



To: Compliance Committee of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

Via: Mr. Jeremy Wates
Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland
Phone: +41 22 917 2384
Fax: +41 22 907 0107
E-mail: jeremy.wates@unece.org

From: Association for Environmental Justice (Asociacion para la Justicia Ambiental, AJA), Spain

Contact Information:

Address: P° Maria Agustin, 3, dcha. E-50004 Zaragoza, Spain
Tel. + 34 976 20 20 76
Fax + 34 968 22 71 91
Contact Person: Fe Sanchis Moreno, Coordinator and Lawyer
Tel. + 34 661 168 203
E-mail: sanchis.fe@sarenet.es

Re: (Ref. ACCC/C/2008/24) Remarks on the comments provided by the Party concerned about the ACCC draft findings and recommendations.

Please, find enclosed our remarks on the comments provided by the Party concerned.

1. The Party concerned seems to maintain in its comments that in order to meet all obligations established by the Aarhus Convention is enough to have adopted judicial and administrative procedures and Constitutional principles. It may be necessary that the Aarhus Compliance Committee remains the Party concerned that its obligation it is not just limited to provide for legal dispositions **fully** compatible with Aarhus requirements but also to ensure that citizens and non governmental organisations have an **effective** exercise of Aarhus's rights in its territory. At this regard, it may be necessary that the Committee helps the Party to be fully aware of its general obligations under the Aarhus Convention as established in article 3 as follows:

“ Article 3

GENERAL PROVISIONS

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-



justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.”

2. We regret that the Party is *now* questioning facts already included in the communication that were fully explained and proved by the communicant before the Compliance Committee using the right available procedure step. Unfortunately, the Party chose not to do so. This exactly what it does the last report sent by the Party (report dated 14 December 2009 and prepared by Gerencia de Urbanismo from Murcia City Council):

- it repeats the same arguments that were already used in a previous report (dated June 23 2009)
- It uses a general statement to deny that the right to access to environmental information was rejected and it creates confusion about the requests that were rejected. Fortunately, the communicant has provided enough documentation and explanations to fully demonstrate these facts.
- It insists on supporting unreasonable charges for accessing to environmental information on the basis that they are reasonable from an “administrative approach”.
- It even dares to say that when public participation time limits clashes with Holidays seasons is better for the public. This is really far away from promoting effective public participation.
- We have not received the documents that are mentioned as attachments, although we must say that we consider that it will not be fair to provide for more supporting materials or documents at this point.

3. We expect that the remarks made by the Party concerned help the Aarhus Convention Compliance Committee to clearly see all difficulties that citizens and non governmental organisations have in exercising Aarhus rights as explained and proved by our communication.