



Related to the requirements of paragraph 3 of decision VI/8j, we have to say as follow:

The removal of financial barriers to access to environmental justice is one of the measures provided for in Article 9 of the Aarhus Convention,

In line with the above, a number of environmental NGOs have made their own demands for legal aid to bring such matters before courts.

However, it should be noted that the Aarhus Convention's provision does not expressly state that legal procedures must be completely free of charge for those who initiate them; rather the implication is that they should be affordable.

Spanish Act 27/2006, of 18 July, regulating the rights of access to information, of public participation, and of access to justice in environmental matters in its title IV regulates access to justice and to administrative due process in environmental matters.

Locus standi is accorded, in the case of legal persons, to any non-profit-making entity which meets the following three criteria:

- The statutory objectives set forth in its articles of association include the protection of the environment
- The entity was incorporated at least two years before bringing the action,
- The entity carries out its activity in a region that is affected by the administrative action or omission.

As regards access to legal aid, Act 27/2006 adds that *"The non-profit-making legal persons referred to in the preceding paragraph shall be entitled to legal aid in the terms set forth in Act 1/1996, of 10 January, on Legal Aid."*

Pursuant to the above-mentioned Act 1/1996 legal persons of public utility that are able to evidence a lack of sufficient resources with which to litigate are entitled to legal aid.

This duplication of laws regulating the right of environmental NGOs to legal aid has given rise to conflicting criteria as regards their interpretation and application.

This has been interpreted along two different lines:

The first line of interpretation considers that to be entitled to legal aid, those legal persons which meet the three specified requirements of Act 27/2006 of 18 of July and must also meet the general requirements set forth in the Legal Aid Act.

The other line of interpretation considers that Act 27/2006, of 18 July, expressly and unconditionally grants environmental NGOs the right to legal aid. According to this interpretation, non-profit-making organizations need only meet the three requirements set in Act 27/2006, of 18 July, to be entitled to legal aid.



The criteria applied in the judicial sphere have also been inconsistent. The administrative appeals in this area that have been settled with both favourable and unfavourable rulings, although the Committees and Judges are currently displaying a greater tendency towards recognizing this right to legal aid.

In this line, on 16 January 2018 the Administrative Chamber of the Supreme Court upheld an association's appeal against the Legal Aid Committee's decision to deny it the right to legal aid, reasoning that the appellant is entitled to legal aid because it meets the requirements set forth in Act 27/2016, of 18 July, and need not meet the additional requirements of Act 1/1996, of 10 January. We consider that this ruling establishes a legal precedent and clarifies the future interpretation of these two Acts.

Last but not least, it is necessary to outline that this sentence has created a precedent and consequently, it might be alleged by NGOs when expecting to be given legal aid; therefore, -in our opinion, the issue under question is solved because the remaining obstacles to full implementation of articles of the Convention with respect to legal aid for non-governmental organizations have been overcome.

With regard to paragraph 7 of Decision VI78j, we have to say as follows:

Catalonia's Administration has issued on 28 September 2018 a Resolution stating that once the permissions for one of the included activities have been granted, in accordance with article 6.9 of the Aarhus Convention, it should be disseminated not only through the website of the granting institution of the permit, but also through its publication in the notice boards of the town councils affected by the activities subject to authorization.

We understand that with this resolution we comply with Decision VI / 8j paragraph 7, produced as a result of the communication intended to Catalonia's Administration, in which it was highlighted that the only publication on the website of the institution granting the permit, was not enough to meet the requirements of the Aarhus Convention, as it was the case related to the change of production in a cement factory located in Catalonia.

Nevertheless, concerning the first progress report, the Compliance Committee has stated that the obligation to disseminate the authorization's permit for an activity and its scope should be applicable to all Spanish local councils.

At this point, it has to be remembered that Spain's territorial organization is divided into 3 levels (state, regional and local) with their respective competences and responsibilities. At the moment, we do not really know whether all the local councils are currently keeping the indications given by the aforementioned resolution of Catalonia, but should not some of these fulfill the criteria established, we may conclude that this should be subject to an upcoming communication of non-compliance.



In any case, with the aim of collaborating in the implementation of the provisions of the Aarhus Convention and given our good intentions to follow all the recommendations of its Compliance Committee, it is our wish to call the Spanish regional focal points of the Aarhus Convention for a meeting to make them aware of Catalonia's resolution on the dissemination of authorization's permits, by supporting the idea that they should follow the same indications in their regions.

Lastly, we expect that this meeting may be held once next Spanish general, regional and local elections are finished.

Madrid, 15 March 2019