

Statement by Justice and Environment at the 26th Working Group of the Parties to the Aarhus Convention concerning Agenda Item 3(c): Access to Justice

I would like to start by congratulating Mr. Luc Lavrysen on the behalf of the European Eco Forum on his excellent leadership at the Access to Justice Task Force Meeting held last April. I would also like to express our appreciation for the outcomes of that meeting, some of which were just touched upon by Mr. Lavrysen in his video address, in particular as regards access to justice to challenge spatial planning decisions and in energy-related cases, the need for Parties to take measures to prevent SLAPPs, and the necessity for cooperation between the Task Force and the work of the Special Rapporteur under the newly-created Rapid Response Mechanism.

But what is also a clear take-away is just how many barriers persist and, in some instances, have newly arisen.

Thus for example we must highlight prohibitive and unfair costs. We hear from our colleagues in **Ireland** that this is a long-standing problem yet are constantly presented with new examples of this. **Austria** and **Bulgaria** have both presented new barriers in terms of a removal of second-instance court review. Following a ruling of the Supreme Administrative Court in **Austria**, NGOs can only bring complaints to that court as to procedural matters, excluding review as to the substance. Yet developers can still challenge matters as to substance before this very court. In **Bulgaria**, as alleged in communication ACCC/C/2018/161, access to the higher judicial instance was eliminated both as to access to information cases and with respect to EIA projects deemed to be of national importance. Now, we can happily report that the latter restriction was recently removed through a legislative amendment. Unfortunately this only takes force as of June 2024, leaving a huge lacuna in terms of effective and fair access to justice in that country as well.

We consider that **Bulgaria** deserves special mention. It is has been particularly recalcitrant in the implementation of what is now decision VII/8d. But it is by no means the only Party subject to a MOP decision that concerns access to justice. **Armenia, Austria, Bulgaria, Czechia, the European Union, Germany, Ireland, Italy, Spain, Ukraine**, and the **United Kingdom** are all subject to MOP decisions for a failure to comply with article 9. For perspective, this is 11 out of 19 MOP decisions. This does not include a MOP request, nor does it include pending or recent cases. This statistic only pertains to MOP decisions. And from our experience, all of this only scratches the surface of noncompliance in access to justice matters among the Parties to the Convention.

Finally, the European ECO Forum, and me specifically on the behalf of the communicants of communication ACCC/C/2015/128, must point out the elephant in the room, namely MOP request ACCC/M/2021/4, concerning the **compliance of the EU**. Here we can keep it regrettably short. Because essentially, nothing has happened. The consultation announced to take place in the spring regarding the assessment for implementing the Committee's recommendations on this case has not occurred. Rather, it has been significantly delayed. We are seriously concerned and we call upon the European Commission to finally publish its preliminary assessment so that the communicants and other interested parties can comment and aid in what we hope will be a constructive exchange leading to the full implementation of the Committee's recommendations.

Thank you very much indeed.