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“Communication to the Aarhus Convention’s Compliance Committee”

Communication registered under the symbol number **ACCC/C/2009/36**

Provisions of the convention relevant for the communication

CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTER

Article 3

GENERAL PROVISIONS

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

Non-compliance:

**1st article 3.8 page 7
paragraph 3**

(The Mayor of Almendralejo did false and annoying accusations on the members of our association)

Article 4

ACCESS TO ENVIRONMENTAL INFORMATION

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:
 - a. Without an interest having to be stated;
2. The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

Non-compliance:

1st	article 4.2	page 3 paragraph 4	(Five months after requesting the information)
2nd	article 4.1	page 3 paragraph 5	(He requests the motive for doing the information request)
3rd	article 4.2	page 4 paragraph 7	(Five months after requesting the information)
4th	article 4.2	page 5 paragraph 2	(It has not been answered to this information request)
5th	article 4.2	page 6 paragraph 7	(Denial to give the requested information. It is not in the assumptions that are established in the articles 4.3 or 4.4)

Article 6

PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES

4. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.
5. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

6. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

Non-compliance:

1st	Article 6.4	page 8 paragraphs 2 and 3	(thirty days it is an insufficient period of time to study the project of this magnitude)
2nd	article 6.5	page 8 paragraphs 6 and 8	(the demand of physical presence during the schedule to work does that the effective participation is nonexistent)

Article 9

ACCESS TO JUSTICE

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Non-compliance:

1st	article 9.1	page 10 paragraphs 1 and 5	(The access to the justice is not granted in the terms that are specified in the article, free or not expensive) (Two judgments are enclosed refusing the request of free justice.)
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Use of the domestic remedies

The Spanish State transposed the Agreement of Aarhus to the national juridical arranging by means of the law 27/2006. In this norm it is established that the associations that fulfill a few requisites will have right to the access to the free Justice. (See page 9 paragraphs 6 and 7)

Our association has requested two times the free justice and in both occasions it has refused to us. (See two attached judgments. Documents 15 and

In Almendralejo on March 5, 2009

A handwritten signature in blue ink on a yellow background. The signature consists of a large, stylized 'F' followed by the name 'Félix Lorenzo Donoso' written in a cursive script.

Félix Lorenzo Donoso
President of the Platform Against the Contamination of Almendralejo