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ECONOMIC COMMISSION
FOR EUROPE

Environment Division
Bureau 332
Palais des Nations
CH-1211 Geneva 10
Switzerland

Phone: +41-22-917 3294
Fax: +41-22-917 0634
E-mail: public.participation@unece.org
Website: www.unece.org/env/pp

3 May 2012

Ms. Barbara Anning,
International and European Coordination Division,
Department for Environment, Food and Rural Affairs (DEFRA)
Area 1 Nobel House, 17 Smith Square
London SW1P 3JR, United Kingdom .

Dear Ms. Anning,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom (E&W) in respect of the implementation of national planning policy statements and environmental regulations before Parliament (ACCC/C/2011/64)

On 28 November 2011, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication addressed to the Compliance Committee of the Convention. The communication concerns compliance by the United Kingdom (England and Wales) with provisions of the Convention on public participation and access to justice in respect of the implementation of national planning policy statements and environmental regulations before Parliament. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

Please find enclosed a copy of the communication, which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7.

The communication has been registered under the symbol ACCC/C/2011/64, which you are invited to cite in future correspondence on the matter. The main documentation relating to the communication will be shortly available on the Committee's website at: <http://www.unece.org/env/pp/pubcom.html>.

Decision on admissibility

At its thirty-sixth meeting (27-30 March 2012), the Committee, considered the communication and the supporting documentation. It decided that with respect to the allegations concerning a lack of effective public participation in relation to a draft national Planning Policy Framework Guidance, the communication was not admissible, because it was too early for the Committee to review a national instrument that had yet not been adopted.

With respect to the allegations concerning access to justice, while the communication was admissible on a preliminary basis, in accordance with paragraph 20 of the annex to decision I/7, the Committee decided to apply its summary proceedings, because they related to systemic legal issues which the Committee had already discussed in the past or are being considered in the framework on other communications. Hence, the Committee intends not to further consider these allegations. This is also in line with the nature of the Convention's compliance mechanism, which is not a means of redress.

A copy of the preliminary determination on admissibility is attached. The Committee did not proceed to reach any conclusions with respect to the compliance issues referred to in the communication.

Summary proceedings (background)

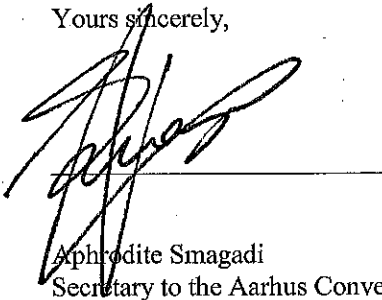
Specifically, the Committee identified that legal issues raised by the communication (i.e. that judicial review is prohibitively expensive, including in comparison to the no-costs appeals to the Planning Inspector by applicants for planning permission) had already been dealt with by the Committee in the light of its deliberations in previous communications concerning compliance by the United Kingdom (ACCC/C/2008/23, ACCC/C/2008/27, ACCC/C/2008/33) and of decision IV/9i of the Meeting of the Parties. Therefore, summary proceedings would apply, according to its procedural decision at the twenty-eighth meeting (ECE/MP.PP/C.1/2010/4, para.45).

The Committee also identified that some legal issues raised by the communication were already before the Committee in the framework of joined communications ACCC/C/2010/45 and ACCC/C/2010/60, namely the allegations that members of the public had right of appeal to the Planning Inspector or similar body to challenge the implementation of the National Planning Policy Statements and statutory environmental regulations, in particular compared to the statutory right of appeal enjoyed by applicants for planning permission. The Committee decided that the substance of these allegations would be considered in the context of the two above-referenced communications. The joined discussion for these communications will take place at the thirty-seventh meeting of the Committee (26-29 June 2012). Invitations will be issued shortly.

You are now reminded to provide information on the progress achieved on the implementation of decision IV/9i of the Meeting of the Parties. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegations of non-compliance. You may comment on the specific allegations, if you so wish.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

Cc: Mr. T. Ewing
Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office
and other international organizations in Geneva

Encs. Communication ACCC/C/2011/64 (including annexes)
Preliminary determination on admissibility
Datasheet on the communication