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Ref: ACCC/C/2013/86

22 July 2013

Ceri Morgan
Head of EU Environment Policy
Department for Environment, Food and Rural Affairs
EU and Coordination
Area 1C, Nobel House
17 Smith Square
London SW1P 3JR, United Kingdom

Dear Ms. Morgan,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom in connection with access to justice for private nuisance cases (ACCC/C/2013/86)

On 28 February 2013, 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 with the access to justice provisions of the Convention in connection with private nuisance proceedings and brings the example of judicial proceedings initiated by the communicant and others due to noise and dust deposition emanating from opencast coal mining operations in close proximity to her home. 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/2013/86, 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 web site at: <http://www.unece.org/env/pp/pubcom.htm>.

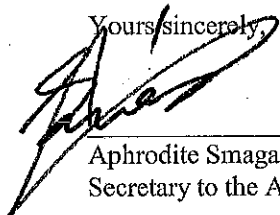
The Compliance Committee, having considered the admissibility of the communication at its forty-first meeting (25-28 June 2013), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. At the meeting, the Committee considered that further to its discussion with representatives of the Party concerned with regard to decision IV/9i of the Meeting of the Parties the previous day, the Party concerned appeared to interpret the recommendations of the Committee in a restrictive way and as not relevant to private nuisance proceedings, while the decision recommendations concerned costs in all court procedures. The Committee stressed that it did not agree with the position of the Party concerned, but in the light of the position of the Party concerned in relation to costs in private nuisance proceedings as not covered by decision IV/9i, it agreed to consider the present communication under the ordinary, and not the summary, proceedings procedure.

A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication. The Committee also considered that it would possibly consider this communication jointly with communication ACCC/C/2013/85 (United Kingdom).

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter (i.e. by **22 December 2013**), any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the meantime.

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: Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office and other international organizations in Geneva
Paul Stookes, Richard Buxton Environmental & Public Law Solicitors on behalf of the communicant,
Alyson Austin

Encs. Communication ACCC/C/2013/86 (including annexes)
Preliminary determination on admissibility
Datasheet on the communication