



Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters
(Aarhus Convention)

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Ref: ACSR/C/2024/53 (United Kingdom of Great Britain and Northern Ireland)
(Please use this reference in your reply)

21 August 2024

Excellency,

I have the honour to address you in my capacity as UN Special Rapporteur on environmental defenders under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, article 3 (8) of the Aarhus Convention requires that “Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.” The United Kingdom of Great Britain and Northern Ireland (United Kingdom) has been a Party to the Aarhus Convention since 2005.¹

At its seventh session (Geneva, 18–21 October 2021), the Meeting of the Parties to the Aarhus Convention adopted decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention.² Decision VII/9 establishes the rapid response mechanism in the form of an independent Special Rapporteur on environmental defenders under the authority of the Meeting of the Parties. At its third extraordinary session (Geneva, 23–24 June 2022), I was elected, by consensus, by the Meeting of the Parties as the Convention’s Special Rapporteur on environmental defenders.

In accordance with the mandate in decision VII/9, I write to bring to your attention information I have received concerning the alleged persecution, penalization and harassment of Dr. Patrick Hart in connection with the exercise of his rights under the Aarhus Convention.

Dr. Hart is a medical doctor and general practitioner, registered to practice since 2011. On a number of occasions over the past five years, in his personal time outside of his profession, Dr. Hart has participated in peaceful protests organized by different movements such as Extinction Rebellion and Just Stop Oil, including acts of civil disobedience, to call for urgent governmental action to address climate change.

Based on the information received, in the light of his participation in peaceful protest calling for urgent action to address climate change, Dr. Hart is an environmental defender within the meaning of the ninth preambular paragraph of decision VII/9.³

¹ See https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13&chapter=27&clang=en.

² Available at: https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf.

³ Ibid.

According to the information received, as a result of being charged and later convicted for his peaceful civil disobedience, Dr. Hart has been subject to a fitness to practise investigation under the aegis of the professional regulator for doctors in the United Kingdom, the General Medical Council, and is presently facing proceedings before a medical practitioners tribunal. Without being exhaustive, a summary of the information received regarding the alleged penalization, persecution or harassment of Dr. Hart for having engaged in peaceful civil disobedience is set out below:

The General Medical Council

1. The General Medical Council (GMC) is a statutory body established originally under the Medical Act of 1858, as later superseded by the Medical Act of 1983. Pursuant to section 1 of the Act, the GMC has the responsibility to:
 - a. Protect, promote and maintain the health and safety of the public;
 - b. Promote and maintain public confidence in the medical profession; and
 - c. Promote and maintain proper professional standards and conduct for members of that profession.
2. The GMC does so by controlling entry to the register of doctors and suspending or removing members when necessary.
3. In accordance with paragraph 99 of the GMC's "Good Medical Practice" guidance, medical practitioners are required to inform the GMC without delay if they have been charged with, or convicted of, a criminal offence.⁴

The GMC's fitness to practise investigation and hearing

4. On 25 April 2022, Dr. Hart made a self-referral to the GMC, informing the GMC that he had been charged with aggravated trespass, a criminal offence, as a result of his participation in a peaceful climate protest by Just Stop Oil at an oil terminal on 13 April 2022.
5. On 4 September 2022, Dr. Hart provided an update to the GMC, informing it that he had been arrested at a climate protest and charged with contempt of court for breaking a civil injunction on 24 August 2022, for having "blocked, slowed down, obstructed or otherwise interfered with vehicular access" to a petrol station. He explained that the contempt of court charge was not a criminal matter, but he thought it best to inform the GMC nonetheless.
6. On 1 November 2022, Dr. Hart was convicted of aggravated trespass by the Chelmsford Magistrates Court, in relation to the case he had referred to the GMC on 25 April 2022 (see point 4 above). Dr. Hart was sentenced to pay a fine of GBP 500.
7. On 18 November 2022, Dr. Hart admitted liability regarding the charge of contempt of court (see point 5 above) and was sentenced by the High Court with a four-month custodial sentence, suspended for two years, and a GBP 2000 fine.
8. On 10 August 2023, the GMC wrote to Dr. Hart formally alleging that his fitness to practise was impaired by reason of misconduct and his criminal conviction. It informed Dr. Hart that it was opening a formal investigation into his fitness to practise. The relevant acts under

⁴ General Medical Practice, Good Medical Practice 2024, available at: <https://www.gmc-uk.org/-/media/documents/good-medical-practice-2024---english-102607294.pdf>.

investigation were “misconduct” in connection with the contempt of court ruling and “conviction” in relation to his conviction for aggravated trespass.

9. On 4 September 2023, Dr. Hart provided his comments in response to the GMC’s fitness to practise investigation. In his comments, Dr. Hart stated that none of his actions had impacted negatively on his medical practise and he did not accept that his fitness to practise was impaired. Rather, he considered that speaking out on “the greatest health threat facing humanity” enhanced his clinical practise. According to Dr. Hart, given the devastating impact of climate change on human health, he had engaged in the activities in question “for the benefit of my patients whilst causing no harm to anybody”.
10. Dr. Hart also attached to his response a letter received from one of his patients who had seen Dr. Hart to address their climate anxiety. In their letter to Dr. Hart, the patient attested that they had only learned of Dr. Hart’s participation in peaceful climate protest after their treatment, thus showing that Dr. Hart could keep his work life and climate activism separate.
11. On 4 October 2023, Dr. Hart received a letter from the GMC, setting out the information gathered in the course of its investigation and informing him that the case examiners had proposed issuing him with a formal warning for the acts under investigation. The letter also informed Dr. Hart that, if a warning were issued, it would be published for one year on Dr. Hart’s status page on the online medical register and on the decisions section of the GMC website and for a further year on Dr. Hart’s history page. After these two years, the warning would be removed from the medical register. It would, however, be disclosed indefinitely to current employers upon request.
12. On 30 October 2023, Dr. Hart declined the offer of a warning, on the basis that:

“There are no grounds to issue me with any sort of sanction and it would be dishonest of me to appear to accept that it is warranted. By punishing my actions, the GMC would not be protecting the public. Quite the opposite, you would be damning them to a grim future of runaway global heating. As a matter of probity I must share this fact with you.

As I have said before, my actions have been taken in the face of the imminent collapse of civilisation, as far as the best available science can predict. I am part of a growing group of doctors, nurses and other healthcare workers who recognise that non-violent direct action, including breaking the law, is now the moral course of action. At this unprecedented moment when the future of the human species is in peril, it is the duty of a doctor to act for the benefit of all humanity. [...]”
13. On 20 November 2023, the GMC informed Dr. Hart that its case examiners had completed their fitness to practise investigation and had decided to refer his case to a medical practitioners tribunal as “the GMC believes the realistic prospect test and the threshold for impairment has been met”. Based on the information received, the possible outcomes of the hearing include the suspension of Dr. Hart’s license to practise or being struck off the medical register in the United Kingdom.
14. In their decision, the case examiners explained that the primary purpose of the GMC’s fitness to practise proceedings is “to protect the public against future harm from those who are not fit to practise”. Their decision states that:

“given the seriousness of Dr. Hart’s conviction and alleged misconduct, we consider a finding of impairment may be required in order to promote and maintain confidence in the profession and proper standards and conduct for members of the profession. For

these reasons we agree that there is a realistic prospect of establishing that Dr Hart's fitness to practise is currently impaired and that referral to a medical practitioners tribunal is necessary".

15. The case examiners' decision also notes, among other things, that:

- a. Dr. Hart's employer had confirmed that "there was no fitness to practise concerns to report in addition to those the GMC was already aware of";
- b. In its contempt of court ruling dated 18 November 2022, the High Court had noted "the sincerity of the Defendants. They acted as they did because of their belief in the importance of their cause, and their cause is an entirely altruistic one motivated by the threat posed to the human race by climate change."

16. The hearing on Dr. Hart's fitness to practise is due to take place before a medical practitioners tribunal in **November 2024**. As of the date of this letter, the exact hearing date is yet to be confirmed.

"Civil disobedience" can be broadly described as an act of deliberate law-breaking, concerning a matter of public interest, conducted publicly, and non-violently.⁵ Under international human rights law, civil disobedience is recognized as a form of exercising the rights to freedom of expression and freedom of peaceful assembly, as guaranteed by articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) respectively. In its General Comment No. 37 (2020) on the right of peaceful assembly, the UN Human Rights Committee specifically recalled that "collective civil disobedience or direct action campaigns can be covered by article 21 [of the ICCPR] provided that they are non-violent".⁶ The UN Human Rights Committee has also made clear that "private entities and broader society may be expected to accept some level of disruption" as a result of the exercise of the right of peaceful assembly.⁷

Without prejudging the accuracy of the allegations in points 1-16 above, I am gravely concerned that, as a result of his participation in peaceful climate protest involving civil disobedience in his private life, Dr. Hart has been subjected to an eighteen month fitness to practise investigation by the GMC and now faces a medical practitioners tribunal hearing with potentially very serious professional consequences. The stress and uncertainty of being subjected by the GMC to a fitness to practise investigation for more than eighteen months, followed by a twelve-month wait until the tribunal hearing, may in itself amount to penalization, persecution or harassment under article 3 (8) of the Aarhus Convention. Moreover, the possible professional sanctions to which Dr. Hart may be subject as a result of the upcoming tribunal hearing put in jeopardy his very livelihood. Any such sanctions may constitute further penalization, persecution or harassment of Dr. Hart in breach of the United Kingdom's obligations under article 3 (8) of the Aarhus Convention.

The GMC is a statutory body mandated to protect, promote and maintain the health and safety of the public and to promote and maintain public confidence in the medical profession and the proper professional standards and conduct for members of that profession. As the Aarhus Convention Compliance Committee has made clear:

⁵ See my position paper on "State repression of environmental protest and civil disobedience: a major threat to human rights and democracy", February 2024, p. 5.

⁶ Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), para. 16.

⁷ Ibid., para. 31.

article 3, paragraph 8, is not limited in its application to acts of public authorities as defined in article 2, paragraph 2, of the Convention, but rather covers penalization, persecution or harassment by any State body or institution [...] It also covers penalization, persecution or harassment by private natural or legal persons that the Party concerned did not take the necessary measures to prevent.⁸

Therefore, the United Kingdom is bound by article 3 (8) of the Convention to ensure that members of the public, including doctors, exercising their rights under the Convention, including their right to engage in peaceful environmental protest,⁹ are not penalized, persecuted or harassed by any State body or institution or private natural or legal person. This includes the GMC.

In the context of other complaints received under my mandate,¹⁰ I have already expressed my grave concern about the prosecution of, and sanctions imposed on peaceful climate protesters in the United Kingdom. I consider that the GMC's disciplinary action against Dr. Hart for having engaged in peaceful civil disobedience in his private life adds a troubling new dimension. Dr. Hart's actions have already been subject to prosecution and sanction by the United Kingdom's judicial system. It appears to me that the GMC, through its fitness to practise investigation and impending medical practitioners tribunal hearing, is therefore subjecting Dr. Hart to "double punishment" for his peaceful climate activism. I remind Your Excellency's Government that any prosecution or sanction of law-breaking in the course of peaceful environmental protest must be reasonable, proportionate and pursue a legitimate public purpose.¹¹ This applies both to civil and criminal sanctions imposed by the courts as well as to potential sanctions by other State bodies, such as the GMC in the present case. Any sanctions imposed on an environmental defender must be assessed in their totality against the above tripartite test.

In the present case, I do not see how subjecting Dr. Hart to professional disciplinary action for his peaceful climate activism in his private life is reasonable, proportionate or pursues a legitimate public purpose. Dr. Hart's civil disobedience has already been prosecuted and sentenced by the United Kingdom's judicial system. I fail to see how additionally punishing him in his professional life, including the risk of possible suspension or even removal from the medical register, is reasonable or proportionate. I also do not see how it in any way pursues a legitimate public purpose. Dr. Hart's professional conduct in treating his patients as a doctor has never been put in question and his climate activism has been entirely confined to his private life. Moreover, as held by the High Court in its 18 November 2022 judgment (see point 15 above), Dr. Hart's "cause is an entirely altruistic one motivated by the threat posed to the human race by climate change".

In their November 2023 decision to refer Dr. Hart to a medical practitioners tribunal, the GMC's case examiners state that the primary purpose of fitness to practise proceedings is "to protect the public against future harm from those who are not fit to practise". The GMC has publicly acknowledged that climate change is "one of the greatest threats to human health".¹² It is therefore paradoxical that the GMC has referred Dr. Hart to a medical practitioners tribunal for having engaged in peaceful civil

⁸ See the Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 66, available at: <https://unece.org/fileadmin/DAM/env/pp/compliance/CC-58/ece.mp.pp.c.1.2017.19.e.pdf>.

⁹ Ibid., para. 96.

¹⁰ See my letter of allegation concerning complaint ACSR/C/2023/19 (United Kingdom) and my letter of allegation and statements concerning complaint ACSR/C/2024/26 (United Kingdom), all available at: <https://unece.org/environmental-policy/public-participation/correspondence-regarding-complaints-special-rapporteur>.

¹¹ Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, paras. 68-69.

¹² GMC, "Striving for sustainability", 30 May 2024, available at: <https://www.gmc-uk.org/news/news-archive/striving-for-sustainability>.

disobedience, in his personal time, calling for the government to take urgent action to address climate change.

In this context, I take note of the statement issued by the GMC on 30 July 2024 on “Doctors taking part in protests or other forms of activism”.¹³ In its statement, the GMC states that “Doctors may take part in a protest for a range of causes and we can’t take a view on the merits of specific causes or sanction illegal conduct in that context.” The statement, however, also refers to the need to decide each case based on its own circumstances. In the context of peaceful climate protest, it would be a serious shortcoming to ignore a doctor’s motivation for participation. In the case of Dr. Hart, the very reason for his participation is to protect the health of present and future generations. In the context of fitness to practise proceedings, I cannot see how the GMC could comply with its own stated obligation to “protect the public against future harm” if it were to ignore this point.

As it is my responsibility, under the mandate entrusted to me by the Meeting of the Parties to the Aarhus Convention, to seek to clarify all complaints brought to my attention, I would be grateful for your response to the following matters:

1. Please provide any information and/or comments you may have on the allegations set out in the present letter.
2. If your investigation establishes the allegations set out in the present letter to be accurate, please provide information on the steps taken to:
 - a. Ensure that the fitness to practise proceedings against Dr. Hart are promptly closed without any further sanctions being imposed on Dr. Hart.
 - b. Remedy the alleged penalization, persecution and harassment to which Dr. Hart has been subjected to date due to the GMC’s fitness to practise investigation and impending medical practitioners tribunal hearing against him.
3. Please provide information on the steps taken, if any, to ensure doctors in the United Kingdom are not subjected to professional repercussions for the exercise of their rights under the Aarhus Convention, including their participation in peaceful environmental protest.
4. Please provide information on the other steps taken, if any, in response to this letter.

I would appreciate receiving your response within 60 days, that is by **20 October 2024**. After this date, the present letter and the response received from your Excellency’s Government may be made public on the Aarhus Convention’s website.¹⁴ They will also subsequently be reported upon in my report to the eighth session of the Meeting of the Parties in 2025.

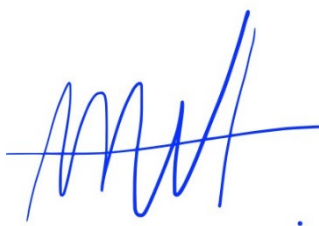
While awaiting your response, I urge that all necessary interim measures be undertaken to halt the alleged persecution, penalization and harassment of Dr. Hart. In this regard, your Excellency’s Government should also take great care, when looking into the allegations in the present letter, that nothing is done that could put Dr. Hart at risk of further persecution, penalization or harassment.

In the event that your investigations support or suggest the allegations to be correct, I urge you to ensure the prompt cessation of the alleged persecution, penalization and harassment of Dr. Hart and to ensure the accountability of any person or body responsible therefor.

¹³ Available at: <https://www.gmc-uk.org/news/news-archive/doctors-taking-part-in-protests>.

¹⁴ <https://unece.org/environmental-policy/public-participation/correspondence-regarding-complaints-special-rapporteur>.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Michel Forst

UN Special Rapporteur on environmental defenders under the Aarhus Convention

To: His Excellency, David Lammy, Secretary of State for Foreign, Commonwealth and Development Affairs of the United Kingdom of Great Britain and Northern Ireland

Cc: Mr. Tom Fuller, national focal point for the Aarhus Convention, Department for Environment, Food and Rural Affairs, United Kingdom of Great Britain and Northern Ireland