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Your ref: VII/8s United Kingdom

Our refs: AAR5/1; AAR/1/PS/HB

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6 November 2023

Dear Officers

Decision VII/8s (United Kingdom) - Progress Report dated October 2023

We refer to the Compliance Committee's email of 16 October which attaches the first progress report of the United Kingdom on decision V11/8s ("**the Report**").

In response to your invitation to provide comments on the Report, we, on behalf of Communicants C85 and C86, make the following observations:

1. We respectfully refer to the response we submitted to the Committee dated 28 July 2022 and which was with reference to the UK Government's Plan of Action it had submitted on 1 July 2022. This document should be reviewed in conjunction with that response we made last year.
2. We have reviewed the Report and most specifically to the section which is relevant to Recommendations 2(a), 2(b), 2(d), 6(a), 6(b), 6(c) and 6(d). The Report simply states that the UK "*will raise the issues raised in the committee's recommendations in the forthcoming Call for Evidence on the operation of the Environmental Costs Protection Regime (ECPR) to seek views on the way forward*". Accordingly:
 - a. The UK's position has not changed since circulation of its Plan of Action in July 2022
 - b. The UK has not stated when its "Call for Evidence" will be commenced
 - c. The UK has not set out how it will establish a "Call for Evidence"

- d. The UK has provided no detail on how costs in the UK's private nuisance regime will be compliant with the Convention.
3. The UK will, no doubt, have had sight of the submissions which we made, on behalf of Communicants C85 and 86, on 28 July 2022. In paragraph 11 we asked for confirmation that the Call for Evidence would include consideration of the private nuisance regime and the QOWC (Qualified One Way Costs Shifting) as it represented to the Committee that it would in 2018. However, the UK has failed to provide any such confirmation.
 4. Our concerns over timing, as set out in paragraphs 12 to 14 of our previous submission, remain. More than 15 months have passed since the circulation of the UK's Plan of Action and the Report and the UK's position has not changed. With less than 12 months between now and the October 2024 deadline for implementation of any mechanism for compliance the position is very concerning.
 5. Paragraph 15 of our previous submission invited the UK's representatives to meet with us. Such invitation has been submitted previously but the UK has failed to respond.
 6. The Compliance Committee declared the UK in breach of Article 9 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) on 17 June 2015¹. More than eight years and four months have passed since that time, yet the UK remains in breach and has not adopted the recommendations which the Compliance Committee made at that time². The situation is frustrating and should not be allowed to continue.

Yours faithfully

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cc.

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¹ Findings and recommendations with regard to communications ACCC/C/2013/85 and ACCC/C/2013/86 concerning compliance by the United Kingdom of Great Britain and Northern Ireland

² Paragraph 118 of Findings and recommendations with regard to communications ACCC/C/2013/85 and ACCC/C/2013/86 concerning compliance by the United Kingdom of Great Britain and Northern Ireland

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