

COMMUNICATION TO AARHUS COMPLIANCE COMMITTEE

**IN THE MATTER OF ICOS No 18/23791/01
IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)**

**IN THE MATTER OF AN APPLICATION BY RURAL INTEGRITY (LISBURN 01) LTD FOR LEAVE
TO APPLY FOR JUDICIAL REVIEW**

**AND IN THE MATTER OF A DECISION BY LISBURN AND CASTLEREAGH CITY COUNCIL TO
ISSUE PLANNING PERMISSION REF LA05/2017/0556/O
DATED 6TH DECEMBER 2017**

CORRESPONDENT

Gordon Duff

For the attention of the Compliance Committee Ref :PRE/ACCC/C/2020/180

Clarification of Communicant's submission to the Committee dated 23rd November

From the Committee's introduction of the Communicant's complaint it appeared that the Committee may have been misled by the United Kingdom, perhaps unintentionally so. Nevertheless there is an important point that the Communicant tried to raise and is uncertain if he did so clearly enough. An invitation has been given to clarify his verbal submission to the Committee.

In paragraph 5 of the United Kingdom's submission it states "*The communicant was in fact encouraged to bring the matter as an individual and conduct the environmental litigation in this way but failed to take this as an option*".

This is factually incorrect. The facts of the matter are that Rural Integrity (Lisburn 01) Ltd has been an Applicant in about 19 judicial review cases. Other cases have also been brought by different Companies some of which have other shareholders and directors. These are all distinct and separate judicial review applications which the Court has grouped together and referred to as a "cohort" of 32 or 33 cases. This cohort has varied in numbers as several new cases were added and as the Court dismissed several cases.

The Court grouped the cases together but one case was regarded as a lead case and this case was dismissed on 27th June 2019 for the failure of the Applicant to comply with the Court's Order to lodge £10,000 plus VAT in the Court. This one case only was appealed to the Court of Appeal and was dismissed on the 22nd January 2020 because the Appellant was only represented by its director rather than by an employee or a solicitor (contrary to Order 5 Rule 6 RCJ). During this appeal the Court offered the Appellant's director (the Communicant) to bring the case in his own name instead. This offer was declined.

Subsequent to this decision the Judicial Review Judge dealing with the 32 cases proceeded very quickly with the other cases and dismissed a request by the Applicants to await the

outcome of an appeal of the Court of Appeal's decision to the Supreme Court and thereafter dismissed 29 of the 32 cases.

The Judicial Review Judge did not give the 29 Applicants the same option to be represented by their director and so varied from the position taken by the Court of Appeal.

If I may now add the Court of Appeal has apparently since modified its position in another related case and issued an Order allowing the Companies director to represent it (Please see Communicant's submission to the Committee dated 20th November 2020).

This would suggest that the Judicial Review Court was premature dismissing the cases before the important points of law were tested at appeal.

Nevertheless the Committee has been misled by the United Kingdom into believing that in the case before the Committee (ICOS Nos 18/23791/01), the Communicant had been given an offer of being represented by its director before the Court dismissed the case. No such offer was made.

Gordon Duff 25/11/2020