

To: ALEXANDRE PEÑALVER CABRE <alexpenalvercabre@ub.edu>

From: aarhus compliance/UNECE/GVA/UNO

Date: 06/19/2014 02:45PM

Subject: Re: Communication to the Aarhus Convention's Compliance Committee regarding Catalonia (Spain)

(See attached file: questions_FDA.doc)

Dear Alexandre,

Thank you for speaking earlier today.

As discussed with you, at its forty-fourth meeting (Geneva, 25-28 March 2014), the Committee considered the preliminary admissibility of your communication.

The Committee decided to defer its determination of preliminary admissibility in order to clarify certain points regarding the communication. To this end, the Committee would be grateful if you would answer the **attached** three questions.

The Committee will hold its next meeting in Maastricht, the Netherlands on 29 June - 2 July 2014. If it might be possible to receive your response by 30 June 2014, that would be most helpful. If that timeframe will not be possible for you, please let me know.

Kind regards,
Fiona

Fiona Marshall
Environmental Affairs Officer - Secretary to the Compliance Committee
Convention on Access to Information, Public Participation in Decision-making
and Access to Justice in Environmental Matters (Aarhus Convention)
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
CH- 1211 Geneva 10, Switzerland
Tel.: +41 22 917 4226
Email: aarhus.compliance@unece.org
Website: www.unece.org/env/pp/cc.html

**Questions to the Fons Defensa Ambiental concerning communication to the Aarhus Convention
Compliance Committee concerning Spain**

1. It seems that the merit of the allegations concerning non compliance of Spain with article 6 of the Convention is that there was there was no information available to the public, that the permitting procedure, concerning the cement plant operations in Santa Margarida, specifically related to a change (substitution) of combustible (fuel) used for the operations. Please clarify if you allege that such information has not been available in the public notice published in the Official Bulletin of Generalitat of Catalonia in 18 March 2010, but could have been found in the documents related to the application at the Environmental and Housing Department of the Generalitat of Catalonia, or if such information has not been available at all before the permit had been issued.
2. With regard to your allegations concerning non compliance of Spain with article 9, paragraph 2 of the Convention, please clarify whether and why you consider the counselor of Land and Sustainability Department of the Generalitat of Catalonia to be an independent and impartial body established by law in the sense of the above provision of the Convention.
3. Please substitute in more detail your reasons for not using domestic remedies, specifically challenging the decisions of the counselor of Land and Sustainability Department of the Generalitat of Catalonia before a court of law. In particular, please specify why you claim that the judicial review procedure would be prohibitively expensive for the public concerned (neighbors and local NGO) and why it would, in your opinion, take most probably at least eight years.