

**Comments of Mr Patrick JANIN, Communicant, on the Committee's draft findings**

I have the following observations on the Committee's draft findings.

The fact that the findings are drafted in English prevents me from reading them with precision and certainty. I have not found all the arguments put forward, particularly those in Section III ('Consideration and evaluation by the Committee', pp 7 et seq.), easily accessible. Therefore here I shall focus mainly on paragraph 77 (p. 11), which states:

'In the light of the above considerations, the Committee finds that the Party concerned has not failed to comply with article 9(2) or (3) of the Convention in the circumstances of this case.'

which I translate as:

*'A la lumière des considérations ci-dessus, le Comité estime que la Partie concernée n'a pas manqué de se conformer aux articles 9(2) et 9(3) de la Convention dans les circonstances présentes.'*

Since I am not in a position to engage in detailed discussion of the arguments on which these draft findings are based, as they are in English, I can only give an overall impression: and my impression is of **a legalistic, abstruse approach, which has the effect of negating the meaning and scope of article 9 of the Convention.**

The French Conseil d'Etat should have admitted and considered my petition. Its decision to dismiss it on grounds of lack of standing represents an exercise of authority, with no legal basis in relation to my personal situation – a fact that the Committee's draft findings, as they stand, do not seem to have fully taken into account.

As I explained and demonstrated in earlier documents, my long-standing and continuing personal commitment to the environment, in particular to wildlife conservation – now viewed as an important aspect of preserving biodiversity – whether through my individual activities or within environmental associations, means that my application to the Committee is fully consistent with the objectives of the Aarhus Convention and the system it establishes. I also wish to emphasize that my application in no way invokes – and still less itself constitutes – an *actio popularis*: any discussion on this topic is irrelevant. In the present case, I am not simply an individual who is interested; I am a person concerned by virtue of my campaigning in a field that is precisely the one covered by the particular administrative decision that I wished to challenge. **On the basis of my activities, I manifestly have 'a sufficient interest' to bring proceedings.**

My personal commitment pertains to the moral obligation on individuals – both alone and in association with others, inter alia through participation in decision-making – to protect and improve the environment in the interest of present and future generations: this forms the basis of my right of access to justice in environmental matters as an individual.

If, despite this long-standing and continuing commitment, my legal standing in this case were to be viewed as insufficient and ultimately denied, this would have the aim and effect of preventing access to justice for any other individual – that is, for any citizen who has, like me, been committed to defending the environment over a long period of time and continues to be so. This would be not

only run counter to the letter of the Convention but also to its aim, **in that it would actually render the following provision of article 9, paragraph 2 of the Convention ineffective**: ‘Each Party shall, within the framework of its national legislation, ensure that members of the public concerned having a sufficient interest have access to a review procedure before a court of law.’

The Convention would cover access to justice solely for legal entities, without any relevant legal argument ever having substantiated this.

The above represent my comments on the Committee’s draft findings.

Lyon, 28 November 2019

Patrick JANIN

Co-founder (in 1977) and Administrator of the Saône-et-Loire Association for the Study of Birds and Mammals

Member of several local, regional and national environmental associations; decades spent campaigning for nature protection, in particular wildlife conservation; now active in promoting biodiversity

Member of the Editorial Committee of the journal *Bourgogne-Franche Comté Nature*

patrickjanin