

COMMUNICATION TO THE AARHUS CONVENTION'S COMPLIANCE COMMITTEE

TO: COMMITTEE OF THE AARHUS CONVENTION

Copy: Mr. Hristo Stoev, national coordinator of the Aarhus Convention

Copy: Ms. Iskra Mihaylova, Minister of Environment and Water

Copy: Committee on Environment and Water National Assembly

I. Information on correspondent submitting the communication

Full name of submitting organization or person(s): NGO "DEN", UIN 176232504

The contact person authorized to represent the organization in connection with this communication: **Dimitur Vulev Dimitrov – Chairman of the Board**

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II. Party concerned – Bulgaria

III. Facts of the communication

➤ **Bulgarian Waste management Act prohibits public participation and access to justice for citizens and NGOs in relation to the unlawful decisions of the Regional associations for waste management. We believe this is a gross violation of the Aarhus Convention.**

Prohibition Prohibition was introduced in 2010 an amendment to the former Waste management Act (Amended SG No 41 of 1 June 2010) by the following:

Article.19b (4) Members of Regional Association can only be municipalities.

Article.19b (8) The management bodies of the regional association are the General Meeting and the President of the association.

Article.19c (1) The General Meeting of the regional association is composed of the mayors of participating municipalities.

Article.19d (6) Decisions of the General Meeting could only be appealed by interested municipalities under The Administrative Procedure Code.

This Waste management Act was repealed with adoption of the new Waste management Act (Promulgated SG No 53 of 13 July 2012). But new Act reserved prohibitions for public participation and access to justice for citizens and NGOs in relation to the unlawful decisions of the Regional associations for waste management via identical texts:

Article. 24. (4) Members of Regional Association can only be municipalities.

Article. 24.(8) The management bodies of the regional association are the General Meeting and the President of the association.

Article. 25. (1) The General Meeting of the regional association is composed of the mayors of participating municipalities.

Article. 26. (6) Decisions of the General Meeting could only be appealed by interested municipalities under The Administrative Procedure Code.

➤ **The municipal councils and mayors are obliged to give their consent for the participation of the municipality in the regional association for waste management,**

whose region is identified by the Ministry of Environment and Water by National Programme for Waste Management, under:

- **Waste management Act** (Amended SG No 105 of 2008, Amended SG No 41 of 2010, Repealed SG No 53 of 13 July 2012)

Article. 19a. (1) *The municipalities included in each of the regions referred to in Article 28 (4) herein shall create a regional waste management system consisting of a regional landfill and/or other waste treatment installations.*

Article. 19b /new - SG No 41 of 2010/ (1) *The municipalities included in each of the regions of Article 28, paragraph 4, established under this Act, a Regional Association.*

Article. 19b /new - SG No 41 of 2010/ (2) *The municipal council of the municipality should adopt a decision to participate in the regional association, a copy of which is sent to the mayor of the municipality in whose territory provides the building or located facilities for waste treatment.*

Article. 19b /new - SG No 41 of 2010/ (3) *The municipal council of the municipality in a region of Article 28, paragraph 4 may decide to join the Association of Municipalities of another region, **provided it does not frustrate the establishment and functioning of the regional association or regional system for waste management in its own region following the presentation of positive opinions of the two regional associations and Regional Inspectorate for Environmental Protection and Water.***

Article. 19b /new - SG No 41 of 2010/ (11) **Municipality which refuses to participate, cause delay, frustrate the establishment and functioning of regional associations and / or regional system for waste management, pay damages and the loss of other municipalities in the region.**

§ 108 (1) of Transitional and Final provisions - *Decisions under Art. 19b, para. 2 and 3 shall be taken within three months from the entry into force of this Act.*

§ 108 (2) of Transitional and Final provisions (Amended SG No 30 of 2011) *Within three years of the come into force of this Act, municipalities in the region of art. 28, para. 4, where they are established regional associations and has concluded agreements under the current procedure of Art. 19a, create regional associations in accordance with this Act. Existing regional organizations and agreements are subject to termination under the provisions of Bulgarian legislation, and the property and other relationship arising in the course of their incorporation or conclusion, shall be settled by agreement between the parties. If municipalities choose to maintain existing partnerships and agreements, the provisions of Art. 19b, para. 9.*

- **Waste management Act** (Promulgated SG No 53 of 13 July 2012)

Article. 23. (1) *The municipalities included in each of the regions of Article 49, paragraph 9, create a regional system for waste management, consisting of a regional landfill and/or other facilities for waste treatment*

Article. 24. (1) *The municipalities included in each of the regions of Article 49, paragraph 9, established under this Act, a Regional Association.*

Article. 24.(2) *The municipal council of the municipality should adopt a decision to participate in the regional association, a copy of which is sent to the mayor of the municipality in whose territory provides the building or located facilities for waste treatment.*

Article. 24.(3) *The municipal council of the municipality in a region of Article 49, paragraph 9 may decide to join the Association of Municipalities of another region, **provided it does not frustrate the establishment and functioning of the regional association or regional system for waste management in its own region following the presentation of positive opinions of the two regional associations and RIEW.***

Article. 24.(11) Municipality which refuses to participate, cause delay, frustrate the establishment and functioning of regional associations and / or regional system for waste management, pay damages and the loss of other municipalities in the region.

§ 13. (1) of Transitional and Final provisions - Regional associations of municipalities set up under Art. 19b of the repealed Waste Management Act are retained. Article 24, para. 1 and 2 shall not apply to municipalities, regional associations established under the repealed Waste Management Act.

§ 13. (2) of Transitional and Final provisions - Existing regional organizations and arrangements created under Art. 19a of the repealed Waste Management Act before May 23, 2010 are subject to termination within 31 December 2014. If municipalities choose to retain the existing regional associations and agreements, by December 31, 2014, they can receive funding for projects in the field of waste management under Art. 24, para. 9.

Interpreting quoted texts of two laws, means that **the municipal councils are obliged to give their consent for the participation of the municipality in the selected by the government region**, but thereafter **even they are not allowed to control the decisions of the General Meeting of the Regional Association**.

According to Art. 138 of the Constitution of the Republic of Bulgaria, body of local self-government in the municipality is the Municipal Council. The mayor [kmetut] exercises executive power in the municipality (Art. 139 of the Constitution) and their powers and responsibilities are clearly defined in the Local Self-government and Local Administration Act.

Art. 44 paragraph 1 Subparagraph 15 of Local Self-government and Local Administration Act imperatively indicate, that Only the mayor has the right to represent the municipality in court, respectively to challenge the decisions of the general meeting of regional associations, according to Article 26 paragraph 6 of the current Waste management Act (Art.19d para.6 of *repealed Act*).

The prohibition in the Waste management Act not only for local councils and for citizens, respectively, for non-governmental organizations, to monitor directly the decisions of these regional associations and to challenge them in in court suppression of their rights, in violation of provisions of the Aarhus Convention and the Constitution of the Republic of Bulgaria (Article 41, Article 45, Article 56, Article 138 and Article 139).

IV. Nature of alleged non-compliance

The problem of the need for citizen participation is as follows:

According to Art.26 of Waste management Act the General Meeting of the Regional Association could decide to:

- giving an opinion on the municipality to join an association of municipalities (which is related to the capacity and lifetime of the regional landfill);
- of the individual facilities for waste treatment, structure and development of the regional system for waste management (which is related to the capacity and lifetime of the regional landfill, and the amount of tax for municipal waste for individuals and legal entities);
- determination of municipalities that assign public procurements on choosing of suppliers and contractors for the construction of the elements of regional system for waste management and the representativeness of local committees in the conduct of public procurement (which is related to the prevention of corruption in local government, transparency and free competition);
- allocation of responsibilities between the municipalities (which is related to the capacity and lifetime of the regional landfill, and the amount of tax for municipal waste for individuals and legal entities);
- adoption of an investment program for development of the regional system of waste management (which is related to the amount of tax for municipal waste for individuals and legal entities and municipal budgets);

- determine the modalities for collection and distribution of the price payable by users of the system /local - regional association members/ - (which is related to the amount of tax for municipal waste for individuals and legal entities and municipal budgets);

- consent and pricing where regional system for waste management is used by municipalities outside the regional association or other holders of waste (which is related to the capacity and lifetime of the regional landfill, and the amount of tax for municipal waste for individuals and legal entities);

- the control of the operation of regional system for waste management and operation of the selected operator / s (which is related to the capacity and lifetime of the regional landfill, and the amount of tax for municipal waste for individuals and legal entities, and protection of human health and the environment);

- ownership of the regional landfill and / or facilities for waste treatment (which is related to the property and the municipal budget, and the amount of tax for municipal waste for individuals and legal entities);

- internal rules of the association (which relates to the access to information for citizens and legal persons in relation to the activities of the association).

The politics of waste management at the appropriate Regional Association directly reflects not only on the tax burden on taxpayers, but also on their rights to health, to clean environment, to respect for their private and family life and their homes under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Individual provisions in Article 26 of the Waste management Act (paragraphs 4, 5 and 7) lay down the statutory obligation for municipalities to publish on their websites minutes and decisions of the General meeting. But first, not all municipalities in Bulgaria maintain their current web sites, even if they have - these protocols not be published. Furthermore, their publication is only informative for citizens and NGOs - no right of appeal and litigation, under these prohibitions in the Waste management Act.

V. Provisions of the Convention relevant for the communication

With the quoted texts in Waste management Act Bulgaria violates the following provisions of the Aarhus Convention: Article 1, Article 3 paragraphs 1, 8 and 9, Article 4, Article 5 paragraphs 2, 3, 6 and 8, Article 6, Article 7, Article 8, Article 9 paragraphs 2, 3, 4, 5.

VI. Use of domestic remedies or other international procedures

Citizens and representatives of NGOs are deprived of the right not only to legal challenge, but also to attend the sessions themselves at general meetings of regional associations.

Motivated by the Aarhus Convention, NGO „DEN” request a formal letter such access to the meetings of the regional association for waste management region of Yambol. Response not received, accordingly not entitled to litigation tacit refusal, since very tacit refusal of General meeting of the regional association not an administrative act within the meaning of Administrative procedure Act, because our request builds only the Aarhus Convention, but not the Bulgarian law.

From disclosed us of Sliven Municipality on 20 November 2013 via application no Access to Public Information Act Minutes № 6 of 27.02.2012 r. of the General meeting of the Regional association "Regional Centre for Waste Management, Region Yambol" we learned, that the General meeting has discussed the our request as item 9 of the agenda meeting, but it was rejected on the grounds: "According to the current legislation of the Republic of Bulgaria shall not be allowed the opportunity to participate in an advisory capacity to the "Environmental Movement" /"DEN"/ meetings of the Regional Association of Waste Management, Region Yambol".

For this problem we have repeatedly signaled the Ministry of Environment and Water, including requests for discuss the issue of the Public Council of MEW and requests for legislative changes in accordance with the Aarhus Convention.

The suppression of the rights of Bulgarian citizens to the Aarhus Convention are exposed in our petition 1353/2011 to the Committee on Petitions of the European Parliament, which is associated with breaches of European legislation with permission for continued operation of unregulated municipal landfill Municipality Yambol after 16 July 2009 (infringement of Directive 1999/31/EC) and abuse on a project to build of the Regional landfill Yambol.

In November 2013 we took advantage and from provided possibility for written comments on draft National Report on the implementation of the Aarhus Convention. Our remarks on the report - quoted in the message were sent for consideration by the national coordinator for the Aarhus Convention to the relevant departments in MEW. Of the response of the legal service in MEW is clear, that bulgarian public authority unwilling shall take the necessary legislative measures in Waste management Act to achieve compatibility between the provisions of the Aarhus Convention.

The comment of jurisconsult of MEW Miroslav Kalugerov is it: *„Powers of the mayor of art. 26, para.1 of Waste management Act are defined by Municipality council (argument of art.21, para.1, subpara. 8, subpara. 13, subpara. 15 and subpara. 23 of the Local Self-government and Local Administration Act (LSLAA). Mayor organise the fulfilment of the decisions of the municipal council (Act. 44, para. 1, subpara. 7 from LSLAA). Accordingly, the control be exercised under Art. 21, para. 1, subpara. 24 from LSLAA. Also, according to Art. 45, para.2 from LSLAA, the Municipality council can revoke acts of the mayor, implemented in violation of its decisions within 14 days of receipt. In the same period the Municipality council can challenge an unlawful administrative acts, issued by the mayor, the relevant Administrative Court. Citizens and NGOs can exercise control over the decisions of the regional associations of art. 26, para.1 from LSLAA through mechanisms for control on the acts of local government and local administration, set in LSLAA.”*

Do not take this comment the following grounds:

Art.5 para.2 of The Administrative Procedure Code stipulates: “When a law or a by-law contradicts to an international agreement, ratified by the constitutional order, promulgated and entered into force for the Republic of Bulgaria, it shall be applied the international agreement”. Aarhus Convention was ratified by Bulgaria in law, approved by the National Assembly in 2 October 2003 and is effective for our country by 16 March 2004. In it there is enough case law in Bulgaria.

In this sense, it is unacceptable in Law, promulgated in 2012, contrary to the Convention.

The Local Self-government and Local Administration Act allowed to challenge acts of the mayor and the municipal council under The Administrative Procedure Code, of which the right can benefit citizens and NGOs. However vote of the mayor during meetings of the General Assembly of the regional associations for waste management **is not an administrative act within the meaning of The Administrative Procedure Code and therefore could not be appealed.** Decisions of the General Assembly of these regional associations can not be challenged by citizens and NGOs, such as is imperative sense of Article 26 paragraph 6 of the Waste management Act, so that the link to Local Self-government and Local Administration Act is unfounded and unenforceable.

Decisions of the General Assembly of the legal entities, such as the regional associations for waste management, may be challenged **only by members of this General Assembly, i.e. only by mayors.**

Under cited by Miroslav Kalugerov texts of Local Self-government and Local Administration Act, mayor could not take separately (without Municipality council) decision,

which is subject of any control, including and judicial, on: participation of the municipality in the regional association, participation of the municipality in this project to develop a regional system and distribution of ownership. But concerning of the individual facilities for waste treatment, structure and development of the regional system and the formation of prices – there Municipal Council could not exercise control. First, because of the lack of an administrative act of the Mayor. Second, because the mayor tendered and signed contracts with the relevant services. And third, because the Municipality council approves the waste only to the population of a particular municipality, not the population of the entire region of the regional association.

In addition there is regional associations for waste management, which are not registered as legal entities, as for example the Regional association "Regional Centre for Waste Management, Region Yambol".

Furthermore the regions for regional landfills are approved by the National Programme for Waste Management, without a public participation and without a strategic environmental assessment.

The National Programme for Waste Management 1999 – 2002 was adopted with Decision № 254 of 20 April 1999 of the Council of Ministers on the basis Art.27 of the Limitation of the Harmful Impact of Waste on the Environment Act (*Repealed with Waste management Act SG No 86/2003*), which does not require an an environmental assessment for ones programs and plans.

Strategic Environmental Assessment not conducted and is not undergoing to public discussion and the National Programme for Waste Management 2003-2007 г., adopted with decision of the Council of Ministers of 11 December 2003 in point 11 of Minutes 49 of the same date. Notedly from this Minutes, decision of Council of Ministers adopted without being submitted the final version of the Programme.

The Environmental Protection Act (Promulgated SG No. 91 of 25 September 2002) for the first time introduces the requirement for conducted environmental assessmen for plans, programmes and development proposals, but this requirement enter into force of 01 July 2004 (§ 10 (2) of Transitional and final provisions of Act) – **6 monts after the validation of the National Programme**, which defined regions for construction of regional landfills in Bulgaria.

Act.28 of Waste management Act (Promulgated SG No. 86 of 30 September 2003, Repealed SG No.53 of 13 July 2012) also requires an environmental assessment for the National Programme for Waste Management, but this law is associated with the basic Environmental Protection Act, which deferred requires an environmental assessment after 01 July 2004.

At that time, citizens and NGOs did not have possibility to challenge this decision of the Council of Ministers, though it violates their rights under Art. 6 of the Aarhus Convention and Art.55 of Constitution of the Republic of Bulgaria, since under Article 3 (2) of the Administrative Procedure Act (Promulgated SG No. 90 of 13 November 1979, Repealed SG No.30 of 11 April 2006), acts of the Council of Ministers not subject to judicial review.

With decision of the Council of Ministers in point 18 of agenda meeting of 13 February 2008, functioning of the National Programme 2003-2007 been extended and for 2008 with updating the plan for her, as with Decision № EO-6 of 17 September 2007 the then minister Dzhevdet Chakarov not been carried an environmental assessment of the amendment. Has not held a public discussion on this amendment and projekt for decision of the Council of Ministers.

Strategic environmental assessment had to account exactly harms and benefits of all alternatives to waste management, and also pass public discussion. This assessment had to assess correctly selected sites are 57 regional landfills in Bulgaria, considering the amount of municipal solid waste generated per capita, the population density, the relief, the composition of waste, projections for composting, recycling and recovery of waste; respectively, what

should be the capacity of the landfill and what are the requirements for site selection – **extremely important parameters for the prevention of human health and the environment protection.**

Public discussion and has not undergone and the National Programme for Control of Waste 2009-2013, which is coherent an opinion on environmental assessment № 3-4 of 05 December 2008 of minister of environment and water Dzhevdet Chakarov and approved by Council of Ministers Decision № 1 of 09 January 2009, as well as its update, is coherent an Decision № EO-11 of 26 August 2010 до next minister of environment and water Nona Karadjova.

VII. Summary of a concrete example of the consequences of the Aarhus Convention

- **Violation of Art. 1, Art. 7 and Art. 8 (because compliance with the national programs for waste management is required is mandatory for the preparation and approval of regulations and programs of local governments and decisions of the Minister of Environment and Water) of the Aarhus Convention** - With the aforementioned National programs for waste management the Bulgarian government, without public participation and without environmental assessment, is designated a regional landfill in the region of Yambol be allocated to municipalities Yambol, Tundzha, Sliven, Nova Zagora and Straldzha. Concrete site for landfill is not specified in the programs themselves, but she is redefined, again solely by the Minister of Environment and Water, whit another administrative act - Integrated Permit, which will become a speech in the next subsection.

Three years before the adoption of the National Programme for Waste Management the 2003-2007, in implementation of decisions of municipal councils, the mayors of Yambol, Sliven and Nova Zagora create a general commercial company "Eco engineering" Ltd, registered with decision № 89 of 12 January 2000 under company file 46/2000 on the Sliven District Court with the sole object of: design, construction, operation and marketing of production of a plant for processing of municipal solid waste from municipalities Sliven, Nova Zagora and Yambol, whit place of construction of the plant in region of city Kermen- v. Nikolaevo, Municipality Sliven, District of Sliven. Subsequently joins them and the municipality Tundzha Begin research, collection of offers from investors from Bulgaria and abroad, negotiations for achieving better conditions for taxpayers in the construction and operation of the plant ... Reference in the Commercial Register of Bulgaria indicates, that "Eco engineering" Ltd not been deleted until today. As a partner in 2009 was deleted only Yambol Municipality. But the objective of the company is not achieved and the plant is not built – mostly because of the change in government policy to build regional landfills, instead of processing plants waste.

In this period (from the 70s of the XX century - to date) with their municipal illegal dumpsites have Yambol, Sliven, Nova Zagora Municipality. By decisions of 2008 of the minister of environment and water Dzhevdet Chakarov for these dumps have been refused a Integrated Permits and has been given to to suspend their exploitation to July 16, 2009 on the grounds that it can not implement the best available techniques for continued operation, in accordance with Directive 1999/31/EC on the landfill of waste. Operation of these landfills, however, still going, and thus inflicting irreparable harm to the environment and human health and allowing blackmail taxpayers of municipalities to pay double the high fees for landfilling of municipal waste (as opposed to taxpayers of municipalities, which deposited in landfills which meet Directive).

- The same year 2008 the minister Dzhevdet Chakarov issue a Integrated Permit № 225-H0-I0-A0/2008, which obliges municipalities Yambol, Tundzha, Sliven, Nova Zagora and Straldzha build Regional landfill a site in the village Hadzhidimitrovo, Municipality Tundzha. The Integrated Permit has been issued at the request of the Municipality of Yambol for issuing of Integrated Permit, but **for municipal landfill on the same site and not regional landfill** (confirmed also by the prosecutor and by the jurists of the MEW on

administrative case № 10472/2011 and the administrative case 8627/2012 of the Supreme Administrative Court). Against the draft decision of the minister objected civic organizations and the mayors of Yambol, Sliven and Tundzha, as:

- Failure to morphological analysis and analysis of waste for the 5 municipalities, there is only analysis of waste Municipality Yambol;
- assessment of environmental impacts was made solely for the expansion project of the existing landfill of the municipality of Yambol;
- the envisaged capacity of cells 1 and 2 for the regional landfill is insufficient waste disposal for five municipalities for a period of 5 years, which does not justify the amount of investment;
- until the time of issuing of Integrated Permit none of the Municipality councils was not giving their consent municipality to be included in the draft regional landfill a site in the village Hadzhidimitrovo, Municipality Tundzha.

The Minister however does not comply with the objections of the affected public and local governments – **Violation of Art. 1, Art. 3 and Art. 6 of the Aarhus Convention.**

In 2011 NGO “DEN” challenged in court as negligible issued by the minister Dzhevdet Chakarov Integrated Permit, as part of our arguments were the foregoing facts, un rebutted by the representatives of the ministry in court. No less strong argument was the fact, that selected solely by the ministry for regional landfill site bordered on 200 meters of residential area, which creates a serious risk to the health and lives of its inhabitants. But our appeal was rejected by the Supreme Administrative Court under political pressure, on account wrong understanding of Bulgarian governments to absorb European funds at any cost.

- In 2010, after amendment of Waste management Act (*Amended SG No 41 of 2010, Repealed SG No 53 of 13 July 2012*) the municipal councils of Jambol, Tundzha, Straldzha, Sliven and Nova Zagora were forced to give their consent for the participation of municipalities in general regional association for waste management for the construction of a regional landfill. This regional association until today is not registered as a legal person, accordance with the Waste management Act. Its meetings are closed to the public, including journalists and NGO representatives. As mentioned to above, NGO “DEN” formally request such access, but we not received permission on grounds of lack of legal regulation – **Violation of Art. 1, Art. 3, Art. 4, Art.5 и Art. 6 and Art. 7 of the Aarhus Convention.**

- Lack of legal registration of the regional association for waste management seriously calls into question the legitimacy of the decisions of the General Assembly, but however these decisions are used to fund projects under the Operational Programme "Environment" 2007-2013 through the European Regional Development Fund (ERDF). At the same time we can not challenge those decisions - because of the above prohibitions in the Waste management Act – **Violation of Art. 9 of the Aarhus Convention.**

Нашите проучвания на дейността на това сдружение разкриха няколко скандални факта:

1. In 2008 MEW financed through Operational Programme "Environment" 2007-2013 (European Regional Development Fund) the project of the Municipality of Yambol of technical assistance for research and preparation of a project for construction of a regional landfill for the municipalities of Yambol, Tundzha, Straldzha, Nova Zagora and Sliven under contract № 58231-C015. So called research - again for the above (chosen solely by MEW) a site in village Hadzhidimitrovo, Municipality Tundzha, were conducted by the company, whose owner Botyo Tabakov is close of the minister of environment and water Nona Karadzkhova and member of the Monitoring Committee of Operational Programme "Environment" 2007-2013. This fact was confirmed by a decision № 159 of 18.12.2012, the verification of the government Commission for Prevention and Ascertainment of Conflict of Interest in our signal, without consequences for the involved government officials and Botyo Tabakov for one reason only – at the time of inspection Tabakov already been released by the

Monitoring Committee of Operational Programme "Environment" 2007-2013 – probably because and our signal.

2. In August 2011 the Mayor of Yambol submit a project in MEW for construction of a regional landfill for the municipalities of Yambol, Tundzha, Straldzha, Nova Zagora and Sliven – without the decisions of the Municipal Council of Yambol and the Municipal Council of Nova Zagora for participation of municipalities in the project. And without, assessment of the environmental impact of such investment intention in village Hadzhidimitrovo, Municipality Tundzha (construction of two cells from the regional landfill and installations for recycling, separation and composting - pending in the the above cited Integrated Permit). The Municipal Council of Nova Zagora has given consent for projects with decision № 36 in item 10 on the agenda of Protocol № 4 of 29 December 2011 - 3 months after the submission of the project in MEW.

3. Contrary to Art. 44, para.1, subpara.7 of the Local Self-government and Local Administration Act, the mayor of Jambol exceeded its powers with submission of the project in MEW, because at its 48th meeting held on 30.06.-01.07.2011, the Municipal Council of Yambol has taken the following decision under item 12 of the agenda: „*In relation to article 21, paragraph 1, subparagraph 20 of the Local Self-government and Local Administration Act, Article 26, paragraph 1 and Article 27, paragraph 1 of the Direct Citizen Participation in State and Local Government Act and Art. 17, Paragraph 2 of the Municipal Debt Act, decision on application jointly with the municipalities of the region of Yambol with project " Construction of a regional center for waste management, Yambol region", on the amount of the local share of the total value of the project and the manner of its provision, to determined after conducting a local referendum.* ". Such referendum is not conducted at all. Municipal Council's decision was appealed to the court by the mayor and confirmed by the Administrative Court - Yambol whit Order № 267 of 18 October 2011, in legal effect from 27 October 2011. On account of not conducted referendum, in our appeals, the Administrative Court - Yambol reverses subsequent unlawful decisions of the Municipal Council – for the distribution of ineligible project costs, etc. However, the mayor does not comply with the opinion of public. MEW did not stop the project procedures. On 17 October 2012 was signed a contract № DIR 5112122-5-71 to build a regional system of waste management in the region of Yambol. The problem with not realized referendum was eliminated by a new decision of the majority of the party of the mayor in the newly elected the Municipal Council – repealing decision for referendum (15th meeting held on 26 October 2012).

- **In Violation of Art. 3 paragraph 8 of the Aarhus Convention** and of the Constitution of the Republic of Bulgaria, for attempts of NGO “DEN” to protect the rights of citizens to health, clean environment and respect for private and family life, as challenge in court the unlawful acts of the MEW, Regional Inspectorate for Environmental Protection and Water-Stara Zagora and Yambol Municipal Council, at the request of the Mayor of Yambol, the General Assembly of juridical illegitimate regional association "Regional Centre for Waste Management, Region Yambol" has decided to collect documents for residential properties to the President of the NGO “DEN”, which to be sent to the prosecution (*despite the lack of legal violations - proven by numerous, caused by anonymous denunciations, checks to government institutions*). This decision was announced by the Mayor of Yambol in press conference on 10 October 2013, after holding 11 session of the General Assembly of the regional association for waste management. Evident from the minutes of the meeting, at the same meeting the mayor of Yambol has asked his colleagues to confirm categorically that remain in the organization and will assist the maximum (the subtext of this is that a refusal to cooperate, Yambol municipality will bring to the municipality claims for compensation under the Waste management Act).

The example of the regional Association of Yambol region is not unique to Bulgaria. Similar activities and associations in Razlog, Samokov, Dupnitsa, Stara Zagora, Dobrich and others.

VIII. Request

Please, on the basis of the foregoing, and after verifying the facts, to deliver an opinion on the violation of the Aarhus Convention by Bulgaria with the quotes texts of Waste management Act and impose appropriate measures under the Convention.

IX. Confidentiality - no

X. Supporting documentation (copies, not originals)

- Relevant national legislation, highlighting the most relevant provisions.

1. Waste management Act (*Amended SG No 105 of 2008, Amended SG No 41 of 2010, Repealed SG No 53 of 13 July 2012*) in English – *cited in the notice provisions are highlighted*

2. Waste management Act (Promulgated SG No 53 of 13 July 2012) in English – *cited in the notice provisions are highlighted*

3. Constitution of the Republic of Bulgaria - *cited in the notice provisions are highlighted*

- Decisions/results of other procedures.

1. Written comments of NGO "DEN" on draft National Report on the implementation of the Aarhus Convention – *main text is transferred in this communication.*

2. Answer by Miroslav Kalugerov - jurisconsult of MEW to written comments of NGO "DEN" on draft National Report on the implementation of the Aarhus Convention – *main text is transferred in this communication.*

3. Minutes № 6 of 27.02.2012 г. of the General meeting of the Regional association "Regional Centre for Waste Management, Region Yambol" – *with translation into discussions relevant to this communication item 9 of the agenda.*

4. Minutes № 11 of 10.10.2013 г. of the General meeting of the Regional association "Regional Centre for Waste Management, Region Yambol" – *with translation into discussions relevant to this communication item 4 of the agenda.*

27.01.2014 г.
Jambol, Bulgaria

Chairman of the Board of NGO "DEN"

Dimitar Vulev Dimitrov

