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Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance
Committee
Economic Commission for Europe
Environment, Housing and Land
Management Division
Bureau 348
Palais des Nations
CH-1211 Geneva 10
Switzerland

Dear Ms Smagadi

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom in connection with third party rights regarding planning applications, Ref. ACCC/C/2011/60)

Thank you for your letter of 27 July 2011, inviting us to comment on the complaints outlined in communication ACCC/C/2011/60.

As the committee has already recognised, this communication raises many of the same issues as case ACCC/C/2010/45. We therefore refer the committee to our responses in that case on these issues, contained in our letter dated 11 April 2011 and our second letter dated 12 December 2011 which we have also sent in order to address the supplementary communication by the communicant in that case.

The UK makes the following additional observations in this case:

Speaking at planning committees

The communicant argues that a failure to allow oral presentations at planning committees is in breach of the Convention. In our letter of 11 April 2011 responding to case 45 we set out the many opportunities for interested third parties to make representations on planning applications. This includes the mechanisms for those views to be considered by the local planning authority and, in appropriate cases, at an oral hearing held by the planning inspectorate. Our letter of 11 April 2011 also refers to the common discretionary practice amongst planning authorities of allowing parties to speak at meetings of the planning



committee. However, it must be emphasized that there is no requirement in the Convention or the relevant implementing EU legislation (details of which are contained in our letters in case 2010/45) for Parties to provide opportunities for participation in both written procedures *and* oral hearings in all cases. Article 6(7) of the Convention provides only that procedures “shall allow the public to submit in writing *or, as appropriate*, at a public hearing or inquiry” any comments, information etc.

Third party rights of appeal/ review procedures

The communicant also alleges that the failure of the UK Government to give statutory rights of appeal to third parties is in breach of the Convention. The rights of third parties were addressed in section 2 of our letter of 11 April 2011 in case 2010/45.

Prohibitive costs

The matter of the cost of judicial review has been considered by the committee in cases 23, 27 and 33 and we will be updating the committee on progress in February 2012 as requested.

Other matters

There are factual points in the communication that require clarification. The reference to “important applications” in the context of public inquiries in paragraph 10 of page 14 of the communications is potentially misleading. A public inquiry is usually held where the issues are complex and likely to need evidence given by expert witnesses, where matters of fact and / or expert opinion are in dispute and / or where legal submissions may need to be made.

With regard to call-in applications addressed at paragraphs 26-29 on the communication, our letter of 11 April 2011 in case 2010/45 clarified the role of and policy behind call-ins.



Barbara Anning