

**Assumption**

On the counts of decisions **a) and b)**, where the Committee has determined that I have not met with the requirements of Decision 1/7 para 20 (d) and with reference to para 19, I acknowledge that the Committee has determined that my communication **was deemed appropriate and admissible** in respect of **all other provisions of Decision 1/7**<sup>1</sup>.

**Clarification**

For clarification, the purpose of my complaint is not about reversing Brexit; it is about making sure that the transition was/is done legally, in adherence to the provisions of the Aarhus Convention.

**MANIFEST ERRORS**

I submit that the Committee, with respect, has been misguided, has erred in their opinion of proportionality and has overlooked and/or disregarded material matters in their determination of admissibility. These matters are highlighted below:

**1 Inter-connection of Material Matters**

The Committee **has been misguided or overlooked/disregarded** and/or **has erred** in the weight they have attributed to the evidence provided in, inter alia, Comms A, Annexes 3 and 5 and consolidated by the EU Response (received on 29 January 2021) which, in combination, asserted that

- a) Post-Brexit, “The UK will continue to follow EU law” where “none of these directives and regulations concern the Aarhus Convention”<sup>2</sup> meaning, if any law did exist that supported the Convention, it is not assured to be followed post Brexit; and further, that the Committee **has disregarded...**
- b) the evidence provided in my Communication<sup>3</sup>, from the verbal submission from Earth Justice during the open session meeting and from previous Communications relating to complaints against the UK<sup>4</sup>, to support the fact that NI is distinct from England and the rest of the UK in terms of legislation and mechanisms relating to the adherence of the Aarhus Convention; and further **have erred their opinion of proportionality** on the matter of
- c) considering the material evidence of the distinct lack of environmental information and environmental legal protections afforded to NI specifically and distinct from the rest of the UK as corroborated in Comms A in footnote links (1-9)<sup>5</sup> and by the EU (in 2019) at Annex 3<sup>6</sup> and in links provided at Annex 5<sup>7</sup> (including DEFRA’s report<sup>8</sup>); and by **disregarding**
- d) the references to the nuance of protectionisms from the non-existence of an independent EPA and MMO as explained in Comms A<sup>9</sup>, and further **overlooking** the
- e) lack of any evidence provided in either Party’s Response<sup>10</sup> as to
  - i. counter-argue my representation (in text and graphics) of the environmental structures in NI that have frustrated the achievement of the Convention’s Objective, or
  - ii. to provide any evidence to counterargue my “allegations”.and in particular, the Committee has **overlooked** the fact that

<sup>1</sup> Based on previous decisions where any other failure to meet the criteria would have been highlighted eg, inter alia, [ACCC/2017/156](#)

<sup>2</sup> [EU Response](#) at top of page two “the UK will continue to follow EU Law”... “none...concern the Aarhus Convention...”

<sup>3</sup> Examples provided at [Annex 5](#) page 1 “The purpose...” (including footnotes) to the NOTES section on page 2

<sup>4</sup> It is the duty of the Committee to consider “...any communication made...” as is stipulated at para 13 of [Decision 1/7](#)

<sup>5</sup> [Comms A](#) pages 2 and 3 including footnotes from 1 to 9 as evidence

<sup>6</sup> [At Annex 3](#) penultimate paragraph and explained during open meeting held on 25 January 2021

<sup>7</sup> [Annex 5](#) Page 1 in footnote and page 2

<sup>8</sup> [DEFRA Report](#) link as included in Annex 5 – refers to page 11 of report where NI link has no relevance to the environmental features at the time of the report’s findings.

<sup>9</sup> [Comms A](#) with reference to legislation found at X e at page 12 and at [Annex 5](#), pages 1 and 2

<sup>10</sup> [UK](#) or [EU](#) Responses

- f) that the EU, knowing there were failures<sup>11</sup> and that they had powers to rectify the situation prior to Brexit and/or report to the Committee for failings under the Convention<sup>12</sup> yet nothing had been effected<sup>13</sup> to address these systematic failures prior to the critical Brexit deadline.

I conclude that the Committee has **been misguided** in accepting that 'business as usual' post-Brexit affords NI with any benefits intended under the three pillars of the Convention, it has not to date and nor will it in the future if the Committee accepts the current situation as one that supports the Objective and adheres to the provisions of the Convention and does not challenge these misgivings, either in isolation or in combination, as part of its duty under Decision 1/7.

## 2: Omissions within Decision

- a) That the Committee **has failed to recognise** the complaint against both Parties in its Decision Letter in that the content does not address the admissibility of the Complaint for either, both or neither of the Parties.
- b) Further, the Committee **has failed to recognise** the complaint concerning the *generality* of the Convention, whether this is recognised as being part of the a to aa or not. This was the basis of my Complaint and explained as such in Comms A<sup>14</sup>.

## 3: Accepting Evidence (Decision relating to a))

- a) That the Committee **has disregarded** the links that were provided as evidence where the precedent has been set in past cases eg 2015/123<sup>15</sup> that hyperlinks are indeed accepted as forms of evidence. These links were made live on or around 30 December 2020 and uploaded to the UN website at that time<sup>16</sup>. Further, I had also offered to send these documents individually prior to the meeting to which I was advised<sup>17</sup> that it was not necessary at that time and that I may do so **after** the 69<sup>th</sup> Meeting had taken place.
- b) That the Committee **has been misguided** in the inclusion of those matters listed at Decision a). These matters, individually demonstrate that the Convention's articles as listed are inapplicable to NI while in combination demonstrate the inapplicability of the Convention in its generality or achievement of Objective at Article 1.
- c) That the Committee **has erred** in its judgement of the absence of evidence as no evidence. Where the Convention is reliant upon A) a public authority or representative who Bi) has the responsibility under the Convention and for C) legislation to be in place to be challenged, it would be impossible therefore to make the Convention applicable and therefore effective in NI due to the absences of these three critical factors. I contend that where I do not have evidence for breaches of the Convention is the very reason that NI is not afforded the rights under each Article of the Convention in their purpose of achieving the Objective at Article 1.
- i) At a, b, c, d, f, h, j\*, k, m, n, q, y, zz and aa are all examples of where no evidence exists due to the lack of factors i, ii, iii listed above.
- ii) At e, evidence exists at page4 footnote 11 and similarly at i, evidence exists at Annex 4. However, these are signpost errors on my part and I apologise for these errors.

---

<sup>11</sup> At [Annex 3](#) and [EU Response](#)

<sup>12</sup> Article 10 para 2 of the Convention and specifically at g) "Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention"

<sup>13</sup> No legislation transposition as outlined in paragraph 4 of [Comms A](#) and only "pilot schemes", "queries" and "monitoring" have been undertaken with no real outcomes effected as per [Annex 3](#).

<sup>14</sup> As explained in [Comms A](#) page 3 para 7

<sup>15</sup> See [Communication on EU here](#).

<sup>16</sup> As per email from Secretariat on 30 December at No.8

<sup>17</sup> As per email from Secretariat on 30 December at No.9

- iii) At g and j\* both do have evidence as correctly signposted, although j\* is a very complex matter and provides numerous links to various organisations and documents which is the reason I have provided an infographic demonstrating this information where this holistic structure in a diagram or otherwise does not exist elsewhere in NI.
  - iv) At l, this is due to my error of not including a link to the ICO website<sup>18</sup>. My apologies again.
  - v) At t/u, this was evidence of my attempts of challenges and not merits of the case.
- d) That the Committee **has been misguided** in allowing DEFRA alone to represent NI where they have no personnel working in this jurisdiction and have through evidence provided at Annex 5, themselves been misguided as to the actual systems and structures in place in NI. This is evident in the fact their Response did not offer any insight to the workings of the systems in NI other than superficial structural information.

#### 4. Generality or Purpose of the Convention (Decision relating to b))

For those matters relating to the Decision Letter at b) for being incompatible with the provisions of the Convention, I believe that the Committee **has been misguided** in their interpretation. The “purpose” or “generality” of the Convention should be interpreted as the “Objective” stated in Article 1 which is dependent upon the effective implementation of all other Articles.

Being cognisant of this intended interpretation:

- a) Matters at o, p, r, v, demonstrate the lack of responsible body to which is necessary for any of the three pillars of the Convention to be put into effect.
- b) At v and w these matters relate to 1) my attempts at challenging decisions and 2) that no engagement is offered to provide me with the opportunity of a legal challenge.
- c) At s that no legislation exists (Article 3a) to effectively implement all three pillars.
- d) At x, the Bill allows one body to make a decision without scrutiny or any environmental assessment to be challenged.

All of these examples frustrate the application of the Convention and deter any progress of working towards achieving the Objective at Article 1.

#### 5. Critical Nature of Complaint

That the Committee **has erred** in their determination of the gravity and far-reaching, diverse implications of my “allegations” in respect of environmental protection within NI. In light of the lack of evidence from any Party or otherwise that I as a citizen, living here, cannot access any information, past or present, as to the features of my environment, living near a Port<sup>19</sup>, and given that no Party can provide me with the contrary, I believe it is the duty of care of the Committee to revise this decision and treat it as one of **national interest**, that pertains to **emissions**<sup>20</sup> and should usurp all other national legislation in its existence or omission and further be defined as a matter of “**national defence**”<sup>21</sup>, (for example, the coronavirus is one such example of an environmental feature that is a matter of *international defence* at present that usurps all other decisions and legislation).

<sup>18</sup> [ICO website](#) listing FOIs submitted but excluding those sent directly the public bodies as part of the Court cases.

<sup>19</sup> The reason for specifically highlighting the proximity to the Port, is that air quality is the **only** reference I can gain access to of all environmental features (see FOI response at [para q on page 5](#)) from [airqualityni.co.uk](#) ([page 6 i \(v\)](#)) seven miles away, and therefore irrelevant.

<sup>20</sup> Article 4, para 4 at h) “The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.”

<sup>21</sup> Article 6, para 1 c) “May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes.”