



Environmental Pillar
Working for a sustainable future

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8th November 2017

Members of the Espoo Implementation Committee
Convention on Environmental Impact Assessment in a Transboundary Context
Palais des Nations
CH-1211 Geneva 10
Switzerland

By email: Elena.Santer@unece.org; eia.conv@unece.org

Subject: EIA/IC/CI/5 Urgent Re: Hinkley Point C nuclear power plant, consultation & EIA.

Dear Members of the Espoo Implementation Committee,

I write on behalf of the Environmental Pillar – which is an umbrella organisation of 26 NGOs in Ireland who work together to advocate on environmental matters.

We are conscious of your proposals for correspondence with the UK regarding the outcomes of the recent consultations by the UK in respect of Hinkley Point C, in the lead up to the Committee's meeting in December of this year.¹ We would ask that: the significant issues set out below be considered in relation to same.

In summary, we wish to set out our concerns regarding the effective exclusion of the Irish public from the recent consultation initiated by the UK Government on Hinkley Point C, HPC on July 28th of this year. We understand this consultation process was initiated further to your Committee's finding of non-compliance by the UK in respect HPC and your associated recommendation that the UK ask Parties if they wished to be notified, and to consult those

¹ Para 41 of:

http://www.unece.org/fileadmin/DAM/env/eia/documents/ImplementationCommittee/2017/IC_39/IC_39_Report__unedited_advance_copy27.09.2017.pdf

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who so wished. (We are aware the UK does not accept the findings but understand it agreed to address a number of the committee's recommendations nonetheless).

We only learned the consultation had commenced when a copy of your Committee's report² from its September meeting was forwarded to one of our team. This was within days of the end-date for the consultation. Yet there had been no publication or public consultation in Ireland at all regarding this matter. Over the next days we learned this failure in Ireland was in stark contrast to the wide public consultation facilitated in response to the UK's letter in Denmark, Germany and the Netherlands and Norway's transparent approach.

We wrote immediately, Oct 13th, to the relevant Irish Ministers and focal points in the Irish Government – seeking various clarifications. The response we received disputed any requirement for wider consultation arising from the UK's letter of July 28th. Furthermore, they clearly did not see the UK's letter in the wider context of your findings and recommendations, nor did the response address our specific queries in this regard. (Copies of our letter and the response attached in Annex III & IV respectively.)

An Irish official met with us on October 19th. It became even clearer in that meeting, that the UK's letter of July 28th had been viewed in isolation as a mere update from the UK, and not in the context of the obligations arising from both the Espoo Convention and the Aarhus Convention, or any actions being undertaken in response to your Committee's recommendations to address the earlier UK non-compliance. We were told the decisions on HPC had "sailed". In fact, without wishing to be insensitive, it was clear the official responsible for handling this particular letter from the UK had little understanding of those conventions and their role in such projects, and freely admitted this to be the case. You will appreciate the sensitivity and hence confidential nature of these remarks here and in certain of the paragraphs below.

It may be helpful to explain here that the responsibility for the Espoo Convention is split in Ireland across Government Departments. Notifications and Administrative matters in general are dealt with by one department, however anything nuclear-related is forwarded to another who have responsibility for nuclear policy matters. It is our view that this is part of the reason for the under-assessment of the significance of the UK's letter, as that Irish official is not involved in the conventions, and admitted to us he is not familiar with them.

We wish to be clear that this does not in our view serve in any way to absolve Ireland's obligations or the UK's. So, sadly despite the best endeavours of your committee, the public in Ireland have yet again been disenfranchised. This is despite the Irish public being closer to Hinkley Point C, than many people in the UK who were originally consulted; and despite the fact an Irish eNGO raised this non-compliance matter to your attention, along with a German parliamentarian; and despite a court challenge brought by Irish eNGO's against the UK's decision on HPC. While that case was unsuccessful in the UK courts, their case has been ultimately vindicated subsequently by your committee's findings.

²Para 40 of the report in footnote 2 above from the Committee's September 2017 meeting

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Having pointed out the wider context for the UK's letter, you will appreciate there was some reluctance to acknowledge the failure to react to the UK's letter appropriately, or to engage with the UK to resolve this as we suggested, relying on the good will between both parties.

All we were offered was that the official "might" see if the UK would agree to a couple of days for our organisation to provide what he said would need to be expert scientific evidence on a par with what the Irish Government had. Needless to say we indicated that we considered that would not be acceptable to our community as: it would not allow time for us to effectively participate; nor did it address the issue of consultation with the wider public, and we would not be party to their disenfranchisement, or being used as a token gesture to cover-up a significant issue. We were also told emphatically by the official that he saw no merit in consulting with the Irish public. We have to highlight this as a matter of key concern given:

- The obligations arising from the Conventions in which personal views of Irish officials have no place or authority over-ride such obligations;
- A report³ from The Irish Economic and Social Research Institute conservatively estimated the discounted economic loss to Ireland to be €161 billion in the event of a serious nuclear accident anywhere in northwest Europe close to Ireland, and acknowledged other serious impacts likely to the environment etc as has the Irish Radiological Protection Institute's earlier report⁴.
- The known interest of the Irish public and Irish eNGOs on such matters.
- As recently as September 12th, at the Meeting of the Parties to the Aarhus Convention, our interest in being consulted on nuclear matters in the UK was communicated publicly to all the parties, including to Irish and UK officials. Yet even then, the UK officials who spoke with us to seek a copy of our statement – never even mentioned to us there was a consultation then underway.

Sadly, thus following the meeting on the 19th with the Irish official, and having no faith in our Irish Government willingness to engage on our behalf, we wrote to the UK Government on the last day of the consultation. We sought a good will extension and requested the Irish public be properly consulted – without prejudice to any differing views of the obligations arising, (copy in Annex V). We have received no response or even an acknowledgement of this request. We also highlighted our known earlier requests to be consulted.

Additionally, in desperation and out of an abundance of caution, a very hurried submission was drafted by some of those working with us. This submission was made without prejudice to the right to be further and properly consulted, with a reasonable time frame. This submission set out a number of factors which needed to be considered in the transboundary impact assessment, including detailed expert and scientific commentary. Those addressed how the transboundary screening determination made by the UK had relied to a large extent on the UK Euratom Article 37 submission for HPC and the Commission's decision, but that there were serious technical failures in that Art 37 submission in relation to the assessment of impacts on Ireland. (Copy available on request).

³ <https://www.esri.ie/pubs/BKMNEXT313.pdf>

⁴ http://www.epa.ie/pubs/reports/radiation/RPII_Proposed_Nuc_Power_Plants_UK_13.pdf

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We deeply regret we and the Irish public are not being afforded a proper opportunity to review the materials presented by the UK and to comment properly. We are still trying to organise a meeting with the relevant Irish Ministers, but had also hoped to hear a positive response from the UK from our request.

In short, we consider that a notification process was required, and has now been initiated, and that obligations and failures arise. This is particularly in relation to the UK in respect of Articles 2(6), and for both Ireland and the UK in respect of Article 3(8); and we rely on Article 2(10) in respect of other associated obligations arising under other conventions – as set out in Annex I below. Any further EIA process will also be flawed and compromised given these short-comings. We do not propose to rehearse the reasoning for your finding of non-compliance by the UK, and we are conscious of your more expert understanding of the convention and look to you to address and examine this further issue appropriately. Finally, your work is most appreciated, and we are deeply, deeply grateful for the commitment and the effort expended by the members of the committee. We thank you for your consideration of this letter.

Kind regards

Michael Ewing, Coordinator of the Environmental Pillar.

The Environmental Pillar is an advocacy coalition of 26 national environmental NGOs in Ireland, and a national Social Partner.

Enclosures and attachments:

Annex I – Comments on convention obligations at issue

Annex II – Irish Minister's letter requesting consultation during EIA – dated Jan 2010

Annex III – Our EP Letter to Irish Government October 13 2017 seeking clarification on current process

Annex IVa and IVb Responses from Irish Government to EP letter October 18th 2017

Annex V UK Government's letter of July 28th 2017 to notification focal point in Germany. Note: *This letter has been made publicly available in Germany. But while we requested a copy of the letter sent to Ireland – we have not been provided with it. We were able to confirm in the meeting on the 19th October that the relevant paragraphs were identical to the German letter.*

Annex VI Our letter to UK Government dated October 20th 2017

We would be happy to furnish the committee with further information on request.

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