

## **HS2AA to pursue case in Europe following Supreme Court Decision to find in favour of the Government on HS2 SEA Appeal**

**22<sup>nd</sup> January 2014** – The Supreme Court today rejected HS2 Action Alliance’s (HS2AA) appeal that the Government should comply with the Strategic Environment Assessment (SEA) Directive while planning HS2.

HS2AA considers that the Supreme Court’s restrictive interpretation of the SEA Directive is incorrect, and that its refusal to refer the matter to the European Court of Justice is in breach of its obligations under the EU Treaty.

As a result, HS2AA will bring a complaint to the Aarhus Convention Compliance Committee because the Supreme Court’s restrictive approach is contrary to the Aarhus Convention. The Compliance Committee has the power to find that the Supreme Court’s decision leaves the UK in breach of their UN Treaty obligations under the Aarhus Convention.

HS2AA is also planning to bring a complaint to the European Commission. If this complaint is accepted, then the UK Government will be taken to the European Court of Justice to explain why it has not completed a Strategic Environmental Assessment for HS2. The European Court of Justice will then rule on the correctness of the Supreme Court’s decision.

HS2AA believes the Supreme Court adopted an unduly restrictive interpretation of the SEA Directive, holding that it only applies to infrastructure plans in very limited circumstances

The consequence of today’s decision, is that the SEA Directive can never apply to infrastructure plans where a national parliament grants the planning permission. The impact of this decision is that Governments can avoid laws designed to protect the environment by choosing to obtain planning permission from Parliament, rather than from an independent commission or inspector.

Despite the obvious EU-wide implications of this decision, the Supreme Court refused to refer the matter to the European Court of Justice for a definitive ruling.

It also implies the EU is in breach of its international obligations under the United Nations Aarhus Convention. The Convention requires the EU to have in place a regulatory framework for public participation in *all* plans relating to the environment, not just plans that are made under the limited circumstances that the Supreme Court says are subject to the Directive.

Commenting on the Supreme Court’s decision, Hilary Wharf, director, HS2 Action Alliance, said:

*“We always knew this would be a long fight. A number of the judges, led by Lady Hale, thought long and hard about whether the issues HS2AA raised should be referred to the European Court of Justice. This and the fact that we were given right to appeal to the highest court in the land shows how seriously the need for an SEA should be taken.”*

*“We will continue to press the Government to meet its environmental obligations. The Government should be safeguarding our environment for future generations and the simple fact is HS2 is an unnecessary and hugely damaging project environmentally”*

*Without the support of thousands of people across the country we would not be able to press the Government to take its environmental responsibilities seriously. ”*

ends

**Notes to editors:**

1. [HS2AA](#) is a national not for profit organisation working with over 100 local groups who all believe HS2 does not represent an effective answer to the UK's transport, economic or environmental needs. HS2AA have focused on an evidenced-based approach to challenging the business case, the environmental case and compensation arrangements.
2. The SEA Directive requires that plans for major developments are not adopted until there has been an assessment of, and consultation on, the likely environmental impact and that of all reasonable alternatives. This Directive is a core element of the legal framework for protecting our environment where large infrastructure projects are concerned which has been in place for many years.
3. HS2AA argued the SEA Directive applied to the decision to proceed with HS2. The Government argued that no decision had yet been made to proceed with HS2 and therefore the Directive did not apply.
4. The High Court and Court of Appeal held that the Government had not undertaken an SEA before adopting its strategy for HS2 in January 2012. As the Government no longer sees speed as the main benefit of HS2 it is highly unlikely that the environmentally damaging proposals for HS2 would have survived an SEA in their present form.
5. The Aarhus Convention is a binding international treaty designed to ensure that Governments develop infrastructure in an environmentally acceptable way. The United Kingdom is a signatory to the Aarhus Convention.

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