



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

December 6th 2012

Dear Aphrodite Smagadi

Re:Communication 45- Further evidence regarding increasing powers of LEPs and the non-compliance of the UK's Government Growth and Infrastructure Bill with the Aarhus Convention

I am writing to you on behalf of KECN to ask that you kindly put this letter before the ACCC in order to inform their findings regarding Communication 45. I realise it is late in the day but the following information has just been brought to our attention and it is highly relevant to our Communication. It would appear that the UK Government is intent on removing effective participation completely.

The greater powers that are being given to LEPs will likely remove completely effective participation granted under Article 7 of the Convention, undermine Article 6 and the whole underlying purpose of the Convention.

The Growth and Infrastructure Bill that is going through the parliamentary scrutiny process at the moment is completely at odds with the spirit of the Aarhus Convention. See

<http://services.parliament.uk/bills/2012-13/growthandinfrastructure.html>

Under Clause 1, local democracy is weakened by the creation of the possibility of developers being able to bypass local decision making in certain circumstances. The Government has not yet made clear under what circumstances developers will be allowed to bypass local decision-makers. In a press statement, it said local authorities will be put into 'special measures' if they have failed to improve the 'speed and quality' of their work. These new powers will likely worsen the quality of environmental decision planning decisions at the local level and seriously impede on effective participation.



Experienced Campaigners working to support communities in Kent

Clause 4 undermines effective participation because local authorities will have less power to require information including environmental information to be submitted with planning applications. This will obviously reduce the quality of planning control. It could lead to developers seeking permissions on limited or poor quality information. It will also make it more difficult for those concerned to engage in effective participation. Additionally local authorities will find it difficult to set the right conditions on development, and the vague, generalised wording of the clause would be an invitation for developers to contest local authority requests for information in negotiation and through more appeals.

The inclusion of major business or commercial projects as 'nationally significant infrastructure' in **Clause 21** is another blow to local decision-making. It could mean that big office, warehousing and retail schemes bypass local scrutiny and are decided by planning inspectors. It must be remembered here that there is no third party right of appeal so unless third parties consider the expensive avenue of judicial review (which is in the process of being made more difficult by the Government) third parties will have little chance to participate at all in the decision making process. The implied suggestion is that schemes that bypass the local authorities will get an easier ride from the Government. There is also no guarantee that the schemes involved will reflect locally agreed plans.

With regard to the increased powers being given to LEPs please see the following link:

http://www.hm-treasury.gov.uk/as2012_documents.htm

In essence, LEPs will be given further billions in 'growth-related' funding taken from Whitehall departments "by creating a single funding pot for local areas from April 2015". In addition, £350 million was also added to the Regional Growth Fund, through which individual businesses and local authorities can bid for projects, and the Chancellor announced special loan deals for projects sponsored by the LEPs, saying: "The Government will make available a new concessionary public works loan rate to an infrastructure project nominated by each LEP (excluding London), with the total borrowing capped at £1.5 billion." The number and direction of these funding announcements rings loud alarm bells for local democracy and public participation. The unelected business led LEPs will push for new road-building to support their plans for greenfield housing estates and business parks irrespective of local concerns raised by the public and elected representatives.

The ACCC will hopefully understand why KECN is so concerned about these new developments and why we believe these will further erode the rights granted under the Convention.

Yours sincerely

Dr Geoff Meaden
KECN Director

KECN thanks the Campaign to Protect Rural England and the Campaign for Better Transport for their information

David Cameron has by raised the prospect of [limiting the courts' powers](#) to subject government action to legal scrutiny. The [proposal](#), it appears, is to make judicial review more expensive and to reduce the time-limit for bringing claims (which, at three months, is already very short). "Normal rules" were cast aside during the second world war, says Cameron, and the "economic war" in which the country is presently engaged justifies preventing the courts from obstructing the growth agenda.