translation from the  
Spanish original

January 16, 2013

## Ministerio de Agricultura, Alimentación y Medio Ambiente

Vicesecretaría General Técnica

D<sup>a</sup>. María José Gómez García-Ochoa

Punto Focal del Convenio de Aarhus

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**SUBJECT:** PROPOSED AMENDMENT ACT LEGAL AID.

Mr. **Felix Lorenzo Donoso**, of legal age, with address for notifications at Guadalupe street 17, 06200 Almendralejo (Badajoz), DNI 9154113K, telephone 675 043 835, on behalf of the Plataforma contra la contaminación de Almendralejo, registered in the record of Ministry of Presidency Associations Junta de Extremadura with the number 3,829, to you, acts and, in the most appropriate in law,

### EXPOUNDS

Dear Madam:

We get in touch with you in order to get information about our proposal to amend the Legal Aid Act.

In our letter dated December 3, 2012, we presented some suggestions for modifying the above Act, specifically the draft that had been prepared in current Law on amendments to the Law 1/1996, of January 10 Legal Free Aid . At the same time referred to the resolution that was made at the Meeting of the Parties of the Aarhus Convention which was held in Chisinau, between the June 29 and July 1, 2011 in which it was adopted decision IV/9f on compliance by Spain with its obligations under the Convention (copy of this letter was registered at the Administration Office on December 3, 2012).

In that letter we highlighted that the draft quoted above did not refer that small organizations working in compliance with the provisions of that Convention were entitled to obtain access to Legal Aid Assistance, ignoring thus Decision IV/9f , which I remind you that said:

*“9. Invites, therefore, the Party concerned to thoroughly examine, with appropriate involvement of the public, the relevant legislation and in particular the court practice with regard to:*

*(b) Award of legal aid to environmental NGOs;”*

On December 14, 2012, we received a reply by e-mail in which you gave us acknowledgment of receipt that and communicated to send it to the contact point of the Aarhus Convention in the Ministry of Justice.

On January 11, 2013, the Ministry of Justice published the Draft Law on Free Legal Aid, which specifies:

*“Article 2. **Personal scope of application.***

*1. In the terms and to the extent provided in this law and international treaties and conventions on the subject in which Spain is a party, **shall be entitled to legal aid** when insufficient means to litigate:*

*a) Spanish citizens, nationals of the other Member States of the European Union and the foreigners who are in Spain in accordance with Article 22 of the Organic Law 4/2000, of 11 January on the rights and freedoms of foreigners in Spain and their social integration.*

*b) In cross-border disputes in civil and commercial matters, individuals under Title VII of this law, in the terms set forth therein.*

*c) The following legal entities to carry out actions in defense of their specific interests:*

*c) The following legal entities to carry out actions in defence of their specific interests:*

- **Public utility associations**, under Article 32 of the Organic Law 1/2002, of 22 March, regulating the right of association.*
- **Consumer associations and supra-autonomous users**, legally constituted and registered in the State Register of Consumers and Users, solely on the terms provided in Article 24 of the revised text of the General Law for the Defence of Consumers and Users and other complementary laws, approved by Royal Legislative Decree 1/2007, of November 16.*
- **Foundations** registered in the corresponding Public Registry.”*

*2. Regardless of the existence of resources to litigate, recognizes the right to legal aid, which they immediately provided to victims of domestic violence, terrorism and human trafficking processes that have linkage, resulting or as a consequence of their status as victims, as well as minors and persons with mental disabilities when they are victims of abuse or neglect situations.*

*This right shall also assist the beneficiaries in case of death of the victim, provided it was not the aggressor.*

*For the purpose of granting legal aid, victim status is acquired when report or complaint is made, or initiated criminal proceedings for any of the offenses referred to in this paragraph, and remain while in*

*force on criminal procedure or when, upon completion, sentence was rendered. The legal aid will be lost in case of firm acquittal or firm file criminal proceedings, without the obligation to pay the cost of the benefits enjoyed free until then.*

*In the various processes that can be initiated as a result of the condition of the victim of the offenses referred to in this section and, in particular, on gender violence, must be the same lawyer who attends it, provided that it is duly guaranteed their right of defense.*

*3. To exercise their actions in defense of specific interests are entitled to legal aid without having to prove insufficient resources to litigate:*

*a) The Spanish Red Cross, in accordance with Article 7 of Royal Decree 415/1996, of March 1, laying down the rules for managing the Spanish Red Cross.*

*b) Associations that are intended to promote and defend the rights of people with disabilities identified in paragraph 2 of Article 1 of Law 51/2003, of December 2, equal opportunities, non-discrimination and universal accessibility people with disabilities.*

*c) Unions and unit representatives and union workers when exercising a collective interest in protecting workers and Social Security beneficiaries, in accordance with the provisions of Law 36/2011, of 10 October, regulating the social courts, and for the exercise of effective actions for labor rights in bankruptcy proceedings.*

*4. In in labour courts, it will recognize the right to free legal aid for the first instance without first demonstrate lack of resources to employees and beneficiaries Social Security system.*

*Workers have also recognized the right to free legal assistance in bankruptcy proceedings your company.*

*For the recognition of the right to appeal, including appeals against decisions handed down in bankruptcy proceedings, or for filing an appeal to employees and beneficiaries Social Security system must certify compliance with the requirements of paragraph 1 of this article.*

*5. Regardless of the existence of resources to litigate, recognizes the right to free legal assistance to those who because of an accident suffer permanent disabilities that prevent you from fully performing the duties of usual occupation or activity, or that will disqualify the engaging in any occupation or activity or require the help of others to perform the essential activities of daily living, when the subject of the dispute is the claim for compensation for personal injury and moral damages suffered.*

*6. In any case, it recognizes the right to free legal assistance to the Investment Managers and Common Services of Social Security. "*

Since we have not had any news since we refer our proposal to include in the amendment of the Act reforms necessary to comply with Decision IV/9f, and sticking to the wording of Article 2º of the Draft Law on Free Legal Aid, in which there is no mention of the right of access to legal aid for small associations according to the Aarhus Convention, we do not know if our proposal has not come to be studied or simply dismissed. I must add that the association I represent has spent several years working on the full implementation of the Aarhus convention in Spain, as can be seen in the resolution ACCC/C/2009/36 of the Compliance Committee, and therefore we are

particularly interested in knowing all procedures and actions that the Spanish State develop in this way.

**For all these reasons,**

**I REQUEST:**

Information about the process and the result obtained by our letter dated November 3, 2012, if it has been studied and whether it has assessed for the preparation of the Draft Law on Free Legal Aid.

In Almendralejo, January 16, 2013  
The president

A handwritten signature in blue ink on a yellow rectangular background. The signature is stylized, with the first part resembling 'Felix' and the second part resembling 'Lorenzo'.

Félix Lorenzo Donoso  
***Plataforma Contra la Contaminación de Almendralejo***

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