



NATIONS UNIES
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ОБЪЕДИНЕННЫЕ НАЦИИ
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ДЛЯ ЕВРОПЫ

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FOR EUROPE

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26 September 2008

H. L. McCracken
Cultra Residents' Association
4 Circular Road West
Cultra, Holywood
County Down
BT18 0AT
Northern Ireland
United Kingdom

Dear Mr. McCracken,

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)

On 18 August 2008, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication submitted by you on behalf of Cultra Residents' Association, United Kingdom, and addressed to the Compliance Committee of the Convention regarding compliance by the United Kingdom with certain provisions of the Convention. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2008/27, which you are invited to cite in future correspondence on the matter.

The Compliance Committee, having considered the preliminary admissibility of the communication at its twenty-first meeting (17-19 September 2008), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address the following questions:

I. General question

1. Please could you elaborate on your allegation that there were breaches of articles 3, 7 and 9 of the Convention?

II. Regarding the allegation concerning the prohibitive nature of costs:

2. Was the Order of Lord Girvan (dated 7 November 2007) appealed? Can it be appealed?

3. Please could you provide the Committee with a copy of the leave hearing minutes?

4. Is the methodology for calculation of the litigation-related costs by the Department of Environment publicly available? Is it laid down in a general document or does the amount depend on the specifics of a case and on ad hoc agreement with the attorney's office?

5. What is the basis of your conclusion that the costs asked by the Government are "prohibitive"?

6. Under UK law, does the court, after having been asked to award full costs against one party, have to discuss the matter of costs with both parties to the case?

7. Are you aware of any provisions in UK law which grant the court the discretion, in advance of the hearing on the substantive issues, to exempt one party in a litigation from liability for costs incurred by the other party?

8. Are you aware of any UK legal provisions or jurisprudence which specify liability for costs incurred because of a party's actions on the one hand and in relation to a court's order/decision on the other hand (where part of the costs originate due to a court's decision not to dismiss the application at the "leave" stage)?

III. Regarding the allegation concerning failure to comply with article 7 of the Convention

9. How long is the runway of the City Airport?

10. How does the 'private agreement' between the public authorities and the owner of the Airport affect the rights of the public?

11. Are you aware of any clear rules in UK law for differentiation of cases where an Examination-in-Public procedure is applicable and those where public authorities have to apply the Public Inquiry procedure? Or is this question left to be decided according to a discretionary power delegated to the relevant public authority?

12. What is the legal status of a planning agreement under UK law? Can it be appealed? Should the Environmental Statement precede the Planning Agreement or is it the other way round? Where does a Planning Permission fit in the sequence of these legally provided steps (Planning Agreement and Environmental Statement)?

13. How do the procedures for Examination-in-Public, Public Inquiry and Environmental Statement relate to the Aarhus Convention articles 6 and 7?

A number of additional questions have been raised in a letter to the Party concerned, a copy of which is attached for your information. Should you wish to address any of those questions, you are welcome to do so.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates

Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Mr. Philip Turner, Department for Environment, Food and Rural Affairs (DEFRA), United Kingdom

Encs. Preliminary determination on admissibility
Copy of letter to Mr. Philip Turner, DEFRA

