



Danish Ministry  
of the Environment  
Environmental  
Protection Agency  
Organisation & Jura  
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United Nations Economic Commission for Europe  
Environment Division, Bureau 348  
Palais des Nations  
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Att: Ms. Smagadi – Secretary to the Aarhus Convention Compliance  
Committee  
CC: [dof@dof.dk](mailto:dof@dof.dk)

**Concerning draft findings and recommendations of the Compliance  
Committee with regard to fees for appeals to the Nature and  
Environment Appeal Board (Ref.ACCC/C/2011/57)**

In letter dated 10 February 2012, Denmark is invited to comment on the draft findings of the Committee and to indicate whether the Danish Government agrees with the Committee making recommendations.

The Committee finds that a fee of 3.000 DKK does not comply with the requirements in article 9, paragraph 4, of the Convention, that access to justice procedures may not be prohibitively expensive. As the Committee may know, the question of defining what is prohibitively expensive is also the issue in two pending cases (C-260/11 and C-530/11) before the European Court of Justice.

Firstly, the Danish Government wants to assure the Committee – as already mentioned in our letter dated 30 November 2011 – that the decision of the Government to present a bill before the Danish Folketing (Parliament) to reduce the fees remains unchanged. Thus, a bill will be presented to the Folketing in the near future. The act is planned to enter into force in the summer 2012.

Thus, the Danish Government totally agrees that the fee should be reduced.

However, Denmark feel obliged to briefly point out, that from a purely legal point of view Denmark do not agree with the considerations of the Committee.

An assessment of whether a fee “is prohibitively expensive” must be based on economical considerations, such as the affordability to pay the fees (on an objective or subjective basis), Denmark as a high-income country, a complainant’s total expenses in an appeal case before the board etc. The draft findings of the Committee are mainly based on other than economical considerations.

Denmark would also like to point out, that although Denmark fully agrees with the Committee on the objective of the Convention, Denmark cannot agree that it follows from the Convention, that the rights under the Convention should, in general, improve over time.

However, as the Danish Government intends to reduce the fees as mentioned above, the Danish Government do not wish to comment on the draft findings in further details.

Yours sincerely,



Karen Aarø  
Head of Division