

Your Reference: ACCC/C/2016/141

20 October 2020

By email only: Ms. Fiona Marshall, Secretary to the Aarhus Convention Compliance Committee aarhus.compliance@un.org

Re: Communication ACCC/C/2016/141 to the Aarhus Convention Compliance Committee concerning compliance by Ireland with the provisions of the Convention on access to information on the environment by Right to Know CLG

Dear Ms Marshall,

I am writing to respond to the draft findings on the above. In the context of having supported and facilitated the perspective of the Environmental Pillar in being an observer in this matter, I had hoped to have sight of the responses to the draft findings from the communicant and the Party concerned in finalising the concluding observations on this matters, which we thought would be the appropriate and courteous approach. Regrettably, while having waited up this evening to engage in that context, I note the recent email from Ms Joyce for the Party Concerned indicates she will be unable to respond tonight and hopes to in the morning. Clearly we fully understand this – but given commitments tomorrow morning I may not be able to immediately respond, and to be able to, as we hope will be the case, to warmly welcome Ireland's response. We would hope to see some commitment and clarification by Ireland of its intentions in respect of the recommendations, as it is our understanding the only other appropriate considerations at this point are only issues which require correction in the draft findings and recommendations.

At this juncture therefore we would just like to make the following remarks.

The draft findings and recommendations at paragraphs 133-134 are most welcome. As previously communicated in our observations, the issue of timeliness and adequacy and effectiveness of remedy considered here by the Committee are of serious concern to us. Their implication and effect have served to undermine the efficacy of the access to environmental information pillar, and the inter-operability of the other pillars as envisaged by the Convention. In my personal view, even more significantly, they have served to compromise confidence in the Convention itself here in certain quarters. As an ardent advocate of the Convention this has been a source of significant dismay and concern for me.

We confess however to being a little disappointed in the Committee's conclusions in respect of the adequacy and effectiveness of the OCEI's handling of appeals, and the extent to which

it requested the information be provided as opposed to remitting decisions etc. as set out in paragraphs 118 to 124. We appreciate the Committee did not consider it had sufficient evidence to determine a compliance issue here at this juncture. But as our much less expert, untrained and often desperate eNGO eyes often look to Article 9(4) it feeds in me and my colleagues an expectation that a review will deliver an effective and adequate result, which will be meaningful and adequate, in the sense of it being sufficient for us, in the context. In the context of a situation where the OCEI is not obliged to resolve the request in full, and has the discretion in Irish law to remit the decision – and for further process and associated passage of time to be incurred in the subsequent process - we do not consider this to be “effective”. Moreover, oftentimes it falls far short of “adequate”. This is particularly where time can be so critical in environmental matters. In summary, remittal at the appeal stage we confess to considering a failure to *adequately and effectively* resolve and respond to the information request made, in circumstances where the OCEI should be in a position to do so, and fails to do so.

Ultimately, however at this juncture, we wish to focus on the very significant findings and recommendations in respect of the non-compliance of the OCEI and Court processes as they pertain to Access to Environmental Information in Ireland. I look forward to hearing and indeed engaging with Ireland in finding a solution which makes a meaningful difference in the current regime.

Therefore, on behalf of the Environmental Pillar, all my eNGO colleagues, and indeed myself I would like to extend our warmest appreciation to the Committee and to the Secretariat for their diligence and efforts in this matter. For my own part, I also wish to acknowledge the courtesy, and patience, which was extended to me throughout the process. It is always inspiring in every respect engaging with you all, and it is an opportunity to learn so much.

We also wish to also acknowledge and thank the Party Concerned for their engagement in this matter, and with this valued and deeply cherished compliance mechanism. It is so fundamental to the effective implementation of the Aarhus Convention, which is so important to the environment on which we all depend and such an important instrument in respect of our human rights.

Finally, we wish to warmly acknowledge, applaud and thank Right To Know and in particular Dr Fred Logue for their championing this matter on our collective behalf, and for assisting Ireland on its path towards greater compliance.

Yours sincerely

Attracta Uí Bhroin, Environmental Law Officer, Irish Environmental Network, IEN.

IEN Members: An Taisce. Bat Conservation Ireland. BirdWatch Ireland. CELT. Coomhola Salmon Trust. Crann. Cultivate. Eco Advocacy. ECO-UNESCO. Feasta. Forest Friends. Friends of the Earth. Friends of the Irish Environment. Global Action Plan Ireland. Gluaiseacht. Good Energies Alliance. Hedge Laying Association of Ireland. Green Economy Foundation. Green Foundation Ireland. Irish Peatland Conservation Council. Irish Seed Savers Association. Irish Whale and Dolphin Group. Irish Wildlife Trust. Leave No Trace Ireland. Native Woodland Trust. The Organic Centre. Rediscovery Centre. Sonairte. Sustainable Projects Ireland. Vincent Wildlife Trust. VOICE. Wildlife Rehabilitation Ireland. Zero Waste Alliance Ireland.