

Speaking note on public participation in the UK's Withdrawal Bill – Article 8

12 September 2017

INTRODUCTION

1. Thank you Chair. I am William Rundle and I speak on behalf of Friends of the Earth England, Wales and Northern Ireland.
2. We raise concerns to the attention of the meeting over the lack of public participation in the UK's withdrawal from the European Union, specifically the legislative measures to achieve this. This topic engages Article 8 of the Convention. The two main issues are:
 - 1) First, a failure in public participation in the PREPARATION OF THE legislative measures to achieve transition out of the EU; and
 - 2) second, in the USE OF proposed new powers in that legislative measure, to subsequently make or change EU derived laws again without public participation.
3. We note Article 6 as an expression of public participation. Article 8 of the Convention also requires effective participation in the preparation of new laws, at an early stage, when options are still open. The relevant public authority must then take the public's views into account, and demonstrate that this has been done.
4. The draft law to withdraw the UK from the EU is now before Parliament to enact but the UK Government has not done any of this.

THE WITHDRAWAL BILL

5. The UK's withdrawal from the EU involves the transfer of a large amount of EU derived law onto a solely UK legal basis.
6. The UK government has undertaken no public consultation on how to do this transfer.

7. There remains a lack of clarity over what the UK's withdrawal will mean, and how it is best achieved. But the draft bill is now before Parliament for making law.
8. In it the UK Gov. asks Parliament to give advance approval for far-reaching executive powers to amend, add to or delete EU derived law as it is transferred across – effectively to rule by decree.
9. Ministers will have a broad discretion to enact secondary legislation to change retained EU derived law without any public consultation; yet they can change all areas of current EU derived law. This could have a significant impact on the environment and Convention rights.
10. There are no effective safeguards to secure Convention rights or preserve environmental protections.
11. The legislation sacrifices effective democratic participation for speed of exit, and for ministerial discretion.

CONCLUSION

12. There are widespread and deep concerns about this process. It does not strengthen public support for decisions affecting the environment, or government accountability, or transparency in the preparation of new laws.
13. It would also create uncertainty and inconsistency in the legal framework to implement provisions of this Convention, and subsequent laws associated to it.
14. The UK citizens' participation rights are currently being ignored in the preparation of the legal framework to achieve BREXIT.
15. We ask the MOP to acknowledge this, and to recognise the importance of the Article 8 participation rights for all citizens, in all Convention member states during the preparation of new laws.