

Environmental Pillar
1 Green Street
Dublin 7
Ireland

Dear Sir/Madame,

We would be grateful if you would bring the attached document to the attention of the Compliance Committee, with the supporting two annexes.

This document is being submitted on behalf of the Environmental Pillar, which is an umbrella organisation of some 28 Irish eNGOs, who work together to advocate on Environmental matters.

It is intended to provide some background context on issues with Access to Justice in an Irish Context with a view to supporting the deliberations of the committee on such matters and in particular in respect of any issues arising around exhaustion of or use of domestic recourse in that context.

It is not specifically targeted as an observation on any particular communications – nor is it intended to or presume to make specific arguments in respect to the leverage of domestic recourse of evidence of issues alleged for any particular communication. It is simply intended to provide a background context and narrative on the practical experience in Ireland of issues for those considering or pursuing reviews on certain environmental decisions – even following on the new rules introduced in the context of Ireland’s ratification of the convention and earlier consequent on EU law obligations.

Environmental Pillar members: An Taisce. Bat Conservation Ireland, BirdWatch Ireland. CELT - Centre for Ecological Living and Training. Coast Watch. Coomhola Salmon Trust. Crann. ECO UNESCO. Feasta. Forest Friends. Friends of the Earth. Good Energies Alliance Ireland. Global Action Plan Ireland, Gluaiseacht. Hedge Laying Association of Ireland. Irish Doctors Environment Association. Irish Natural Forestry Foundation. Irish Peatland Conservation Council. Irish Seed Savers Association. Irish Whale and Dolphin Group. Irish Wildlife Trust. The Native Woodland Trust. The Organic Centre. Sonairte. Sustainable Ireland Cooperative. VOICE. Zero Waste Alliance Ireland.

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Given the complexity and extent of case law evolving on the interpretation and scope of these rules – it is possible some communicants may not be in a position to rebut certain of the assertions made by the Party concerned and the full context may not be readily apparent to the Committee. So notwithstanding what seems to be efforts in various legislative provisions to make provision for Access to Justice obligations – is important we feel to have a broader context of the issues pertaining and the practical experience of these provisions in practice, and the State’s or emanations of the State’s approach to them, when acting as Respondents in a national judicial context.

We are conscious of the documentary burden on the members of the Committee already – and as a consequence the following may assist focus on the relevant sections for particular communications where the commentary may provide some useful background context.

- ACCC/C/2013/107 - Kieran Cummins.
 - In relation to Standing Considerations and Issues with the Costs rules under s.50B or the Planning and Development Act as amended the following may be of interest the document in general s 1-5 and s. 6 (i-iv) dealing with s.50B s6 viii, s7 & 8.
- ACCC/C/2014/113 - Kieran Fitzpatrick.
 - In particular in respect of the consideration of issues around the consideration of “Frivolous and Vexatious” and conduct issues and the impact on cost rules and the wider context for eNGOs and the cost rules in general – s.1-8.
- PRE/ACCC/C/2016/139 – Irish Underwater Council
 - Sections 1-5 generally and in respect of the Environment and Miscellaneous Provisions Act 2011 s.6 (v-vii), and s7 on Standing and generally s 8.

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We apologise that certain unforeseen local circumstances and resources constraints impeded us from setting this out as clearly as we would have liked to. However we hope it is of some interest and value to the Committee and that it facilitates its deliberations. We remain available to provide clarification, and thank the Committee for its work in assisting Ireland in particular toward greater compliance.

Yours sincerely

Attracta Uí Bhroin

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