



Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters  
(Aarhus Convention)

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**Michel Forst**  
**UN Special Rapporteur on environmental defenders under the Aarhus Convention**

Ref: ACSR/C/2023/14 (Switzerland)  
(Please use this reference in your reply)

8 August 2023

Excellency,

I have the honour to address you in my capacity as UN Special Rapporteur on environmental defenders under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, article 3 (8) of the Aarhus Convention requires that “Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.”

At its seventh session (Geneva, 18–21 October 2021), the Meeting of the Parties to the Aarhus Convention adopted decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention.<sup>1</sup> Decision VII/9 establishes the rapid response mechanism in the form of an independent Special Rapporteur on environmental defenders under the authority of the Meeting of the Parties. At its third extraordinary session (Geneva, 23–24 June 2022), I was elected, by consensus, by the Meeting of the Parties as the Convention’s Special Rapporteur on environmental defenders.

In accordance with the mandate in decision VII/9, I write to bring to the attention of your Excellency’s Government information I have received concerning the alleged persecution, penalization and harassment of Bruno Manser Fonds and Dr. Lukas Straumann in connection with the exercise of their rights under the Aarhus Convention.

Bruno Manser Fonds is a non-profit association under article 60ff of the Swiss civil code based in Basel, Switzerland. Bruno Manser Fonds campaigns for the conservation of threatened tropical rainforests and their biodiversity, primarily in Borneo, Malaysia. Dr. Straumann is the director of Bruno Manser Fonds. Based on the information received, both Bruno Manser Fonds and Dr. Straumann are environmental defenders within the meaning of the ninth preambular paragraph of decision VII/9.<sup>2</sup>

According to the information received, Bruno Manser Fonds and Dr. Straumann have been subject to civil suits, criminal complaints and a public relations (PR) campaign by Sakto Corporation and Sakto Development Corporation, and their owners, Jamilah Taib Murray and her husband Sean Murray (collectively, Sakto), all based in Ottawa, Canada, as a result of Bruno Manser Fonds’ efforts to highlight the environmental harms, and alleged corruption, of Sakto’s activities in Malaysia. Jamilah

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<sup>1</sup> Available at: [https://unece.org/sites/default/files/2022-01/Aarhus\\_MoP7\\_Decision\\_on\\_RRM\\_E.pdf](https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf)

<sup>2</sup> Ibid.

Taib Murray is the daughter of Abdul Taib Mahmud, the current Governor and former long-serving Chief Minister of Sarawak, a Malaysian state on the island of Borneo.

Sakto is represented in its various legal actions against Bruno Manser Fonds and Dr. Straumann by the Swiss law firm, Vischer AG (Vischer), based in Basel. Until 2019, Sakto was also supported in its PR campaign against Bruno Manser Fonds and Dr. Straumann by the PR company, Cabinet Privé de Conseils, based in Geneva.

The alleged campaign of persecution, penalization and harassment against Dr. Straumann and Bruno Manser Fonds in connection with their exercise of their rights under the Aarhus Convention includes, but is in no means limited to, the following:

#### **Civil court proceedings against Bruno Manser Fonds and Dr. Straumann**

1. On 27 September 2019, Sakto filed a civil lawsuit against Bruno Manser Fonds and Dr. Straumann under article 28 of the Swiss civil code for alleged unlawful personal injury. Vischer represents Sakto in the civil proceedings, which are currently ongoing.
2. In the lawsuit, the plaintiffs request that:
  - a. Bruno Manser Fonds be ordered to delete 249 publications from 2009 to 2018, in some of which the plaintiffs are mentioned, including research reports, internet posts and a book authored by Dr. Straumann;
  - b. Bruno Manser Fonds be prevented from making seven specific statements in relation to the plaintiffs, including as regards alleged corrupt practices and money-laundering;
  - c. The court make a statement finding that Bruno Manser Fonds and Dr. Straumann violated the plaintiffs' personality rights;
  - d. The court award CHF 10,000 in damages as satisfaction for each of the plaintiffs; and
  - e. The court award compensation, provisionally set at CHF 1 million (representing the provisional litigation value).
3. Bruno Manser Fonds and Dr. Straumann have requested the court to dismiss the action in its entirety. To date, the defendants have incurred over € 600,000 in legal fees to defend the lawsuit.
4. A court hearing before the civil court of Basel-Stadt on the merits of the case has been scheduled for **16 August 2023**. The judgment is expected to be issued at a later date, most likely in 2024.

#### **Criminal complaints against Dr. Straumann**

5. On 17 August and 18 September 2018, Sakto filed two separate criminal complaints with the Basel public prosecutor's office (Staatsanwaltschaft Basel-Stadt) against Dr. Straumann, alleging that he had committed eight different crimes, including fraud, embezzlement, coercion and misleading judicial authorities.
6. On 25 July 2022, after nearly four years, the Basel public prosecutor's office dropped the case.

## **Other legal recourse against Bruno Manser Fonds and Dr. Straumann**

### Court application for a provisional measure

7. In August 2018, Sakto applied to the civil court of Basel-Stadt requesting a provisional measure against Bruno Manser Fonds and Dr. Straumann, seeking the precautionary deletion of 255 publications by Bruno Manser Fonds for alleged “violation of personality”.
8. The court rejected Sakto’s request on 6 February 2019, and, on 1 April 2019, the Court of Appeal of the Canton of Basel rejected Sakto’s appeal against its earlier decision.

### Denunciations to the Basel tax authority and the ZEWÖ foundation

9. In August 2019, Bruno Manser Fonds was denounced before the local tax authority of Basel (Steuerverwaltung Basel-Stadt). Such denunciation could result in Bruno Manser Fonds losing its status as a charitable, tax-exempt association. To date, the Basel tax authority has refused to give Bruno Manser Fonds access to the denunciation file. In July 2022, Bruno Manser Fonds appealed the decision to deny it access to the denunciation file. That appeal was rejected in July 2023, and Bruno Manser Fonds has filed an appeal to the higher appeal body (Steuerrekurskommission Basel-Stadt), which remains pending.
10. Also in August 2019, Sakto’s legal counsel, Vischer, wrote a denunciation letter to the ZEWÖ foundation,<sup>3</sup> a foundation that certifies Swiss charities, alleging that Bruno Manser Fonds had committed financial crimes.

## **PR campaign by Sakto against Bruno Manser Fonds and Dr. Straumann**

### Dedicated website and media outreach

11. For a number of years, Sakto has actively pursued a PR campaign seeking to discredit Bruno Manser Fonds and to pressure it to cease its work to document the environmental harm and corruption of Sakto’s activities in Sarawak. This has included the establishment of a dedicated website specifically targeting Bruno Manser Fonds ([www.thefactsmatter.ca](http://www.thefactsmatter.ca)) as well as other media activities. While the website is hosted in Canada, it “provides news and current information about the legal steps that Sakto Corporation is taking in Switzerland” furnished by Sakto’s Swiss lawyers.
12. In addition, in October 2018, the Geneva-based PR agency, Cabinet Privé de Conseils, sent a letter on Sakto’s behalf to potential donors/supporters of Bruno Manser Fonds asserting, inter alia, that Bruno Manser Fonds violated its charter and used donations carelessly and contrary to the purposes of the association and that Dr. Straumann was willing to misrepresent the facts in order to achieve his goals.
13. In a similar vein, in May 2019, Sakto sent a letter directly to the board members of Bruno Manser Fonds, threatening to hold them legally responsible if Bruno Manser Fonds did not comply with Sakto’s requests.

Without prejudging the accuracy of the above information, I express my grave concern at the apparent use of court proceedings, the lodging of criminal complaints and the PR campaign by Sakto, and its Swiss-based agents, to silence Bruno Manser Fonds and Dr. Straumann and prevent them from exercising their rights under the Aarhus Convention.

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<sup>3</sup> See <https://zewo.ch/en/>.

Given the immediately upcoming hearing on 16 August 2023 of Sakto's civil lawsuit against Bruno Manser Fonds and Dr. Straumann, I am deeply concerned that, should the civil court of Basel-Stadt not promptly dismiss those proceedings, Switzerland may fail to meet its obligation under article 3 (8) of the Convention to ensure that Bruno Manser Fonds and Dr. Straumann are not penalized, persecuted or harassed for exercising their rights under the Convention.

On this point, it is important that I draw to your attention that the Aarhus Convention Compliance Committee has made clear that article 3 (8) "is not limited in its application to acts of public authorities as defined in article 2, paragraph 2, of the Convention, but rather covers penalization, persecution or harassment by any State body or institution, including those acting in a judicial or legislative capacity".<sup>4</sup>

I also express my serious concern about the roles played by the Swiss law firm, Vischer AG, and the Geneva-based PR agency, Cabinet Privé de Conseils, in enabling and exacerbating the alleged persecution, penalization and harassment of Bruno Manser Fonds and Dr. Straumann by Sakto.

In this regard, the Aarhus Convention Compliance Committee has made clear that article 3 (8) "covers penalization, persecution or harassment by private natural or legal persons that the Party concerned did not take the necessary measures to prevent."<sup>5</sup> This means that Switzerland is bound by article 3 (8) of the Aarhus Convention to also ensure that environmental defenders like Bruno Manser Fonds and Dr. Straumann are not penalized, persecuted or harassed by private entities like Vischer and Cabinet Privé de Conseils for exercising their rights under the Convention.

As it is my responsibility, under the mandate entrusted to me by the Meeting of the Parties to the Aarhus Convention, to seek to clarify all complaints brought to my attention, I would be grateful for your response to the following matters:

1. Please provide any information and/or comments you may have on the allegations set out in the present letter.
2. Please provide information on any legislation or other mechanisms, including prosecutorial or judicial guidelines, Switzerland has in place to prevent or promptly dispose of Strategic Lawsuits Against Public Participation (SLAPPs).
3. Please provide information on ethical rules or guidelines Switzerland has in place for lawyers in relation to legal representation in pursuit of SLAPPs.
4. Please provide information as to the actions taken, if any, as a result of the present letter.

I would appreciate receiving your response within 60 days, that is by **7 October 2023**. After this date, the present letter and the response received from your Excellency's Government may be made public on the Aarhus Convention's website.<sup>6</sup> They will also subsequently be reported upon in my report to the eighth session of the Meeting of the Parties in 2025.

While awaiting your response, I urge that all necessary interim measures be undertaken to halt the alleged persecution, penalization and harassment of Bruno Manser Fonds and Dr. Straumann and to prevent their reoccurrence. In this regard, when looking into the allegations in the present letter, the Government of Switzerland should take great care that nothing is done that could put Dr. Straumann

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<sup>4</sup> See the Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 70, <https://unece.org/fileadmin/DAM/env/pp/compliance/CC-58/ece.mp.pp.c.1.2017.19.e.pdf>.


<sup>5</sup> Ibid.

<sup>6</sup> <https://unece.org/env/pp/aarhus-convention/special-rapporteur>.

and Bruno Manser Fonds at risk of further persecution, penalization or harassment. I moreover underline the urgency of the matter given the upcoming hearing in the civil suit against Bruno Manser Fonds and Dr. Straumann, taking place on 16 August 2023 at the civil court of Basel-Stadt.

In the event that your investigations support or suggest the allegations to be correct, I urge you to ensure the accountability of any person(s) responsible for the alleged persecution, penalization and harassment.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Michel Forst

UN Special Rapporteur on environmental defenders under the Aarhus Convention

To: His Excellency, Mr. Ignazio Cassis, Minister of Foreign Affairs of Switzerland  
Cc: Ms. Jasmin Gerber and Mr. Xavier Tschumi Canosa, national focal points for the Aarhus Convention, Federal Office for the Environment, Switzerland