



CASE PRE/ACCC/C/2022/195

STATEMENT BY SPAIN

At the 13/6/2022 Open session Discussion of preliminary admissibility of new communications.

**Aarhus Convention Compliance Committee
79th meeting.**

We would like to thank the Compliance Committee for giving us the opportunity to participate in this open session.

Regarding case 195, we would like to raise the following points.

It is the view of this Focal Point that the documents provided by the communicant prove beyond any reasonable doubt that there has been repeated access to justice. The fact that the courts have ruled against the communicants wishes, mainly based on procedural grounds, does not imply a lack of access to justice or remedies.

Contrary to communicant's arguments, there is no space for impunity for environmental crimes in Spain, but judiciary cases must follow due process, and independence of the Spanish Judicial Power can not be questioned and is beyond the scope of this Committee.

In particular, it is the view of this focal point that the request is unreasonable and should therefore not be admissible in accordance with Decision I/7, for the following reasons:

1. With respect to article 9.3 of the Convention, it is to be considered that the complainant has had access to justice repeatedly, despite the fact that in all cases his demands have been dismissed by the different courts of justice, including all relevant levels up to the Spanish Constitutional Tribunal and the European Court of Human Rights
2. Taking into account that in all cases the demands have been dismissed by the different courts of justice, it seems to us that there has not been any breach of article 9.4, since so far there has not been official decision from the justice that would require to provide any remedies or reparation.
3. As the Compliance Committee has previously pointed out, "(...) it must be stressed that the compliance procedure is designed to improve compliance with the Convention The compliance mechanism aims to facilitate compliance by Parties with their obligations under the Convention. It is not intended as a redress mechanism". In other words, the purpose of procedures under the Aarhus convention is to guarantee access to Justice, not to challenge court rulings.



We thank again the Committee for taking these arguments into consideration when assessing the admissibility of the case. We will be pleased to provide further views, should they be required.