

Communication PRE/ACCC/C/2019/165

Speaking note

1st July 2019

Ireland wishes to thank the Compliance Committee for the opportunity to participate in this preliminary hearing which alleges non-compliance by Ireland with Articles 3(2) and 6(2) of the Convention.

I wish to clarify initially if the Committee plans to consider the communicant's additional submissions of 28th June as part of this hearing on the preliminary admissibility of this communication.

Ireland repeats its position that the Convention applies only to decision-making on activities that may have a significant effect on the environment.

Article 6(1)(b) clearly provides that a party shall, in accordance with its national law, apply the public participation provisions to *decisions on proposed activities not listed in annex I which may have a significant effect on the environment*. To this end, Parties shall determine whether such a proposed activity is subject to these provisions.

It is clear therefore that the Convention allows the Parties to determine whether an activity is subject to the public participation provisions and accordingly it is the Parties who determine how the "screening" process works.

The Convention envisages that, following that "screening" process, public participation provisions apply only to those activities which may have a significant effect on the environment.

The Implementation Guide also notes that "*The Convention states that **Parties** must determine the applicability of article 6 where the proposed activities may have a significant effect on the environment, i.e. a mere likelihood of significant effect triggers the obligation*".

The "screening" process (whether under EIA, AA, etc.) is the stage at which the public authority determines whether the proposed activity may have a significant effect and accordingly the Convention requirements on public participation are engaged after that process, but do not precede it.

The Convention does not impose a requirement on parties to establish a stage for public participation before the "screening" stage.

We also rely on the finding of the Compliance Committee in relation to ACCC/2008/24 regarding Spain that "*the factual accuracy, impartiality and legality of screening decisions are not subject to the provisions of the Convention*".