



In response to the comments made by the communicant regarding our Final Progress Report, we must assert the following:

The representative of the communicant NGO has described our submissions in the aforementioned Final Progress Report as inconsistent, venturing to predict that the Aarhus Convention Compliance Committee will be of the same opinion.

The order issued by the High Court of Justice of the Principality of Asturias on 15 November 2019, which rules on the statement of claim submitted by a small local NGO, Coordinadora Ecoloxista d'Asturies, which challenged the decision of the Legal Aid Committee of Asturias denying it legal aid, arguing the same grounds as those we expounded in our Final Progress Report; in other words, the same arguments referred to in the Supreme Court order of 16 January 2018, reaches the same conclusions as those we expressed in our Final Progress Report, namely, that NGOs that meet the criteria set forth in article 23.1 of Act 27/2006 of 18 July are entitled to legal aid, irrespective of whether or not they also meet the stipulations set forth in Act 1/1996 of 10 January, on Legal Aid.

We trust that the representative of the communicant entity, knowing these grounds and conclusions to be valid, does not define them with the same dismissive adjectives with which it identifies ours.

(Please find attached a copy of the aforementioned court order.)

The communicant, in its comments on our Final Progress Report, also adds that the Supreme Court order of 13 March 2019 rules in favour of awarding the right to legal aid to the claimant entity, but does so on the grounds that said entity meets the requirement of being an association of public interest, as defined in article 32 of Organic Law 1/2002 of 22 March, regulating the Right of Association.

However, both point 4 of the legal grounds of the court order, which the appellant attaches, and point 6 thereof reaffirm that this right is awarded pursuant to article 23 of Act 27/2006, and the requirements set forth in Act 1/1996 do not apply.

“FOUR. *We have to proceed on the basis that the decision of 27 March 2017 by the Central Committee on Legal Aid of the Ministry of Justice recognized the appellant’s right to legal aid by express legal provision, given its status as an environmental NGO, in application of article 23.2 of Act 27/2006, due to which, therefore, the requirements set forth in Act 1/1996 are not applicable for the recognition of said right, including the requirement to prove insufficient resources to pursue legal action.”*

SIX. *As we pointed out, in a similar matter, the Order of 16 January 2018:*

“The interested party supports their request with article 23 of Act 27/2006 of 18 July, which regulates the rights of access to information, public participation, and access to justice as regards



environmental issues. The appellant maintains that this provision in itself confers the right to legal aid, if there is compliance with the provisions of paragraph 1, and that the reference to Act 1/1996 of 10 January 10 on Legal Aid, is only to determine the benefits that it confers.

In short, all of the examples cited above confirm the existence of recurrent and well-established case law on the matter of legal aid for the environmental NGOs referred to in article 23.1 of Act 27/2006 of 18 July.

Assuming the premise that the interpretation and application of the law is the sphere of competence of the judges and the courts, and in view of the multiple decisions handed down under prevailing legislation, without any need for legislative reform, determining that entities meeting the criteria stipulated in article 23.1 of Act 27/2006 of 18 July are entitled to legal aid, it would be logical to conclude that the legislative reform which the communicant seeks with such insistence is, at the very least, unnecessary.

When Decision VI/8j regarding this communication was handed down, we called for a number of meetings between the competent ministries in an attempt to promote a legislative reform meeting the requirements and indications contained in said Decision.

However, as we have already mentioned in our successive Progress Reports, the political situation of our country in recent years enormously complicated the resolution of this matter through this channel.

We therefore decided to follow the recommendations of the Decision by monitoring and analysing the judicial decisions handed down on this matter and their subsequent dissemination through the Aarhus Convention Regional Focal Points (representing Spain's Autonomous Communities), for potential references to such decisions by NGOs in their applications for legal aid, when applicable.

Fortunately, this channel has proven successful and a fair number of environmental NGOs have availed of the different favourable judicial decisions that have been handed down, in their claims to access legal aid, and we therefore encourage the communicant to collaborate in this task, publicizing among its peers the favourable rulings awarding legal aid, as and when they are handed down.

In conclusion, we consider that through this case law, which is well consolidated in our country, through the multiple judicial decisions handed down on this matter, some of which we have reported to you, we have complied with the recommendations formulated in Decision VI/8j, as regards overcoming the barriers to the full application of paragraphs 4 and 5 of article 9 of the Aarhus Convention regarding legal aid for environmental NGOs.