

UPDATE ON COMPLAINT

Purpose

1. To update members on the complaint, before the Aarhus Convention Compliance Committee, and the response now submitted to that complaint by the UK state.

Background

2. The Aarhus Convention Compliance Committee (ACCC) has a dedicated webpage for each communication lodged, to enable all submissions made by the communicant and the party to be viewed online:
https://unece.org/env/pp/cc/accc.c.2025.216_united_kingdom
3. The key dates are:
 - MAR 2025 - the Environmental Rights Centre Scotland (ERCS) lodged a complaint before the Compliance Committee, under communication reference ACCC/C/2025/216.
 - JUN 2025 - the ACCC met and decided communication 2025/216 met their de minimus level and could proceed to the next stage
 - NOV 2025 - the ACCC secretariat emailed the UK member state asking for it to respond (within 5 months).
 - APR 2026 – DEFRA lodged the UK response to communication 2025/216
4. From the dedicated UNECE [webpage](#) members can view that UK response online and access the 19 supporting documents lodged.
5. For ease of use we have attached a PDF of that UK Response (**Paper 4.2 A**).
6. It is the UK that is the signatory to the Convention, and the party to the complaint. The SCJC is not a party, although the Compliance Committee permits observations to be made directly to it by interested parties.

The positions taken by the UK member state

7. DEFRA has responded on behalf of the UK Government. The UK position is that there is no breach of the Aarhus Convention. The UK response can be summarised as follows:

Inadmissible due to manifest unreasonableness

It is argued the Compliance Committee should reconsider its decision to find the complaint admissible on the basis that it is factually incorrect to say there was no public participation prior to the 2024 Act of Sederunt in question. It is argued that the 2024 Act of Sederunt is a continuum of a consultation that took place in 2017, and of a Working Group set up thereafter. The detailed timeline relied upon is found in paragraph 7 onwards of the UK response.

Recourse to domestic remedies

It is argued that, as the Compliance Committee is generally obliged to consider domestic remedies available to a complainant (subject to some qualifications), that the Committee should now consider the complaint inadmissible. In support of this argument, it is noted that judicial review proceedings could have been taken, but also that the SCJC carried out a PEO consultation in 2025 and has committed to a 2026 consultation on PEO rules.

Compliance with Article 8

It is argued that there has been full compliance with Article 8, noting that the requirement in Article 8 is not absolute and given the nature of the obligation, there has not been a breach. Further it is argued that specific steps in consultation are not always required (set out at paragraph 33).

Recommendations

8. Members are asked to note the position.

**Secretary to the Scottish Civil Justice Council
June 2026**