

NOTE TO FILE

Meeting in Bu5, Salle A, 3/12/2010, CHAP(2010)00645

**Present: (1) Antoinette Long, Liam Cashman, Gerda Postelmans, Stephanos Ampatzis, DG ENV, Tom Howes, DG ENER
(2) Patrick Swords; Luc Rivet (EU Platform against Windfarms).**

Mr Swords made a Power Point presentation of issues he has already set out in his CHAP complaint, covering in particular the following claims:

- Ireland lacks a predictable legal framework in which to develop industrial projects, difficulties involving StateOil (Corrib gas project), Coventa (Poolbeg Incinerator) and aquaculture being mentioned;
- Ireland is not a party to the Aarhus Convention and there are difficulties with regard to access to information (Directive 2003/4/EC), public participation and access to justice (Directive 2003/35/EC);
- with regard to access to information, Ireland does not provide enough information by way of active dissemination (Art.7), provides inaccurate information (Art.8) and is obstructive on specific access to document requests.
- more specifically, submissions to Irish Parliament (Oireachtas) on the disadvantages of wind energy are not made available by the authorities so the public is unaware of the position of those opposed to wind energy policy;
- Ireland's National Renewable Energy Action plan (NREAP) under Directive 2009/28/EC did not undergo SEA pursuant to Directive 2001/42/EC; the information included in this plan does not explain how and to what extent the CO2 emissions would be reduced.
- access to the Irish courts is prohibitively expensive, up to 90,000 euro for a one day hearing in Irish High Court;
- NREAP's focus on wind energy does not reflect principle of proportionality since it will involve major increases in energy costs and contribute to fuel poverty and lack of competitiveness; wind energy is an inefficient power source because of its intermittent nature and there is a lack of data to support claims that it will reduce carbon dependence. Irish politicians have endorsed a major expansion of wind energy without any proper scrutiny of costs and benefits; absence of SEA demonstrates this;
- Commission had approved the feed-in tariffs for Ireland without respecting Aarhus obligations.

Mr Swords confirmed that he considered that the evidence he submitted was already sufficient to justify a Commission investigation: he was not in a position nor felt it appropriate to undertake further investigation work himself.

Mr Luc Rivet said his platform represented up to 600 groups opposed to wind energy across the EU. He referred to adverse effects of a wind farm in Belgium which had undergone an EIA (problem of vibrations and noise affecting neighbouring properties).

The Commission made the following points:

- In general, the Commission needed to have very clear, precise evidence if it was to be in a position to substantiate a breach of EU legislation.
- So far as Directive 2003/4 was concerned, there would need to be specific evidence of a failure to comply with obligations. Submissions to the Irish Parliament did not appear to come within scope of the items mentioned in Article 7. With regard to dissemination of inaccurate information, there would need to be strong supporting evidence for purposes of Article 8.
- So far as Directive 2003/35 was concerned, the Commission was aware of access to justice problems in Ireland and was addressing these.
- So far as Directive 2001/42 was concerned, the Commission considered that any NREAP that did not create a framework for specific projects for purposes of Directive 85/337/EEC did not need to undergo an SEA but that subsequent more detailed plans might need to do so. Ireland had confirmed that several plans relevant to renewable energy would undergo an SEA process, including an offshore plan for which the SEA process had already been launched.
- So far as approval of the feed-in tariff was concerned, this appeared to relate to Commission state aid approval managed by DG COMP.
- Against this background, the Commission will complete its examination of the CHAP complaint submitted by Mr Swords and inform him of the outcome.

Liam Cashman

Cc: Mr Howes, DG ENER, Ms Long, Payne, Postelmans, Kot, Messrs.Brakeland, Kremlis, Ampatzis