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ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Procedures and mechanisms facilitating the implementation of the Convention: Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY THE UNITED KINGDOM: 2017-2021

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The process of preparing the National Implementation Report of the United Kingdom (UK) under the Aarhus Convention is extremely important to the UK. This Report has been prepared by the Department for Environment, Food and Rural Affairs (Defra), which is the lead UK department for the Aarhus Convention, in conjunction with other government departments and the Devolved Administrations in Scotland, Wales and Northern Ireland.

2. The UK Government is consulting on this Report in 2020. The consultation applies to England, Wales, Northern Ireland and Scotland and is publicly available. Where appropriate, following the consultation the responses will be reflected in the report.

3. The United Kingdom exited the European Union on 31 January 2020. Upon exit, the UK entered a Transition Period which will end on 31 December 2020. During the reporting period 2017-2020 the UK continued to implement EU law which is reflected in this report. Where appropriate, EU law which has been transposed into UK law has been signposted.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

4. There are three separate legal systems in the United Kingdom: i) England and Wales, ii) Scotland and iii) Northern Ireland.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Article 3, paragraph 2

5. Several general measures have been taken in the UK to ensure that officials and authorities behave properly in their relations with the public, including by providing appropriate assistance and guidance. Expected standards of conduct and service delivery have been extensively codified. Examples include the Civil Service Code (https://www.gov.uk/government/publications/civil-service-code), the Northern Ireland Civil Service Code of Ethics (https://www.finance-ni.gov.uk/publications/nics-code-ethics) and the "Customer Service Excellence" scheme (http://www.customerserviceexcellence.uk.com/). A single, searchable internet website (www.gov.uk) has been created to provide access to relevant information and services provided by all 24 government departments and 410 other agencies and public bodies. A similar website operates in Northern Ireland (www.nidirect.gov.uk).

6. Information for people seeking access to environmental and other information through a Freedom of Information (FOI) request is available at the bottom of the webpages of all UK government departments, for example the Defra webpage (https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs). Services are available to help people see what information has already been published. For example, the www.gov.uk website's search function allows government publications to be searched, including published responses to information requests that may be of more general interest (https://www.gov.uk/government/publications). Environmental data sets, such as

statistics, survey results and other data, are brought together under the data.gov.uk portal (http://data.gov.uk/) and form the basis for a number of web-based services.

7. The UK Information Commissioner (www.ico.org.uk/) regulates a number of acts and regulations in the area of information rights, protection and access. The Commissioner has a statutory duty to promote good practice on the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and does this by publishing guidance on data protection (the Data Protection Act 2018 and the UK General Data Protection Regulation) and the INSPIRE Regulations. The Information Commissioner's Office also provides resources such as training videos and webinars(https://ico.org.uk/for-organisations/). The Scottish Information Commissioner (http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.asp) has similar powers under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004, although data protection is not devolved and remains with the UK Information Commissioner.

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8. The UK's Consultation Principles were introduced in 2012, and most recently revised in 2018 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf). The Principles outline what the public can expect from the Government when it runs consultation exercises on matters of policy or policy implementation. The principles include that consultations:

- should be clear and concise;
- should have a purpose;
- should be informative;
- are only part of the process of engagement;
- should last for a proportionate amount of time;
- should be targeted;
- should take account of the groups being consulted;
- should be agreed before publication
- should facilitate scrutiny
- should have government responses published in a timely fashion
- should not generally be launched during local or national election periods

9. Guidance to the procedures involved in environmental impact assessment (EIA) in the context of town and country planning in England are published by the Ministry of Housing, Communities and Local Government (MHCLG): (https://www.gov.uk/guidance/environmental-impact-assessment). This forms part of MHCLG's online suite of Planning Practice Guidance, which was first published in March 2014 (http://planningguidance.communities.gov.uk/blog/guidance/).

10. The Government provides information and links on the provision of effective and accessible justice for all, in particular via the Community Legal Advice website (https://www.gov.uk/civil-legal-advice). Information on the judicial system in Northern Ireland can be found at https://www.nidirect.gov.uk/articles/introduction-justice-system. The work of officials and public authorities is complemented by the work of several independent voluntary bodies, including Citizens Advice, which provides the gateway to a nationwide network of local Citizens Advice Bureaux (www.adviceguide.org.uk/) providing practical advice on legal system and individuals' rights.

Article 3, paragraph 3

11. The Government's central internet website for public services (www.gov.uk) contains information on the work of Defra (https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs), MHCLG (https://www.gov.uk/government/organisations/department-for-communities-and-local-government), and the Department for Business, Energy and Industrial Strategy (https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy). The Environment Agency (https://www.gov.uk/government/organisations/environment-agency), is the executive non-departmental public body for environmental issues in England. The www.gov.uk website includes information and advice relevant to all areas of environmental policy. There are also links to more detailed sources of information on particular subject areas.

12. Defra has funded a programme of citizen engagement across England to understand what people value in the environment and their priorities for it. The project aims to generate options for taking public attitudes, values, and priorities into account in environmental policy and decision making, informing implementation of the 25 Year Environment Plan (25YEP). 150 people across the country, recruited to closely reflect the demographics of the population, participated in weekend long public dialogues in London, Hull, and Chesterfield, as well as a two-day online workshop. They deliberated, alongside staff from Defra and Natural England, on a wide range of issues covered in the 25YEP. Additionally, around 900 people have been engaged in a range of 'distributed dialogues' – shorter but more focused engagements – which covered a broad cross-section of society, including groups that have been underserved. Defra, alongside the Department for Business, Energy and Industrial (BEIS) Strategy invited a Youth Steering Group to review Environment and Climate Policy. The group was made up of 16-25 year olds, representative of young people across England, convened by the British Youth Council to Engage with government policy. The group met with Defra and BEIS teams to discuss Government policies and communication methods from a young person's perspective. Teams have been exploring and implementing the recommendations. The group met with Ministers to present their report and recommendations. Ministers congratulated the group on their efforts to produce their report and were particularly interested in their idea of a 'curriculum for life'. As a result of this Defra Group is now engaged in creating a Youth Engagement Strategy for the department.

13. In Scotland, Scotland's Environment website aims to offer a single source of information on the state of the environment and through this supports increased public participation. This initiative – a partnership steered by the Scottish Government and supported by other public bodies and NGOs. This multi-agency view of Scotland's environment – informs the way the environment is monitored and empowers communities to observe and record environmental change, so improving our understanding of the local environment. It provides a platform for enhancing the level of awareness of and participation in environmental issues in Scotland (https://www.environment.gov.scot/).

14. Education about environmental issues features in the National Curriculum in schools within the geography and science curriculums. Information is available from the Department for Education (https://www.gov.uk/government/organisations/department-for-education). Climate change is an important part of the national curriculum, with the foundation concepts relating to climate and environment taught at primary school before progressing to the causes and consequences of climate change at secondary school. The science GCSE gives pupils the opportunity to consider the evidence for additional anthropogenic causes of climate change. Furthermore, a new

environmental science A Level was introduced in 2017 which will enable young people to study the topics that will enhance their understanding of climate change and how it can be addressed. The geography curriculum at Key Stage 3 and 4 includes content designed to enable pupils to understand ways in which human and physical processes interact to influence and change the climate from Ice Age to the present day. GCSE geography gives pupils an opportunity to consider the causes, consequences of and responses to extreme weather conditions and natural weather hazards. In addition, the curriculum includes a citizenship programme, which aims to ensure that all pupils:

- acquire a sound knowledge and understanding of how the United Kingdom is governed, its political system, and how citizens participate actively in its democratic systems of government; and
- develop a sound knowledge and understanding of the role of law and the justice system in our society and how laws are shaped and enforced.

15. Various environmental bodies, enforcement agencies and other organisations run specific environmental awareness programmes, sometimes in conjunction with schools, for example:

- MHCLG supports a range of initiatives to promote strong, active and empowered communities, capable of defining problems and tackling them together or influencing public investment to address their priorities. These include the community rights provided through the Localism Act 2011. The Community Right to Bid helps to protect locally important community assets – anything from shops to community centres to pubs to amenity land. Neighbourhood Planning enables local people to choose where they want new homes, shops and offices to go, to have their say on how new buildings look and what infrastructure should be provided and to grant planning permission for the new buildings which they want to see built.

16. In Wales, the Well-being of Future Generations (Wales) Act 2015 provides a comprehensive legislative response for sustainable development which incorporates the Brundtland Commission definition of sustainable development; seven sustainable development goals and associated monitoring framework; well-being duties on Government and public bodies to carry out sustainable development; local partnership arrangements and well-being assessments; a duty on the Auditor; and the establishment of an independent Future Generations Commissioner for Wales.

17. In 2016, Wales introduced the Environment (Wales) Act which provides for the principles of the Sustainable Management of Natural Resources. In recognition that Wales' natural resources are essential to the well-being of Wales' people, the principles which include adaptability; scale; working together; engaging the public; evidence; understanding the benefits of natural resources; long term impacts; prevention; and resilience, establish how Wales should manage its natural resources in a sustainable way. Managing Wales' natural resources in a way and at a rate which meets the needs of the present generation without compromising the needs of future generations contributes to our seven well-being goals in the Well-being of Future Generations (Wales) Act 2015.

18. In Wales, the Environment (Wales) Act 2016 places a duty on public authorities to maintain and enhance biodiversity in the exercise of their functions in relation to Wales, in doing so, promoting the resilience of ecosystems. In complying with this duty, public authorities in respect of Wales

must take account of diversity between and within ecosystems; the connection between and within ecosystems; the scale of ecosystems; the condition of ecosystems; and the adaptability of ecosystems. This biodiversity duty helps to reverse the decline and secure the long-term resilience of biodiversity in Wales.

a. Additionally, Wales' Environmental Regulator, Natural Resources Wales, produces a *State of Natural Resources Report* which assesses the extent to which natural resources in Wales are being sustainably managed. This duty is established under Section 8 of the Environment (Wales) Act 2016.

b. Natural Resources Wales is also mandated to produce Area Statements which produce a local evidence base, helping to implement the priorities, risks and opportunities identified by the National Policy and how NRW intends to address these.

Article 3, paragraph 4

19. There are no general requirements for the recognition of associations, organisations or groups promoting environmental protection in the UK. A broadly liberal and inclusive approach is taken to their participation in public life, including in relation to environmental policy issues.

20. Representatives of consumer groups and women's groups, as well as individuals acting in an individual capacity, are included in the current membership of environmental stakeholder groups (such as the Chemicals Stakeholder Forum), policy advisory bodies, or as lay or expert members, as appropriate, on specialist advisory committees (such as the Hazardous Substances Advisory Committee or the Pesticides Residue Committee).

21. The Civil Service Reform Plan (https://www.gov.uk/government/organisations/civil-service-reform) commits the government to improving policy making and implementation with a greater focus on robust evidence, transparency and engaging with key groups earlier in the process. As a result the government is improving the way it consults by adopting a more proportionate and targeted approach, so that the type and scale of engagement is proportional to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focusing on real engagement with key groups rather than following a set process. In June 2020, the Minister for the Cabinet Office gave the Ditchley Annual Lecture on the "Privilege of Public Service", setting out a renewed approach to Civil Service Reform (https://www.gov.uk/government/speeches/the-privilege-of-public-service-given-as-the-ditchley-annual-lecture). In July 2020, the Cabinet Office launched a refreshed civil service reform programme – Shaping Our Future Together (https://shapingourfuture.civilservice.gov.uk/civil-service/c3ac6adf/).

22. Direct financial support to environmental associations or groups takes a variety of forms. Indirect support includes exemption from direct and indirect taxes for qualifying fund-raising activities by registered charities, as well as tax relief on charitable donations from individuals. Information about Defra's activities supporting environmental charities can be found via this link (https://deframedia.blog.gov.uk/2020/05/04/government-support-for-environmental-charities-during-coronavirus/). Information regarding tax relief for charities can be found via this link (https://www.gov.uk/charities-and-tax/tax-reliefs).

Article 3, paragraph 7

23. , The UK supports the appropriate application of the Convention to European Union legislation and bodies. The UK continues to support the development of the participatory principles of the Convention, of Principle 10 of the 1992 Rio Declaration and of Paragraph 99 of the Rio+20 outcome document in international forums, including for example: the United Nations Conference on Sustainable Development (Rio+20); the fourteenth meeting of the Conference of the Parties to the Convention on Biological Diversity; the twenty-fifth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change; and the Environment for Europe process, as well as in specific environment agreements, such as the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, the Rotterdam Convention and the Basel Convention. Nature is also a top priority for our upcoming Presidency of the UN Framework Convention on Climate Change Conference (COP26) year and we are pushing for tangible and ambitious commitments from partner governments to champion nature and nature-based solutions. The UK will continue leading global ambition on conserving endangered species, following our hosting of the international Illegal Wildlife Trade Conference in 2018. In England, the25 Year Environment Plan marked a step change in ambition for nature and the natural environment. We are taking action to fulfil this ambition by introducing bold new legislation and new funding to support nature's recovery.

24. Examples of the active promotion by the UK at the international level of the practical application of the Convention's underlying principles include:

a) The UK Ministry of Housing, Communities and Local Government (MHCLG) previously part funded www.communityplanning.net. This website, originally funded by DfID, provided detailed information and case studies on how people can effectively influence the planning and management of their environment. MHCLG currently funds its own support website for neighbourhood planning, information for which can be found via the link here (http://neighbourhoodplanning.org/).

b) Defra officials convene an expert group for NGOs with an interest in the International Whaling Commission (IWC). The meetings are used to shape the UK's official position and two NGO representatives are nominated by the group to join the UK delegation for the IWC's bi-annual meeting.

c) The UK is a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora - 'CITES' - which aims to ensure that trade in endangered species is sustainable. Through the CITES Liaison Group (CLG) and CITES Sustainable Users Group (CSUG), Defra officials meet with NGOs, traders in CITES specimens and other Government Departments and Agencies at least three times a year to discuss policy and implementation issues. Through these CLG and CSUG meetings, members have the opportunity to feed into UK preparations for international meetings such as the CITES Conferences of the Parties (CoPs) and Standing Committees..

d) Defra currently covers the expenses of four academics and industry experts to enable them to attend meetings linked to the Montreal Protocol, including independent expert panels which operate under the Montreal Protocol. There are a number of UK representatives who sit on and co-chair these panels. Defra also covers expenses for these individuals to provide expert advice to the Protocol parties and we regularly consult them on Montreal Protocol matters or ad hoc policy queries.

e) Representatives of consumer groups and women's groups, as well as individuals acting in an individual capacity, are included in the current membership of environmental stakeholder groups (such as the UK Chemicals Stakeholder Forum), policy advisory bodies, or as lay or expert members, as appropriate, on specialist advisory committees (such as the Hazardous Substances Advisory Committee or the Expert Committee on Pesticide Residues in Food). In addition, it is established practice for such bodies to publish the papers for their meetings on their websites, and to admit members of the public who wish to attend these meetings.

f) Hosting/convening and or attending regular meetings with UK (and EU) NGOs, communicants and civil society in various cities or via tele-conference to promote practical application of the Convention's underlying principles.

Article 3, paragraph 8

25. The UK has strengthened the access rights to information through powers of enforcement given to the office of the Information Commissioner (ICO) and the Tribunals Service. The ICO examines complaints from members of the public who feel that their request for information has not been dealt with properly by the public authority. The First-tier Tribunal (Information Rights), Upper Tribunal and, ultimately, the Supreme Court give further and higher levels of appeal. The ICO, Tribunals and the Supreme Court have powers to order public authorities to release information, and both the ICO and Tribunals are free of charge. The Scottish Information Commissioner has broadly similar powers, although appeals are to the Inner House of the Court of Session and then to the Supreme Court rather to a tribunal.

26. We treat all members of the public equally, regardless of nationality, citizenship and domicile. Any person has equal access to the courts.

27. Several legal and administrative measures are available in the UK to protect people from penalization, persecution or harassment in pursuing matters covered by the Convention. Some of these measures relate to the avoidance of discrimination against particular members of the public, such as at work or in the provisions of services (e.g., the Equality Act 2010). Others have more general application, or are based on fundamental human rights. Examples include the Protection from Harassment Act 1997, which makes it a criminal offence to behave in a way amounting to the harassment of another person, or the Human Rights Act 1998, which makes rights from the European Convention of Human Rights enforceable in UK courts (https://www.gov.uk/government/topics/equality-rights-and-citizenship). Or, in relation to Northern Ireland, http://www.nidirect.gov.uk/index/information-and-services/government-citizens-and-rights/your-rights-and-responsibilities.htm.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

28. No obstacles have been encountered.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3.

29. Not applicable.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

30. Please see information provided above.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

31. For Member States of the European Union, the provisions of Articles 4 and 5 of the Convention are given effect through Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information, as are the related matters covered by Article 9, Paragraph 1, of the Convention. (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0004:EN:NOT).

32. Directive 2003/4/EC was adopted on 28 January 2003. It repealed Council Directive 90/313/EEC, which had previously established measures for the exercise of the right of the public to access environmental information.

33. The preamble of Directive 2003/4/EC states that "Provisions of Community law must be consistent with that [Aarhus] Convention with a view to its conclusion by the European Community" (paragraph 5) and that "Since the objectives of the proposed Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty." (Paragraph 23).

34. As a Member State of the European Union, the UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2005. To do this, Defra introduced the Environmental Information Regulations 2004 (SI 2004/3391), which are the statutory provisions relating to public access to environmental information in England, Wales and Northern Ireland (http://www.legislation.gov.uk/uksi/2004/3391/made).

35. The UK left the European Union on 31 January 2020 and entered a transition period due to run until the end of 2020. After the transition period, The Environmental Information Regulations 2004 will remain on the UK statute book as retained EU law, with the necessary consequential amendments relating to references to UK data protection legislation applicable following EU Exit.

36. In Scotland, separate arrangements are in place, provided for by the Environmental Information (Scotland) Regulations 2004 (SSI 2004/520) (www.legislation.gov.uk/ssi/2004/520/pdfs/ssi_20040520_en.pdf). In addition, the INSPIRE (Scotland) Regulations 2009 (SSI/2009/440) aim to improve environmental policy making through improvements to spatial data sharing, availability and use.

37. The UK Freedom of Information Act 2000 (and the 2002 Scottish Act) took effect on 1 January 2005, and has brought about significant changes to access to information held by public authorities (http://www.ico.org.uk/for_organisations/freedom_of_information/guide).

38. These legislative measures ensure compliance with the provisions mentioned in the above question.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

39. Member States of the European Union were under an obligation to report by 14 August 2009 to the European Commission on the experience gained in the application of European Directive 2003/4/EC on public access to environmental information. Defra's report identified a number of issues relating to interpretation of the Directive, including the difficulty of distinguishing between environmental and non-environmental information on the basis of the current definition, the definition of public authorities, the definition of emissions and the scope of the "emissions override", which remain relevant to the proper application of Article 4. Defra's published report is available at this website http://webarchive.nationalarchives.gov.uk/20100910153802/http://www.defra.gov.uk/corporate/policy/opengov/eir/reports.htm). As the Commission's subsequent report in 2012 (available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0774:FIN:EN:PDF) identifies, Court judgments are clarifying such matters of interpretation which will help implementation. Nevertheless, ongoing complaints to the ICO and appeals to the tribunals and beyond that relate to matters covered by Article 2 suggest that the interpretation of some aspects of the definition is still not legally certain.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

40. The Cabinet Office publishes quarterly and annual statistics and reports on the performance of central government in the provision of access to information under the both the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 at: https://www.gov.uk/government/collections/government-foi-statistics . The latest annual bulletin shows that nearly 49,500 requests were received in 2019, of which 1647 were handled under the Environmental Information Regulations 2004. A detailed breakdown of the responses is provided only for those requests handled under the Freedom of Information Act 2000. Similar information is available from the Scottish Government at: https://www.gov.scot/publications/freedom-of-information-foi-reporting/.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

41. Please see information provided above.

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

42. Please note response under Section VII on Article 4.

43. Public data is available and easy to find through a single easy to use online access point (www.data.gov.uk). In 2018, data.gov.uk launched the Find open data service which brings together data published by central government, local authorities and public bodies, links to download data files, and help on creating an account to publish data. Data is at the heart of digital transformation and a part of the Government Transformation Strategy (https://data.gov.uk/about). Another example of a cross-government collaboration in providing useful datais MAGIC (http://www.magic.gov.uk). This web-based interactive map service brings together authoritative geographic information about the natural environment. The information covers rural, urban, coastal and marine environments across Great Britain. The partnership organisations behind this database are Natural England, Defra, the Environment Agency, Historic England, the Forestry Commission and the Marine Management Organisation. The website reports over 2500 user sessions daily.

44. In addition:

(a) The Department for Environment, Food and Rural Affairs (https://www.gov.uk/defra);
(b) The Environment Agency (http://www.environment-agency.gov.uk);
(c) The Scottish Government (http://www.scotland.gov.uk/Topics/Environment);
(d) The Welsh Government (http://new.wales.gov.uk/topics/environmentcountryside/?lang=en); and
(e) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland (http://www.daera-ni.gov.uk/) publish extensive amounts of information relating to the environment.

Article 5, paragraphs 6 and 8

45. The UK Government believes that changes to the way we produce, use and dispose of products and provide services can result in big reductions in the major environmental impacts. The Government's aim is to develop more integrated approaches to tackling product impacts right across their life cycle. This involves identifying product sectors with the most significant impacts and finding the best combination of market measures to bring about improvements. These measures include encouraging businesses to manage their impacts on the environment, raising public awareness and developing tools to improve green claims and other labelling. Information is available at https://www.gov.uk/government/policies/encouraging-businesses-to-manage-their-impact-on-the-environment.

46. The Waste and Resources Action Programme (WRAP) (funded by Defra, the Welsh Government and the Scottish Government) have set up the Product Sustainability Forum to encourage organisations to work collaboratively on product environmental information. The Forum is a collaboration of over 80 organisations including grocery and home improvement retailers and suppliers, academics, NGOs and UK Government representatives. It provides a platform to work together to measure, reduce and communicate the environmental performance of the grocery and home improvement products (https://www.wrap.org.uk/category/initiatives/product-sustainability-forum). Data and information will be published and freely available on the internet. The Product Sustainability Forum is working with UNEP to develop collaborative actions with similar initiatives around the world.

47. Other bodies which provide information to the public, to enable them to make informed environmental choices about products and services, include:

(a) The Food Standards Agency (http://www.food.gov.uk/);

(b) The Department for Business, Energy and Industrial Strategy (https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy);

(d) The Chartered Trading Standards Institute (http://www.tradingstandards.uk/);
(e) The Carbon Trust which helps businesses and the public sector cut carbon emissions (http://www.carbontrust.com/).

Article 5, paragraph 9

48.The Protocol on Pollutant Release and Transfer Registers (PRTRs) was adopted during the fifth "Environment for Europe" Ministerial Conference in May 2003. The European Union adopted a Regulation on the establishment of a European Pollutant Release and Transfer Register (E-PRTR), which came into force on 24 February 2006. The UK ratified the Kiev Protocol on 31 July 2009. The UK has fed into E-PRTR and UK PRTR and will continue to report into the UK PRTR as per our commitment to the Kiev Protocol.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

49. No obstacles have been encountered.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

50. Not applicable.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

1. See the relevant sections above.

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

34. The European Union implemented Articles 6, 7 and 9, Paragraph 2, of the Convention through Directive 2003/35/EC and these principles were carried forward as it was recast or consolidated. The UK brought into force the laws, regulations and administrative provisions necessary to comply with this Directive. These include[1]:

a. The Environmental Permitting (England and Wales) Regulations 2016;
b. The Environment Act 1995;
c. Environmental Protection Act 1990;

[1] References to legislation are as amended.

d. The Pollution Prevention and Control (Public Participation etc.) (Scotland) Regulations 2012;
e. The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013;
f. Town and Country Planning Act 1990;
g. ; The Town and Country Planning (Environmental Impact assessment) Regulations 2017;
h. The Town and Country Planning (Environmental Impact assessment) (Wales) Regulations 2016 for England and Wales
i. Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008;
j. The Infrastructure Planning (Environmental Impact Assessment) Regulations2017 [2];
k. The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009;
l. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
m. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
n. Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003;
o. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
p. The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999;
q. Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999;

r. The Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017;
s. Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006;
t. The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017
u. The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010;
v. Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999;
w. ;
x. Highways (Assessment of Environmental Effects) Regulations 1999;
y. Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999;
z. The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007;

aa. The Harbour Works (Environmental Impact Assessment) Regulations 1999;
bb. Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003;
cc. The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000;
dd. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;
ee. The Pipe-line Works (Environmental Impact Assessment) Regulations 2000;
ff. Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999;
gg. The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999;
hh. The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010;

[2] DCLG is currently in the process of implementing European Directive 2014/52/EU; a recent consultation sought views on draft regulations which will replace the existing regulations implementing the requirements of the Environmental Impact Assessment Directive insofar as they apply to the town and country planning and nationally significant infrastructure regimes.

ii. The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999;
jj. The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
kk. The Transport and Works (Assessment of Environmental Effects) Regulations 2000;
ll. The Transport and Works (Assessment of Environmental Effects) Regulations 2006;
mm. Transport and Works (Scotland) Act 2007;
nn. The Electricity Act 1989 (Requirement of Consent for Offshore Wind and Water Driven Generating Stations) (England and Wales) Order 2001;
oo. The Electricity Act 1989 (Requirement of Consent for Offshore Wind Generating Stations) (Scotland) Order 2002;
pp. The Offshore Electricity Development (Environmental Impact Assessment) Regulations (Northern Ireland) 2008;
qq. The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006;

rr. Marine Works (Environmental Impact Assessment) Regulations 2007;
ss. The Water Resources (Environmental Impact Assessment) Regulations 2003;
tt. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
uu. Water Environment (Controlled Activities) (Scotland) Regulations 2011;
vv. Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007;
ww. The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007;

xx. The Town and Country Planning (Development Plan) (Amendment) Regulations 1997 (revoked so far as they extend to England);
yy. The Town and Country (Local Planning) (England) Regulations 2012; ;
zz. Town and Country Planning (Local Development Plan) (Wales) Regulations 2009;and;
aaa. The Town and Country Planning (Scotland) Act 1997;
bbb. Town and Country Planning (Development Planning) (Scotland) Regulations 2008;
ccc. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;
ddd. Planning Act 2008;
eee. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;
fff. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
ggg. Infrastructure Planning (Examination Procedures) Rules 2010;
hhh. The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015;
iii. Infrastructure Planning (Decisions) Regulations 2010;
jjj. Infrastructure Planning (Compulsory Acquisition) Regulations 2010;
zzz. The Town and Country Planning (Development Management Procedure) (England) Order 2015;
aaaa. Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
bbbb. The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;
cccc. Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006;
dddd. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.

Article 6, paragraph 1

35. The obligations under Part (a) of this paragraph are satisfied by elements of our national regulations which implement the EU Directive on integrated pollution prevention and control (the Industrial Emissions Directive 2010/75/EU), the Environmental Permitting (England and Wales) Regulations 2016 (https://www.legislation.gov.uk/uksi/2016/1154/contents/made) and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (**http://www.legislation.gov.uk/uksi/2017/571/contents/made**). Subsequent amendments to the Environmental Permitting (England and Wales) Regulations 2016 can be found here (https://www.legislation.gov.uk/all?title=environmental%20permitting%20regulations). In the UK, all projects likely to have a significant effect on the environment are subject to control under EIA regimes which implement EU Directive 2011/92/EU as amended by Directive 2014/52/EU).

36. In 2008, the UK Parliament passed new legislation in the form of the Planning Act 2008. This has been amended through the Localism Act 2011, which abolished the Infrastructure Planning Commission and transferred responsibility for decision making to the Secretary of State. Applications for development consent are now examined by an Examining Authority appointed by the Planning Inspectorate (http://infrastructure.planningportal.gov.uk/) on behalf of the Secretary of State, who makes recommendations to the Secretary of State for a final decision.

37. The Planning Act was amended by the Growth and Infrastructure Act 2013 (provisions for certification requirements and for special categories of land) to help to deliver a more efficient, streamlined and democratically-accountable planning system for major infrastructure projects. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ensure that these applications are considered in accordance with the principles enshrined in the Directive. In the case of major infrastructure projects there are a number of provisions in the Planning Act 2008 which require an applicant to consult with the local community (section 47) and to publicise the proposed application (section 48) and to take account of responses to consultation and publicity (section 49). In addition, the Secretary of State must have regard to the consultation report and the adequacy of any consultation representation received by it from a local authority consultee (section 55) when deciding whether to accept an application. The specific requirements have been prescribed in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

38. In Wales, the consenting of certain major infrastructure projects has been devolved to the Welsh Government (the Welsh Ministers). In the majority of cases, applications are determined under the Town and Country Planning Act 1990 (as amended) "TCPA 1990" and the Electricity Act 1989 (as amended) "EA 1989" for both on-shore and off-shore related infrastructure.

39. These Acts and associated subordinate legislation set out a number of consultation and publicity requirements, with the specific requirements prescribed in the Developments of National Significance (Procedure) (Wales) Order 2016 "DNS Procedure Order 2016" and the Electricity Act (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 "EA Regulations 2019".

40. The regulations require the applicant to publicise the proposed application and consult the local community and specialist consultees to inform the proposal prior to its submission for determination by the Welsh Ministers, (TCPA 1990 – Section 61Z and DNS Procedure Order 2016 – Articles 7 to 11). On receipt of a valid application, they also require the Welsh Ministers to publicise and consult on the submitted application and to have regard to the responses received in determining the application, (TCPA 1990 – Sections 65 and 71 (as applied and modified by The Developments of National Significance (Application of Enactments) (Wales) Order 2016), DNS Procedure Order 2016 – Articles 18, 19, 21 to 23, 25, 26 and 28).

41. In the context of off-shore infrastructure projects the EA1989 requires the applicant to undertake various publicity requirements (EA 1989 - Section 36 and EA Regulations 2019 – Regulations 4 to 7). Where objections are received as a result of these requirements, a public inquiry may be conducted by the Planning Inspectorate Wales on behalf of the Welsh Ministers to inform their determination of the application, (EA 1989 - Section 36 and EA Regulations 2019 – Regulations 8 to 10).

42. We consulted in April 2018 on proposals to introducing a unified and bespoke infrastructure consenting regime for Wales (https://gov.wales/changes-approval-infrastructure-development). We are continuing to develop these proposals with the aim of introducing in due course a new consenting regime for Wales through primary legislation. The proposals are being developed to conform to the Aarhus Convention and environmental legislative requirements.

Article 6, paragraph 11

43. In March 2001 the European Union adopted Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms (GMOs) and repealing Council Directive 90/220/EEC (http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=2001&nu_doc=18). The Directive is implemented in the UK by part VI of the Environmental Protection Act 1990 and regulations made under that Act (e.g. in respect of England and Wales, the GMOs (Deliberate Release) Regulations 2002: (www.opsi.gov.uk/SI/si2002/20022443.htm)). Defra, the Scottish Government, the Northern Ireland Executive and the Welsh Government have functions and responsibilities in relation to the deliberate release of GMOs.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

44. No obstacles have been encountered.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

45. Between 2009 and 2011 Defra funded an £11m project with Fifteen Coastal Local Authorities becoming 'pathfinders' under the 'Coastal Change Pathfinders' Programme. Working in partnership with their communities, the Local Authorities road-tested new and innovative approaches to plan for and manage change on the coast. The full Programme was evaluated in 2011, with a further evaluation of the 'rollback' element in 2015. It is providing ideas and evidence on how Local Authorities, in partnership with their communities, can develop policy on supporting community adaptation to coastal change in the future. A technical guide to planners on coastal change policy, produced by authorities that took part in the programme, based on learning from their work, was also published in 2015.

46. We published a Flood and Coastal Erosion policy statement on 17 July 2020. We intend reviewing the current mechanisms – including legal powers – which coastal erosion risk management authorities can use to manage the coast. We will explore the availability and role of financial products

or services that can help people or businesses to achieve a managed transition of property and infrastructure away from areas at very high risk of coastal erosion. We also intend ensuring that the power of nature will be part of our solution to tackling flood and coastal erosion risks. We will double the number of government funded projects which include nature-based solutions to reduce flood and coastal erosion risk

47. Between 2015 and 2017, the UK Government provided £1.46m to help establish 146 Coastal Community Teams covering the majority of the English coastline. The Teams empower local partners and the local community take control of their own areas' regeneration. The Teams published Economic Plans setting out locally agreed short term and longer term priorities to enable their area to promote jobs and economic growth. The Government has also invested over £228 million in projects through the Coastal Communities Fund which is helping to create or safeguard over 18,000 jobs and the projects are forecast to deliver £363 million in new visitor expenditure. Round 5 of Coastal Communities Fund was announced in 2018 and 2019 for England, with £50.7million going to 47 projects. Furthermore, since 2015, the Coastal Revival Fund has provided over £7.5 million to support 184 projects. The fund helped to kick-start regeneration of "at risk" coastal heritage and community assets, which have the potential to create opportunities for new economic uses. Due to the increasing focus on towns and regeneration, since December 2019 we have integrated our work on coastal policy more deliberately with our approach to regeneration. The Government continues to recognise that coastal communities face particular challenges but have huge economic potential, and the Government is determined to see the coast thrive all year round. The Government is committed to supporting coastal communities to unlock barriers to their development and growth, and to strengthen their appeal as places to live, work and visit.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

48. See the relevant sections above.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

49. Provisions in Articles 6, 7 and 9, Paragraph 2, of the Convention fall within the competence of the European Union, as do the matters covered by Article 9, Paragraphs 2 and 4.

50. The European Union has implemented some of these requirements through Directive 2003/35/EC and its successor legislation and through Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF), which applies to a wide range of public plans and programmes (e.g. on land use, transport, energy, waste and agriculture).

51. The UK was required to bring into force the laws, regulations and administrative provisions necessary to comply with the EU legislation and the relevant domestic legislation includes the following, as amended where relevant:

(a) The Air Quality Standards Regulations 2010;
(b) The Air Quality Standards Regulations (Northern Ireland) 2010;
(c) The Air Quality Standards (Scotland) Regulations 2010;
(d) The Air Quality Standards (Wales) Regulations 2010;
(e) The Environmental Assessment of Plans and Programmes Regulations 2004;
(f) Environmental Assessment (Scotland) Act 2005;
(g) The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004;
(h) The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004;
(i) Part II of the Planning Act (Northern Ireland) 2011;
(k) The Waste and Contaminated Land (Northern Ireland) Order 1997;
(l) The Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015;
(m) The Planning (Local Development Plans) Regulations (Northern Ireland) 2015;
(p) Planning and Compulsory Purchase Act 2004;
(q) Planning and Compensation Act 1991;
(r) Public Health (Air Quality) (Ozone) (Amendment) Rules 2005;
(t) The Nitrate (Public Participation etc.) (Scotland) Regulations 2005;
(x) The Transfrontier Shipment of Waste Regulations 2007;
(y) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;
(z) The Transport and Works (Assessment of Environmental Effects) Regulations 2006;
(aa) Transport and Works (Scotland) Act 2007;

52. In Scotland, the Environmental Assessment (Scotland) Act 2005 has extended the requirements of Strategic Environmental Assessment (SEA) beyond those required by the original EU Directive (2001/42/EC). This has allowed the public to actively and meaningfully participate in the preparation of public plans, programmes and strategies, if they were likely to have significant environmental effects. The result being the public has had an opportunity to contribute to the preparation of high level Scottish strategies. For example, Scotland's National Planning Framework, Climate Change Adaptation Strategy and National Transport Strategy.

53. The Scottish Government hosts a SEA Database, which provides information about all SEA activity in Scotland, and is freely available to the public: https://www2.gov.scot/seag/publicsearch.aspx .

54. The Scottish Government has produced 'a basic introduction to SEA'. This guidance explains the purpose of the assessment process and is helpful to both SEA practitioners and the wider public: https://www.gov.scot/publications/strategic-environmental-assessment-basic-introduction/.

55. There are legal requirements to involve the public throughout the preparation of local plans, as outlined in the Planning and Compulsory Purchase Act 2004 (and amended by the Neighbourhood Planning Act 2017) and detailed in the Town and Country Planning (Local Planning) (England) Regulations 2012. Neighbourhood planning is enabled under the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012.

56. The Equality Act 2010 places duties on public authorities to promote disability, gender and race equality, which includes requirements to involve or consult the various equalities strands in the work of the authority.

57. The Planning Act 2008 created a new development consent regime for Nationally Significant Infrastructure Projects (NSIPs). The Act provides for a more efficient, transparent and accessible planning system for nationally significant projects in the field of transport, energy, water, waste and waste-water infrastructure. This regime provides for the Government to produce National Policy Statements (NPSs) that integrate environmental, social and economic objectives and provide clarity on the need for infrastructure. To date, there are thirteen designated or proposed NPSs, detailing Government policy on different types of infrastructure development, including on energy; transport (ports); waste water; and hazardous waste. The regime aims to be more transparent and provide better opportunities for the public and local communities to get involved in decisions that affect them. There are three opportunities to become involved: the debate about what national policy means for planning decisions; the development of specific projects; and the examination of applications for development consent. It should be noted that in 2020 the Airports NPS was successfully challenged in the Court of Appeal. The judgement was to declare the designation decision unlawful and to prevent the Airports NPS from having any legal effect unless and until the Secretary of State undertakes a review of it in accordance with the relevant statutory provisions, including the provisions of section 6, 7 and 9 of the Planning Act 2008.

58. Following an independent review of the Scottish planning system which reported in May 2016, the Scottish Government introduced the Planning (Scotland) Bill. Following extensive Parliamentary scrutiny, the Planning (Scotland) Act 2019 was granted Royal Assent in July 2019. The 2019 Act contains a number of provisions which enhance the opportunities for communities to shape the places they live, work and play. These include provisions introducing: community led Local Place Plans, guidance on both effective community engagement in local development plans and the promotion and use of mediation; and changes to pre-application consultation with communities on applications for national and major developments. The associated guidance and secondary legislation are currently being developed. More information can be found at www.transformingplanning.scot.

59. In Wales, Planning Policy Wales (PPW) 10, published in December 2018, sets out how the planning system can contribute towards the delivery of sustainable development and improves the social, economic, environmental and cultural well being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations Act 2015. PPW10 introduced the placemaking approach to planning in Wales, whereby everyone engaged with or operating within the planning system in Wales must embrace the concept of placemaking in both plan making and development management decisions in order to achieve the creation of sustainable places and improve the well-being of communities. This approach places local communities front and centre of the planning system in Wales.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

81. Please see Section XXIV below.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

82 . Not applicable.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

83. Not applicable.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

84. See the relevant sections above.

XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

85. Public participation in the preparation of plans that affect the environment is current practice in the UK.

86. The Consultation Principles for Government were introduced in 2012 (https://www.gov.uk/government/publications/consultation-principles-guidance). See Section III above for further details.

87. Consultation lies at the heart of Strategic Environmental Assessment (SEA), which applies to a wide range of public plans and programmes with a view to integrating environmental consideration into their preparation and adoption. In Scotland, detailed guidance has been published and is available to all responsible authorities (https://www.gov.scot/publications/strategic-environmental-assessment-guidance/).

88. Local government and other partners have a tradition of involving communities in decisions and services and there is a lot of good practice across the UK. The devolution agenda means that government is committed to devolving decision-making down to the most appropriate level, which in turn means that local councils and communities have a greater mandate to work together to shape the communities and services locally that they want to see.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

89. No obstacles have been encountered.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

90. Not applicable.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

91. See the relevant sections above.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

92. The following provisions govern this area of law in the UK:

93. Adequate and effective remedies, including injunctive relief in appropriate cases, are available.

94. In England and Wales and Northern Ireland an applicant/claimant must demonstrate sufficient interest and an arguable case in law to pursue judicial review proceedings (see reference to where they meet the criteria laid down in national law). This "interest" is interpreted very widely.

95. In Scotland a petitioner for judicial review is required to demonstrate "sufficient interest" and "a real prospect of success" before the petition is allowed to proceed. This is the test of standing.

96. In 2012, the European Commission asked a number of experts based in different Member States to report on the implementation of Articles 9 (3) and (4) of the Aarhus Convention in 17 Member States of the European Union.[3] The report notes that courts in England and Wales have adopted over the past thirty years "a liberal approach to the interpretation of 'sufficient interest'". As a result, the report concludes that "there are very few modern examples of individuals or environmental groups being refused standing".

97. Further information on the court system in England and Wales can be found at https://www.judiciary.uk/about-the-judiciary/the-justice-system/ Further information on the court system in Scotland can be found at https://www.gov.scot/law-and-order/ and, for the court system in Northern Ireland, at https://www.nidirect.gov.uk/articles/introduction-justice-system.

98. In addition to the procedures described above, the UK Government is also a strong supporter of alternative dispute resolution and has introduced initiatives to encourage and promote its use in all civil disputes.

Article 9, paragraph 1

99. Article 9, paragraph 1 is technically contingent on the obligations under pillar I and the adopted Directive 2003/4/EC on public access to environmental information (which includes provisions on access to justice). The Directive provides for internal reconsideration of the acts or omissions of the public authority, and this requirement has been adopted in the EIRs.

[3] MACRORY and DAY (2012), *Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in 17 Member States of the European Union: United Kingdom*, http://ec.europa.eu/environment/aarhus/access_studies.htm

100. The role of the Information Commissioner in England, Wales and Northern Ireland provides the relevant facility for a review by an independent and impartial body established by law. The Information Commissioner examines complaints from members of the public who feel that their request for information has not been dealt with properly by the public authority. The First-tier Tribunal (Information Rights), Upper Tribunal and, ultimately, the Supreme Court give further and higher levels of appeal.

101. In Scotland, the Scottish Information Commissioner's office promotes and enforces both the public's right to ask for information held by Scottish public authorities, and good practice by authorities. The Commissioner is responsible for enforcing and promoting Scotland's freedom of information laws, including the Environmental Information (Scotland) Regulations 2004.

Article 9, paragraph 2

102. This paragraph is technically contingent on the obligations under Article 6, of the Convention and the adopted Directive 2003/35/EC on public participation in the drawing up of plans and programmes (and successor EU legislation in Directives 2010/75/EU and 2011/92/EU).

103. Under Article 9, paragraph 2 of the Convention, NGOs which promote environmental protection and which meet requirements under national law are deemed to have "sufficient interest" to engage in review procedures. In England, Wales and Northern Ireland, if the interest of an applicant is not direct or personal, but is a general or public interest, it will be for the courts to determine whether or not the applicant has standing in accordance with a number of factors including the level of public importance of the issues raised and the applicant's relationship to those issues. Section 31(3) of the Senior Courts Act 1981 and section 18(4) of the Judicature (Northern Ireland) Act 1978 provide that the court shall not grant leave for application for judicial review, "unless it considers that the applicant has a **sufficient interest** in the matter to which the application relates". In determining whether public interest groups or NGOs specifically have sufficient interest to bring a challenge, the court will consider a number of factors including the merits of the challenge, the importance of upholding the rule of law, the importance of the issue raised, the likely absence of any other responsible challenger, the nature of the breach and the role played by the group or body in respect of the issues in question. The criteria have come to be applied liberally; if an applicant has insufficient private interest in bringing an application, provided he or she raises a genuine and serious public interest, he or she will have standing.

104. In Scottish law, title (to be heard by a court) and interest (in the subject matter) is subject to substantive law, not only procedural rules. Scottish Statutory Instruments 510/2005 and 614/2006 transposing EU Directive 2003/35/EC included in secondary legislation provision ensuring environmental NGO and community or resident organisations' assured interest in all cases engaging the Directives covering pollution prevention and control, and strategic environmental assessments. However, the common law basis of standing has also been widened in Scotland following the judgement of the UK Supreme Court in *AXA General Insurance Ltd & Others v Lord Advocate & Others (Scotland) [2011] UKSC 46*, which indicated that an applicant for judicial review should have "standing". Lord Hope stated: "As for the substantive law, I think that the time has come to recognise that the private law rule that title and interest has to be shown has no place in applications to the court's supervisory jurisdiction that lie in the field

of public law. The word "standing" provides a more appropriate indication of the approach that should be adopted."[4]

105. In Scots law, the test of "standing" is that a petitioner demonstrates "sufficient interest" and "a real prospect of success" before the petition is allowed to proceed.

Article 9, paragraph 3

106. If an applicant has a direct personal interest in the outcome of the claim, he will normally be regarded as having sufficient interest in the matter. The term "interest" includes any connection, association or interrelation between the applicant and the matter to which the application relates.

Article 9, paragraph 4

107. The UK treats any member of the public equally, regardless of nationality, citizenship and domicile. Any legal person has equal access to the courts.

108. The court fees for bringing a judicial review in England and Wales are currently:

i. £ 154 to apply for permission;
ii. £385 for a request to reconsider at a hearing a decision on permission; and
iii. £770 to bring a substantive case in the Administrative Court of the High Court, if permission is granted (£385 if permission is granted at a reconsideration hearing).

109. Court fees in Scotland are made separately. The most up-to-date fees may be found at: https://www.scotcourts.gov.uk/taking-action/court-fees.

110. The current fees for Judicial Review in Northern Ireland are £200 for a leave application and £200 for notice of motion if leave is granted. Regulations made on 16 January 2017 introduced a phased increase to most civil court fees in Northern Ireland from 1 April 2017 (the first such increase since 2007). The fees applicable to judicial reviews (and statutory reviews) within the scope of the Aarhus Convention remain at £200 for a leave of application and £200 for notice of motion if leave is granted and were exempt from the phased increases to fees for other judicial reviews in Northern Ireland (see Article 4 of the Court of Judicature Fees (Amendment) Order (Northern Ireland) 2017). The fees for other judicial reviews in Northern Ireland were from 1 April 2017 increased by 10% to £220 for a leave application and £220 for notice of motion if leave is granted (further increases of 7.5% and 5% were effective from 1 April 2018 and 1 April 2019 respectively).

111. The UK Government's firm view is that while it is right that there should be access to the courts, there is no automatic right of free access to the courts. Those who can afford to pay fees should be expected to do so. It would not be appropriate for taxpayers to bear the cost of civil proceedings when those who bring these proceedings can afford to pay. We continue to look for ways to improve access to justice and to provide fair and simple means of resolving disputes. These include helping people to help themselves through better advice and information or through mediation.

3. http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2011_0108_Judgment.pdf, paragraph 62.

112. For England and Wales, the Ministry of Justice has a court fees strategy that aims to deliver a fair system which makes best use of the taxpayers' money and protects access to justice through a targeted system of remissions for the less well-off. Fee remissions are available to those whose disposable capital and gross monthly income are within the limits specified. A person who qualifies for help under the scheme may have the fee remitted either in part or in full. Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, legal aid is available for environmental cases and judicial review, subject to the statutory tests of the applicant's means and merits of the case. Legal aid is available subject to the statutory means and merit of the cases.

113. Legal aid in England and Wales will only be granted to an individual for judicial review cases where the claim has the potential to produce a real benefit for the individual, a member of the individual's family or the environment.

Legal Aid is available in Northern Ireland for Judicial Reviews where the applicant satisfies a financial means test and a merits test. Depending on the level of their disposable income and their disposable capital, a person who is granted legal aid may be required to make a contribution towards the cost of funding their case.

114. Although there is no exemption for applicants in receipt of legal aid, there is a general Northern Ireland Courts and Tribunals Service policy for remission and exemption of certain fees in place to assist those in receipt of state benefits or who feel they would suffer from hardship if they did pay the fee (https://www.justice-ni.gov.uk/publications/exemption-and-remission-application-form-er1-and-guidance).

115. In Scotland, justice policy is the responsibility of the Scottish Government. As in England and Wales, the view of the Scottish Government is that it would not be appropriate for taxpayers to bear the cost of civil proceedings when those who bring these proceedings can afford to pay. The civil courts therefore operate on the principle that court fees should contribute to the costs of operating the civil justice courts system .Access to justice remains assured through the continuing provision of civil legal aid and provisions for exemption from court fees for those in receipt of specified state benefits.

116. The general principle in civil proceedings in the UK is that the unsuccessful party will be ordered to pay the costs of the successful party. However, the court has wide discretion to make a different order, taking into account all the relevant factors. Furthermore, the court is not limited simply to ordering (or not ordering) costs against the losing party, but can make a range of different orders, such as that only a proportion of the other party's costs should be paid.

117. The Civil Procedure Rules (CPR) (http://www.justice.gov.uk/courts/procedure-rules/civil) in England and Wales provide considerable flexibility to enable the court to give balanced consideration to all the circumstances, to reach decisions on costs in individual cases which are fair, and to meet the overriding objective of the CPR of dealing with cases justly and at a proportionate cost. Similar flexibility is found in the provisions in Scotland and Northern Ireland. The Court of Appeal has given rulings and guidance in a range of cases relating to the interpretation of the CPR provisions.

118. In addition to these general provisions, there are a variety of ways in which the courts can take action to ensure that costs are proportionate and fairly allocated. The CPR provides the courts with extensive case management powers to control and direct the course of proceedings to ensure that these are conducted on as timely and efficient a basis as possible. The courts also have

extensive powers to control costs at different stages of the proceedings. As well as detailed provisions which govern the assessment of costs at the conclusion of proceedings, the CPR sets out the powers of the court to make an order capping costs in an individual case at any stage of the proceedings.

119. Special provisions exist to limit the costs of judicial review proceedings. For example, the CPR provide that the courts will generally consider permission to proceed with judicial review proceedings without a hearing and that where there is a hearing, the court will not generally make an order for costs relating to that hearing. In addition, costs awarded against a claimant who fails to obtain permission are generally limited to the costs of the defendant's acknowledgement of service.

120. The respective UK authorities have introduced legislation in respect of costs protection for certain cases that come within the scope of the Convention, which can be used to limit the potential liability of an unsuccessful claimant to pay the defendant's litigation costs. This codification has given added clarity and transparency to the law and the procedure for making an application for costs protection in these cases, thereby providing certainty for applicants at the outset of the proceedings about the costs they will face if their claim fails. Protective costs orders (PCOs) based on the case law continue to be available for other types of environmental challenge within the scope of the Convention.

121. In 2013, an Environmental Costs Protection Regime ('ECPR') for England and Wales was introduced, which fixed the costs that a court could order an unsuccessful claimant to pay to other parties (£5,000 for individuals and £10,000 for organisations; defendants' liability for claimants' costs was similarly capped, at £35,000 In September 2015, the government consulted on proposals aimed at providing greater flexibility, clarity of scope and certainty within the regime (Costs Protection in Environmental Claims: Proposals to revise the costs capping scheme for eligible environmental challenges). Following the consultation outcome, some adjustments to the ECPR were introduced, which came into effect on 28 February 2017. The February 2017 changes introduced several new provisions, which included: (i) extending the scope of the ECPR to cover a wider range of cases - including environmental reviews under statute engaging EU law, as well as judicial reviews; (ii) giving courts the power to vary the level of the costs cap from their default levels; (iii) a provision that when considering an application to vary the cap, the court must take into account the amount of court fees payable by the claimant in determining whether the variation (or a failure to make it) would render the proceedings "prohibitively expensive" for the claimant; and (iv) a requirement for the Court of Appeal to grant costs protection in appropriate cases.

122. Following the introduction of those changes, proceedings for judicial review was brought by a group of environmental NGOs, challenging the rules on limited grounds relating to aspects of the process involved in the revised costs protection regime, rather than the fundamental substance of that new regime. A hearing took place on 19 July 2017 with judgment given on 15 September. In summary, the High Court concluded that the current regime is compliant with EU law in that claimants are not expected to pay above their means to bring claims. The Government won on two out of three grounds of challenge, but the court also concluded that the rules would benefit from clarification in some respects to reflect the agreed understanding of how they are intended to work and make them more clearly compliant with EU law. In accepting the High Court's recommendation, the Government made some further amendments to the ECPR, which came into force on 6 April 2018. . These clarified the financial information that a claimant has to provide, that the court may vary the cap only upon

the application of a party, at the outset of proceedings and determined at the earliest opportunity. Applications to vary at a later stage may only be made if there has been a significant change in circumstances.

123. The Civil Procedure Rule Committee (CPRC) completed its open justice review following a consultation on proposed changes to CPR 39 regarding public hearings. Amendments to the CPR came into force on 6 April 2019. The amended CPR 39 affirms the fundamental principle of open justice, central to which is that hearings are to be in public unless the court is satisfied that the criteria for a hearing in private are fulfilled, in which case the hearing in question (or the relevant part of it) must be in private.

124. The scope of the ECPR was further extended to statutory reviews such as planning challenges brought under section 288 of the Town and County Planning Act 1990. This extension came into force on 1 October 2019.

125. PCOs based on case law continue to be available for other types of environmental challenge within the scope of the Convention. Guidance on PCOs has been established by the Court of Appeal, which means that judges hearing judicial reviews in England and Wales are obliged by the doctrine of binding precedent (based on the hierarchy of the courts) to take it into account in considering any application for a PCO. These provisions on PCOs can help to provide certainty to a party as to their potential exposure to an adverse costs order if they are ultimately unsuccessful.

126. In Scotland, rules were introduced with effect from 25 March 2013, amended with effect from January 2016[5] and further amended from December 2018 https://www.legislation.gov.uk/ssi/2018/348/made). As costs are known as expenses under Scots law, the rules provide for Protective Expenses Orders (PEOs). These rules cover statutory appeals as well as judicial review. The rules also make provision for the objective and subjective elements set out in the judgment to be considered with criteria consistent with the judgment. The rules expressly apply to cases which are within the scope of Articles 9(2) and 9(3) of the Aarhus Convention.

127. The relevant rules that apply in Northern Ireland (the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013) came into force on 15 April 2013. They provide cost protection for applicants in judicial reviews and statutory reviews to the High Court in Northern Ireland of decisions within the scope of the Aarhus Convention. Claimants' liability to pay defendants costs in these cases is automatically capped at £5,000 for claimants who are individuals and at £10,000 for claimants which are organisations. The Regulations also clarify the factors the court must take into consideration when a cross-undertaking in damages is required in the context of an application for an injunction in such a case and empower the court to make costs orders for payment to a charity promoting *pro bono* representation when the applicant is represented *pro bono*. The Regulations were amended by the Costs Protection (Aarhus Convention) (Amendment) Regulations (Northern Ireland) 2017. The amendments made provision for the court, on an application by the applicant, to decrease the amount of costs recoverable from the applicant if not doing so would make the costs of the proceedings prohibitively expensive for the applicant. Provision was also made to allow the

4. Act of Sederunt (Rules of the Court of Session Amendment) (Protective Expenses Orders in Environmental Appeals and Judicial Reviews) 2013 (SSI 2013/81) and Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No. 4) (Protective Expenses Orders) 2015. The rules as amended may be found at:
https://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules

court, on application by the applicant, to increase the costs recoverable from the respondent if not doing so would make the costs of the proceedings prohibitively expensive for the applicant. The 2017 Regulations also provided that in respect of the costs of an appeal of a decision in an Aarhus Convention case, the court hearing the appeal would have the same powers as those of the original court to decrease costs recoverable from an applicant, increase costs recoverable from the respondent and in cases where the applicant is represented in whole or in part free of charge to order that the respondent to make a payment in respect of recoverable costs as it considers just to support the provision of free legal services. The 2017 Regulations also seek to clarify the meaning of "prohibitively expensive".

128. The Regulations were amended on 23 January 2017 by the Costs Protection (Aarhus Convention) (Amendment) Regulations (Northern Ireland) 2017 which came into force on 14 February 2017 and apply to proceedings commenced after that date (see http://www.legislation.gov.uk/nisr/2017/27/contents/made). The Regulations as amended provide that, if an applicant loses, the maximum amount of costs that can be recovered from it will continue to be capped at current levels (£5,000 where the applicant is an individual and £10,000 in other cases) but be capable of being lowered if necessary to avoid prohibitive expense to the applicant. They provide that, if an applicant wins, the amount of costs that can be recovered by it from the respondent can be increased from the current cap of £35,000, again if this is necessary to avoid prohibitive expense to the applicant. The Regulations as amended also provide that, in deciding whether a cap is prohibitively expensive, the court should have regard to the *Edwards* principles and any court fee that the applicant is liable to pay. They apply a separate cap to appeals in Aarhus Convention cases which is set at the same levels as is applied to first instances cases and the court has the same flexibility to vary the caps on appeal. The amended Regulations also make it clear that only applicants that are members of the public (and not public bodies) are entitled to costs protection. The term 'the public' is defined with reference to the definition provided by the Aarhus Convention.

129. Moreover, the amended regulations provide that, in deciding whether to require a cross undertaking in damages in an Aarhus case, the court must have regard to the need for the undertaking not to be such that it would make continuing with the case prohibitively expensive. They direct the court to apply the *Edwards* principles when considering whether continuing with proceedings would be prohibitively expensive. They also make it clear that the provisions they contain in relation to cross-undertakings in damages only apply to an applicant for an interim injunction who is a member of the public (as defined by the Convention).

130. In relation to England and Wales, the costs arising from civil litigation were considered in Lord Justice Jackson's Review of Civil Costs, published in January 2010 (http://www.judiciary.gov.uk/publications-and-reports/review-of-civil-litigation-costs). The Government consulted on the Jackson recommendations in November 2010 and published its response in March 2011. The Government accepted the recommendations and these reforms have been taken forward in Part 2 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, which generally came into effect in April 2013. A Post-Implementation Review of Part 2 of LASPO was published in February 2019. A review of the Civil Courts was carried out in Scotland by the Rt Hon Lord Gill, the Lord Justice Clerk. Amongst others, Lord Gill recommended that express power should be conferred upon the courts in Scotland to make special orders in relation to expenses in cases raising significant issues of public interest. That recommendation is likely to be superseded, as far as environmental cases are concerned, by the new rules of court referred to in paragraph 114.

131. The existing provisions in relation to court proceedings must also be considered in the context of the system of environmental law, and access to it, as a whole. This is because the system ensures that seeking redress through the courts is only one of the many routes open to the public in their search for environmental justice. The public can for example report potential breaches of environmental legislation to the appropriate regulator, for example in England to the Environment Agency, in Wales to Natural Resources Wales, in Scotland to the Scottish Environment Protection Agency and in Northern Ireland directly to the Department of Agriculture, Environment and Rural Affairs. Similarly, they can make a complaint to the local authority regarding a statutory nuisance and the authority is under a duty to investigate the problem. Neither of these routes involves any expense on behalf of the complainant. There are also various appeal procedures in place relating to the many different regulatory regimes, some of which give interested members of the public the right of appeal. Also, with regard to access to environmental information, the relevant Information Commissioner offers a review procedure which involves no expense.

Article 9, paragraph 5

132. The UK has engaged in extensive activity to provide information to the public on accessing administrative and judicial review procedures, and to remove any unnecessary financial and other barriers to access to justice or to consider how they could be removed.
133. The Government provides information and links (https://www.gov.uk/government/organisations/ministry-of-justice) on the provision of effective and accessible justice. Details regarding eligibility for publicly-funded advice services and information to help resolve problems in specific categories of law can be found via www.gov.uk/legal-aid. Here, members of the public have access to the online information tool 'Can I get legal aid?' (https://www.gov.uk/check-legal-aid). This supports members of the public to check whether they might be eligible for legal aid and to signpost them to other sources of information or advice to help people resolve their problems.

134. Information on applying for judicial review in Northern Ireland and on proceedings in the High Court in Northern Ireland is available at http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx..
135. In 2013, Defra has contributed to the editing of an European Commission's 'eJustice fact sheet' on provisions for access to justice in the UK, which was originally drafted and coordinated by the Commission and which will be made available online soon at https://e-justice.europa.eu/content_access_to_justice_in_environmental_matters-300-en.do

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

136. Responsibility for civil costs issues in England and Wales rests with the Ministry of Justice (MOJ). Compliance Committee findings on costs were adopted by the Meeting of the Parties in 2014 (decision IV/9n). The European Commission has pursued infringement proceedings against the United Kingdom in relation to the implementation of the requirements under the Public Participation Directive on costs. The MOJ for England and Wales and the relevant authorities in Scotland amended the court rules on costs in 2013. The rules govern the award of costs protection ('protective expenses orders' in Scotland) in respect of judicial reviews at first instance and are in part based on case law, including the law as set out in *Garner v Elmbridge*

Borough Council [2010] EWCA Civ 1006. These rules were adopted on 1 April 2013. On 15 April 2013, similar provision was made in Northern Ireland (see the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013 which have recently been amended (see above)).

137. The MOJ for England and Wales has previously amended the time limit for judicial reviews in relation to planning decisions, for which statutory appeal procedures are also available. The time period for commencing a claim for judicial review has been changed to six weeks in order to bring it into alignment with that for the statutory appeal procedure, and for such cases, the requirement that the judicial review claim be commenced "promptly" has been removed. Together with the cases involving assertion of rights under EU law, where the requirement of "promptness" is in any event disapplied, Aarhus cases where that requirement would potentially apply are unlikely to arise in practice.

138. Since the Uniplex case (Uniplex (UK) (Law relating to undertakings) [2010] EUECJ C-406/08), the courts in Northern Ireland have also been disapplying the promptitude requirement in judicial review challenges on EU grounds. The Department of Justice in that jurisdiction has, however, consulted on a proposal that there should be no requirement to bring judicial review proceedings promptly in any case in that jurisdiction Following consultation, the Northern Ireland Court of Judicature Rules Committee has made the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017 which removes the promptitude requirement. This amendment came into effect on 8th January 2018.

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

139. Not applicable.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

140. See the relevant sections above.

XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF PRESENT AND FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT ADEQUATE TO HIS OR HER HEALTH AND WELL-BEING TO HIS OR HER HEALTH AND WELL-BEING

141. The United Kingdom made the following declaration upon signing the Convention, confirmed upon ratification: "The United Kingdom understands the references in article 1 and the seventh preambular paragraph of this Convention to the "right" of every person "to live in an environment adequate to his or her health and well-being" to express an aspiration which motivated the negotiation of this Convention and which is shared fully by the United Kingdom. The legal rights which each Party undertakes to guarantee under article 1 are limited to the rights of access to information, public participation in decision-making and access to justice in environmental matters in accordance with the provisions of this Convention". This declaration was reiterated by the United Kingdom in the 2014 Maastricht Declaration.

XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis

142. Member States and the European Union agreed to the amendment to enhance the obligations placed on parties with regard to public participation in decision-making on GMOs adopted at the second Meeting of the Parties to the Convention 25-27 May 2005 in recognition that some United Nation Economic Commission for Europe (UNECE) countries outside the EU have minimal provisions for public consultation on decisions to approve GMOs in their national legal frameworks, and that some of these countries have been strong supporters of an international framework.

143. The requirements of the amendment, that is Article 6bis and Annex I bis, were already given effect in the European Union by the main EU instruments governing the deliberate release of genetically modified organisms to the environment: Directive 2001/18/EC and Regulation (EC) 1829/2003. As the UK had fully transposed these instruments, there was no need for additional UK legislation to be introduced in order to implement the requirements of the amendment. Directive 2001/18 is transposed into the law of England, Scotland and Wales by Part VI of the Environmental Protection Act 1990 and in England only by the Genetically Modified Organisms (Deliberate Release) Regulations 2002, in Scotland only by the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002, in Wales only by the Genetically Modified Organisms (Deliberate Release)(Wales) Regulations 2002, and into the law of Northern Ireland by Genetically Modified Organisms (Northern Ireland) Order 1991 and the Genetically Modified Organisms (Deliberate Release) (Northern Ireland) Regulations 2003. EU Regulation 1829/2003, which is directly applicable in Member States, is enforced in England through the Genetically Modified Food (England) Regulations 2004 in Wales through the Genetically Modified Food (Wales) Regulation, in Scotland through the Genetically Modified Food (Scotland) Regulations and in Northern Ireland through the Genetically Modified Food (Northern Ireland) Regulations.

144. The UK recognises the importance and value of participation by stakeholders and the public in consideration of applications for approval of genetically modified crops.

145. All new applications to market traits for GM feed or food since 2004 have been made under Regulation 1829/2003 which sets out a requirement for a mandatory written 30-day public consultation period that must happen before the GM traits for food or feed use can be approved at EU level for marketing.

146. Transparency and public participation is a fundamental principle contained within both the EU and UK's regulation:

- the European Food Safety Authority (EFSA) puts the summary data of application dossiers on their website;
- EFSA allows public access to all non-confidential parts of a dossier;
- EFSA publishes its scientific opinion on an application on its website for public consultation;
- the European Commission offers an e-mail alert service to publicise the start of the consultation period;

- the European Commission publishes all resulting public comments on its website and distributes them to Member States before they vote on whether to authorise the product;
- the FSA provides details of the EFSA website on its website so that any members of the public who wish to participate in these consultations can do so;

- UK Competent Authorities, publish applications for the deliberate release of GMOs allowing public access to non-confidential information; invite representations on potential risks of damage being caused to the environment by the proposed release; publish advice from the UK's independent, statutory Advisory Committee on Releases to the Environment; publish the decision on the application; publish a list of locations where GM trials have, or are, taking place; and hold information, including representations made, on a public register accessible by contacting the relevant Competent Authority.

147. In the case of GM research trials, each Member State, and Competent Authority in the UK takes its own decisions in accordance with regulations. For applications in the UK, the relevant Competent Authority invites public representations relating to any risks of damage being caused to the environment by the proposed release. In England, the invitation to make representations to the Defra Secretary of State is made on the gov.uk website (https://www.gov.uk/genetically-modified-organisms-applications-and-consents) where a full copy of the application (excluding commercially sensitive information) is placed; information is repeated on the public register. Applications for research trials in Scotland, Wales and Northern Ireland must be handled by the Devolved Administrations for these countries but will follow the same procedure, with an invitation to make representations to the relevant minister for the territory concerned. The respective websites for the Devolved Administrations are http://www.gov.scot, http://gov.wales/?lang=en and https://www.daera-ni.gov.uk/. The public register maintained by Defra covers all UK applications. The period of each consultation has been set at a mandatory minimum of 48 days (the 48 day period comes from the fact that details of GM trail applications must be placed on the public register within 12 days of receipt and that the period of consultation must not end less than 60 days from the date the application was received).

148. Applicants are also required to advertise their application in a national newspaper. The advertisement must contain information on the GMO, and the location, dates and purpose of the intended release. It should also mention that details of the application will be placed on the public register and that the Secretary of State (or devolved Ministers) will invite representations on any risks of damage being caused to the environment by the proposed release. The applicant is also required to inform a number of organisations of the application, including the local authority, the parish (community) council, the Environment Agency, Natural England and their equivalent bodies in Scotland, Wales and Northern Ireland as appropriate.

149. Upon receipt of representations, they are assessed to identify whether any scientific issues have been raised that have not already been considered by the Advisory Committee on Releases to the Environment (ACRE - the statutory independent scientific expert committee in the UK). If such issues are raised they would be brought to the Committee's attention to be taken into account alongside other relevant evidence. Among other things, ACRE's advice to the authorities on all research trial applications contains a response to the public representations. ACRE's advice is available on the public register and published on the ACRE website, as are the minutes of every Committee meeting. Details of every site with an active consent are also provided. All respondents are notified of the outcome of applications.

XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

150. No obstacles have been encountered.

XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

151. Not applicable.

XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6bis

152. In the UK these are:

- https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs;
- http://www..gov.scotland;
- http://wales.gov.uk/?lang=en;
- www.daera-ni.gov.uk

153. For the EU this is: http://ec.europa.eu/food/dyna/gm_register/index_en.cfm.

XXXVII. FOLLOW UP ON ISSUES OF COMPLIANCE

154. The 6th Meeting of the Parties in 2017 adopted decision VI/8k (https://www.unece.org/fileadmin/DAM/env/pp/compliance/MoP6decisions/Compliance_by_United_Kingdom_VI-8k.pdf),, in which findings of the Compliance Committee with respect of decision V/9n communications ACCC/C/2012/77, ACCC/C/2013/85, ACCC/C/2013/86 and ACCC/C/2013/91 were endorsed, and the United Kingdom's progress in implementing the recommendations and constructive ongoing engagement was welcomed.

155. In relation to decision V/9n, the Meeting of the Parties reaffirmed its decision V/9n and requested the UK to, as a matter of urgency, take the necessary legislative, regulatory, administrative and practical measures to:
    a) Ensure that the allocation of costs in all court procedures subject to article 9 is fair and equitable and not prohibitively expensive;
    b) Further consider the establishment of appropriate assistance mechanisms to remove or reduce financial barriers to access to justice;
    c) Further review its rules regarding the time frame for the bringing of applications for judicial review in Northern Ireland to ensure that the legislative measures involved are fair and equitable and amount to a clear and transparent framework;
    d) Establish a clear, transparent and consistent framework to implement article 9, paragraph 4, of the Convention;
    e) Ensure that in future, plans and programmes similar in nature to national renewable energy action plans, if prepared, are submitted to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention

156. In relation to communication ACCC/C/2012/77, the Meeting of the Parties recommended that the UK ensure its Civil Procedure Rules regarding costs are applied by its courts to ensure compliance with the Convention.

157. In relation to communication ACCC/C/2013/85 and ACCC/C/2013/86, the Meeting of the Parties recommended that the UK review its system for allocating costs in private nuisance proceedings, and undertake measures to ensure that such procedures, where there is no fully adequate alternative procedure, are not prohibitively expensive.

158. In relation to communication ACCC/C/2014/91, the Meeting of the Parties recommended that the UK put in place a clear requirement to ensure that:

a. When selecting the means for notifying the public under article 6, paragraph 2, public authorities are required to select such means as will ensure effective notification of the public concerned in the territory outside of the Party concerned;
b. When identifying who is the public concerned by the environmental decision-making on ultra-hazardous activities, public authorities will apply the precautionary principle and consider the potential extent of the effects if an accident would indeed occur, even if the risk of an accident is very small.

159. A significant number of actions have been taken as a result of the recommendations in decision VI/8k.

160. On 28 February 2018 the Government laid before Parliament 'The Civil Procedure (Amendment) Rules 2018 (SI 2018/239/L.3), which made further amendments to the Environmental Costs Protection Regime (ECPR) to those of February 2017. These amendments were in line with the recommendations on clarifications on the issue of costs caps of the High Court following a judicial review in July 2017 by three NGOs (the Royal Society for the Protection of Birds, Friends of the Earth and Client Earth). The revised ECPR came in to force on 6 April 2018.

161. In its first progress report the UK also reported an updated procedure on transboundary engagement, building on its commitments under both the UNECE Aarhus Convention and the UNECE Espoo Convention.

162. In its second progress report the UK reported that, having reflected fully on the issue of costs protection in planning challenges brought under section 288 of the Town and County Planning Act 1990, the UK government requested the Civil Procedure Rule Committee (CPRC) to amend the ECPR, in Part 45 of the Civil Procedure Rules (CPR), to extend its scope to these types of claims. The proposed amendments were approved and came into force on 1 October 2019.

163. Following its open justice review (and associated public consultation) **the Civil Procedure Rules Committee made** amendments to the CPR which came into force on 6 April 2019. The amended CPR 39 affirms the fundamental principle of open justice, central to which is that hearings are to be in public unless the court is satisfied that the criteria for a hearing in private are fulfilled, in which case the hearing in question (or the relevant part of it) must be in private.

164. Revised rules for Protective Expenses Orders (PEOs) were approved by the Scottish Civil Justice Council in July 2018. The rules aim to enhance access to justice by preventing court actions relating to the environment being "prohibitively expensive" to members of the public.

165. In July 2018 an amendment to Rule 4 of Order 53 of the Court of Judicature (Northern Ireland) came into effect, amending judicial review time limits in Northern Ireland.

166. The UK has responded specifically and constructively to many other points raised throughout the functioning of the compliance mechanism since decision VI/8k, providing clarity, data and substantiating information on its positions and, as detailed above, implementing a number of legislative and non-legislative measures to achieve compliance. In its second progress review the Compliance Committee welcomed the UK's "serious engagement" and "clear, well-structured" reporting.

167. Progress reports on decision VI/8k were provided to the Compliance Committee in October 2018 and September 2019, and statements were delivered to open session of the Compliance Committee in March 2018, 2019 and 2020.