



N A B A R R O

BY EMAIL

Secretary to the Aarhus Convention

United Nations Economic Commission for Europe
Environment and Human Settlement Division
Palais des Nations, Room 429-4
CH-1211 GENEVA 10

For Attention of: Fiona Marshall

Email: Fiona.Marshall@unece.org

30 September 2015

Our ref: PH/CFS/TNS/H2953/00005
Your ref: ACCC/C/2014/100

Dear Sirs

Communication to the Aarhus Convention Compliance Committee ("the Committee") concerning compliance by the United Kingdom in connection with the proposed construction of the "High Speed 2" railway (ACCC/C/2014/100) ("the Communication")

We refer to the email from Ahmed Azam to you dated 29 September 2015 at 14.28.

Our client wishes to resist any delay to the Committee's hearing of the Communication between 15 and 18 December for the following reasons:

1. the UK Government is currently securing powers to construct and operate the High Speed 2 railway in the UK Parliament. It is seeking to obtain these powers in the latter half of 2016. If the communication is upheld it is fundamentally important that the Committee's findings can be taken into account as soon as possible before the powers come into force and construction is commenced. Any delay to the hearing will effectively mean that the Committee's consideration of the Communication will only be of academic interest;
2. since you wrote to the parties on 7 August 2015 informing us of the scheduled hearing there has been and remains more than sufficient time for the UK Government to appoint alternative Counsel to attend the hearing. In this respect we understand that the UK Government and HS2 Limited have appointed three Leading Counsel to advise on this project and five junior Counsel. Given the UK Government's resources we do not believe it would be prejudiced if they appointed an alternative Counsel to the one they currently wish to use. Furthermore, our Counsel is not available during the period that the Committee will meet for the first time in 2016. If the Committee moved the hearing date to suit the UK Government's Counsel's convenience we believe this would be manifestly unjust and prejudicial to our client's communication; and

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3. the principle of environmental justice, which is at the heart of the Aarhus Convention, requires a timely even handed resolution to challenges to the legality of a Government's actions. In this respect the Communication was submitted on 11 April 2014. Accordingly, the UK Government's request would impinge upon this principle.

Accordingly, we request that hearing remains scheduled for 15-18 December 2015.

Yours faithfully

NABARRO LLP

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Copy to: Mr Ahmed Azam, Department of Environment, Food and Rural Affairs, United Kingdom (ahmed.azam@defra.gsi.gov.uk)

Mr Robert Konrad, Head of Unit, DG Environment, European Commission (robert.konrad@ec.europa.eu)

Ms Angelika Wiedner, Aarhus Team Leader, DG Environment, European Commission (angelika.wiedner@ec.europa.eu) Permanent Delegation of the European Union to the United Nations Office and other international organisations in Geneva (delegation-geneva-un@eeas.europa.eu)