



NATIONS UNIES

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Ref: ACCC/C/2013/90

ОБЪЕДИНЕННЫЕ НАЦИИ

ЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ
КОМИССИЯ

UNITED NATIONS

ECONOMIC COMMISSION
FOR EUROPE

Palais des Nations, Room 429-4
CH-1211 GENEVA 10

16 January 2018

Mr. Dean Blackwood
River Faughan Anglers Ltd
Northern Ireland
United Kingdom

Mr. Ahmed Azam
Department for Environment, Food and Rural Affairs
London
United Kingdom

Dear Mr. Blackwood, dear Mr. Azam,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom with the provisions of the Convention in relation to settlement lagoons adjacent to the River Faughan (ACCC/C/2013/90)

During the discussion of the above communications at its fifty-ninth meeting (Geneva, 11—15 December 2017), the Compliance Committee indicated that it would send further questions for the reply of both parties. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your responses to the enclosed questions on or before **Tuesday, 13 February 2018**. Please send your response to aarhus.compliance@unece.org, copying the other party. The other party will then have **two weeks** to provide the Committee with any comments it wishes to make on your response. The Committee will consider the responses and comments received by the above deadlines when deliberating upon its draft findings at its upcoming forty-seventh meeting (Geneva, 12—16 March 2018).

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'F Marshall', written in a cursive style.

Fiona Marshall
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

Enc: Questions for the parties

Questions for the Party concerned:*General background*

- (1) Please provide a chronological outline of the planning history of the W & J Chambers site (i.e. the activity/site at issue in this case), including any enforcement action taken against the developer/operator and the outcome of any such enforcement action. Please specifically indicate:
 - (a) All planning permissions granted for this site over the years since the development/activity first began operating on this particular site;
 - (b) The precise nature of the activities carried out on this site over the years;
 - (c) Any current (live) enforcement activity concerning this site.
- (2) Please provide details of any landfilling, authorised and/or unauthorised, which has taken place on the site either recently or in the past.
- (3) Please provide all documentation concerning the appropriate assessment for the purposes of the EU Habitats Directive undertaken by the competent authorities in connection with planning application A/2008/0408/F.
- (4) Is there a legal requirement in Northern Ireland, either pursuant to legislation or established administrative practice, to carry out a public participation procedure in relation to appropriate assessments undertaken for the purposes of the EU Habitats Directive?
- (5) Please provide the detailed reasoning underpinning the two negative screening decisions in connection with planning application A/2008/0408/F (the first screening decision is undated and the second screening decision is dated 25 June 2012). In particular, please specify how the selection criteria were taken into account in arriving at the negative decisions.

Article 6

- (6) Please provide details of the specific arrangements for public participation that applied in respect of planning application A/2008/0408/F. Please also provide copies of all documentation published in relation to the public participation arrangements, including the notification(s) given to the public of this particular planning application (e.g. any notices published in the local newspapers) and the information provided to the public explaining how they were entitled to participate.
- (7) Please explain the difference between the public participation arrangements for planning applications that are subject to environmental impact assessment and for planning applications not subject to environmental impact assessment.

Article 9

- (8) Please provide an account of the current state of the jurisprudence in your legal system concerning the application of the *Wednesbury* test in the specific context of a challenge to a negative screening determination. In your reply, please focus on:
 - (a) The intensity of review undertaken by the courts when examining challenges to negative screening decisions;
 - (b) How the *Wednesbury* test was applied by the High Court in the communicant's judicial review proceedings.
- (9) Apart from lawyers' fees and experts' fees, what other costs may be incurred by an applicant in bringing judicial review proceedings in environmental cases? In particular, please specify the amount of the applicable court fees and any other similar charges that apply in this context.

- (10) Is it mandatory to have legal representation when litigating in the courts in Northern Ireland? In particular, it is possible for an applicant in judicial review proceedings to present the case to the court themselves (i.e. as a litigant in person)? If legal representation is mandatory, please specify what precisely is required in this regard in your legal system.
- (11) Is it possible for litigants in environmental cases to be represented in court by an NGO (i.e. without legal representation as such)?

Text of closing statement/remarks

- (12) Please provide the text of your closing statements/remarks (if available in writing) at the hearing on 12 December 2017 during the Committee's fifty-ninth meeting.

Questions for the communicant:

Article 6

- (1) Please provide a chronological outline of the opportunities for public participation (if any) that were available to you in respect of planning application A/2008/0408/F and how you engaged with the formal planning process in this case.

Article 9

- (2) Please provide full details of the actual costs you incurred in bringing the judicial review proceedings to challenge the planning permission granted on 13 September 2012. This should include any court fees paid, lawyers' fees and experts' fees relating to the judicial review proceedings. Please be as specific as possible when setting out the actual costs incurred.
 - (3) Explain why you consider the costs you incurred in bringing the judicial review proceedings to be "prohibitively expensive".
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