



Ms Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
Palais des Nations, Room 429-4
CH-1211 GENEVA 10
Switzerland

1st October 2020

Your Ref: ACCC/C/2013/107

Re: Communication to the Aarhus Convention Compliance Committee on the findings and recommendations with regard to communication ACCC/C/2013/107 as adopted by the Compliance Committee on 19 August 2019

Dear Ms Marshall,

We refer to the findings and recommendations with regard to communication ACCC/C/2013/107 concerning compliance by Ireland with the provisions of the Convention on public participation in decision-making in relation to the extension of the duration of a planning permission, as adopted by the Compliance Committee on 19 August 2019.

In accordance with the request in paragraph 70 of the Report of the Compliance Committee at its sixty-sixth meeting, Ireland provides the Compliance Committee with an update regarding the recommendations included at paragraph 95 of the findings and recommendations in ACCC/C/2013/107:

“B. Recommendations

95. The Committee, pursuant to paragraph 36 (b) of the annex to decision I/7 of the Meeting of the Parties, and noting the agreement of the Party concerned that the Committee take the measures requested in paragraph 37 (b) of the annex to decision I/7, recommends that, with regard to section 42 (1) (a) (i) and (ii) of the Planning and Development Act 2000, the Party concerned:

- (a) Take the necessary legislative measures to ensure that permits for activities subject to article 6 of the Convention cannot be extended, except for a minimal duration, without ensuring opportunities for the public to participate in the decision to grant that extension in accordance with article 6 (2)–(9) of the Convention;***
- (b) Take the necessary steps to ensure the prompt enactment of the measures to fulfil the recommendation in paragraph (a) above.”***

In this regard, the Minister for Housing, Local Government and Heritage will make the commencement order required to bring into operation section 28(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended by section 57 of the Planning and Development (Amendment) Act 2018 in the coming weeks, once his Department



receives final legal advices on the order and on further related legislative changes mentioned below.

The commencement of this provision, as amended, will amend section 42(1) of the Planning and Development Act 2000 relating to the extension of the duration of a planning permission as follows:

28. (1) Section 42 of the Act of 2000 is amended—

(a) in subsection (1) by substituting the following for paragraph (a):

‘(a) (i) the authority is satisfied that—

(I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,

(II) an environmental impact assessment or an appropriate assessment, or both of those assessments, was or were not required before the permission was granted,

(III) substantial works were carried out pursuant to the permission during that period, and

(IV) the development will be completed within a reasonable time;’,

In conjunction with this commencement and in order to give further effect to the findings and recommendations of the Compliance Committee, the Department of Housing, Local Government and Heritage, in coordination with the Office of the Attorney General, is finalising proposals for supplementary amendments to section 42(1) to prohibit extensions of duration where a development requires an Environmental Impact Assessment (EIA) and/or Appropriate Assessment (AA) at the point of application for such an extension. It is proposed that these supplementary amendments to primary legislation will be made by the Minister for Housing, Local Government and Heritage as Regulations, by way of the European Communities Act 1972.

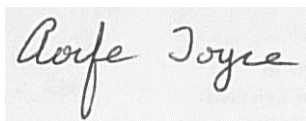
In combination, the commencement order and amendments to section 42(1) will provide that an extension of duration of a planning permission cannot be granted where an EIA and/or AA was carried out as part of the original permission and also where the requirement for EIA and/or AA is ‘screened in’ at the point of application for such an extension of duration.

As a result it will not be possible to grant an extension of duration of planning permission where public participation is required pursuant to article 6 of the Convention. Instead an applicant will have to lodge an application for a new or fresh planning permission and not an extension of duration, which means that full public participation is and will be provided as part of that application process and before a decision can be made on the planning application. This ensures full compliance with the Committee’s Recommendations.

I will be in a position to share further information from the Department of Housing, Local Government and Heritage on the proposed amendments, on this basis, in the coming weeks



Yours sincerely,



Aoife Joyce

National Focal Point – Ireland - Aarhus