

PRE/ACCC/C/2022/196 United Kingdom

Statement on preliminary admissibility

Introduction

1. The annex to 'DECISION I/7 - REVIEW OF COMPLIANCE' sets out the admissibility requirements for communications at paragraphs 19 to 21 in the following terms:

19. ... The communications shall be supported by corroborating information.

20. The Committee shall consider any such communication unless it determines that the communication is:

(a) Anonymous;

(b) An abuse of the right to make such communications;

(c) Manifestly unreasonable;

(d) Incompatible with the provisions of this decision or with the Convention.

21. The Committee should at all relevant stages take into account any available domestic remedy unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress.

2. The Communicants understand that the Committee may find a communication inadmissible under paragraph 20(d) of the annex to decision I/7 on the ground that it fails to pass a threshold of *de minimis* with respect to communication's relevance and importance in the light of the purpose and functions of the Committee.
3. This statement addresses the above admissibility requirements in turn.

Paragraph 19 – corroborating information

4. The communication was submitted with 12 supporting documents. Those documents corroborate the factual and legal claims made in the communication.

Paragraph 20(a-d)

5. The communication has been submitted in the names of four environmental non-governmental organisations.
6. The communication is not an abuse of the right to make communications, is not manifestly unreasonable and is not incompatible with Decision I/7 or the Convention.

Paragraph 21 - domestic remedies

7. The use of domestic remedies is addressed in paragraphs 30 to 38 of the communication.

8. There is no domestic judicial or other remedy which is available to the Communicants.
9. The Communicants attempted to address the alleged non-compliance informally without recourse to the Committee. The Communicants wrote directly to the relevant decision-maker (the Scottish Government) on several occasions to raise the alleged non-compliance specified in the communication.
10. The Communicants informed the Scottish Government in writing that, in the absence of a satisfactory response, a communication to the Committee would be considered. The Scottish Government's response explained that it did not intend to address the alleged non-compliance.
11. The communication is necessary for the Communicants to obtain a remedy to address the alleged non-compliance.

***De minimis* threshold**

12. The alleged non-compliance raised in the communication exceeds the *de minimis* threshold. The alleged non-compliance raises matters which are central to ensuring that members of the public have access to justice in environmental matters in Scotland.

13. ACCC/C/2013/90 supports the Communicants' position on the *de minimis* threshold.

In ACCC/C/2013/90 the Committee made findings on a similar issue in relation to Northern Ireland. The *de minimis* threshold was passed in that communication.

Conclusion

14. The Communicants respectfully request the Committee to determine that this communication is admissible. The Communicants can provide any further information to support the Committee's consideration of this issue on request.

Ben Christman (Environmental Rights Centre for Scotland)

6 December 2022