

Communication C-150

Hearing on 14 September 2022

Note of points made by WWF-UK (observer)

1. WWF attended the hearing of C-150 communication on 14 September concerning compliance with Article 8 as an observer.
2. WWF and coalition are engaged in a preliminary communication addressed to the UK concerning application of Article 8 (pre/C/194) also.
3. Clearly the facts of our case are very different - our case concerns negotiation and adoption of FTAs.
4. However, we support communication and arguments of FoE in C-150. We make 5 high level points in this regard.
 - (a) public participation whilst rules are at a formative stage is clearly key hence the need for consultation whilst rules are in draft form
 - (b) non-justiciability in relation to certain matters in domestic law cannot be determinative of the interpretation of the Convention. We heard quite a lot from the UK over the course of the hearing on non-justiciability. WWF recalls that the Committee is concerned with the question of the interpretation of international law
 - (c) we recall the duty to “strive” set out in Article 8. We content that public participation cannot fall below certain minimum thresholds namely that it is early, effective and meaningful
 - (d) as regards Article 3(1) the absence of a system which ensures participation creates uncertainty and leaves consultation wholly at the discretion of government. We point out that this is not what the Convention intends
 - (e) WWF recalls one of the premises of the Almaty Guidelines (concerning public participation in environmental decision making) namely that public participation improves environmental decision making. We note that the desire to restrict application of public participation seems to overlook this principle which (at least partly) underlies the public participation pillar of the Convention.