

Statement

on behalf of (1) Ms. Primavera Boman-Behram (amicus) and (2) Mr. Roger Landells (observer)
in communication C/100 in relation to the United Kingdom under consideration by
the Aarhus Convention Compliance Committee

Dear Chair, members of the Compliance Committee,

1. Both, Ms. Boman-Behram and Mr. Landells filed their submissions to support the allegations of the communicant in this case. Both followed this case closely as their personal lives and communities will be directly affected by the project in question. The outcomes of this hearing may prevent or, on the contrary, prompt them to file another communication addressing issues which extend to Articles 4 and 6 and stem from the HS2 decision-making process.
2. Ms. Boman-Behram lives in the north-west of London (Camden-Town-Primrose Hill area). This is area, where HS2 is planned to have its London terminus.
 - a. As a resident of this area, she only became aware and started communicating with HS2 Ltd, the developer, in January 2013. Despite numerous, 30-months long attempts to learn about environmental consequences of the project to her neighborhood, she is still far from having simple and clear picture of how her property and neighborhood will be affected.
 - b. It is clear that HS2 Ltd. failed to notify the consequences of the project to local residents in a way that a layperson could understand.
 - c. Since Jan 2013 she actively used all consultation tools offered, including public meetings, environmental and financial consultations and petitioning to Select Committee to the Parliament. The latter, by the way, is the only way people could express their views during hybrid bill procedure, which is what followed the DNS decision, which is a subject to this case.
 - d. Public input was apparently gathered by HS2 Ltd but had little, if any, impact on the proposed route, mitigation measures, or the duration of the project, which is now estimated to be sixteen years in Ms Boman-Behram's central London area.
 - e. Petitioning before Select Committee featured clear deficiencies in what the Aarhus Convention suggests to be public participation. To name a few: many people were denied *locus standi* (as a result of each petition being screened by a proponent), you (or your representative) need to pay a fee to file a petition, file (submit) and present it in-person to Select Committee. Also the Select Committee were denied the opportunity to address alternative alignments and alternatives, denying petitioners effective options.
 - f. She was denied information on PM (dust) emissions while trying to estimate add-ons of the project to what is already believed to be a highly air polluted area. As living some 50 meters from a proposed tunneling route, she believes her right should be to live in an environment adequate for her health and well-being will not be secured.
3. Mr. Landell's, who filed his observer statement as a citizen and chair of parish council, represents concerns of the Twyford community north-west outside London (Buckinghamshire). For his community, a thin line on a map shown in 2011 means a wide swathe of land and did not show associated impacts on local roads.
 - a. Mr. Landell's concerns go back to the event preceding DNS, such as Secretary of State for Transport Geoff Hoon's statement in 2009 launching the notion of HS2. The local public was not aware of SoS Hoon determination for the route in 2009 and the subsequent SoS Command Paper of 2010. None of the alternatives to so called route 3 of HS2 project were explained in detail and they were not representing all possible routes or approaches.
 - b. In his view, DFT, HS2 Ltd and DEFRA offices were under-resourced in 2009-2010 to effectively facilitate public consultations, access to information and input.

- c. DFT, HS2 and DEFRA, in the view of the observer, did not manage the project with sufficient fairness, diligence and were at the time deemed to have full planning authority instead of the UKs expected formal bodies and competencies for planning (something which Roger discovered when questioning why there was not expected planning oversight in 2012).
 - d. Since no SEA or EIA procedures were applied to decisions leading to hybrid bill process (and the AoS was deemed in Court to be insufficient), the consultations with local public were under informed, lacked options rigor and ineffective. The preliminary public HS2 road-shows in May 2011 were too late for significant changes and all options to be developed by DFT/HS2 and discussed with local communities to assess all factors.
 - e. The **main concern of the observer** is that hybrid bill process, which started after DNS decision, in practice did not provide for re-consideration of the route, alternatives and planning detail thoroughness, in particular in relation to Route 3 which affects Twyford community. Members of Twyford community were denied *locus standi* to file a petition to Select Committee on re-aligning the route that was adopted by the DNS decision and earlier in 2010 in effect.
 - f. The UK Government has admitted a “whipping” approach was used in the second reading of hybrid bill supporting the view that any petitions will be subject to mainly token consideration and too little planning and technical scrutiny.
4. As to the discussion on how strict(-er) are PP requirements under Article 7 compared to Article 6, including on the issue of alternatives v. options. It is our argument that the answer may vary, and one of the criteria to take into account is the link between a particular plan (its effects) and subsequent decision-making (decisions, which were completely out of discussion today). The “plan” in question (DNS) had a direct effect on the proposed route of the railway. So what’s missing so far in the discussion is an argument that DNS decision ruled out one of the key options: geographical alternatives (routing), and the subsequent hybrid bill procedure deliberately deprived a possibility for the public to comment on this! So when could they have been discussed at all?
 5. In conclusion, both amicus and observer, which I have a pleasure to represent today, are deeply concerned by the alleged violations of Article 7 by the UK in the case of HS2 planning process. They are dissatisfied by the public participation procedures applied during decision-making which took place before and after the key decisions subject to this case, in particular the DNS. Both are keen to present its allegations in relation to Hybrid Bill process and decisions as a separate communication. It is this Committee’s review in the present case which gives them some hope they will not need to approach it in the future.