

## **AVOSETTA MEETING COPENHAGEN**

### **UNITED KINGDOM UPDATE REPORT**

**Richard Macrory**

#### **General political situation**

There is a general disillusionment with the mainstream parties, not helped by a stagnant economy. For most of the past sixty years the ruling Government has alternated between the major established parties, Labour and Conservative, with one coalition government with the third party (Liberal) . Labour won the 2024 election with a very large majority but significantly with only 60% of the electorate voting (the lowest number for years). The next election should be in 2029, but opinion polls indicate the established parties no longer appeal. Reform (right wing anti-EU, anti-climate change) leads the current polls at 27% compared to 18% for Labour and Conservative, 16% for Greens (left wing, renationalization, heavy taxes on the wealthy, etc) and 12% Liberals. Nationalism is strong in Wales, Scotland and Northern Ireland. Voting is still on 'first past the post' (rather than proportionate) for national elections which leads to odd distortions and with effectively what is now a five-party system in England makes it difficult to predict the next election. The UK is now entering the world of coalition governments familiar in the rest of Europe but whether they will be on the right or left not easy to tell.

The 2016 Brexit Vote in 2016 was 52% leave and 48% stay (on a 73% turnout). Despite the popularity of the Reform Party, the average of polls this year show 59% wanting to rejoin and 41% stay out. There is unlikely to be a serious application to rejoin (even if the EU wanted the UK) in the foreseeable future. But the Labour Government is seeking closer relations, and we are likely to see negotiations to see more dynamic alignment on single market standards.

#### **Environmental Law and Policy**

The difficult economic situation (both nationally and globally) is fracturing consensus on environmental issues. Conservatives and Reform have now questioned the wisdom of the 2050 zero targets for climate change, as well as the expense of habitat protection. Much quoted politically as a cause celebre of over costly habitat protection laws is the Euros 115 million spent on a 1 km tunnel required to be built in 2024 to protect a small colony of protected bats from the new High Speed railway between London and Birmingham.

The Labour Government has continued some of the major environmental law reforms introduced by the previous Conservative Government – long term statutory environmental targets, a long term Environmental Improvement Plan. The Office for Environmental Protection continues, and a new credible chair has been appointed this year. But they have also increasingly given priority to a crude vision of 'development' which is seen as conflicting with many conventional forms of environmental protection. Following Brexit, the UK retained existing EU environmental law to maintain regulatory stability. But we are now seeing some substantial diversion from key EU environmental law taking place under national legislation, especially in England. These are aimed at providing more strategic flexibility.

#### **Environmental assessment**

Environment assessment procedures often produce enormous reports of thousands of pages produced by consultants and appear to be more of a tick box and defensive procedural exercise

rather than a real aid to decision making. The Levelling Up and Regeneration Act 2023 provides the framework for a new approach replacing EU derived laws on Environmental Assessment and Strategic Environmental Assessment. The Government plans to introduce the reforms at the end of 2027.

The emphasis in future be based on Environmental Outcome Reports – focussed on their effects on Environmental Outcomes as defined by the Secretary of State. Clearly this is immense discretion but the Act provides that in defining outcomes regard must be had to the current improvement plan, and, in an unusually explicit (for UK law) environmental non-regression provision (but also one that can be interpreted in many ways) , the Government must be *“satisfied that making the regulations will not result in environmental law providing an overall level of environmental protection that is less than that provided by environmental law at the time this Act is passed”*.

### **Habitats Protection – Planning and Infrastructure Act 2025**

Much will depend on regulations to be made under the Act, but the essential aim is to produce much more flexibility in the approach to Habitat and other environmental protection in the light of the pressures for increased development especially new houses. Some would argue it is just a way for developers to buy themselves the right to destroy local environmental assets. Others that it is a recognition that many environmental problems are not necessarily related to specific sites, and that money spent on individual mitigation measures could be better invested in more strategic interventions produce overall environmental protection. The new approach could bring overall environmental benefits, but great responsibility is placed on the key independent protection agency in England, Natural England if it to work.

Natural England must prepare Environmental Delivery Plans identifying environmental features that could be affected by development and identify the conservation measures to be taken by Natural England to protect those features. Significantly these conservation measures do not have to address the impact of the development itself but may seek to improve the conservation of similar features elsewhere, but only if that would lead to an overall greater improvement. Natural England may provide charging schemes for these sorts of measures. A developer who pays those charges (i.e. to improve conservation elsewhere) is relieved of their environmental obligations (including Habitat Directive regulations) in relation to the development site in question. But they can only do so if there is an Environmental Delivery Plan in place.

In December 2025 Natural England announced it was preparing 16 Environmental Delivery Plans for nutrient pollution affecting protected sites, and 7 EDPs for areas where great crested newts were significantly present.

The Office for Environmental Protection was concerned that an early draft of the legislation was environmental regressive, but the Government accepted its suggestions for improvements. The European Commission is concerned that the legislation may breach provisions of the EU-UK 2020 Trade and Cooperation Agreement concerning environmental non-regression.

### **Chemicals**

Following Brexit, the UK introduced its own Reach system, largely administered by the Health and Safety Executive (HSE). According to a 2025 report on environmental divergence post Brexit, the UK Reach system (mostly operated by Health and Safety Executive) is now showing significant differences in decision making from the European Chemicals Agency (ECHA).

*'Since leaving the EU, the HSE through UK REACH has not adopted any restrictions of harmful chemical substances (compared to 13 by the EU in the same time period), has initiated three restrictions – on lead ammunition, PFAS in firefighting foams and harmful substances in tattoo ink respectively, (none of which are yet in force and the latter does not appear to be as robust as it's EU equivalent), compared with 11 on the EU side. It is a similar story with regard to managing 'Substances of Very High Concern' – the EU has placed 38 'Substances of Very High Concern' (SVHC) on its candidate list whilst the UK has not added any' (Institute for European Environmental Policy Divergence in UK/EU Environmental Policy: State of Play 2025. <https://ieep.uk/divergence-state-of-play/>, accessed April 2026)*

## Case Law

*Global Feedback v HM treasury and Secretary of State for Trade and Industry* [2025] EWCA Civ 624

Meaning of 'national law relating to the environment' under Aarhus Convention.

A case concerned the question whether the litigants should be entitled to protection against expensive cost exposure under court rules implementing the Aarhus Convention. The key issue was whether the case involved national law relating to the environment and the extensive discussion by the lead judge is valuable.

The case concerned tariff regulations made under a post Brexit Trade Agreement with Australia coming into force in 2023. The NGO argued that the agreement would lead to substantial increases in the import of beef from Australia in place of UK grown beef, leading in turn to an greenhouse gas emissions because of the methods of Australian cattle production.

The law giving the power to make the regulations required the Government to have regard to international obligations (s 28 Taxation (Cross-border Trade) Act 2018) . The NGO argued that in making the regulations the Government had failed to have proper regard to Climate Change obligations including the Paris Agreement. The court was clear that ordinary principle of public law were not laws relating to the environment: *"The purpose of a bare principle of public law is not to protect or regulate the environment. Its purpose is to regulate the lawfulness of decisions, actions or omissions of public authorities, irrespective of the various functions they carry out. Therefore, a principle of public law, without more, does not form part of our law relating to the environment."*

Here the question was a little different. Did Aarhus apply to a decision made under a legal provision *not* relating to the environment but invalid by an error in some way connected to the environment?

But the court concluded that the relevant law that required Government to have regard to international obligations was not an environmental provision : *"Such a provision gives no indication that its purpose is to protect or regulate the environment..... Put in a nutshell, what matters is whether the purpose of the national law that has allegedly been contravened is to protect or regulate the environment, not, whether the decision being challenged has an effect on, or some connection with, the environment"*