

Proposed Agenda for meeting with EU Commission Unit Env A.2

1. Review of situation in Ireland:

- Maladministration with regard to regulation of infrastructural projects with special reference to Corrib Gas project and Waste to Energy infrastructure.
- Renewable Energy Policy – 40% of electricity to be generated by renewable sources (predominately wind) by 2020. Capital cost in excess of €30 billion, electricity costs to rise by more than 60%. No consideration of costs, benefits and alternatives.
- Access to Information (Pillar 1 of Aarhus Convention). Failure to inform citizens of their rights. Systematic failures to reply to information on request. Failure to systematically disseminate information on the environment to the widest possible availability. Constant dissemination of false information on the environment for political gain.
- Public Participation (Pillar 2 of Aarhus Convention). Repeated failures to complete necessary strategic environmental assessments, such as on renewable energy policy or proposed new waste policy, which has the aim of deliberating making Waste to Energy projects unviable.
- Access to Justice (Pillar 3 of Aarhus Convention). Even Shell / StatoilHydro didn't consider taking a judicial review of the planning decision on the Corrib Gas pipeline, a decision which was clearly outside of EU legislation.

2. Some issues we would like clarification on:

- COM (2002) 725: The role of the EU Commission as the “Guardian of the Treaty”. The systematic maladministration in Ireland has reached such a scale that it is having major economic impact. Particularly with regard to the potential for further industrial development and the viability of existing manufacturing industry. Indeed as individuals we are already experiencing losses in career opportunities. It is our opinion that the situation already highlighted above is a direct breach of the Treaty and should therefore be treated with the highest priority.
- COM (2002) 725, concerns the citizens themselves. “Through information, participation and access to justice, they are to be actors of a Community based on the rule of law”. What is the status of the verbal agreement that was recorded in 2007 by the EU with regard to certain explanations given verbally, such that Ireland will be obliged to respect commitments arising from the Aarhus Convention where they concern provisions falling within the competency of the Community? Would the EU support an action in the National Courts related to the above maladministration?

- COM (2008) 773: “Better implementation of EU environmental law requires action of a preventive and corrective nature in key areas”. The placing of environment officers in the EU representation offices in the Member States. Has this been considered for Ireland?
- Com (2008) 773: Three categories of infringement that will be dealt with more immediately and more intensively. These include failure to comply with European Court of Justice (ECJ) rulings and breaches of EU law, including non-conformity cases, raising issues of principle or having particularly far-reaching negative impact for citizens. We believe that the current situation in Ireland meets the two categories above and would appreciate the view of the Commission.
- The Aarhus Convention as it applies to EU Institutions (<http://ec.europa.eu/environment/aarhus/index.htm>), such as the right to request an internal review.
- The role of DG Energy and its policies on renewable energy, which are being applied without proper assessment of environmental benefits, economic cost and potential alternatives. For instance the National Renewable Energy Action Plans according to European Commission Decision C(2009)5174 of 30 June 2009. This does not require quantification of actual greenhouse gas reductions, details on alternatives considered with regard to environmental and economic performance or details on public participation. Please see recitals (1), (26), (27), (40) and (90) of Directive 2009/28/EC.
- The Charter of Fundamental Rights of the Lisbon Treaty: “The Right to a Good Administration and that the Union must make good any damages caused by its institutions or its servants in performance with its duties, in accordance with the general principles common to the laws of the Member States”. Furthermore COM (2002) 725 states that the ECJ can give individuals the possibilities of applying to the national courts for damages to compensate for infringements of Community law or failure to transpose directives. What are the developments likely in this area now that the Lisbon Treaty is in force?

3. Potential next steps:

- We are in a position to document infringements of EU Environmental Legislation occurring in the Irish State, but there must be evidence of active enforcement by the EU Commission as there is no access to justice option available with regard to enforcement at national level.
- We believe there is a good resource of technically minded people in Ireland, who are capable of challenging the system through the principles of the Aarhus Convention. However, there must be active support so that their voluntary work is rewarded, i.e. the Aarhus Convention and the Charter of Fundamental Rights must be demonstrated to work in practice. If citizens see these mechanisms work they will be empowered to start to force change. Currently Irish citizens are not even aware that in theory these rights exist. There is

an ever increasing disengagement with the democratic process as individuals are left powerless to influence it.

- Aarhus ratification and compliance must be a priority; this also applies to the manner in which DG Energy is supporting the renewable energy programme in Ireland, a programme which is neither environmentally nor financially justified. Active engagement by DG Environment and others is required to ensure that the principle of proportionality is respected with the implementation of Directives 2001/77/EC and 2009/28/EC on renewable energy.
- The next steps proposed by the EU Commission, such as infringement proceedings against the Irish State, measures to promote Aarhus ratification in Ireland, public announcements, potential for further meetings, etc.