



NATIONS UNIES

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UNITED NATIONS

COMMISSION ÉCONOMIQUE
POUR L'EUROPEЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ
КОМИССИЯECONOMIC COMMISSION
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CH-1211 GENEVA 10

Ref: Pre-admissibility

21 August 2014

Alain Lebrun
Avocat
Place de la Liberté
4030 Grivegnée
Belgium

Dear Mr. Lebrun,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Belgium in connection with costs for access to justice

At its forty-fifth meeting (Maastricht, 29 June – 2 July 2014), the Aarhus Convention Compliance Committee considered the preliminary admissibility of the communication submitted by you on behalf of NGOs “Ardennes liégeoises” and “Terre wallonne” on 12 May 2014. The communication alleged non-compliance with article 9, paragraph 4 of the Aarhus Convention in connection with awards of legal costs. The Compliance Committee decided to defer its preliminary determination of admissibility in order to seek further clarification from the communicants.

The Committee invites the communicants to re-submit the communication using the Committee’s standard format for communications (see annex 2 at page 39 of the Guidance on the Aarhus Convention Compliance Mechanism, available at http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC_GuidanceDocument.pdf). In addition, the Committee has prepared a set of questions for the communicants’ response. We would be very grateful to receive the communication re-submitted in the standard format, together with the responses to the attached questions, by **Friday, 12 September 2014** in order that they may be considered by the Committee at its forty-sixth meeting (Geneva, 22-25 September 2014).

If the communicants would require further time to respond to the Committee’s questions or if you require any further information, please do not hesitate to contact the secretariat.

Yours sincerely,

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Enc: Questions for the communicants

Questions to the communicants

1. Please provide the Committee with a more comprehensive (but not lengthy) description of the original case the communication relates to (for example, what kind of permits the communicant challenged at the national courts, for what reasons, what were the main arguments of the courts for dismissing the appeals). Also, please explain in more detail in what ways the court decisions referred to and/or the Belgian legislation do not comply with the Convention. In particular, please clarify whether the communicants consider that the alleged non-compliance to be of a systemic nature (for example, due to inadequate legislation) or rather to be an individual case of a court incorrectly applying the law.
 2. Please explain why the sums of €1,200 and €2,500 which the communicants were ordered to pay as costs of the court proceedings were "prohibitive in themselves", both for Belgian environmental NGOs generally and specifically for the communicants. Please clarify if the communicants each had to pay €3,700 or the sums were to be divided between them.
 3. The communication alleges that the communicants were "misled by erroneous calculation of the administrative time limits" and therefore they did not ask for the appeal case preparation allowance, which would have made the appeal procedure less costly. Please clarify by whom were the communicants misled and who calculated the administrative time limits erroneously.
 4. Please provide more specific information to support the statement in the communication that the communicants "have no significant financial resources".
 5. Please provide more specific information about the costs for an appeal to the Cour de Cassation and why the communicants consider that the regulation and/or jurisprudence concerning these costs is in non-compliance with the Convention.
 6. Please provide the Committee with English translations of any relevant provisions of Belgian legislation and extracts of jurisprudence that would support the communicants' allegations of non-compliance.
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