

31 October 2023

Genady Kondarev
Environmental association “Za Zemiata”
Bulgaria

Dear Mr. Genady Kondarev,

Re: Invitation to hearing to discuss substance of communication ACCC/C/2018/161 (Bulgaria)

I write to inform you that the Aarhus Convention Compliance Committee proposes to hold a hearing to discuss the substance of communication ACCC/C/2018/161 at its eighty-first meeting to be held at the Palais des Nations, Geneva, on 12-15 December 2023.

The hearing of the above communication is scheduled for **Wednesday, 13 December 2023**, starting at 10:30 am and concluding by 4:30 pm.

In accordance with chapter IX of the [annex to decision I/7](#) of the Meeting of the Parties to the Aarhus Convention, both the Party concerned and the communicant are entitled to participate in the hearing on the subject matter of the communication, though not in the preparation or adoption of any findings, measures or recommendations of the Committee.

According to the Committee’s normal practice, the hearing of the communication, which will be held in open session, will be interspersed with at least one closed session in which the Committee will begin the process of preparing draft findings. It is envisaged that the open sessions of the hearing will take the following form:

- Introduction by the Chair;
- Opening of the hearing by the curator for the case (10-15 minutes);
- Concise presentations by the communicant and by the Party concerned (10-15 minutes each);
- Questions from Committee members, replies from the Party concerned and the communicant (30 minutes);
- Comments from other observers at the invitation of the Chair (10 minutes);
- Final comments by the communicant (5-10 minutes);
- Final comments by the Party concerned (5-10 minutes).

During the second part of the hearing (i.e. following the closed session), the Committee may pose additional questions to the parties or invite reactions to any tentative conclusions it has reached.

Further details concerning the timetable for the hearing will be provided in the provisional timeline for the meeting to be published on the meeting webpage nearer the time.

I would be grateful if you could confirm by **Tuesday, 12 November 2023** that a representative of the communicant will participate in the hearing. All participants are encouraged to cover their own costs as far as possible, but in case you would require financial support to cover travel and subsistence costs for one representative in order to be represented at the meeting, please notify me by return and in any case no later **Tuesday, 12 November 2023**. Thereafter, each participant wishing to attend the meeting should register online at <https://indico.un.org/event/1002261/> before **Tuesday, 5 December 2023**.

Please note that, in accordance with paragraph 113 of the [Guide to the Aarhus Convention Compliance Committee](#), in sending the present invitation to participate in the hearing to discuss the substance of the communication, the Committee thereby confirms its determination that the communication is admissible. It will therefore not be necessary for either the Party concerned or the communicant to make submissions on the issue of admissibility at the hearing.

Moreover, the Committee has indicated that the hearing should not be used as an occasion to introduce substantial amounts of information that could or should have been provided to it at an earlier stage, unless this is unavoidable (e.g. because it concerns very recent developments). Should you wish to present any further substantial written material related to the matter, you should take into account that where such information is received less than two weeks before the meeting, it is doubtful whether the Committee will be able to take it into consideration when it is discussing the matter, even where the information is provided in English.

Finally, in the light of the time that has passed since the communication was submitted, please find enclosed some questions for the communicant's written reply regarding the current status of various matters addressed in the communication. This is so that at the hearing the Committee can focus on those aspects of the communication that the communicant still seeks to maintain. Please send your replies to the enclosed questions to aarhus.compliance@un.org by **Tuesday, 28 November 2023**.

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Bulgaria to the United Nations Office and other international organizations in Geneva
Mr. Hristo Stoev, national focal point for the Aarhus Convention, Ministry of Environment and Water, Bulgaria
ClientEarth, as observer

Enc: Questions to the communicant

Questions to the communicant

1. Please confirm whether the following aspects of the Party concerned's legal framework are still in force:
 - (a) The 2017 amendments to the Environmental Protection Act, introducing a one-instance court review over EIA appeals against objects of national importance and having strategic value;
 - (b) The 2018 amendments to the Administrative Procedure Code (APC), introducing a one-instance court review for appeals against refusals to provide access to environmental information and introducing higher fees for cassation appeals for environmental non-governmental organisations.
2. In relation to the 2018 amendment of the APC introducing a one-instance court review for appeals against refusals to provide access to environmental information, at paragraphs 30 and 42 of the communication, you claim that "the APC Proposal did not include this amendment and, accordingly, it was not put to public discussion with the rest of the texts of the law" and that this amounted to noncompliance with article 8 of the Convention. Please provide a chronology of the main steps in the preparation of the 2018 amendments to the Administrative Procedure Code, including when public participation took place on the 2018 APC Proposal, and when and how the amendment providing for a one-instance court review for appeals against refusals to provide access to environmental information was introduced.

(If, in your reply to question 1 (b) above, you indicate that you no longer maintain your allegations of non-compliance in relation to the 2018 APC amendments, it is not necessary to reply to question 2.)
3. Please provide an update regarding the issue of standing to challenge Air Quality Plans, as alleged in paragraphs 33-36, 45 and 106-116 of the communication, including whether the communicant maintains its allegations in relation to this issue.
4. To ensure any alleged victims of persecution, penalization and harassment are not put at further risk, the Committee will only examine allegations of non-compliance of article 3(8) of the Convention in relation to victims that have provided their written consent, in advance of the hearing, to the Committee examining the allegations concerning their alleged persecution, penalization and harassment. To this end, please provide the written consent of each of person named in the communication as alleged victims of persecution, penalization and harassment under article 3 (8) that the communicant wishes the Committee to examine in its findings (see paragraphs 31-32, 44 and 102-105 of the communication, and related annexes, and paragraphs 19-24 of the additional information provided on 20 February 2020, and related annexes). Please provide the written consent of each such alleged victim by **Tuesday, 28 November 2023**, together with the communicant's replies to questions 1-3 above.