From: ECE-Aarhus-Compliance

Sent: Wednesday, December 7, 2022 10:51 PM

To: Niamh NiFhlaithbheartaigh

Cc: genevapmun ; Feargal Murphy

kieran ; pat.swords.chemeng ; davmalone ; nvandokkum fred.logue ; Attracta ; fclauson ; Fandcooney ; attractaub

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Subject: RE: Decision VII/8i (Ireland) - invitation to open session at Committee's 77th meeting (13-16 December

2022)

Dear Ms. O'Flaherty,

Thank you for confirming the participation of Ireland in the open session to discuss its plan of action on decision VII/8i to be held next Wednesday, 14 December, at the Compliance Committee's seventy-seventh meeting.

In my email of 3 December, I had indicated that the Committee would in advance of the meeting provide a brief summary outlining some of its concerns regarding the plan of action to assist the Party concerned to prepare for the open session. Please see the Committee's brief summary below:

Regarding paragraph 4 (a) of decision VII/8i, it is not clear to the Committee that the legislative developments that entered into force in September 2021 meet the requirements of that paragraph. For example, the relevant amendment of section 42 of the Planning and Development Act appears only to remove the possibility for automatic extension of permit duration for extensions that themselves would require an EIA or appropriate assessment (see section 42 (8) of the Planning and Development Act). However, article 6 (10) of the Convention is not limited only to reconsideration or updates that themselves require an EIA or appropriate assessment.

With respect to paragraph 4 (b) of decision VII/8i, the Committee points out that this recommendation stems from the Committee's finding in paragraph 133 (b) of its findings on communication ACCC/C/2016/141 (Ireland) that, "by maintaining a system whereby courts may rule that information requests fall within the scope of the AIE Regulations without issuing any directions for their adequate and effective resolution thereafter, the Party concerned fails to comply with the requirement in article 9 (4) of the Convention to ensure adequate and effective remedies for the review of environmental information requests." The issue to be addressed through paragraph 4 (b) of decision VII/8i is therefore that the courts, having determined that an information request falls within the scope of the AIE regulations, fail to make any orders for the adequate and effective resolution of the information request, and not that public authorities fail to comply with such court orders.

Regarding paragraph 4 (c) (i) of decision VII/8i, Ireland's plan of action indicates that the Party concerned proposes to address this recommendation, inter alia, through a revision to the AIE Ministerial Guidelines. In order to be in a position to ascertain the extent to which such a revision will fulfil paragraph 4 (c) (i), the Committee looks forward to receive information on the extent to which the AIE Ministerial Guidelines are in fact widely used by public authorities handling access to environmental information requests in practice. It will also be important for the Party concerned to carry out awareness-raising and training for public authorities on the revised Ministerial Guidelines once issued.

We hope the above summary may be helpful. The link to join the open session will be sent to all registered participants this weekend, following the expiry of the deadline for registration this Friday, 9 December.

We look forward to Ireland's participation in next week's open session.

Kind regards, Fiona



Fiona Marshall

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