



**NATIONS UNIES**  
**COMMISSION ÉCONOMIQUE**  
**POUR L'EUROPE**

**ОБЪЕДИНЕННЫЕ НАЦИИ**  
**ЭКОНОМИЧЕСКАЯ КОМИССИЯ**  
**ДЛЯ ЕВРОПЫ**

**UNITED NATIONS**  
**ECONOMIC COMMISSION**  
**FOR EUROPE**

Environment, Housing and Land Management Division  
Bureau 332  
Palais des Nations  
CH-1211 Geneva 10  
Switzerland

Phone: +41-22-917 2384  
Fax: +41-22-917 0634  
E-mail: [jeremy.wates@unece.org](mailto:jeremy.wates@unece.org)  
Website: [www.unece.org/env/pp](http://www.unece.org/env/pp)

26 September 2008

Mr. Philip Turner  
Policy Advisor  
Department for Environment, Food and Rural Affairs (DEFRA)  
Area 1B Nobel house, 17 Smith Square  
SW1P 3JR London  
Fax: + 44 207 7082 8559

Dear Mr. Turner,

**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 Cultra Residents' Association, Belfast, 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.

Please find enclosed a copy of the communication, which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7. 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.

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter, any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the mean time.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to submit further details related to some of the matters raised in the communication by addressing the following questions:

### **I. Regarding the allegation concerning the prohibitive nature of costs**

1. Is there a governmental regulation specifying conditions under which public authorities incur or calculate their litigation costs? If such a regulation exists, is it publicly accessible? Please could you provide a copy?

2. What were the specific reasons for and calculations underlying the Department of Environment's request that the amount of £39,454.00 court costs be awarded against the applicants following the court decision GIRC 5962?

3. Could you specify the amount of costs incurred before the "leave hearing" and in relation to the "leave hearing" on the one hand and on the other hand the costs incurred after the "leave hearing"?

4. Before asking the amount of £39,454.00 court costs to be awarded did the relevant public authority consider the provision of article 9, paragraph 4, of the Convention? What is the relevant authority's justification for considering the sum of £39,454.00 as not "prohibitive" in the given case?

### **II. Regarding the allegation concerning failure to comply with article 7 of the Convention**

5. Are there 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?

6. 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)?

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

8. Does the increase in the seats for sale limit from 1.5 million to 2.5 million constitute a "material development" under the Planning (Northern Ireland) Order 1991?

9. Do you consider the increase in the seats for sale limit from 1.5 million to 2.5 million as an activity subject to obligations under article 6, paragraph 1 (a) or (b) or paragraph 10, of the Convention.

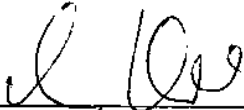
10. What are the next steps in the relevant decision-making processes following the dismissal of the communicants' application by the court (decision GIRC 5962)?

11. Please provide the Committee with any new information related to the case.

Some additional questions have been raised in a letter to the communicant, 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 Waples  
Secretary

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

Cc: H.L. McCracken, Cultra Residents' Association

Encs. Communication ACCC/C/2008/27 including seven addenda  
Preliminary determination on admissibility  
Copy of letter to H.L. McCracken, Cultra Residents' Association  
Datasheet on the communication

