

# RICHARD BUXTON

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Secretary to the Aarhus Convention  
UNECE, Environment and Human Settlement Division  
Room 332, Palais de Nations  
CH-1211 Geneva 10  
Switzerland

Attn: Mr Jeremy Wates

Your ref.

Our ref. PS/CND- 4

11 June 2009

Dear Sirs

## **Breach of Article 3(8) and 9(4) of the Aarhus Convention by the UK**

We act for Mrs Elizabeth Condron who has opposed the development of the largest opencast coal mine in the UK and associated operations since 2004. The underlying concern is that the opencast is situated less than 40 metres from peoples' homes and the edge of Merthyr Tydfil town with a population of around 55,000 people. The opencast is now causing considerable noise and dust pollution. This pollution was anticipated by Mrs Condron and others before the operations began, but the concerns were largely ignored by the Welsh Government who approved the opencast scheme. The concerns continue to be ignored by Merthyr Tydfil County Borough Council (the Council) and the operator Miller Argent (South Wales) Ltd (the mining company).

We wish to make a formal complaint against the UK Government for breach of Articles 3(8) and 9(4) of the Aarhus Convention 1998 arising from the action of the Council and the mining company in relation to legal proceedings challenging decisions relating to the opencast scheme.

In summary, the approach of the Council and the mining company has been to try and prevent Mrs Condron and other residents from pursuing legal proceedings. This, in our view, is so serious such as to amount to being penalised, persecuted and harassed.

The detail and extent of the article 3(8) breach is set out in the attached submissions and supporting documentation.

## **I Information on correspondent submitting the communication**

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## **II State concerned**

United Kingdom - through the actions by Merthyr Tydfil CBC and Miller Argent.

## **III Facts of the communication**

These are detailed in the submissions and supporting documentation.

## **IV Nature of communication**

The communicant alleges that she has been penalized, persecuted and harassed for her involvement in challenging the opencast coal mining operations and decisions relating to it.

The consequence of the Article 3(8) breach(es), is that the communicant alleges that the related proceedings are likely to be unfair and inequitable.

## **V Provisions of the Convention relevant for the communication**

Article 3(8) of the Convention and that UK government 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. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

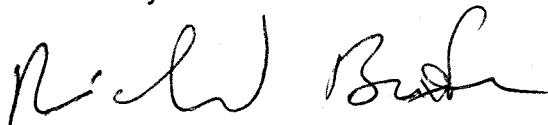
and:

Article 9(4) and the right to ensure that access to justice is fair and equitable.

## **VI Use of domestic remedies or other international procedures**

The Communicant is relying upon domestic remedies to challenge the substantive breaches of law. However, there is no formal domestic remedy or other international procedure to remedy a breach of Article 3(8).

Yours faithfully



Richard Buxton