

COMMUNICATION TO AARHUS CONVENTION COMPLIANCE COMMITTEE

To:
Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10, Switzerland

A CORRESPONDENT SUBMITTING THE COMMUNICATION

Christine Gibson

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Diagram 1 Location of Warrenpoint in the District of Newry, Mourne and Down in NI

B PARTIES CONCERNED (thereafter highlighted in **RED**)

- i. European Union (Council, Committee and Parliament inclusively) (**EU**)
- ii. European Court of Human Rights (**ECHR**)
- iii. Government of the United Kingdom (**UKGOV**)
- iv. Prime Ministers Theresa May/Boris Johnson (**PM**)
- v. Northern Ireland Assembly (**NIA**)
 - i. Office of Nuclear Regulation (**ONR**)
 - ii. Information Commissioner's Office (**ICO**)
 - iii. General Regulatory Chamber (**GRC**)
 - iv. Northern Ireland Judiciary System (**NIJUD**)
 - v. Northern Ireland Department of Agriculture, Environment and Rural Affairs (**DAERA**)
 - vi. Northern Ireland Department for Infrastructure (**Dfi**)
 - vii. District Council of Newry, Mourne and Down (**Council**)
 - viii. Warrenpoint Harbour Authority (**WHA**)
 - ix. OFCOM (Telecommunications Regulator) (**OFCOM**)
 - x. Department of Health Northern Ireland (**DoHNI**)

C **FACTS OF THE COMMUNICATION**

Facts and Circumstances of Non-Compliance

(1)

Northern Ireland is deemed and referred to as a “Province” of the United Kingdom by those in the UK Parliament. It has not enjoyed equal rights afforded to those “Nations” that complement the full membership of the United Kingdom, (Scotland, Wales and England) due to the “Equality and Duty Act 1998” which excludes NI from being afforded its human rights protectionisms. Examples of this inequality which is afforded to the Nations but not the Province, include, inter alia, those affected by the legacy of terrorist crimes from “The Troubles” have been denied remedies, language and culture rights (eg the Irish language being an indigenous language is not recognised as a bone fide language) and environmental rights (eg no organisation has been set up to be accountable for the protection of the environment, ie one acting as an Environmental Protection Agency: **EPA**). Instead, bound in law, the Wildlife and Natural Environment Act (Northern Ireland) 2011¹ with reference to the protection of biodiversity, for example, does not stipulate **which** public body is responsible but makes it ambiguous and extensive in the numbers of bodies **potentially** responsible.

(2)

With regards specifically to the environment, as a member of the EU, however, NI **did** have recourse, albeit an arduous (and to date an unachievable) one to bring an environmental case to the European Courts (European Court of Justice), and to access the European Court of Human Rights and to follow particular EU complaint paths (eg EU Petitions). Further, as an EU Member State, the UK also enjoyed the legal protection of a codified Constitution as a Member State of the European Union and therefore the protection of laws being vetted against human rights; one being the protection of the environment in NI where it is evident that the status reports have demonstrated failings in all aspects of environmental protection² and where the EU is aware of its ongoing failure³.

(3)

Upon the Brexit Referendum result in June 2016 the UK, has undertaken a somewhat contentious and disconcerting path in attempting to ensure its citizens that the protection afforded from the EU will remain post Brexit. After two initial attempts (31 March and 31 October 2019) at triggering a “leave date”, the UK formally left the EU on 31 January 2020 under the same Conservative Government who instigated the vote.

(4)

At that point, ie from 1 February 2020, the UK has lost the jurisprudence of a codified Constitution and is at the end of its “Transition Period” where EU legislation would be transposed across the UK. Environmental legislation in NI that was assumed to be part of this transition includes the reference in their titles of “EU Exit”⁴ in lieu of “Retained EU Law” (the latter being used in Agriculture Scotland Act 2020) and has **not** been vetted against civil or human rights⁵, a grave anomaly that has been evident in all legislation pertaining to NI in 2020. The **UKGOV** Environment Bill has **some** jurisdiction over the environmental protectionisms in NI, however, has proven to be lacking in substance and effectiveness in any attempt at a meaningful

¹ [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) in Article 1 and in [Section 1](#).

² [Environmental Status Report](#) 2019 where it states (NI Summary) that information on Northern Ireland does not exist for biodiversity nor on water quality nor air quality (other than high levels of nitrates and ammonia).

³ EU FOI response at the bottom of the trail: [Who is responsible for protecting Northern Ireland's Environment now and in the future?](#)

⁴ [The Air Quality \(Amendment\) \(Northern Ireland Protocol\) \(EU Exit\) \(Revocation\) Regulations 2020](#) Under “Explanatory Note” demonstrates that no audit/assessment has been undertaken to ensure human rights have been adhered to.

⁵ *ibid*

transposition of European protection into Primary UK Law⁶ and further in its purpose with reference to NI⁷. Although NIA has, under the Environment Bill, authority to pass laws as a devolved nation, it has **not** done so to date⁸. As noted by the Institute for Government in 2018, in regard to the effective transposition of EU law into Primary law (which does not even consider Secondary law): “There is not enough time for Parliament to make all these changes through primary legislation”.⁹

(5)

Our present situation is one that does **not** afford us any right to a judicial review of these current ongoing and outstanding environmental obligations to **provide us time to challenge these**. The **PM** is, according to the media, is, at this late hour, still negotiating the final arrangements with the EU. Further, the legislation that is being processed at speed in 2020 is that in regard to the coronavirus where the transition of EU legislation has been demoted in its priority yet no extension has been requested for the 31 December deadline. I nor any other person or organisation could bring a case based on a flawed decision or non-decision, be it for a local issue or one that challenges the making of new environmental law that may not be effective in its protectionisms due to the ambiguity of ownership of accountability and the lack of decisions being made. Further, in the potential situation where new laws were made in NI that were ineffective in protecting our environment, as has been the norm, there is **no** basis for a judicial review within the realms of UK law without the reliance on the legislative guidelines from the **EU** legislation as an ‘overseer’; a protection we have already lost.

(6)

The subject of this complaint, therefore, is far reaching, complex and one that invokes responsibility on a matrix of public bodies both within the UK and in the EU. Notwithstanding that each body has their individual role to play in the overall effectiveness of our environmental protectionisms, they together, in my opinion, are responsible for allowing that overarching yet fundamental responsibility to fall to no one and therefore, to ultimately fail.

(7)

I believe that each of these bodies individually and as a collective have failed in all accounts in their responsibility as representing a public body working for the UK (and in particular NI) and **EU**; both being Aarhus Convention Signatories since 2003. Fundamentally, they have, in combination with each other, failed to demonstrate that they should be “*Affirming the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development*” and indeed ALL objectives stated in the Convention (1998). Further, that they, individually and together, have breached Articles 1 to 9 within the Convention in that failure and failed to demonstrate their responsibility to achieve the Convention’s objective at Article 1. Articles 10 to 21 have been made, inadvertently or otherwise, moot and therefore ineffective in the Convention’s purpose, in NI. (See points a to z as evidence of how all Parties are non-compliant in carrying out of their function in adherence to the Aarhus Convention.

(8)

All Parties listed above have derogated their responsibility from the purpose of the Convention:

“In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to

⁶ <https://airqualitynews.com/2019/04/25/draft-environment-bill-severely-downgrades-uk-protections-post-brexite/>

⁷ Northern NI Assembly [Research Paper](#) (P3 and P7 para 2 p.10 3.1) on the implications of the UK Environmental Bill demonstrating omissions for NI

⁸ (NI is the [only nation](#) who have not legislated in 2020 in regard to the transposition of EU legislation).

⁹ [Institute of Government Paper from 2018](#) (Para 3)

information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.”

(9)

I, personally have taken numerous measures in my attempts to ensure the protection, preservation and improvement of the state of my local environment and all have failed due to processes out with my control and are attributed to either (or a combination of) **the constricted remit of or due to the relationship between** the aforementioned Parties (all who are defined under the Convention Article 2 (s) or due **to the lack of (intentional or otherwise) oversight over** all these Parties’ roles, of which combined, have complicity allowed the negligence, and disregard of effective environmental protection in Northern Ireland.

(10)

I will explain how these Parties have failed me, as a person who has a right to live in a safe and healthy environment and who should have influence on decisions pertaining that environment, in their **collective**, non-compliance of the Convention:

(11)

All matters below pertain to the **environment** within my own **residential area** of south (County) Down (BT34 3LQ) that are unique to this area and also unique to Northern Ireland in its application of frustrated legal, political and social systems, in combination, making it impossible for any local **effective application** of the Aarhus Convention in its intended purpose (**Article 3 (1) of the Convention**):

There are four sections below ie Judicial Review Measures, General Measures Against Specific Bodies, Systemic/General Measures and Measures Taken as Chair of an Environmental Community

(12 a-aa)

Judicial Review Measures

- a. I, as a litigant in person taking a Judicial Review case Pre-Brexit did not have recourse to any free legal assistance from the Law Society as part of the **NIJUD** nor any other public legal organisation with jurisdiction in NI. The Law Society in Northern Ireland does not provide help or any assistance in an **environmental law context**¹⁰ for individuals who are challenging public environmental decisions. References to environmental law support provision are **restricted to** a planning context and **tailored, solely** for developers and governments. (**Article 3 (2) and 9 of the Convention**)
- b. That the **NIJUD** support system (at High Court and at Appeal Court) is, in my opinion, flawed in that no environmental expert is at hand to support the judiciary in their decision-making during court hearings other than those provided by the Respondents (local and national government departments) who are representing those being challenged for breaches in environmental law. I experienced this on numerous occasions during proceedings I had brought¹¹ as well as observing cases brought by **all** other Aarhus Litigants who proceeded my case. This is the norm and not the exception where Judges continually referred to Respondents (ie the public decision-maker) for advice which is **not independent nor objective**. (**Article 9 of the Convention**)
- c. That, I as a litigant in person, have been harassed and penalised without any protection. This has included in court eg where my evidence of a transcript at higher court was tampered with but the Court did not see fit to rectify this issue during the Appeal Court hearing. Further I was harassed by legally being threatened to close down my Facebook site environmental group “keep it green” by the developer whilst in the middle of court proceedings. **NIJUD (Article 3 (8) of the Convention)**
- d. Even though I managed to instigate new **Aarhus Regulations** as part of my case in Court (GIL101085) with regards to costs at Appeal Court, I have not been given the opportunity as a public citizen to influence or participate in any law decision making exercise where I would gladly participate to protect our environment. I was also denied access to the Supreme Court to progress my case and challenge the cost order against me at £3,000. **NIJUD (Article 9 of the Convention)**

¹⁰ <https://www.lawsoc-ni.org/search.aspx?usterm=aarhus> provides no precedent or otherwise of any assistance under the Convention.

¹¹ Two cases were merged at High Court by order of Judge Colton ([44050/01](#) and [80258/01](#)) and heard at [Appeal Court](#)

- e. That, given the cases that I brought to High Court and Appeal Court, that they were not dealt with in an expedient manner (18 months in its entirety by which time the development was built). Nor was I provided a formal Hearing at High Court where I participated in three days of oral submissions in Court against three barristers. The fact that the Judge order two decisions to be merged held my case back even further. I do not hold any trust the **NIJUD**, unfortunately. **(Article 9 of the Convention)**
- f. The judgements from the cases I brought **are not publicly available** from the Judiciary Website and I had to request my own formal Judgement and only received this year after the case was heard ie in August 2018 (case heard May 2017, Judgement read June 2017). **NIJUD (Article 9 of the Convention)**

General Measures Against Specific Public Bodies

- g. That my local **Council**¹² has failed to proactively educate and disseminate up-to-date comprehensive information in relation to my **environment** via their website¹³ as this site holds **no** environmental information. I requested an **EIR response** (see response of 11 Nov 2019) which confirms the Council does not share any environmental information they hold. Further it is reasonable to assume that if the Council held no assessments undertaken by themselves that they would, as planning decision-makers, hold at the very minimum, environmental information from historical and current environmental statements/assessments. **(Article 5 of the Convention)** .
- h. That the **Warrenpoint Harbour Authority (WHA)** have failed provide up-to-date environmental information on their website relating to and independent from development works, ie. air, noise and light pollution within their jurisdiction. **(Articles 4 and 5 of the Convention)** and specifically by the fact that the WHA is afforded its own legislation¹⁴, they as a public body have been protected from any legal challenge to carrying out any activity in their jurisdiction. **(Article 9 of the Convention)**
- i. That I had requested under Environmental Information Regulations (EIR) information from the **ONR** which I then made a complaint to the **ICO** who did not respond and I then took this to the **GRC**. The response from the latter requested a response from the **ICO** on the **ICO's** decision. I did not have a decision to take to the **GRC** as it was still outstanding from the **ICO** therefore the system was frustrated and ultimately ineffective.

Systemic/General Failure

- j. (i) That no public organisation (**no** Environmental Protection Agency or similar independent body) exists in NI, or any other, to take responsibility for the **regular** assessing, monitoring or reporting on, inter alia, our **water**¹⁵ and **air**¹⁶ quality (including electromagnetic frequencies) ,as examples of environmental features in my residential area and none provides public education and advice on these critical aspects of our environment to provide effective protection. It is important to note that there are **no** water rates for domestic use in NI as in the rest of the UK.

(ii) The **Water Governance** structure in NI is a complex one that prevents any meaningful and therefore effective protection of our water quality see Diagram 1 above where I have attempted at providing the structure of remits and data flow of water quality analyses. It is clear from this that the data is sourced from NI Water who are a private organisation and who do **not** hold the responsibility of protecting the quality of the water (see top pink box).

(iii) With regards to water quality from tap water, no sample is taken from residential areas unless specifically requested. This **annual report from DAERA (NIEA)** is based on information sourced from NI Water who carry tests out every six months **only** at the waterworks and reservoirs. These reports are published in the third quarter of the proceeding year and therefore offer no protection from

¹² *Newry Mourne and Down District Council being a District Council with devolved planning decision-making authority since 2015*

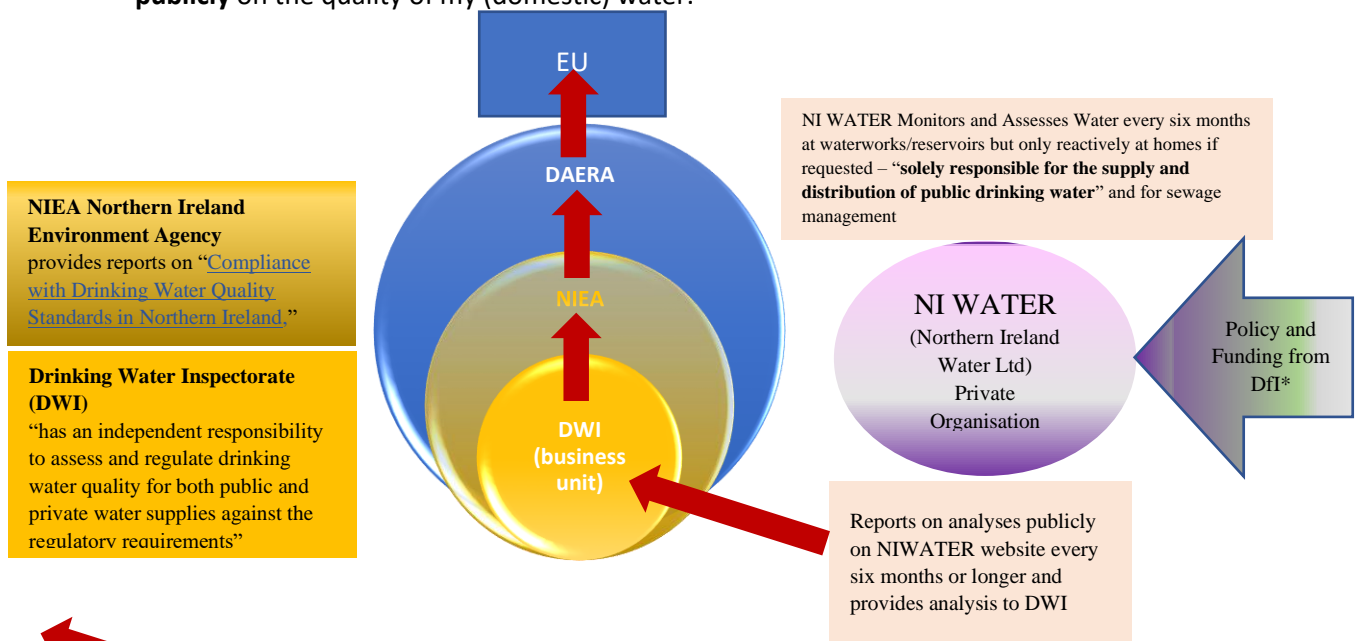
¹³ <https://www.newrymournedown.org/>

¹⁴ *Warrenpoint Harbour Authority Regulations 2002* which allow by-laws to be made by the Authority without external scrutiny

¹⁵ Please note No.4 of notes that NI Water is not responsible for water quality yet on page two para main body of text it states that it carries out the tests.

¹⁶ information is from a private organisation and does not measure the air quality within a seven-mile radius from Warrenpoint.

current analyses. NI Water, a private organisation, provides [a website](#) to publish results of a water quality test and specifically for postcode areas [here](#) (for my postcode area). The latest report at the time of writing this Complaint is from December 2019. **No current or recent information exists publicly** on the quality of my (domestic) water.



data flow of "water quality" analysis

Diagram 2 Water Governance Structure in NI (quotes from <https://www.northernireland.gov.uk/node/40369>)

*DfI Department for Infrastructure (includes national planning) sets water policy and provides funding to NI Water

(iv) **Air Quality** in my District¹⁷ was last reported in 2019 of a report from 2018 based on data from 2017. There has been NO information available to the public since that date. From the [Council's Report](#) (page 7): "In 2017 there were 2 air quality monitoring stations in operation, 1 in Newry city area and 1 in Downpatrick. The AQMS in Newry monitored PM10 and NO2 and the Downpatrick station monitored NO2."

(v) To note from this report:

1. This report is **only** available from the DAERA website link to "AirqualityNI.co.uk" and not from the [Council's website](#). It does **not** derive from a public body.
2. That matter such as, inter alia, radioactivity is not monitored in its ionising nor non-ionising forms (pages 8 and 9 outline what the NI Regulations¹⁸ dictate to be analysed). "In 2017 there were no other pollutants monitored within the council area" (see page 31)
3. That the data is not current and therefore ineffective in its purpose (ie data from 2017 and objectives set to 2003 – see pages 17 and 8 and 9 respectively)
4. That the closest "automatic" monitoring point to my address (and where I live 500m from the Port) is in Newry in one location only (see page 18) approximately **seven miles away** (see Diagram 3 below).
5. That the "non-automatic monitoring sites" (see page 21) are also confined to Newry City.
6. That "Figure 3.3 shows an upward trend [in NO2] in levels culminating in breaches of the air quality objective in 2016 and 2017" (see page 24) but no action was taken as this was attributed to "a possibility that the analyser was beginning to malfunction (this station required replacement in Spring 2018) and results impacted upon."

¹⁷ List of Council areas with corresponding reports is found [here](#) My Council is Newry, Mourne and Down.

¹⁸ Air Quality Regulations (Northern Ireland) 2003, Statutory Rules of Northern Ireland 2003, no. 342

7. In Section 5 “Other Transport Sources” under the heading of “Airports” the Council includes a statement “Newry, Mourne and Down District Council confirms that there are no airports in the Local Authority area.” However, under the heading of “Ports” the report states a distinct reference in that “Newry, Mourne and Down district Council confirms that there are no ports or shipping that meet the specified criteria within the Local Authority area”. The “specified criteria” which was not relevant to the first statement is now incorporated yet is not defined in this instance. One can only assume that the WHA Port is exempt from this exercise as it is afforded its own legislation and powers (in my opinion). (see diagram3)



Diagram 3 Topography of South County Down

8. That **no** consideration has been made as to the topography of the Warrenpoint area in consisting of a dell between two mountain ranges, Mourne mountains within the District to the Northeast and the Cooley Mountains across the border in Ireland to the south. This would create a unique environment where air is ‘trapped’ and therefore should be a priority for monitoring and reporting purposes.

(vi)The Warrenpoint residential area surrounds a working International Port (one of four in Northern Ireland), the Port only holds [one-month’s record](#) of air quality and does not specify the particulates or any other contaminants that have been analysed.

(vii)[DAERA’s website](#) provides signposting to “AirqualityNI.co.uk” for information and does not provide any reporting provided by their own Departments. This page demonstrates the areas of responsibility within NI for [Air Quality Monitoring, Policy and Legislation](#) and is summarised in Diagram 4 below.

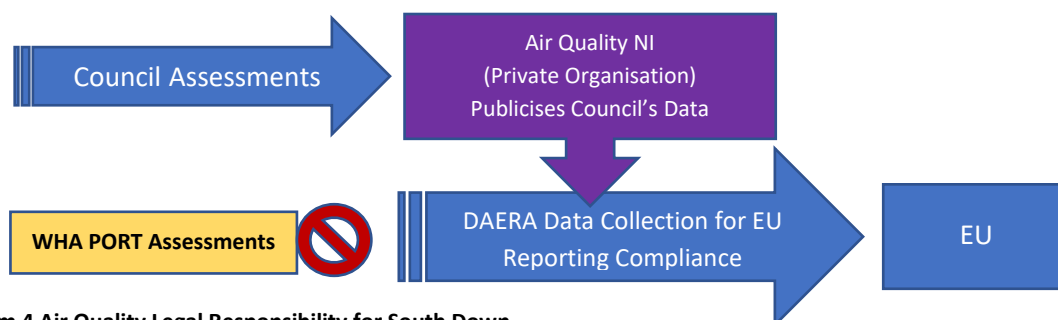


Diagram 4 Air Quality Legal Responsibility for South Down

(viii)No other organisation monitors and publishes information on air quality for my local area.

(ix)With regards to **electromagnetic frequencies**, these only fall under the remit of **OFCOM** who are the regulator and who do **not** carry out any proactive analysis for public dissemination in NI. They do, however, undertake analysis upon request **only** from schools and hospitals and **only** where the school or hospital has **not received any** remuneration for a 5G mast on their premises. I therefore, as a resident do not have any access to information unless I request a test on a regular basis from **OFCOM** and **NIE**¹⁹ (Northern Ireland Electricity) for them to coordinate an analysis together. This is another frustrated mechanism that does not protect me from my environment and where no public body can provide me with regular updates on EMF readings, as opposed to radiowaves and voltages **separately** in a disjointed and ineffective way.

Please note that **NIE** is a private organisation owned by ESB²⁰ which is not a Northern Irish organisation but a (southern) Irish organisation who do not hold the remit for the protection from any potential harm from electromagnetic frequencies.

(Articles 1, 3, 5, 6, and 8 of the Convention)

- k. Due to the situation outlined in (d) above, there is **no organisation** who is held responsible for carrying out regular analysis on my local environmental features, including but not limited to, air and water and electromagnetic radiation. This grave anomaly deters (amongst others) any legal recourse to challenge a

¹⁹www.nienetworks.co.uk

²⁰www.eib.ie which is a “corporate body” established under the ESB Acts 1927 and 2017 (Ireland)

URGENT HIGH-LEVEL PRIORITY
IN CONFIDENCE

public decision. In the matter of air emissions, and specifically, radioactivity²¹, which are of a high level of priority, I have no recourse of action to take to challenge any omission or decision as the responsible **Public Respondent is non-existent. (Articles 9 of the Convention)**

- l. That all public bodies who are responsible for certain aspects of certain environmental features have derogated from those (EU) Directives that would have made their roles effective in protecting the environment and are normalising requests of environmental information to be the only recourse to take to provide access to environmental information. Further this recourse of access to information is frustrated due to obfuscation of responses, repeated extensions, time lapses and utilisation of ambiguous exemptions for not providing information and without signposting to whom would hold and provide this information. I have many (over 50) examples of these including those on the public **ICO** site under my name and as part of the High Court case mentioned in (b) above as well as a substantial number by email correspondence and in particular the recent **NIDoH** on the testing of the virus. **(Article 4 and 5 of the Convention)**
- m. That **no public body in NI** provides information to form **an effective protection mechanism** on any environmental threats including emergency response information on imminent threats. For example, flooding, air pollution from radiation (ionising or non-ionising) or water contamination. **(Articles 3 (1,2 and 3) and 5 (1,2 and 3) of the Convention)**
- n. That **no public body** I have recourse to, ie **WHA, Council, DAERA, DfI, UKGOV** Departments disseminate information concerning the comprehensive portfolio of relevant national **and international legislation** in relation to their responsibility of supplying environmental information (as they do not provide the environmental information). It is the norm in NI to refer to national legislation only, since 2015 (to my knowledge and experience of participating in numerous consultation meetings regardless of the reference on the websites). I am yet to find a reference to the Aarhus Convention. **Article 5 (3 and 5) of the Convention)**
- o. I am unaware of what or who represents me/my environment with regards to Articles 10 to 21. Where a UK “representative” does invoke Article 21 to “withdraw”, I believe that there is NO further recourse to take to ensure the protection of my environment and therefore it would be contrary to the UN Convention of Human Rights, and the Aarhus Convention in its fundamental objective, to remove this last recourse to secure a resolution to protect my local environment, post-Brexit. **(Purpose of the Convention)**
- p. That the **UKGOV** is now revoking its obligation to transpose EU environmental law into national law and that I have no recourse to take to challenge this decision where there is no Constitution and therefore the Prime Minister is afforded limitless power in his decision-making without challenge. **(Purpose of the Convention)**
- q. UK That the **UKGOV** is making decisions on my environment with regards to 5G, virus protectionisms and nuclear waste issues that no other organisation in NI or elsewhere is taking responsibility for. I do not have any recourse to challenge these laws that were made without a codified Constitution and there is no time remaining to challenge these recent laws and orders in ascertaining whether they are protecting my environment or otherwise as they keep changing from week to week at this late stage of the Brexit “transition period”. Further, in NI no planning applications are required for the infrastructure in Northern Ireland of 5G masts and further, information is withheld as to the masts’ locations (other than six near Belfast). Never has any public body invoked the Tshwane Principles²² to protect the environment in NI if these are indeed areas of “national security”. **(Purpose of the Convention)**
- r. That the **UKGOV** has not afforded NI Human Rights (specifically Articles 2, 6 and 8) outwith the protection of the **EU** and we have **no assurance** that we will be afforded these rights after 31st December 2020. This removes any further measures of recourse to challenge the decision at ECHR or UN level. **(Article 9 of the Convention) (Purpose of the Convention)**
- s. That the **EU** acknowledged there were grave misgivings in terms of environmental protection in NI yet they had not addressed these issues within the 22 years from when the Aarhus Convention was ratified by them. **(Purpose of the Convention)**
- t. That when I submitted an **EU** Petition (0233/2019) concerning the implications on my environment post-Brexit, the European Parliament responded to confirm that it was, fortunately, “admissible” and informed me that it was forwarded to relevant bodies being
 - i. Committee of Civil Liberties, Justice and Home Affairs
 - ii. Committee on Constitutional Affairs
 - iii. Parliament’s Brexit Steering Group
 - iv. European Commission (for information) and
 - v. European Council (for information)

²¹ Including ionising radiation from the ongoing discharge from Sellafield into the Irish Sea that settles in Carlingford Lough and also non-ionising radiation from low and high electro-magnetic waves.

²² [Tshwane Principles](#) that provide for decision made for “national security” reasons to be superseded by human rights (including environmental rights)

- u. Since July 2019 I have not received any further correspondence as they said they would “*keep you [me] informed of any further action taken on your petition in due course*”. **(Purpose of the Convention)**
- v. Throughout 2019 I had written extensively to Ministers across the UK, to the UK **PM** Theresa May at that time, to Leo Varadkar the Irish Taoiseach, to Mr Tusk the then President of the EU Parliament and the First Ministers of Scotland and NI. In these letters I outlined the reasons why I believed our environment was at risk from the Brexit decision providing links to documents to support my arguments. I only received two responses, both acknowledgements – one from the office of the Taoiseach from Simon Coveney and the other from Caroline Lucas (Green Party MP) **(Purpose of the Convention)**
- w. That the **ECHR** did not declare my application admissible on the implications of Brexit (case reference 56612/19) that I claimed was in breach of the Aarhus and Human Rights Conventions due to the case falling out with their Article 39 (from one correspondence) and out with Articles 34 and 35 (from other correspondence). Only ONE judge reviewed my case who was Armen Harutyunyan. I have lost faith in this system too in that there was conflicting information provided to me and that only one Judge made this high-level critical decision which would have grave implications on my environment post-Brexit and for future generations and is in breach of the Article 1 of the Convention, in my opinion. **(Purpose of the Convention)**
- x. That the **NIA** did vote in favour of the Functions Bill that is being rushed through a superficial process and has received Royal Assent. This Bill will allow planning decisions to be made legally by Civil Servants/Executive Officers without any public participation and/or scrutiny of any kind and will further deter anyone from challenging a decision in court as the persons who have made the decision are **not** elected representatives and who have helped in the creation of the systemic structures outlined above in (j). This Bill was approved by the NI Assembly on 28 July 2020²³ and as NI is no longer afforded (effective or otherwise) EU legislative protection there is no opportunity to challenge this decision. I had sent a letter (see attached) to all MLAs explaining the breach of the Aarhus Convention which was aired during the short debate but ignored as it was passed by majority vote. **(Purpose of the Convention)**

Measures Taken as Chair of an Environmental Community

- y. That as an individual and as Chair of “keep it green” and a local residents’ group “Friends of Clermont” my responses to consultations have not been taken into account eg **Council**²⁴, **DAERA**²⁵, **ONR**²⁶, **WHA**²⁷ and **OFCOM**²⁸ – where none of the issues brought up in my responses were factored into the revised (often not-revised) environmental decisions and/or plans. **(Article 6 (8) of the Convention)**
- z. That as Chair of a group and as an individual I have provided feedback on the Local Area Development Plan with **the Council** and on the Marine Strategy to **DAERA**. None of my issues have been addressed in either and I find no transparency in demonstrating their commitment to the Convention. **(Article 6 of the Convention)**
- aa. That, as a Chair, to a local environment group “[keep it green](#)” I have received no recognition or support from said public authorities in working to “to protect, enhance and share, [the environment] sustainably”; ie the purpose of the Group where I have provided consultation responses on various environmental decisions but have not been appointed as a “statutory consultee” representing the public and therefore my input, as Chair, has been disregarded and not valued.. **(Article 3 (4) of the Convention)**

(13)

I believe I have exhausted all remedies available to me legally or otherwise, hence my complaint is a complex one without one body being held responsible overall but each responsible for certain aspects of environmental protection who have not worked together collaboratively to be effective in their objective in line with Article 1 of the Aarhus Convention.

(14)

As mentioned previously, I now fear that the Prime Minister may withdraw from the Aarhus Convention also and this last avenue I have in my attempt at protecting the environment will be lost forever and irreversible. I hope that the Aarhus Convention in itself, in protecting my human right to a safe environment will challenge the Brexit decision at UN level in that it leaves the UK and specifically NI and in particular, south Down at high risk of losing all protectionisms that are intended as membership of the EU..

²³ <https://niassembly.tv/final-stage-the-executive-committee-functions-bill>

²⁴ [Local Area Development Plan Consultation 2018](#) – yet to be updated and published

²⁵ Consultation on the proposed [Marine Plan for NI](#) April to June 2-18, still yet to publish responses and progress

²⁶ [Sellafield increase discharge of radioactive contaminants into the Irish Sea](#) Dec 2019

²⁷ [Dredging proposal of silt from the Port to the mouth of the Lough](#). The decision was parked after the consultation but no reasons given for postponing this which infers it may progress again to become a policy,

²⁸ Two consultations with reference to [Electro-magnetic Frequencies](#) and where a further consultation extension was denied [Ofcom Consultation](#) and my [Consultation Response](#) as Chair of Residents’ Group “Friends of Clermont”

V. INDICATIONS OF NON-COMPLIANCE

(15)

As this complaint is a complex one as it involves a matrix of organisations, both private and public, I have, for the purposes of facilitating the understanding the holistic situation, indicated the articles after each section above. To aid the process of the Compliance Committee’s determination of this Complaint I have also included the following table to aide this process:

Concerned Area of Aarhus Convention	Sections within this Communication
Access to Information	g, h, l, j, k, l, m, n
Public Participation	y, z
Access to Justice	a, f, k, p, r
General Failure	J, k, l, n, m, o, o, r, s, t, u, v, w, x, y, z

(16)

To substantiate the allegations within this Communication, I have included links to documents as these are extensive in volume but not in supply and further evidence can be provided if requested. However, in the grave and fundamental argument that this Communication indeed highlights the systemic and therefore “general failure” of those responsible (de facto or otherwise) for the protection of my local environment, I have provided further references as “key supporting documentation” below from those qualified in the legal and/or environmental fields regarding the situation currently:

(17)

Evidence of Recent Decisions or Non-Decisions

1. NI planning to approve rushed legislation for Ministerial powers *October 2020*
2. UK plans to exit EU without a Deal (Cummings not elected member) *Ongoing*
3. UK Environmental Report (NI status) *Current Status*
4. Implications of 31 December 2020 from Brexit *Current Status*

VI. USE OF DOMESTIC REMEDIES

(18)

There are no **effective** domestic remedies as outlined within this Communication and where it seems that protection has been implemented for example through Court Orders, no public body holds the remit to enforce other than the police force (one person is responsible for the environment for all of NI) who do not get involved with any matters in the south Down area relating to the environment eg forest fires, seals dead on the beach (cork-screw injury), water quality, air quality etc. To date DAERA have only charged nominal and sparse fines to polluters **outside of the south Down area**.

(19)

The domestic remedial actions I have undertaken to date in attempting to protect my local environment that have highlighted non-adherence to the Aarhus Convention have been:

1. Numerous Consultation responses – with no effect
 - a. Sellafield discharge - **ONR**
 - b. Local Area Development Plan - **Council**
 - c. Marine Strategy, Marine Licence Application – **DAERA**
 - d. Southern Relief Road - **DfI**
 - e. Local planning consultations – **Council**

- f. Hinckley C nuclear power plant - **ONR**
 - g. GDF Proposal for nuclear waste – **DAERA** (initially **Dfi**)
 - h. Wylfa Newydd new nuclear plant – **ONR**
 - i. Sellafield increase in discharge contaminants into the Irish Sea – **ONR**
2. Meetings and/or presentations to **Council**, **Dfi** and **DAERA** on various environmental matters – no effect examples below:
 - a. Terminal Development within a Special Protected Area
 - b. Albert Basis Project
 - c. Southern Relief Road
 - d. Dredging of Carlingford Lough
 3. Social Member of the **Council**'s Rural Development Committee, LEADER Project (funded by EU) and have been treated unfairly and ignored in my contributions to protect the environment.
 4. Informing and advising the public via social media platforms of ways to protect the environment without any support from other statutory bodies or otherwise.
 5. Judicial Review (three cases) of an environmental application in South Down against a development within a nature reserve – to Appeal Court and denied leave for Supreme Court to be able to challenge the decision to allow the development and to award costs against me. One positive outcome was the passing of Aarhus Regulation 2017 from my case. No other outcomes were positive for the environment eg to attempt to change UK legislation to include NI in its entirety ie Marine Coastal and Access Act 2009 (only Part 4 is applicable to NI) which denies NI the protection from an EPA for our marine environment (“Marine Management Organisation”).
 6. Correspondence with supporting evidence in lobbying Government (**DEARA**), **WHA** and **Council** representatives on environmental matters such as Glyphosate and nuclear waste contamination
 7. Minister’s Questions with no effect other than a debate
 8. Letters to the **PM** and other First Ministers across the UK
 9. Numerous FOI/EIR requests which are not responded to
 10. **ICO** complaint not responded to
 11. Complaint to the General Regulatory Chamber, **GRC**, (of ICO responses) with no effect
 12. Actively participating in **DAERA** and **Dfi** consultation meetings where I have been asked to leave by local representatives for not having an interest in the local environment ie not a local resident (where I live 7 miles away).

(20)

I am not aware of any other remedies that are afforded to me as is the intention of the Aarhus Convention in its holistic purpose of ensuring environmental protection and for any person to be able to challenge a public body to ensure the effectiveness of this protection.

(21)

I believe have exhausted all national remedies afforded to me as outlined throughout this Communication. Further, as there is no EPA to whom would hold the remit to determine a charge and enforce any action I have no other recourse to take to avoid any future repetition of harm to our environment.

VII. USE OF INTERNATIONAL PROCEDURES

(22)

Intent of Actions: to stop Brexit until Ni is afforded effective environmental protection

- i. Letter to Leo Varadkar (acknowledgement received but no further action taken)
- ii. Letter to the EU Parliament President (as above)

- iii. Petition to the EU (no.223) (Petition admissible and referred but no further action taken to my knowledge)
- iv. European Court of Human Rights (denied a hearing by one Judge)
- v. Attempt to seek collaboration with Scotland to protect our environment outwith the UK

VIII. CONFIDENTIALITY

(23)

I do not wish to share my name nor any personal information such as my address or contact details. As I am the only person in Northern Ireland who could submit this Communication the content in itself is an indicator as to the author. Therefore, I am submitting this with urgency, trepidation and desperation in the light of any imminent potential threat to me in submitting this Communication and ask for any help in this matter to be afforded to me with confidence.

IX. SUPPORTING DOCUMENTATION (COPIES, NOT ORIGINALS)

ANNEX of Documents Referred to in this Communication

(As this list is substantive this can be provided in list format if requested)

X. LEGISLATION

NATIONAL

- a. [Equality and Duty Act UK 1998](#) – not applicable in NI
- b. [Human Rights Act UK 1998](#) (NI only afforded [3 Statutory Rules](#))
- c. UK Environmental Bill 2020 (not cited [on line](#) yet)
- d. [Coronavirus Bill 2020](#)
- e. [Marine Coastal and Access Act 2009](#) – (only Part 4 is applicable to NI) Part 1 specifically
- f. [Warrenpoint Harbour Authority Regulations 2002](#)
- g. [Telecommunications Act 1984](#) Art 9 allowing SoS to give powers to private companies
- h. [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#)

INTERNATIONAL

- a. Aarhus Convention
- b. UN Convention of Human Rights (Articles 2, 6, and 8)
- c. EU Environmental Legislation in its entirety as none are effectively transposed nor implemented in NI eg Air Quality Directive and Water Framework Directive,
- d. [Tshwane Principles](#)

RELEVANT DECISIONS

Relevant decisions/results of other review procedures, highlighting the most relevant sections.

- a. [Judgement](#) from the Judicial Review I brought in 2016
- b. [Judgement](#) from Appeal I brought in 2016/7
- c. ECHR Judgement refusing Rule 39 and also challenge (attached in email)
- d. EU Petition Response (attached in email)
- e. [EU Environment Directorate FOI Response](#) – last paragraph
- f. GRC Decision (attached in email)
- g. FOI and EIR Internal Reviews from various public bodies as referred to above or more can be provided upon request as there are a substantial number (some available on line [here](#), latest October 2020 concerning [coronavirus](#) testing)

URGENT HIGH-LEVEL PRIORITY
IN CONFIDENCE

RELEVANT CORRESPONDENCE with public authorities of the Party concerned or other documentation that substantiates your allegations of non-compliance, highlighting the most relevant sections. Please see attached email for the letter that was sent to Mr Tusk (and was adapted from a letter sent to Theresa May, and First Ministers and Leo Varadkar (the former Irish Taoiseach).

(Will provide upon request as there are substantial numbers of items of correspondence as well as the parties engaged)

Signature:

A black rectangular box redacting the signature.

Date:

30 October 2020

aarhus.compliance@un.org