



Federal Ministry for the Environment, Nature Conservation and Nuclear Safety,
ZG III 4 (H), D-11055 Berlin, Germany

Jeremy Wates
Environment and Human Settlements Division
United Nations
Economic Commission for Europe
Palais des Nations
1211 Geneva 10

Switzerland

ADDRESS

Alexanderstraße 3
D-10178 Berlin, Germany

POSTAL ADDRESS

D-11055 Berlin, Germany

TEL +49 - (0) 3018 - 305 - 2267

FAX +49 - (0) 3018 - 305 - 4375

Philipp.Behrens@bmu.bund.de

www.bmu.de

**Communication to the Aarhus Convention Compliance Committee
concerning compliance by Germany with provisions of the
Convention (Ref. ACCC/C/31)**

Order of reference by the Higher Administrative Court of North-Rhine
Westphalia to the European Court of Justice, Reference: 8 D 58/08.AK

Reference: ZG III 4 - 45074/7.0

Berlin, 26.03.2009

Page 1 of 2

Dear Mr Wates,

Enclosed please find a non-official translation of the above-mentioned order of reference. I would be grateful if you could forward this document to the members of the Compliance Committee. The order brings issues before the European Court of Justice which are of central importance regarding the above-mentioned communication. The reason for this is that Article 10a of Directive 85/337/EEC in the version of Directive 2003/35/EC is almost identical with Article 9 (2) of the Aarhus Convention. In addition to environmental associations' access to the courts in Germany, the referral is generally concerned with the problem of effective enforcement of Community environmental legislation.

Germany suggests suspending the procedure before the Compliance Committee until the European Court of Justice has made its decision. Taking into account the legal concept of No. 21 of the Annex to Decision I/7, it would make sense to wait for the decision of the European Court of Justice as its rulings are binding for the German government.





Page 2 of 2

I would appreciate it if you could inform me as soon as the Compliance Committee has decided on this issue.

Yours sincerely

Philipp Behrens

Enclosure(s)

Translation of above-mentioned order of reference

