

The Cultra Residents' Association

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20th May 2009

Pietro Rabassi Esq
United Nations Economic Commission for Europe (UN/ECE)
Environment, Housing and Land Management Division
Environmental Affairs Officer
Room 321
Palais des Nations
CH-1211 GENEVA 10
Switzerland

Dear Mr Rabassi,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the United Kingdom with the provisions of the Convention in connection with the expansion of the Belfast City Airport (Ref ACCC/C/2008/27)

I wish to acknowledge receipt of your e-mails dated 13th May and 15th May 2009.

I also confirm that I have considered carefully the contents of the UK letter dated 12th May 2009 requesting (inter alia) the postponement of the consideration of Communication ACCC/C/2008/27 so that the Compliance Committee can consider all three cases jointly on some indeterminate date in the future.

Please note however that my Association would be strongly opposed to such a postponement as we believe that the events and facts which have given rise to our complaints are particularly singular to the actual circumstances in Northern Ireland. It is of particular relevance that in a letter dated 21st February 2008 the Departmental Solicitor, acting for the Department of the Environment, stated very emphatically that he had been advised by Senior Counsel "that the Convention does not have effect in domestic UK law and accordingly will not be given effect by national Courts and Judicial Officers, including the Taxing Master". It would appear therefore that the Department of the Environment, when considering the question of costs at the conclusion of the Judicial Review, took no account of the provisions of the Aarhus Convention despite the letter of 28th March 2008 from the Private Secretary of its Minister to Johnsons, Solicitors, confirming that the UK was "a full party to the Convention" from 2005.

It is also apparent that our additional complaints arise from the Department's efforts to control operations at Belfast city Airport by a private contractual agreement between two parties which by its format largely excludes the public from any environmental participation. We believe therefore that the facts relating to our complaints require independent consideration by the Compliance Committee irrespective of any other complaints that may require consideration by the Compliance Committee.

It is also worthy of note that my first communication to the Compliance Committee was sent on 18th August 2008 and that on the 26th September 2008 the Compliance Committee invited the UK representative to make his responses "as soon as possible but at the latest within five months of the date" of the Committee's letter which was in fact the 26th February 2009. The

UK took advantage of the whole five month period offered and did not submit responses until the very last day ie 26th February 2009. It would seem to me that the UK has had more than adequate time to prepare for the discussion of ACCC/C/2008/27 on 1st July 2009. I would respectfully request that the discussion relating to our complaints should be permitted to proceed on 1st July 2009 without any further delay.

I am also concerned that if case No 27 is postponed until case No 33 is ready to proceed that there will be a considerable delay before the hearing. UK is already seeking an extension of time for delivery of its response to case No 33.

I share the view enshrined in Article 9(1) that national procedure should be expeditious and 9(4) that remedies should be timely.

The complexities of case No 33 are such that a lengthy hearing will be inevitable.

Arrangements are already in place for the resolution of case No 27 and in my view, both out of courtesy to the Compliance Committee and to facilitate early resolution, those arrangements should be adhered to.

Moreover, no useful purpose would be served by hearing case No 33 together with cases No 23 and 27.

No 33 seeks substantive changes to the law of the UK.

Nos 23 and 27 seek remedies which are within the power of the existing laws to grant.

In particular issue (a) in case No 33 "Review of substantive legality" does not arise in case No 27, nor does issue (c) Rights of Action against private individuals for breaches of environmental laws as I do not seek to alter the existing law but to demonstrate that a private agreement, lawful in itself, is not the appropriate way to control operations at a City Airport. Issue (d) deals with time limits, not arising in case No 27.

The only issue in common therefore is that of costs. It can easily be dealt with by an undertaking by UK not to seek costs in environmental litigation. The UK Government should be able to marshal its arguments for seeking costs in response to each individual case without the need to have the cases heard together.

Sadly it has been my Association's experience over the past few years that the Department of the Environment for Northern Ireland has not been adverse to delay in resolving the problems at Belfast City Airport with the result that the Airport has been allowed to intensify its use without being required to seek a new planning permission or even to file an Environmental Statement. Indeed blatant breaches of the Planning Agreements have been permitted to take place without any apparent effort to halt these breaches or impose any penalties. Therefore, in view of the history of past delays by a Government Department, you will understand that my Association would favour that the proposed discussion with the Compliance Committee would proceed with the agreed date of 1st July 2009.

I shall be pleased to be informed of the decision of the Compliance Committee as soon as possible so that I can complete the travel arrangements.

Yours sincerely,



H L McCracken
Cultra Residents' Association