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16 January 2009

Mr. Philipp Behrens
Federal Ministry of Environment, Nature Conservation and Nuclear Safety
Division ZG III 4 (H)
Alexanderstrasse 3
D-10178 Berlin
Germany
Fax: +49 1888 305 3331

Dear Mr. Behrens,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Germany with provisions of the Convention in connection with German legislation on access to justice in environmental matters (Ref. ACCC/C/2008/31)

As noted in our letter dated 24 December 2008 concerning the above communication, the Committee, at its twenty-second meeting, preliminarily discussed whether and what issues might require further clarification from the parties concerned in order to facilitate further consideration of the communication.

Having concluded this discussion by electronic means, the Committee has requested the secretariat to invite you to provide in your response to be submitted pursuant to paragraph 23 of the annex to decision I/7 further details related to some of the matters raised in the communication by addressing the following questions:

1. Have there been any cases where the new legislation has been invoked and applied that support the interpretation alleged by the communication?
2. Is there any jurisprudence in German courts where the Aarhus Convention has been considered? If so, in which way and what was the outcome?
3. Under German law (legislation and/or jurisprudence), are courts entitled or obliged to interpret German legislation in the light of international obligations?
4. Which measures have been taken by Germany to ensure compliance with article 9, paragraphs 2, 3 and 4, of the Convention in general?

5. How does Germany ensure that environmental organisations can challenge the procedural legality of decisions, acts and omissions subject to the provisions of article 6, as set out in article 9, paragraph 2, of the Convention?

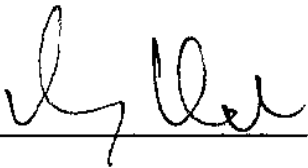
6. How does Germany ensure that, in the light of article 9, paragraphs 3 and 4, of the Convention, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons which contravene German environmental law?

7. Please clarify if and to what extent the right of access to justice for environmental organisations depends on whether the administrative act or omission impairs a personal right of individuals.

A number of questions have been raised also in a letter to the communicant, a copy of which is attached for your information.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates
Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Permanent Mission of Germany to the United Nations Office in Geneva
Mr. James Thornton, ClientEarth

Encs. Copy of letter to Mr. James Thornton, ClientEarth