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A report from Susan Crosthwaite. Observer at Hearing on 12.12.12
for Ref. ACCC/C/2012/68.

1st March 2013

Dear Committee Members,

Although the deadline for responses from participants in respect of this complaint is now past, as an observer invited to speak at the Hearing, I am trusting that an event reported on February 14th 2013 will be considered relevant information in respect of overall matters concerning the activities of Parties signed up to the Aarhus Convention. It is further understood that this report may not be considered valid for publication in connection to this Complaint.

The Scottish Government's representative attending the Hearing said nothing at the time and nothing written has been submitted by the former in defence of their position. As I stated at the hearing it is important that the Committee is aware of the scale of potential and current breaches of the Articles of the Aarhus Convention now apparent, as Scotland is suffering particular damage from the renewable energy programme being imposed. Of particular concern is the public participation element of decisions made by this administration.

The Scottish Government on February 14th 2013 granted permission for a development for which requests are currently lodged under both FOI and EIA regulations.ⁱ This is a major application Ref: Section 36 Kilgallioch and is destined to become the UK's second largest windfarm mostly built on peat and in the transition zone of the recently appointed UNESCO status South Ayrshire and Galloway Biosphere. You will see from the response from the Scottish Government ⁱⁱ "I can advise that we do not complete our own independent assessments and are not required to do so under the terms of the Electricity Works (Environmental Impact Assessment) (Scotland)



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Regulations 2000 (as amended 2008), specifically paragraphs 4 & 8, which set out that the applicant will submit such information:” that the Scottish legal framework doesn't transpose Article 3 of the EIA Directive, which dates to 1985, despite my bringing it to their attention, they intend to ignore this overarching legal framework.ⁱⁱⁱ

This development straddles two counties in South West Scotland. The request for information from South Ayrshire council ^{iv} has been denied as ‘not in the Public Interest’. ^v Similarly the request for information from Dumfries and Galloway ^{vi} was denied. ^{vii} I am continuing to challenge this and I am investigating the possibility of a Judicial Review. Clearly the decision to approve this application when public discussions and requests for information are still on-going, breach similar Articles of the Convention to those currently being examined within ACCC/C/2012/68.

Further to illustrate the depths of the breach of this convention, I attach a current complaint to the ombudsman in East Ayrshire by local residents in regard to Sneddon Law Windfarm 11/0967/PP:
viii .

Having attended the hearing in support of Christine Metcalfe’s case, where I was very impressed by the whole proceedings, I feel compelled to send you this information.

Yours faithfully,

Susan Crosthwaite

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ⁱ FOI request to Scottish Government

ⁱⁱ Initial response from the Scottish Government

ⁱⁱⁱ Review from Scottish Government

^{iv} FOI request to South Ayrshire Council

^v Response from SAC

^{vi} FOI request to Dumfries and Galloway

^{vii} Response from Dumfries and Galloway

^{viii} Summary letter to Mrs Lees re Sneddon Law Windfarm 11/0967/PP:



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