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## **DRAFT REPORT ON COMPLIANCE BY SPAIN WITH ITS OBLIGATIONS UNDER THE AARHUS CONVENTION: COMMENTS BY SPAIN**

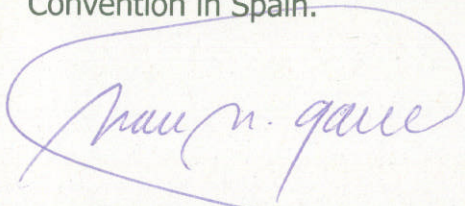
Concerning the Draft Report on Compliance by Spain based on the review of the findings and recommendations of the Compliance Committee with regard to communications ACCC/C/2008/24 y ACCC/C/2009/36, this National Focal Point would like to submit the following comments:

1. Firstly, we would like to express our satisfaction at the acknowledgement of the general progress made by Spain in implementing the Committee's recommendations, being well aware of the need to continue the efforts in the achievement of shared goals, with full dedication and commitment. In this context, the increasing cooperation among the three administration levels in Spain (National, regional and local) as well as the permanent collaboration with the Secretariat of the Convention are considered essential.
2. Secondly, we would like to make the following clarifications on the content of certain information that we consider to some extent inaccurate.
  - a) The National Institute of Public Administration is an autonomous body attached to the Ministry of Territorial Policies and Public Administration, responsible for the continuing training of public employees, among other responsibilities. The four courses organized in collaboration with this NFP under the title "Access to information, public participation and access to justice in environmental matters: legal and sociological aspects" are not integrated in an educational programme of several years as, for example, a university degree. On the contrary, INAP courses are monographic ones, singularly and periodically announced. For this reason, the sentence "has been added in the curriculum of the first year students at the National Institute of Public Administration" is not exact. Our proposal would read as follows: "has been organized by the National

Institute of Public Administration, the state agency responsible for the continuing training of public employees at all territorial levels, in close collaboration with the National Focal Point with regard to subject matters and selection of teachers”.

- b) With regard to the award of legal aid to NGOs, paragraph 20 of the report says that the recognition of the right of an organization for legal aid depends on the objective assessment of objective factors: either that this organization is a public utility organization or that is a natural person with very low taxable income. However, Law 1/1996 on Legal Aid provides that organizations (legal persons) must fulfil both requirements simultaneously: being a public utility organization and crediting insufficient incomes. Accordingly, our proposal for this sentence would be: “... depends on the objective assessment of two objective factors: that this organization (legal person) is a public utility organization and that it has credited the lack of sufficient economic resources to litigate”
  - c) In the same paragraph, it seems that last sentence is not complete as the predicate is missing. Our proposal would be: “...and therefore the competent authority for the award of the legal aid (Badajoz Commission of Legal Aid) denied it.”
  - d) Lastly, there is a mistake in paragraph 25 (b) regarding the dates of the communications.
3. With regard to the Committee's recommendations to the Fourth Meeting of the Parties, Spain agrees with them in general terms and would like to make the following remarks:
- a) With respect to the fees charged for providing information on urban planning and building, Spain recognizes the difficulty that sometimes exists when dissociating certain strictly urban planning information from other environmental information, according to the broad definition provided in Article 2.3 of the Convention. In this sense, we are making efforts to raise awareness among public authorities of their obligations under the Convention. In the particular case of the city of Murcia, the National Focal Point contacted the City Council for some clarifications, given the limited information that the organization “Senda de Granada Oeste” offered in their last e-mail. As a result of these efforts, the Urban Planning Department of the City of Murcia has commissioned a report to the Environment Service, to clarify the question of which documents of planning, construction or urbanization projects should be considered environmental information.
  - b) Concerning recommendations relating to the access to justice pillar, Spain accepts the invitation to undertake the studies on the relevant legislation and court practice with regard to the three controversial issues: injunctive relief, legal aid and dual representation. In this regard, the Draft Report on Compliance has already been sent to the Ministry of Justice as the organ holding the competence on this matter.

4. In the context of inter-administrative cooperation, we have received two reports, one by the City Council of Murcia, on the implementation of the new municipal ordinance regulating fees, and one by the General Directorate of Environmental Quality and Assessment of the Government of Extremadura (Autonomous Region), on general progress on the implementation of Aarhus principles. These reports reflect the concern of both administrations on the right implementation of the Aarhus Convention in their respective areas of responsibility. Both reports are attached in original and English versions.
5. We conclude by reiterating, as always, our strong support to the principles of the Aarhus Convention and our full readiness to cooperate with the Secretariat and the Compliance Committee, convinced that its recommendations would help to enhance the implementation of the Aarhus Convention in Spain.



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