Submission by: Wild Ireland Defence CLG

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Consultation Title: Consultation on Ireland's draft Plan of Action pursuant to Decision VIII/8h of the Meeting of the Parties to the Aarhus Convention

Date: 29th June 2026

1. Introduction

1.1 WID welcome the opportunity to comment on the Draft Plan of Action prepared in response to Decision VIII/8h of the Meeting of the Parties to the Aarhus Convention.

1.2 This submission focuses on paragraph 2(a) of Decision VIII/8h concerning the extension of permits for activities falling within Article 6 of the Convention.

1.3 While the draft Plan of Action asserts that the Planning and Development Act 2024 addresses the concerns identified by the Aarhus Convention Compliance Committee, it is submitted that the proposed approach does not fully implement either the wording or the purpose of Decision VIII/8h and continues to permit the exclusion of the public from decisions extending environmentally significant consents.

2. Failure to apply a strict interpretation of Decision VIII/8h

2.1 Decision VIII/8h requires Ireland:

"to ensure that permits for activities subject to Article 6 of the Convention cannot be extended, except for a minimal duration, without ensuring opportunities for the public to participate in the decision to grant that extension in accordance with article 6(2)-(9) of the Convention."

2.2 The language adopted by the Meeting of the Parties is clear and mandatory. The obligation attaches to permits for Article 6 activities. It does not attach merely to extensions considered by the competent authority to be "material". Nor does it permit public participation rights to be removed through an administrative determination that a proposed extension is "non-material".

2.3 The draft Plan of Action relies on a distinction between material and non-material alterations and extensions. It states that public participation is required where the threshold for EIA, AA or Natura Impact Assessment is met, but that non-material extensions may proceed without public participation. This approach does not faithfully implement Decision VIII/8h.

2.4 The non-compliance identified by the Aarhus Convention Compliance Committee arose precisely because environmentally significant permissions could be extended without renewed public participation. The proposed solution continues to allow competent authorities to determine that an extension is non-material and thereby avoid public consultation entirely.

2.5 This preserves the very discretion that gave rise to the finding of non-compliance.

3. Article 6 rights attach to the permit and not Merely to subsequent administrative classifications

3.1 Where a development originally required Environmental Impact Assessment, Appropriate Assessment, Natura Impact Assessment or another form of Article 6 decision-making, the public acquired participation rights in relation to that permit.

3.2 An extension of duration is not merely an administrative exercise. It prolongs the legal life of a consent that authorises activities capable of affecting the environment. It also prolongs the period during which environmental effects may occur.

3.3 Environmental baselines, scientific knowledge, protected species distributions, conservation objectives, climate obligations and water quality status may all change substantially between the date of the original permission and the date of an extension request.

3.4 For this reason, any extension of a permit that was originally subject to EIA or AA necessarily engages the public participation guarantees contained in Article 6 of the Convention. The determination that an extension is "non-material" cannot lawfully extinguish those rights.

4. Particular Concern Regarding EIA and Appropriate Assessment Consents

4.1 The draft Plan of Action is especially deficient because it permits a planning authority to determine that an extension to an EIA or AA development is non-material.Such an approach is incompatible with the precautionary principles underlying both the EIA Directive and the Habitats Directive.

4.2 Where a consent previously required EIA or AA, the environmental significance of the project has already been established. The fact that the original assessment threshold was exceeded should itself trigger mandatory public participation whenever an extension of duration is sought.

4.3 The public should not be required to prove anew that environmental effects may arise. That question was already answered when EIA or AA was originally required.

4.4 A strict implementation of Decision VIII/8h would therefore require that all applications seeking to extend the duration of a permission previously subject to EIA, Appropriate Assessment, Natura Impact Assessment or other Article 6 procedures be subject to public notification, public consultation and access to review procedures.

5. Risk of continued non-compliance

5.1 The draft Plan of Action appears to assume that a competent authority's determination that an extension is non-material automatically places the matter outside the scope of Article 6 of the Convention. That assumption is not supported by the wording of Decision VIII/8h.

5.2 The Meeting of the Parties did not require Ireland merely to introduce a mechanism for distinguishing material from non-material extensions. Rather, it required Ireland to ensure that permits subject to Article 6 cannot be extended without public participation except for a minimal duration. The proposed legislative approach therefore risks preserving the very non-compliance that Decision VIII/8h was intended to remedy.

6. Requested Amendments

6.1 The Plan of Action should be revised to provide that:

6.1.1 Any extension of duration relating to a development which was originally subject to Environmental Impact Assessment, Appropriate Assessment, Natura Impact Assessment or another Article 6 procedure shall automatically require public notification and public participation.

6.1.2 Neither a planning authority, An Coimisiún Pleanála nor a Minister should be permitted to dispense with public participation by determining that such an extension is non-material.

6.1.3 The legislation should expressly recognise that environmental assessments become increasingly vulnerable to obsolescence over time and that public participation rights must therefore be renewed whenever the lifespan of an environmentally significant consent is extended.

7. Conclusion

7.1 The draft Plan of Action does not yet satisfy the requirements of Decision VIII/8h. It continues to allow competent authorities to avoid public participation through a non-materiality determination. That approach is inconsistent with a strict interpretation of the Aarhus Convention, inconsistent with the wording adopted by the Meeting of the Parties, and risks perpetuating Ireland's non-compliance.

7.2 The Plan of Action should therefore be amended to require mandatory public participation for all extensions of permissions that were originally subject to EIA, Appropriate Assessment, Natura Impact Assessment or other Article 6 procedures, regardless of whether the competent authority considers the extension to be material or non-material.

Yours Sincerely

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on behalf of

Wild Ireland Defence CLG.