

Supplementary Information #5 to the Aarhus Convention Compliance Committee

Communication: NRTG v Ireland (filed 2 March 2026) From: Gareth O'Brien BE (Civil) MSc, North Runway Technical Group Date: 10 May 2026 To: Aarhus Convention Compliance Committee Secretariat (aarhus.compliance@un.org)

Dear Secretariat,

I write to file supplementary #5, six developments since Supplementary #4 (29 April 2026) requiring the Committee's attention before the preliminary assessment of the parallel Commission complaint closes on or about 12 May 2026.

Three headlines.

First, on 30 April 2026 the Minister for Transport adopted three times in writing, on the Dáil record, the doctrine on which the present communication rests. The doctrine held by the airport operator since at least 2023 (Supplementary #1 §1(a); Supplementary #2 §2.1) and accepted as reasonable by the planning authority in its submissions to the Ombudsman (Supplementary #1 §1(a)) is now the Department of Transport's position on the Dáil record. The same day saw two further operationalisations: the Irish Aviation Authority disclaimed the environmental limb of its slot-coordination function on its own letterhead; and the Oireachtas Bills Office redacted the questions that put the doctrine to the Minister.

Second, the Irish State's adherence to the 2007 grant of permission is selective on a geography that aligns with the State's 2016 public-information programme. The EIS-rooted conditions that protect the population the State consulted in 2016 (in Fingal) are honoured at substantial operational cost. The EIS-rooted protections that would protect the population the State did not consult in 2016 (in County Meath) are dismissed at no operational cost. Article 6 of the Convention exists to give those affected by a project a voice in the assessment on which the project's consent rests. The Dublin Airport record demonstrates the meaning of Article 6 by inversion: those whom the State consulted are protected; those whom the State did not consult are not.

Third, AirNav Ireland confirmed in writing on 1 May 2026 that the noise-complaint referral mechanism daa publishes to residents does not exist on AirNav's records. daa has received over 210,000 noise complaints to date. Where daa identifies the flight as having deviated from a published Standard Instrument Departure, the template re-

sponse sent to the complainant tells her that “the flight event will be shared to AirNav, our air navigation service provider, for further investigation”. AirNav’s Access to Information on the Environment decision letter records: “no such arrangement exists, as the daa does not refer published SID deviations to AirNav Ireland.” The Department, asked on the same matter on the Dáil record on 30 April 2026, confirmed that it has not engaged with AirNav on the operation of the channel. The proportion of the 210,000 complaints that received the “will be shared to AirNav” template is not in the public domain. That proportion is the scale, on the receiving body’s record, of an accountability statement made by the operator under the State’s aegis that is not factually correct on any occasion. The 210,000 figure stands as the upper bound on that scale.

Sections 1 to 6 describe the developments. Section 7 places them against the architecture filed at Supplementaries #1 to #4 and notes the pattern. Section 8 sets out the requested findings.

This supplementary uses the defined terms set out in the Definitions and Terminology section of Supplementary #2 (“EIS Route”, “2016 Consulted Routes”, “Initial Routes”, “Routes Flown”, “Instrument Flight Procedure”, “Noise Preferential Route”) and assumes the architectural reading already on the record across Supplementaries #1 to #4.

1. The State has adopted the doctrine on the Dáil record

On 30 April 2026, the Minister for Transport replied to ten Parliamentary Questions tabled by Deputy Gillian Toole TD (seven) and Deputy Roderic O’Gorman TD (three). All ten replies are at Annex S5-A. The Minister’s replies adopt three times, in writing, the position daa Managing Director Gary McLean took at JCT on 24 March 2026 (Supplementary #2 §2.1):

“I would like to again clarify that flight paths are not a condition of planning at Dublin Airport.” (PQ 248, ref 31820/26)

“It is important to note that flight paths are not a condition of planning at Dublin Airport.” (PQ 251, ref 31825/26)

“I would like to clarify from the outset that flight paths are not a condition of planning at Dublin airport.” (PQ 252, ref 31827/26)

PQ 252 expressly asked whether the Minister agreed with the McLean position and whether it is consistent with Article 2(1) of Directive 2011/92/EU. The reply restates the McLean position as the Department’s own. On the Article 2(1) consistency sub-question the Minister says only: “I can confirm the project at Dublin Airport was subject to an Environmental Impact Assessment.” On sub-questions about An Bord Pleanála’s 2007 unanimous override of its Senior Planning Inspector, and the basis for that override given daa’s later “indicative” characterisation of the EIS routes, he replies: “this is a matter for An Coimisiún Pleanála (ACP) rather than my Department.” The reply does not engage with whether the routes flown today are within the scope of the 2007 EIA, which is the Article 6 question.

The same replies that adopt the doctrine reserve, in the same paragraph, the determination of what falls within a planning consent to the planning authority. PQ 248, verbatim, single paragraph:

“Monitoring compliance with planning permission conditions is matter for the relevant Council that granted those permissions, and enforcement of planning conditions is a matter for the relevant planning authorities. However, to reiterate, flight paths are not a condition of planning at Dublin Airport.”

The first sentence reserves the determination of consent scope to the planning authority. The second sentence is itself a determination of what falls within the planning consent at issue. The Minister has no statutory role under the Planning and Development Act 2000 in that determination. The accompanying disclaimer in the same reply, “it is not open to me as Minister, to intervene on matters which are the responsibility of these independent authorities,” addresses the same subject-matter the Minister has just determined.

Two readings are open, and each defeats Article 6 of the Convention.

- (a) If the line is offered as a description of the legal position with no determinative effect, the State cannot rely on it. The Department in fact relies on it. PQ 252 expressly asked the Minister on what basis the Department has continued to rely on the position in the preparation of the Dublin Airport (Passenger Capacity) Bill 2026. The reply does not deny the reliance. The Bill is therefore framed in part on a position that, on this limb, has no legal weight, and the Article 6 public participation step on the Bill is being conducted on a Departmental footing for which the Department’s own answer offers no legal basis.
- (b) If the line is offered as a determination with effect, the Minister has exercised a planning-authority role in the same paragraph in which he disclaims it. An executive determination of consent scope, made outside the consenting body, by ministerial declaration on the Dáil record, with no antecedent Environmental Impact Assessment, no public participation step, and no judicially reviewable decision-record, substitutes executive declaration for the consent process Article 6 is intended to inform.

The position is structural, not site-specific. The qualifier “at Dublin Airport” is offered as if specific to a particular runway. By the Minister’s own reasoning, it is not. If departure routes are not a condition of the planning permission for the Dublin Airport project, the choice of departure routing for any runway sits outside the planning system as a matter of regulatory architecture. The corollaries are propositions of law that operate today:

- (a) the introduction or amendment of a departure route from any runway at the airport does not of itself engage any planning consent of Fingal County Council, Dublin City Council or South Dublin County Council;
- (b) such an introduction or amendment does not of itself require an Environmental Impact Assessment under Council Directive 2011/92/EU;
- (c) such an introduction or amendment does not of itself require public consultation in any newly affected area;

- (d) residents of any newly overflowed area have no statutory consultation entitlement, no statutory right of objection, and no statutory remedy other than a private application under section 160 of the Planning and Development Act 2000;
- (e) the only check on such an introduction or amendment before it takes effect is the Irish Aviation Authority's safety approval, with the noise regulator confined to receiving and publishing, after the fact, the noise measurements that daa is responsible for collecting and supplying under sections 9(10) and 19 of the 2019 Act.

The structural character of the doctrine can be tested by universalisation. Take an intensive pig-rearing installation, an activity listed at Annex I to the Convention, granted planning permission on the basis of an Environmental Impact Statement assessing odour and ammonia emissions at a defined herd size, feed regime and ventilation configuration. If, on the doctrine the Minister has now adopted, the operating parameters of the installation are not a condition of planning because they are not separately enumerated as conditions, the operator may double the herd, change the feed, and alter the ventilation, exceeding the assessed envelope without engaging any planning consent, requiring any further Environmental Impact Assessment, or affording any new public participation step under Article 6. The doctrine applies in either domain in the same way. The Article 6 right of the public to rely, after consent, on the assessed envelope as the consented envelope is defeated by the doctrine wherever the consent rests on an Environmental Impact Statement the State subsequently characterises as "indicative". The Dublin departure-route case is one application of the doctrine, not the limit of its operational scope.

The Article 6 right to participate in decision-making on Annex I activities is, on the Minister's reasoning, defeated prospectively for any future routing change at Dublin Airport, without any further executive act. The communication before the Committee is no longer about a single departure from the EIS at one runway. It is about a doctrine of general application adopted at Cabinet level.

2. Selective adherence: the 2007 EIS is honoured east of the airport, severed west

Article 6 of the Convention exists to give those affected by a project a voice in the assessment on which the project's consent rests. Ireland's selective adherence to the 2007 An Bord Pleanála grant demonstrates the meaning of Article 6 by inversion: the EIS-rooted protections that protect the population the State consulted in 2016 are honoured at substantial operational cost; the EIS-rooted protections that would protect the population the State did not consult in 2016 are dismissed at no operational cost. The geography of severance and the geography of the 2016 consultation coincide.

The 2007 grant contains express conditions on runway use the State accepts as part of the consent today: 28L is preferred for arrivals on westerly operations; 10R is preferred for departures on easterly operations; the new (north) runway is not used for take-off or landing between 23:00 and 07:00. These conditions are honoured. The same 2007

grant rests on an Environmental Impact Statement that assessed straight-ahead departure routes from 28R as the routing on which the noise, air-quality and community-impact assessments were founded. The State's stated position, now adopted by the Minister at PQs 248, 251 and 252 (§1 above), is that the EIS-assessed routes are "indicative" and not a condition of planning.

The differential treatment is not justified by operational cost. The express easterly-departure preference for 10R confines departure operations to a single runway for approximately 25 to 30 per cent of the year (the easterly-wind period), capping the airport's schedulable departure capacity at the easterly-day single-runway throughput, since a hub schedule cannot be predicated on a particular wind direction. The 23:00 to 07:00 north-runway curfew similarly removes a substantial portion of the operational day from new-runway use. The State accepts those EIS-rooted express conditions as binding notwithstanding the operational cost. The EIS-assessed straight-out departure-route geometry from 28R, by contrast, would impose little operational cost: the assessed routing is achievable using the existing fleet and existing procedures, and NRTG has demonstrated the technical feasibility of preserving independent runway operations under that geometry in technical presentations made to daa, the Irish Aviation Authority, and the Minister.

The asymmetry is not between costly conditions that are dismissed and cheap conditions that are kept. It is between EIS-rooted protections honoured at significant operational cost (the conditions limiting overflight in the approach and easterly-departure corridors east of the airport, in Fingal) and EIS-rooted protections dismissed even when honouring them would be operationally trivial (the conditions that would constrain the geometry of westerly departures to the north and west of the airport, in County Meath).

The geography is what carries the argument. The honoured conditions limit overflight east of the airport, in Fingal. The dismissed assessed routing would limit overflight north and west of the airport, in County Meath. Supplementary #2 §1.1 placed before the Committee the State's confirmation, on the Oireachtas record on 24 March 2026, that the 2016 information sessions were confined to Fingal and that no events or materials were directed at County Meath. The 2016 confined consultation and the 2026 selective adherence operate on the same geography: the public participation step in 2016 was confined to Fingal; the post-consent severance of the EIS in 2026 is aligned with the population in County Meath that was not consulted in 2016. The State has, in 2026, honoured the protections that protect the population the State consulted in 2016, and dismissed the protections that would protect the population the State did not.

That is the substantive content of the Article 6 failure: not a procedural defect in the 2016 consultation alone, but a 2007-to-2026 architecture in which the consultation programme of 2016, the planning consent of 2007, and the operational adherence of 2026 coincide on a single geography, with the population the State did not consult bearing the harm the State did not assess. Article 6 participation has practical effect only if the public can rely, after consent, on the assessed envelope as the consented envelope. At Dublin Airport, on the State's confirmations, the public can rely on the assessed envelope only if they were already on the consultation invitation list.

3. The Oireachtas Bills Office redacted the questions that put the doctrine to the Minister

Annex S5-A reproduces the ten 30 April 2026 replies with strikethrough showing the Bills Office redactions; Annex S5-B is the sub-part-by-sub-part audit of the redactions against the Minister's replies.

Seven of the ten Parliamentary Questions were redacted on the public record, with substantive material in the body of the question replaced by the marker "(details supplied)". The Bills Office is not the tabling Deputy and not the Department; it operates under the Ceann Comhairle. The Minister's private office receives the as-tabled text in full and replies on the unredacted question. The audit at Annex S5-B establishes:

- (a) In four of the seven redacted PQs (refs 31625/26, 31820/26, 31825/26 and 31827/26), the redacted material was both removed from the public record and left unaddressed in the Minister's reply. The reader of the public record sees neither the question nor the reply on those sub-parts.
- (b) In a fifth (ref 31824/26), the redacted material includes the description of a meeting in the Minister's own office on 19 June 2025 attended by the tabling Deputy and members of NRTG, at which the Minister is reported to have stated that daa "can't release the noise info because of the Relevant Action". The reply neither confirms nor denies the meeting.
- (c) The seven redacted PQs were on the environmental decision-making procedures the present communication concerns: the institutional unity of the noise regulator with the planning authority (§5 below); the timing of the data daa supplied to the noise regulator; the Department's engagement with AirNav Ireland on the noise-complaint referral process (§6 below); the basis for the Department's reliance on the McLean position (§1 above); consistency of that position with Article 2(1) of Directive 2011/92/EU and Article 6 of the Aarhus Convention; the unanimous 2007 override of the An Bord Pleanála Senior Planning Inspector; and the consequences for County Meath residents of departure routing changes at the airport (§2 above).

A discrete consequence of the redaction practice has now surfaced. On 6 May 2026, the Minister for Transport replied to a further Parliamentary Question tabled by Deputy Toole on the same Article 3(2) independence question that the redacted PQ 247 had asked (PQ 158, ref 32405/26, Annex S5-E). The Minister's reply directs the reader to "my recent reply of 30 April 2026 to Dáil Question No. 247". The public Dáil record of PQ 247 reads "matters raised (details supplied) regarding flight routes". The Minister's deflection at PQ 158, on the public record, points to a public-record entry from which the substance has been excised. The redaction has, in effect, made the Minister's own cited authority for his answer unreadable. The reader of the public record meets a deflection without a referent.

The constitutional function of a Parliamentary Question in Ireland is the public scrutiny of the Executive: the Minister either answers on the public Dáil record or is seen on that record to have failed to answer. Both halves of that function depend on the public

being able to read what was asked, and on Ministerial cross-references to earlier replies being readable on the public record. By modifying the question on the public record, the redactor removes the comparator against which the answer would be measured. The PQ 158 deflection demonstrates a second consequence: the redactor also breaks the link between an answer and the cited authority for it.

Article 5 of the Convention requires public authorities to possess environmental information relevant to their functions and to ensure that it progressively becomes available in publicly accessible electronic databases. The Oireachtas record is the lowest-friction channel by which environmental information held by the Executive on Annex I activities reaches the public in Ireland. The redaction defeats that channel for a cluster of questions whose as-tabled wording sought information on the environmental decision-making procedures this communication concerns.

4. The Irish Aviation Authority disclaims environmental jurisdiction on its own letterhead

On 30 April 2026, the same day, the Irish Aviation Authority published its Final Decision on Winter 2026 Coordination Parameters at Dublin Airport (Annex S5-C). Supplementary #3 §2 placed the Authority's Draft Decision of 8 April 2026 before the Committee, in which the environmental limb of Article 6(1) of Regulation (EEC) 95/93 (the Slot Regulation) was absent throughout. NRTG asked the Authority, in a written submission, to identify the environmental constraints taken into account. The Final Decision answers, at paragraph 3.59:

“These submissions are based on a misunderstanding of the nature of the Slot Regulation, and of the broader regulatory framework. They advocate that the IAA should take upon itself the role of noise regulator under the 2014 Regulation, when the IAA is instead carrying the function of setting coordination parameters under the Slot Regulation. The IAA has no jurisdiction to do so.”

The slot-allocation authority disclaims, on the public record, the environmental limb of its own enabling Regulation. Read with the institutional chain placed before the Committee at Supplementary #2 §2.2 (no body accepts responsibility for compliance with the planning permission), the disclaim sequence is closed: no Irish body discharges the Article 6(1) environmental limb in respect of capacity at Dublin Airport. Each season's coordination determination locks in additional capacity through Article 8(2) historic precedence before any environmental assessment can take effect. Paragraph 3.62 of the Final Decision confirms the timing trap: “it is already long past the point that any new Operating Restriction from any upcoming review by ANCA . . . could be a relevant constraint in time for W26”, and “there is no basis to understate capacity for W26 for fear that such review by ANCA might possibly lead to a future requirement to reduce slots below the level of historic entitlements.”

The Final Decision adopts the W26 Wishlist, an additional 32 runway movements per day across the operating day for the W26 season (Table 3.1, paragraph 3.2). This is

the operational counterpart to the Bill described at Supplementary #1 §3.

5. The “Aircraft Noise Competent Authority” is not a body

Earlier supplementaries refer, as the State’s own correspondence does, to the “Aircraft Noise Competent Authority” or “ANCA”. The Committee should be aware that, on the State’s own confirmations of 30 April 2026, no such body exists.

PQ 247 (ref 31818/26) put to the Minister the records released under Fingal County Council FOI decisions 2026/071 and 2026/072 (20 April 2026, Annex S5-D). Those records establish that the Director of ANCA attends Fingal County Council Executive Management Team meetings as an equal-level Director of Services, and that the Council’s Chief Executive holds quarterly meetings with the Director of ANCA reviewing ANCA’s public correspondence, Freedom of Information handling, finance, procurement, planning applications, Noise Action Plan and daa Section 19 compliance reporting. The Minister’s reply confirms the records:

“Regarding points raised in relation to records released under Fingal FOI decisions FOI/2026/071 and FOI/2026/072, I understand that they are factually correct.”

The same reply describes the working structure of ANCA:

“ANCA is headed at a senior level by a Director of Service, who is supported by a core executive team and specialist service providers.”

The Minister has confirmed the following structure. Fingal County Council has a Director of Service responsible for planning enforcement, who sits on the Council’s Executive Management Team. It also has a Director of Service designated by Ministerial Order under the Aircraft Noise (Dublin Airport) Regulation Act 2019 to perform the function of “Aircraft Noise Competent Authority”, who sits on the same Executive Management Team. Both Directors report to the same Chief Executive. The Chief Executive holds quarterly meetings with the Director of ANCA on the matters that constitute the noise regulator’s regulatory output, on the same standing as her meetings with the Director of Service for planning. The substantive analytical work attributed in correspondence to “ANCA” is performed by external contractors retained by Fingal County Council.

There is no body called “ANCA”. There is a function performed by a seat in the Executive of Fingal County Council, parallel to the seat in the same Executive that is the planning authority for the airport whose conditions the noise regulator is to police. The institutional separation Article 9(3) of the Convention contemplates, between the body whose acts and omissions a member of the public would seek to challenge and the forum to which she is directed, does not exist here: the forum is the planning authority, in the same Executive, reporting to the same Chief Executive, on the same standing.

The presentation of “ANCA” in State correspondence and on Council publications (its own logo, its own letterhead, its own “Director”, a dedicated section of the fingal.ie

domain at fingal.ie/aircraftnoiseca) conveys to the public the appearance of a body. The structure the Minister has confirmed is that no body exists. The Article 3(1) requirement of a clear, transparent and consistent framework is not satisfied by a presentation that offers a body where there is a function in a conflicted seat.

The comparator for the Committee's attention is the French Autorité de contrôle des nuisances aéroportuaires (ACNUSA), the competent authority for Regulation (EU) 598/2014 in France. ACNUSA was established as an independent administrative authority by Law no. 99-588 of 12 July 1999. It has its own legal personality, its own staff and budget, and its own offices in Paris, institutionally distinct from the airport operators it regulates and from the local authorities in whose territory those airports lie. The competent-authority designation under Regulation (EU) 598/2014 attaches in France to a body that exists. In Ireland, the same designation attaches to a function in a seat in the Executive of the Council that is the planning authority for the airport, whose Chief Executive supervises the noise regulator's regulatory output as one item on the same agenda as the Council's other functions.

The configuration is not theoretical. On 6 May 2026, the Minister confirmed in reply to a further Toole Parliamentary Question (PQ 158, ref 32405/26, Annex S5-E):

"I can confirm that ANCA has taken no enforcement actions under Part 4 of the Aircraft Noise (Dublin Airport) Regulation Act 2019."

Read with ANCA's own published documentation of a 343 per cent increase in population exposed to 55 dB Lnight between 2019 and 2024 (Supplementary #1 §4), the structure described above has produced, in operation, a noise regulator that has documented a four-fold rise in unlawful exposure and taken no enforcement action of any kind across its entire existence. The form of the failure is the form the structure predicts.

The same configuration is on the documented record at the level of one operational instance. ANCA Direction DI-IA 01/2024, issued by the Director of Services to daa on 1 March 2024 under Section 9(10)(a) of the 2019 Act, set out 47 numbered information requests in connection with planning application F23A/0781. daa's response of 29 November 2024 (Annex S5-G) did not provide the information directed and instead invited ANCA to defer its consideration by reference to a second proceeding then pending before An Bord Pleanála, on the stated basis that the Relevant Action decision "will provide certainty as to the runway operations currently under consideration". ANCA's reply of 20 December 2024 declined the framing in a single paragraph, observed that "the provision of partial information is not helpful for the assessment", and did not invoke the section 23 enforcement-notice power in Part 4 of the 2019 Act. The same decision returns a separate negative finding: ANCA holds no records of any communication with daa regarding the scope, baseline assumptions or methodology of the review of the Noise Abatement Objective across the period 1 January 2024 to 7 April 2026 (decision item 1). The deliberative record on which Article 6 of the Convention contemplates public participation is, on the regulator's own confirmation, null for the proceeding intended to address the documented exposure breach the same regulator has reported.

The operational instance is the mechanism by which the timing trap recorded at §4 operates. The noise assessment for planning application F23A/0781 is the underlying

assessment on which any Balanced Approach for a new Operating Restriction at Dublin Airport, of the type that the Slot Regulation contemplates as an environmental constraint at Article 6(1), would rest. The information directed on 1 March 2024 was not supplied until November 2025: a 20-month gap on the Minister's confirmed dates. PQ 250 (ref 31824/26, Annex S5-A) put the data-withholding to the Minister and asked, in a sub-part redacted from the public Dáil record per the §3 audit but addressed in the unredacted text the Minister's office received, whether the Department considers a configuration in which the entity whose noise performance is being assessed controls the timing of the data that enables the assessment consistent with the independence required by Article 3(2) of Regulation (EU) 598/2014. The Minister's reply, on 30 April 2026, the same day on which the Irish Aviation Authority published the Final Decision quoted at §4, was:

"It is my opinion that the timing of the provision of information does not materially interfere with the independence of the process."

The 20-month gap is the operational mechanism by which paragraph 3.62 of the Final Decision is sprung. At paragraph 3.62 (already quoted at §4), the slot authority places the W26 capacity beyond the reach of any future ANCA review, and treats historic-entitlement doctrine, supported by the Advocate General's opinion in Case C-857/24, as permitting historic slots not to be reallocated even against a future Operating Restriction. Paragraph 3.65 confirms the corollary: extensive analysis will follow, but only "once any such constraint is actually operative in sufficient time . . . ahead of the relevant capacity declaration", which is to say, only once the noise regulator concludes a process the operator has been free to run on its own timetable. The configuration produces, for the W26 season, a slot allocation locked in on the slot authority's own account that the assessment that would have constrained it cannot reach it, while the Department confirms on the Dáil record that the operational mechanism producing that outcome, the operator's 20-month conditioning of supply on a parallel proceeding, is not material to the independence of the assessment.

Article 3(2) of Regulation (EU) 598/2014, the EU instrument on which the Reg 598 channel of the present communication rests, requires the competent authority to be "independent of any organisation which could be affected by noise-related action". A configuration in which the function is a seat alongside the planning function, in the same Executive, reporting to the same Chief Executive, supervised on the same standing as that Executive's other functions, fails the substantive independence test regardless of the form of separation chosen. Recital 13 protects the State's choice of administrative form; it does not protect a designated authority that fails the substantive independence test. Article 9(3) of the Aarhus Convention is engaged by the same configuration: the forum to which a member of the public is directed is institutionally identical to the body whose acts and omissions she would seek to challenge.

6. The Department has not engaged AirNav Ireland on a complaint-referral channel that AirNav confirms does not exist

PQ 249 (ref 31822/26) asked whether the Department had at any point enquired of AirNav Ireland about the operation of the noise-complaint referral process. The Minister:

“I can confirm that my department has not engaged with AirNav Ireland regarding the aforementioned referral process.”

AirNav Ireland is a wholly State-owned designated activity company under the aegis of the Department. The reply also confirms that the operational data PQ 249 sought (the number of substantive responses to residents in 2024 and 2025; the median referral-to-response time) is not held by the Department; the Minister has referred those sub-parts to AirNav Ireland and daa for direct response within ten working days, due on or about 14 May 2026.

The 14 May 2026 reply from AirNav Ireland can be predicted. On 1 May 2026, in response to a separate Access to Information on the Environment request from NRTG of 3 April 2026, AirNav Ireland confirmed in writing (Annex S5-F):

“AirNav Ireland does not hold records of flights deviating from a published SID that have been referred or forwarded by the Dublin Airport Authority plc (the ‘daa’).”

“the daa does not refer flights deviating from a published SID to AirNav Ireland, therefore the following information does not exist or is not held by AirNav Ireland: (a) the total number of referrals that resulted in an investigation by AirNav Ireland; (b) the total number that resulted in any corrective action; (c) the total number where an outcome was communicated back to the daa; or (d) the total number where an outcome was communicated to the original complainant.”

“AirNav Ireland holds no protocol, procedure, memorandum of understanding or agreement with the daa governing the referral of flights deviating from a published SID . . . No such arrangement exists, as the daa does not refer published SID deviations to AirNav Ireland.”

The referral mechanism daa publishes to residents does not exist on AirNav's side. The “referral” is the documented State-facing element of daa's noise-complaint response template (Noise Complaint Response V/VNV, also recited in daa's “Facts on Noise Management and Mitigation at Dublin Airport”), which tells residents:

“The flight event will be shared to AirNav, our air navigation service provider, for further investigation.”

daa has, on its own published records, received over 210,000 noise complaints to date. The “will be shared to AirNav for investigation” line appears only in the V variant of the response template (Noise Complaint Response V), used where daa identifies the flight as having deviated from a published SID; the alternative VNV variant is used

where daa records no deviation. The proportion of the 210,000 complaints answered by the V variant is not in the public domain and is in principle obtainable from daa under the AIE regime. AirNav's 1 May 2026 confirmation that no such referral occurs and no such investigation pipeline exists is, on the receiving body's records, a confirmation that the V-variant accountability statement is not factually correct on any occasion daa has made it. The 210,000 total is the upper bound on the scale of that misrepresentation; the lower bound is the count of every published-route deviation that one of the 210,000 complainants accurately reported and that daa accordingly classified as V variant.

There is no protocol, no memorandum of understanding, no referral pipeline, no analysis, no corrective-action menu specific to off-track-SID events. The published mechanism is not the safety-occurrence pathway under EU Regulation 376/2014, which AirNav notes "for completeness" is the only AirNav channel for aviation-safety occurrences and which is a different and narrower category of event from the noise complaints daa's template addresses.

The sequence to which the Committee is invited to attend:

- (a) Resident hears off-track aircraft and complains to daa.
- (b) daa replies on its template that the event will be referred to AirNav for investigation.
- (c) Per AirNav's written AIE response of 1 May 2026, no such referral occurs and no investigation pipeline exists.
- (d) On 30 April 2026, the Minister, asked by Deputy Toole on the Dáil record about the operation of the same referral process, confirmed that the Department has not engaged with AirNav on it, and referred the operational sub-parts to AirNav and daa for direct response within ten working days. The 14 May 2026 reply from AirNav, on the basis of AirNav's existing 1 May 2026 AIE position, must record that the referrals on which the operational sub-parts were predicated have not occurred.

This is jointly an Article 5 and Article 6 and Article 9 finding. The State holds the channel through which residents' Convention-relevant noise complaints are routed; the body to which residents are routed confirms in writing that no routing happens; the operator that publishes the channel to residents continues to publish it; and the Department under whose aegis both bodies sit had not enquired into the operation of the channel before being asked on the Dáil record on 30 April 2026. The access-to-justice route the State directs residents to is offered without the State having satisfied itself that the route operates, on facts the State now confirms in writing.

7. The pattern: a regulatory function designated to a conflicted seat, presented as a body

Earlier supplementaries placed before the Committee the architectural reading that Convention-relevant domestic mechanisms each excluded the substantive question by

a different State characterisation (Supplementary #4 §3). The 30 April 2026 confirmations replace that reading with the State's own. The pattern that emerges is identifiable in more than one Irish regulatory architecture, and the Committee is invited to consider it in any Article 3(1) framework analysis.

The pattern has three elements. First, a regulatory function the State's EU obligations require (here, the noise competent authority under Regulation (EU) 598/2014) is designated by Ministerial Order to a seat within an existing body whose other functions are conflicted with the new role. In the Dublin case, the seat sits in the Executive of the planning authority for the airport whose operating envelope the noise regulator's output is to police. Second, the function is given a visual identity (a name, a logo, a "Director", a dedicated web presence) that conveys to the public the appearance of a body. Third, the conflict is not addressed by the form of designation: the seat continues to report to the same Chief Executive on the same standing as the conflicted functions, and the Chief Executive supervises the noise regulator's regulatory output on the same agenda as the Council's other Executive matters.

The result is that the function operates, formally, while the act and omissions the public would seek to challenge under Article 9(3) cannot be challenged in any forum institutionally distinct from the body whose conflict the designation entrenches. The framework Article 3(1) requires (clear, transparent, consistent) is, on the State's confirmations, presented to the public in a form that is not consistent with the structure underneath: a body that is not a body, a regulator that is the regulated party in another seat, a designation that satisfies the form and not the substance of Article 3(2) of Regulation (EU) 598/2014 on which the EU channel of the present communication rests.

The Committee may wish to consider whether the same pattern is identifiable in adjacent Irish regulatory architectures: between the safety regulator and the wholly State-owned air-navigation service provider on whose procedure designs the safety regulator must rule (Supplementary #1 §3); between the broadcasting regulator and the broadcasters whose Convention-relevant content the regulator is to assess (Supplementary #4 §2); and between the planning authority and the operator whose Section 19 compliance reporting the same planning authority's Executive supervises (this supplementary §5). NRTG does not place the wider question before the Committee on the present communication. The Committee is invited to take note that the present communication is one application of a pattern, and that the architectural reading filed at Supplementaries #1 to #4 is now confirmed in the 30 April 2026 record at the level of detail Sections 1 to 6 describe.

8. Requested findings

NRTG respectfully requests that the Committee, in its consideration of the present communication:

- (a) consider whether the position adopted by the Minister for Transport on the Dáil record at PQs 248, 251 and 252 of 30 April 2026, that "flight paths are not a condition of planning at Dublin Airport", on the same Dáil record on which the Minister

reserves the determination of consent scope to the planning authority, constitutes an executive redefinition of consent scope outside the consenting body, defeating the practical content of Article 6 of the Convention; and whether the position, on the Minister's own logic, operates as a structural doctrine of general application defeating Article 6 prospectively for any future departure-route change at Dublin Airport without any further executive act (§1; Annex S5-A);

- (b) consider whether the Irish State's selective adherence to the 2007 grant of permission, by which the EIS-rooted express conditions limiting overflight east of the airport (in Fingal) are honoured at substantial operational cost while the EIS-assessed departure-route geometry to the north and west (in County Meath) is dismissed at no operational cost, on a geography aligned with the County Meath population not consulted in 2016 (Supplementary #2 §1.1), is consistent with the Article 6 requirement that public participation operate in respect of the activity assessed in the Environmental Impact Statement on which consent is granted (§2);
- (c) consider whether the redaction practice operated by the Oireachtas Bills Office across the 30 April 2026 cluster, by which substantive sub-parts of Parliamentary Questions on Convention-relevant matters were removed from the public Dáil record while remaining unanswered in the Minister's reply on those same sub-parts, defeats the dissemination function of Article 5 of the Convention and the participation function of Article 6 in respect of decisions on Annex I activities; and consider whether the Minister's deflection at PQ 158 of 6 May 2026 to "my recent reply of 30 April 2026 to Dáil Question No. 247", whose public-record version reads "matters raised (details supplied) regarding flight routes", demonstrates a discrete second consequence of the practice, in which Ministerial cross-references to earlier replies are made unreadable on the public record (§3; Annexes S5-A, S5-B, S5-E);
- (d) consider whether the express disclaimer by the Irish Aviation Authority at paragraph 3.59 of the Final Decision of 30 April 2026 ("the IAA has no jurisdiction" to discharge the environmental limb of the Slot Regulation), read with the four-body architecture filed at Supplementary #2 §2.2, completes on the State's own letterhead the absence of any domestic body with jurisdiction over the environmental limb of capacity decisions at Dublin Airport, in breach of Article 9(3) and (4) of the Convention (§4; Annex S5-C);
- (e) consider, on the basis of Annex S5-D and the Minister's PQ 247 confirmation that those records are factually correct, whether the configuration the Minister has confirmed (no body called the "Aircraft Noise Competent Authority" exists; the function so designated is performed by a Director-of-Services seat in the Executive of Fingal County Council, parallel to the Director-of-Services seat in the same Executive that is the planning authority for Dublin Airport; both seats report to the same Chief Executive, who supervises the noise regulator's regulatory output on the same agenda as the Council's other Executive functions; the State's presentation of "ANCA" as a body, with its own logo, letterhead, Director and dedicated web presence, is not consistent with that structure) is consistent with Article 3(1) of the Convention (clear, transparent and consistent framework), Article 9(3) (in-

stitutional distinctness of the forum from the body whose acts and omissions are challenged), and Article 3(2) of Regulation (EU) 598/2014 in the parallel Commission complaint, taking note of the Minister's further confirmation at PQ 158 of 6 May 2026 that ANCA has taken no enforcement actions under Part 4 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 across the period in which ANCA has documented a 343 per cent increase in population exposed to 55 dB Lnight, and taking further note of the operational instance set out at §5 in which one Section 9(10) Direction met with the operator's invitation to defer by reference to a second proceeding before An Bord Pleanála and was followed by no section 23 enforcement across a nine-month delay (§5; Annexes S5-D, S5-E and S5-G; Supplementary #1 §4);

- (f) consider whether the Minister's confirmation at PQ 249 that the Department of Transport has not engaged with AirNav Ireland on the noise-complaint referral process, taken with AirNav Ireland's written confirmation in its AIE decision of 1 May 2026 that "the daa does not refer flights deviating from a published SID to AirNav Ireland" and that "no such arrangement exists" (Annex S5-F), is consistent with Article 5 of the Convention (the State holds out to residents a referral channel that the receiving body confirms does not exist), Article 6 (the public participation right depends on the public having accurate information about the channels through which environmental concerns are routed), and Article 9 (the access-to-justice route the State directs residents to is offered without the State having satisfied itself that the route operates) (§6; Annex S5-F);
- (g) take note of the pattern described at §7 (a regulatory function the State's EU obligations require, designated to a seat in a body whose other functions are conflicted with the new role; given a visual identity that conveys the appearance of a body; operated under the same Chief Executive on the same standing as the conflicted functions); and consider whether the pattern bears more general examination in the Committee's framework analysis of Ireland's Convention compliance.

Yours faithfully,

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Annexes

Numbering in the S5 series. Earlier supplementary annexes are at Supplementary #1 (Annexes 1 to 9), Supplementary #2 (Annexes 10 to 14), Supplementary #3 (Annexes A and B), and Supplementary #4 (Annexes S4-A through S4-E).

- S5-A: Compendium of the ten written replies of 30 April 2026, comprising O'Gorman PQs 230, 231, 232 (refs 31621/26, 31623/26, 31625/26) and Toole

PQs 246, 247, 248, 249, 250, 251, 252 (refs 31817/26, 31818/26, 31820/26, 31822/26, 31824/26, 31825/26, 31827/26). Each entry shows the published Dáil-record question text, the as-tabled question text where the published version contains “(details supplied)” with the redacted material shown in strikethrough, and the Minister’s written reply, all reproduced verbatim. Source: oireachtas.ie, captured 4 May 2026; tabling Deputies’ as-tabled records.

- S5-B: Redaction-versus-substance audit. For each of the seven Parliamentary Questions in the 30 April 2026 cluster that the Oireachtas Bills Office redacted, this audit assesses, sub-part by sub-part, whether the redacted material was substantively addressed by the Minister’s reply or was left both off the public record and unanswered.
- S5-C: Final Decision of the Irish Aviation Authority of 30 April 2026 on Winter 2026 Coordination Parameters at Dublin Airport (31 pages). Cited at §4 (Table 3.1 / paragraph 3.2 on the W26 Wishlist; paragraphs 3.59 and 3.62 on jurisdiction and timing) and §5 (paragraph 3.65 on the corollary that environmental analysis follows the operator-controlled process). Source: iaa.ie, 30 April 2026.
- S5-D: Fingal County Council Freedom of Information decisions FOI/2026/071 and FOI/2026/072 of 20 April 2026 (records on the Director of ANCA’s attendance at Fingal Executive Management Team meetings; records on the Chief Executive’s quarterly meetings with the Director of ANCA on ANCA’s correspondence, FOI handling, finance, procurement, planning applications, Noise Action Plan, and daa Section 19 compliance). Comprises the FCC decision letters, schedules of released records, and the released records themselves. Source: Fingal County Council, 20 April 2026.
- S5-E: Reply to Parliamentary Question No. 158 of 6 May 2026 (ref 32405/26), tabled by Deputy Gillian Toole TD, comprising the question text and the Minister for Transport’s written reply. Cited at §3 (deflection to redacted PQ 247) and §5 (Ministerial confirmation of zero enforcement actions under Part 4 of the 2019 Act). Source: oireachtas.ie eReply, 6 May 2026.
- S5-F: AirNav Ireland Access to Information on the Environment decision of 1 May 2026 (Deirdre Forrest, AIE Officer), in response to NRTG’s request of 3 April 2026 on the operation of the off-track-flight referral mechanism daa publishes to residents. AirNav confirms across five sub-parts that no such referrals are received from daa, that no protocol or memorandum of understanding governing such referrals exists, that no internal analysis on the pattern or frequency of off-track departures is held, and that the only AirNav channel for aviation-safety occurrences is the Safety Management System pathway under EU Regulation 376/2014, which is a separate and narrower category. Cited at §6. Source: AirNav Ireland, 1 May 2026.
- S5-G: Aircraft Noise Competent Authority decision on AIE/2026/012 of 6 May 2026 (James Kelly, Senior Executive Engineer, ANCA / Fingal County Council), in response to NRTG’s request of 7 April 2026. Releases the complete record on ANCA Direction DI-IA 01/2024 (issued under Section 9(10)(b) of the Aircraft Noise

(Dublin Airport) Regulation Act 2019, 1 March 2024) and the operator's response, comprising the 13-page Direction with 47 numbered information items across five tables, the Director of Services' 15 November 2024 chase letter, daa's Head of Planning's response of 29 November 2024 inviting deferral of the Direction by reference to the North Runway Relevant Action proceeding before An Bord Pleanála, and the Director of Services' single-paragraph reply of 20 December 2024 declining the framing. Decision item 1 of the same AIE confirms that ANCA holds no records of any communication with daa regarding the scope, baseline assumptions or methodology of the review of the Noise Abatement Objective. Cited at §5. Source: ANCA / Fingal County Council, 6 May 2026.

Annexes S5-A to S5-F are attached to this email. The complete annex bundle, including the larger Annex S5-G (records released under AIE 2026/012, comprising the print-and-scan reproductions supplied by Fingal County Council), is available as a single bundle at www.dublin-north-runway.com/submission-annexes/. Hard copies can be provided on request.