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17 March 2011

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

Comments about the documents provided by the Spanish Government referring to the draft report on compliance with its obligations under the Aarhus Convention.

While recognizing that the Spanish government may be doing some training courses to try to inform the different administrations of the Aarhus Convention provides, we cannot agree with what the "National Focal Point" maintains.

In fact, we have to inform the Committee that their decision has not been a major advance in the implementation of the Convention.

We believe it would be a waste of time to revisit issues already decided, however, we believe it may be interesting to see what practical result has been the resolution of the case ACCC/C/2009/36.

Main findings with regard to non-compliance

- 1. The Committee finds that as a result of public authorities not making the requested information available unless an interest be stated on the part of the requester, the Party concerned failed to comply with article 4, paragraph 1, of the Convention (see paras. 52 above).*

After the Committee's resolution, our association has made a request to the City Council of Almendralejo requesting some information about the destruction of several centenary trees, but so far, we have not received a reply. The City Council knows that we do not have funds to go to an administrative tribunal whenever they do not answer a request for environmental

information. Therefore, if our association or any other one does not have money to go to court, the rules or international conventions are useless.

2. *The Committee finds that as a result of public authorities not responding or delaying response to requests for environmental information, the Party concerned was not in compliance with article 4, paragraph 2, of the Convention (see para. 53 above).*

After Committee's resolution, our Association dated September 13, 2010 issued an administrative appeal requesting the revocation of the refinery project in Extremadura, but to date we have not received response (see Annex 37 attached). We are currently looking for funds to be able to challenge legally the lack of response to this request. However, who will dare to fund an appeal against the procedure of a project with the support and regional government funding?

3. *The Committee finds that Spanish authorities did not allow for access to information in the form requested, and as a result the Party concerned failed to comply with article 4, paragraph 1(b), in conjunction with article 6, paragraph 6, of the Convention (see para. 55 above).*

The Junta de Extremadura ignores what the Committee established at this point and maintains its position, stating *"we reiterate our position that public participation and access to information were ensured at all stages. The process complied strictly with the law, all documents in the file were made available to the public in both paper and digital format, so it could be examined by interested parties during the legal term of 30 days."*

Moreover, we reiterate that it is not enough there be rules governing access to information and participation in decision-making, it is necessary that the administration has the political will to implement them.

4. The Committee also finds that Spanish authorities set inhibitive conditions for public participation, and as a result the Party concerned failed to comply with article 6, paragraphs 3 and 6, of the Convention (see para. 57 above).

The Junta de Extremadura ignores all suggestions or allegations that make our association. An example in the document dated August 11 refer to the General Secretariat of the Ministry of Industry and Environment, in which we made some suggestions to DRAFT ORDER BY ADOPTING THE REGULATION OF ENVIRONMENTAL ASSESSMENT OF THE REGION OF EXTREMADURA (see Annex 38 attached). In this, as in most cases, we have received no response at all, we did not have news that they have taken into account our suggestions, as can be seen; they were directed to that it should be a correct interpretation of the principles of Aarhus Convention.

The Committee is aware of construction without license and no environmental impact study of a new distillery in the town of Almendralejo (see Annexes 17 to 22 of the communication). On Thursday, December 17, 2009, notice was published in the DOE by making public the decision to not to submit to environmental impact assessment, as provided for in Royal Decree 1 / 2008, some projects included in Annex II. Among the projects included is the aforementioned distillery (see Annex 39 attached). We do not understand how you can exempt the environmental impact study, preliminary study to assess the impact of new construction, if the industry is already working.

Although the Committee knows for the items listed in Annexes 18 to 22 of the communication, the construction of the industry appeared repeatedly in the media. Despite this, on January 7, 2010, we communicate to the Director General of Environment and Quality Assessment these facts, pointing out that construction without the required prior report of an environment impact study assumed a serious case of breach of Law (see Appendix 40 attached).

On 29 January, we received reply to our letter in which the DIRECTOR GENERAL OF ENVIRONMENT AND QUALITY ASSESSMENT tells us, "*The Department of Environment and Quality Assessment is handling a complaint about Making Wineries by-product Management Project without report of Environmental Impact Evaluation against Viñaoliva Soc Cooperative with LEIA file number 2009/142 at the request of a complaint by the Agent of the Natural Environment of the Ministry of Industry, Energy and Environment.*"

We have no news of that the Directorate General of Environment and Quality Assessment has taken any steps to demand accountability from those who, by action or omission, allowed with the knowledge of all of them that an industry was carried out without compliance with any legal proceedings that are required.

As the Committee can see, one thing is what that the Junta de Extremadura says it does and quite another it actually does.

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| <p>5. The Committee also finds that local authority officials insulted the communicant publicly in the local mass media for its interest in activities with potential negative effects on the environment, and thus that the Party concerned failed to comply with article 3, paragraph 8 of the Convention (see para. 59 above).</p> |
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It is surprising that the Spanish State has not initiated any investigation process to determine whether the harassment proven by public authorities is establishing as a criminal offense, despite recognizing that it was a clear case of harassment leading to prevent people to make use of the rights that are granted by the Aarhus Convention.

Because no one-step has been taken to correct the behaviour of by public authorities, they know they can continue to harass citizens with impunity. Therefore, the mayor of Almendralejo did not take into account the Committee's resolution that condemns him for harassment, but he says he would do it again if it should give the same circumstances (see Annex 41 attached). Moreover, as public authorities have found that they can insult people with impunity, not only does the mayor, including the planning councillor dare to describe as

"demagogues" members of our association for denouncing the construction of the new distillery (see Annexes 17 to 22 of the communication) (see Annex 42 attached).

If the Spanish government had taken steps to protect citizens who spend time and money working in defence of the common good to fulfilling what is established in the Aarhus Convention, we are confident that public authorities had not returned to harass the members of our association.

6. Finally, the Committee finds that by failing to provide appropriate assistance mechanisms to remove or reduce financial barriers to access to justice to a small NGO, the Party concerned failed to comply with article 9, paragraph 5, of the Convention, and failed to provide for fair and equitable remedies, as required by article 9, paragraph 4, of the Convention (see para. 61 above); and also stresses that maintaining a system that would lead to prohibitive expenses would amount to non-compliance with article 9, paragraph 4, of the Convention (see para. 62 above).

The National Focal Point continues to repeat that it has been communicated to the Ministry of Justice the Committee's resolution. We must remember that this is the third time the National Focal Point will refer to the Ministry of Justice the same resolution, and in the two previous ones, the Ministry was not willing to comply with the recommendations made by the Committee, arguing that Spanish rules comply with the Aarhus Convention. For this reason, we consider it necessary to have a true vocation and political involvement to change the rules to meet the provisions of the Aarhus Convention.

Finally, we reiterate our sincere appreciation to all members of the Compliance Committee for the excellent work being done to protect the environment and their commitment to participatory democracy that promotes real and effective participation in environmental protection.

In Almendralejo 17 March 2011

A handwritten signature in blue ink on a light yellow background. The signature is stylized and appears to read 'Félix Lorenzo Donoso'.

Félix Lorenzo Donoso
Presidente de la Plataforma Contra la Contaminación de Almendralejo