

# COALITION FOR ACCESS TO JUSTICE FOR THE ENVIRONMENT

Ms Aphrodite Smagadi,  
Secretary to the Aarhus Convention Compliance Committee,  
Environment, Housing and Land Management Division,  
United Nations Economic Commission for Europe,  
Room 330,  
Palais des Nations,  
CH- 1211 Geneva 10,  
Switzerland.

7<sup>th</sup> September 2010

Dear Ms Smagadi,

**Re: Draft findings of the Compliance Committee concerning Communications  
ACCC/C/2008/27 and ACCC/C/2008/33**

Thank you for your letter dated 25<sup>th</sup> August 2010 concerning the above, which was copied to myself and Gita Parihar on behalf of CAJE.

The Coalition for Access to Justice for the Environment welcomes the draft findings of the Compliance Committee in relation to both Communications (C27 and C33). We endorse the findings and recommendations in relation to both Communications.

We would be grateful if the Committee would consider taking two minor comments into account when finalizing the findings at its twenty-ninth meeting in Geneva on 21-24 September 2010.

**1. Public funding**

Paragraph 95 of C33 states:

*“The Legal Services Commission Public Interest Advisory Panel, composed mainly of independent members with a strong interest in public interest litigation, interprets and applies the Funding Code Guidance and determines which cases are eligible for judicial aid.”*

Whilst we acknowledge that this is a quote from a published report, it was not quite correct in 2007 and it is certainly incorrect now. In particular, even last year, the Legal Services Commission PIAP only made recommendations (it was not the decision maker) and even then only on whether the case had a Significant Wider Public Interest, and not on other issues such as the merit of the case.

Furthermore, the PIAP has now been replaced by the Special Cases Review

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Panel which does make decisions (as opposed to mere recommendations) on some aspects of whether a case should be funded, such as its prospects of success. However, it still does not ultimately decide whether a case should be funded.

Clearly, this is not a large point in the overall scheme of things, however, it seemed sensible to take the opportunity to correct it.

**2. Time limits**

We seek clarification on the wording of paragraphs 137 and 141 of the draft findings. We assume that the draft findings mean to refer to a **maximum** time within which a claim **must** be brought, rather than a **minimum** time within a claim **may** be brought. Although the decision/point in issue is clear, we assume this is an error in translation/language.

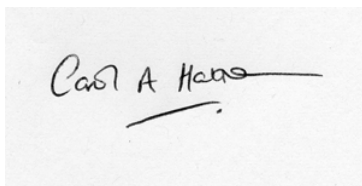
Similarly, we also assume that the Party concerned and the communicated were invited to submit comments are required by 22<sup>nd</sup> **September** (not August), as stated in paragraph 19.

Finally, we would like to take this opportunity to sincerely thank the members of the Compliance Committee for examining both of these Communications in such a careful and thorough manner and for giving CAJE the opportunity, as *amicus*, to submit written and verbal observations on them.

We can only hope that the UK gives these findings careful consideration and takes action to address the short-comings identified.

With best wishes.

Yours sincerely,

A handwritten signature in black ink that reads "Carol A. Hatton". The signature is written in a cursive style and is underlined with a single horizontal line.

Carol Hatton  
Solicitor  
**WWF-UK (on behalf of CAJE)**

Encs.