

14 June 2019

Ms. Margarida Marcelino
Portuguese Environmental Agency
Ministry of the Environment, Territory Management and Energy
Portugal

Mr. José Luís Raposo Victoriano and Mr. Manuel Vieira
ALMARGEM
Portugal

Dear Ms. Marcelino, Mr. Raposo Victoriano and Mr. Vieira,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Portugal with articles 4 and 6 of the Convention in connection with oil prospecting (PRE/ACCC/C/2019/166)

I refer to the communication submitted by Plataforma Algarve Livre de Petroleo (PALP) on 28 January 2019. The communication alleges that Portugal has failed to comply with articles 4 and 6 of the Convention in connection with access to information and public participation regarding deep-shore oil prospecting off the coast of Portugal.

As you may recall, at the open session on preliminary admissibility held during its sixty-third meeting (Geneva, 11-15 March 2019), the Compliance Committee agreed to send questions regarding the use of domestic remedies for the parties' reply in advance of the Committee's sixty-fourth meeting (Geneva, 1-5 July 2019).

I would be grateful to receive your replies to the enclosed questions on or before **28 June 2019**. Please send your reply to aarhus.compliance@unece.org, copying the other party.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Portugal to the United Nations Office and other international organizations in Geneva.

Enc.: Questions from the Committee to the communicant and the Party concerned

Questions to the Party concerned and the communicant

Please keep your replies to the following questions as short and concise as possible.

1. What is the deadline for submitting a complaint to the Commission for Access to Administrative Documents (CADA)?
2. What is the deadline for applying to the court to enforce an opinion of CADA?
3. When asked to review or enforce an opinion of CADA, do the courts of the Party concerned consider the merits of the request for access to environmental information *de novo*? Alternatively, do the courts simply issue an order enforcing CADA's opinion?
4. What is the typical costs for challenging a refusal to grant access to environmental information in court in Portugal? Please provide, in brief form, any available recent statistics regarding the costs of court proceedings for access to information to support your answer.
5. How long do court proceedings to challenge a refusal to grant access to environmental information in Portugal typically take? Please provide, in brief form, any available recent statistics regarding the length of court proceedings for access to information to support your answer.

Questions to the communicant

Please keep your replies to the following questions as short and concise as possible.

6. Regarding PALP's claim A.1 (see pages 6-8 of the communication):
 - (a) Why did PALP not apply to the court to have the CADA's advisory opinion of September 2016 enforced when it became apparent in early 2017 that, despite CADA's opinion, the majority of the requested documents had not been made available by the Ministry of Economy and Energy Transition (ENMC)?
 - (b) What domestic remedies, if any, did PALP use to challenge the events from 13 March 2017 to 14 July 2017?
7. Regarding PALP's claim A.2 (see pages 8-10 and 13-14 of the communication), in your statement to the 63rd meeting of the Compliance Committee,¹ you claim that "PALP complained about the lack of information in the main action (proceedings) of the injunction process." Please clarify the following:
 - (a) In the court proceedings, did PALP expressly request access to the specific information listed in claim A2, or did it make a more general complaint to the court about the alleged failure to provide sufficient information regarding the decision-making on the TUPEM?

¹ Communicant's statement regarding preliminary admissibility, 11 March 2019, p. 1.

- (b) Has the court to date issued any orders directing any authorities of the Party concerned to release the requested information, and if so:
- (i) On what date was the order issued?
 - (ii) What was the content of the order?
 - (iii) Has the authority complied with the court order?
8. Did PALP make a complaint to CADA or use any other domestic remedy with respect to its claim A.3 (see pages 10-11 of the communication)? If so, please specify the domestic remedies used, including their outcome.
9. Did PALP make a complaint to CADA or use any other domestic remedy with respect to its claim A.4 (see page 12 of the communication)? If so, please specify the domestic remedies used, including their outcome.
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