

# **AARHUS CONVENTION COMPLIANCE COMMITTEE**

United Nations Economic and Social Council

Economic Commission for Europe

*Geneva, Switzerland*

## **COMMUNICATION FROM MEMBER OF THE PUBLIC No. PRE/ACCC/C/2023/200**

**TRANSCRIPT OF ORAL STATEMENTS  
BY THE COMMUNICANT  
REGARDING THE ADMISSIBILITY OF THE  
COMMUNICATION**

**SEVENTY-NINTH MEETING OF THE COMMITTEE**

**OPEN SESSION OF 13<sup>TH</sup> JUNE 2023**



**SACCUCCI & PARTNERS**  
STUDIO LEGALE INTERNAZIONALE

*Madam Chair, distinguished members of the Committee,*

I wish to thank the Compliance Committee for the opportunity to participate in this open session.

The Communicant argues that the present Communication should be ruled preliminary admissible.

It is indeed our respectful submission that none of the criteria set out in the annex to decision I/7 of the Meeting of the Parties, nor the further criteria identified by the Committee for deeming a communication inadmissible are fulfilled in the present case.

The present Communication raises important aspects of non-compliance with the third pillar of the Aarhus Convention concerning access to justice.

First, the Communicant submits that Italy does not comply with Articles 2, 3 and 9 of the Convention because it does not have in place a clear, transparent and consistent framework for ensuring access to justice to unregistered environmental associations in review procedures under Article 9.

Second, the Communicant submits that Italy does not comply with Articles 3 and 9 of the Convention because it does not have in place a clear and transparent framework to ensure that litigation cost orders against unsuccessful claimants in review procedures under Article 9 are fair and not prohibitively expensive.

The problems identified in the Communication are of a general and systemic nature. They extend well beyond the single case of the Communicant, affecting the right of access to justice of environmental associations under the Italian legal system more broadly.

There is in fact a legal vacuum in respect of both the criteria for legal standing and the parameters for determining cost orders against unsuccessful associations in review procedures under Article 9 of the Convention.

Such a legislative gap is not remedied by the judiciary.

As a result, access to justice is systematically denied to unregistered environmental associations under the Italian legal system.

This is why this Committee can have a fundamental – and, I would say, necessary – role in prompting the implementation of the right of access to justice of unregistered environmental associations in Italy.

The legal issues raised by the present Communication have already been dealt with by the Committee in several cases concerning different State Parties.

With specific regards to litigation costs, I recall that the same issue raised in this communication has already been examined by the Committee in a previous case concerning compliance by Italy (ACCC/C/2015/130).

These circumstances and the existence of relevant precedents clearly indicate the relevance of the issues at stake for the implementation of the Convention at domestic level and call for a prompt and rapid examination of admissibility and merits of the present communication by the Committee.

I stand ready to answer any questions the Committee may have.

Thank you very much, Madam Chair.