



Pat Swords &lt;pat.swords.chemeng@gmail.com&gt;

## Wind Energy - Environmental NGOs and Access to Information, Public Participation and Access to Justice

Pat Swords &lt;pat.swords.chemeng@gmail.com&gt;

Tue, Oct 6, 2009 at 10:05 PM

To: Patrick.WEGERDT@ec.europa.eu

Cc: mark duchamp &lt;save.the.eagles@gmail.com&gt;, mills@inshore-ireland.com, "O'Brien, Pat" &lt;pat.obrien@pmg.ie&gt;, iain maclean &lt;iainmaclean7@hotmail.com&gt;, EPAW - Dominique Mette &lt;dmette@epaw.org&gt;, Denis Duff &lt;denis.duff@o2.ie&gt;, Denis Kelly &lt;denissmkelly@yahoo.ie&gt;, mstalker &lt;Mstalker@icheme.org&gt;

Patrick

Thank you for your reply on this issue.

There is extensive documentation that I have developed since last July that ultimately relates to failures under Article 41 of the Charter of Fundamental Rights of the Lisbon Treaty, i.e. the Right to Good Administration. While I fully understand and respect that EU Directives do interact with each other for a common purpose I also understand that I need to give a summary of the specific EU Legislation that is at stake.

While I work very much with the technical implementation of industrial development and the Environmental Acquis, the last few months have been a revelation to me on the importance of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Simply put the potential for corruption and abuses related to political patronage in the Acquis are so great that without this legislation there are insufficient checks and balances in the system

My earlier concerns last year were focused on the inappropriate media reporting of environmental matters in Ireland, to which the EU Commission responded in kind. However, as part of my work implementing the Large Combustion Plant Directive and IPPC Directive in Croatia, which involved reviewing energy policies in different Member States, I was horrified to see the direction that my own Member State of the Republic of Ireland was taking. While I fully realise that Energy Policy is dealt with by a separate Department, to which I would be glad to co-operate with, I would like to point out that there is a cross over with environmental issues, such as the definition of renewable energy in Article 2 of Directive 2001/77/EC, which pre-dates the recent 2009 Directive on renewable energy, and in particular the definition of biomass and biomass from waste in Article 2 (b).

The Aarhus requirements for access to environmental information are transposed through Directive 2003/4/EC. If we take the current implementation of the renewable energy programme in Ireland, which is extremely biased towards obtaining the maximum technical extent of wind generated electricity, then this programme falls under the definitions of Article 2 and 7 in Directive 2003/4/EC. As I have documented in my 'book' "Ireland's Choice: EU Environmental Policy or Green Economy", which formed the primary basis of my Submission to the Joint Oireachtas Committee on Climate Change and Energy Security, the Irish public have simply not been properly informed of the costs, benefits, impacts and alternatives to this programme, see in particular Chapter 12 (page 131) or the attached press release from Sustainable Energy Ireland (SEI).

Indeed it is distressing from a professional perspective to highlight that of the projected 4 million tonnes in Greenhouse Gas savings of this €30 billion wind programme more than half of this could be obtained by simply moving from landfill based waste disposal to waste to energy technologies enabling compliance with the Landfill Directive. Additional reductions could have been obtained by implementing anaerobic digestion based biogas projects leading to environmental improvements within the scope of the Water Framework Directive. Unfortunately, as I have documented in Chapter 6 (page 36) these projects have been deliberately obstructed in Ireland by the planning appeals board with resulting non-compliances with the Directives. To me it is astounding that the public in Ireland simply do not know these facts as they haven't had the information disseminated to them, indeed the measures above at a cost of less than €1 billion would achieve the same reductions in Greenhouse Gas savings, improve the environment by enabling compliance with other Directives in the Environmental Acquis, have a far, far longer operational

lifespan and result in lower electricity charges.

To put it mildly my efforts to publicise this information myself have been obstructed at every turn. While Submissions to the Oireachtas Committee closed on the 6<sup>th</sup> July it took a Herculean effort to get to where we are today (6/10/09), the Submissions posted on the website but not yet available for download. I only achieved that with your help and correspondence. This is not just a matter of Access to Information it is a serious reflection of how Public Participation is addressed by this Administration in Ireland.

There is also a culture of non-compliance in the administration in Ireland, not only collectively but as individuals. Requests for information are routinely denied, even when reference is made to Aarhus requirements. Some documentation you have already received relates to:

- The Head of State simply refuses to respond to an Aarhus request on the Irish implementation of the Environmental Acquis and the ratification of the Aarhus Convention in particular.
- The Director General of the Environmental Protection Agency (EPA) responds to a press release relating to the Submission of the Irish Academy of Engineering that Energy Policy is based on Ideology by publicly stating that the future is based on Green this and that and renewable innovations. It has proven impossible to receive any facts and figures related to this policy change even though repeated requests have been made to the EPA complete with references to Aarhus and sample documentation from a request to Dun Laoghaire Rathdown (DLR) County Council.
- Another huge effort was required to enable a proper processing of an Aarhus request from DLR on an 'Environmental Awareness Exhibition', the reply which clearly demonstrated the highly dubious organisational and funding arrangements for their 'dissemination process' under Article 7 of 2003/4/EC.

Currently a number of other Aarhus requests are pending, for which I and others will report back in due course.

What is equally disturbing is the 'business opportunities' that occur in highly distorted market place that lead to unethical practices. False information has been presented in the Irish Media to promote wind energy. The Danish Embassy in Dublin is supporting false claims on wind energy and is refusing to respond to a request on the 5-9-09 for supporting facts and figures even though Aarhus obligations have been clearly highlighted to them on 13-9-09. The Irish public has once again been totally misinformed about the costs, benefits and impacts of this wind energy programme and the true advantages and disadvantages of Danish Wind Energy technologies.

A similar situation exists for the German embassy. A cornerstone of the Irish Wind Energy is the €140 per MWh incentive offered to offshore wind developers. The only offshore wind energy installation to date in Ireland is the seven turbines on the Arklow Bank that were designed and developed by the University of Stuttgart.

- University of Stuttgart: <http://www.ifb.uni-stuttgart.de/index.php/de/forschung/windenergie/publikationen>
- Arklow Bank Verification: <http://www.lr.tudelft.nl/live/pagina.jsp?id=c62fc6ed-c12d-4b43-af3b-40f4d975782c&lang=en>

There is simply no published information on the environmental performance of these units available. The University of Stuttgart simply refuses to reply as does the German Embassy. As far as I'm concerned why should I carry the cost of this technology on my electricity charges and loss of industrial development inherent in excessive electricity charges when I'm denied proper access to data that is clearly covered by Article 2 of Directive 2003/4/EC.

I hope this has been of assistance to you and as mentioned I would like to expand the above details with the Department responsible for Energy and to reply to you with more Aarhus compliance issues as they arise.

Regards

Pat

On Tue, Oct 6, 2009 at 4:55 PM, <Patrick.WEGERDT@ec.europa.eu> wrote:

Dear Mr. Swords,

thank you for your email and further information regarding the development of wind energy in Ireland and in other MSs which is noted.

In relation to the application of the environmental acquis, for our purposes it would be helpful if you could give a summary of the specific EU legislation that is at stake here. The renewable energy Directive is to be transposed by the member states by 5 December 2010 (article 27) - the directive is dealt with by a separate department - DG Energy rather than DG Environment - here in the Commission and they would be responsible for its follow up. In relation to your requests for access to environmental information, if you consider that these raise issues of the bad application of Directive 2003/4, if you can summarise the requests for the environmental information in question and the failure to comply with the provisions of the Directive, we will raise these with the member state authorities concerned.

Best regards,

Patrick Wegerdt  
European Commission  
DG Environment  
Unit A.2 Infringements

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**From:** Pat Swords [mailto:[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)]

**Sent:** Monday, October 05, 2009 7:31 PM

**To:** WEGERDT Patrick (ENV)

**Cc:** FERREIRA DA SILVA Nelson (COMM-DUBLIN); [iae@dit.ie](mailto:iae@dit.ie); [privateoffice@taoiseach.gov.ie](mailto:privateoffice@taoiseach.gov.ie); mark duchamp; mstalker; Henrik Rée Iversen; Rune Hørby; Tina Hove; Jesper Fristrup Skovmøller; [info@dublin.diplo.de](mailto:info@dublin.diplo.de); [dialog@vci.de](mailto:dialog@vci.de); [info@bdi.eu](mailto:info@bdi.eu); Denis Duff; Denis Kelly; O'Brien, Pat; [henry.hogg@calleng.ie](mailto:henry.hogg@calleng.ie); EPAW - Dominique Mette

**Subject:** Re: FW: FW: Meeting with Environmental NGOs and Access to Justice

Patrick

The wind energy programme in Ireland is based on Ideology and not sound economic and technical fundamentals. It is also a breach of basic EU Legislation in that the public were not informed of the true costs, benefits and alternatives available. Other more economic and beneficial options to reach the targets set for renewable energy under Directive 2009/28/EC and the Directives that preceded it were obstructed, such as waste biomass combustion or anaerobic digestion of wastes. Indeed the programme did not meet the principle of proportionality and is in breach of EU funding guidelines for State Aid for Environmental Protection: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008XC0401\(03\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008XC0401(03):EN:NOT) In particular:

#### 1.3.5. Proportionality of the aid

(30) Aid is considered to be proportional only if the same result could not be achieved with less aid. In addition, proportionality may also depend on the degree of selectivity of a measure.

More information on this is to follow on the basis of an Aarhus request in Ireland. However, currently there are two submissions from the Irish Academy of Engineering and myself being added to the Oireachtas website that address this issue in significant detail:

<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-Climate/Change/Submissions/document1.htm>

What is even more disturbing is the completely unethical conduct of many suppliers and operators in the Wind Energy industry. Attached shows the conduct of senior representatives of the Kingdom of Denmark in Ireland, who have supported basically lies in the Irish media to drive public opinion and sales of this inappropriate technology. Aarhus requests for the correct information just simply get ignored. The same is true of the Bundesrepublik Deutschland. One of the earliest large scale offshore wind turbine projects was the installation of seven turbines off the Irish East Coast (Arklow Bank). The primary design came from the University of Stuttgart. It has simply proven impossible to obtain information on the actual performance of this development project, despite the fact that the same University was responsible for developing the VDI engineering Code of Ethics. The Embassy of the Bundesrepublik Deutschland in Dublin simply refuses to acknowledge that I exist when I request the information. All that I can point out is that when passing by in a yacht race this June two of the seven were not operational, gearbox failures being a common problem with this technology after about 5 years. In the same race two years previously there was simply not enough wind to turn the turbines.

NGOs in Europe, in particular the European Platform Against Windfarms (EPAW) which I have supplied technical support to, have been aghast at the heavy handed and unethical behaviour of this industry sector. Indeed not only has excellent economic assessments been completed in Germany that have once again proven the unsuitability of this technology for meeting carbon dioxide reductions and reliable electrical supplies, but private individuals are having to spend an increasing amount of time and energy to halt this stupidity, i.e. damage to the natural environment and waste of valuable resources:

<http://www.thenewamerican.com/index.php/world-mainmenu-26/europe-mainmenu-35/1985-europeans-blown-away-by-govt-funded-wind-farms>

<http://www.iberica2000.org/Es/Articulo.asp?Id=4095>

Once again given that after the vote on Friday it looks like the Lisbon Treaty will be passed I would like to point out that the Charter of Fundamental Rights will apply. This addresses such issues as the right to a proper administration, the right to damages if the policies of the Union are not properly implemented and the right to a reply.

Therefore myself and the EPAW look forward to hearing from you on this issue and if there is anyway that we can provide you with further information with regard to infringements with regard to the implementation of the Environmental Acquis.

Regards

Pat Swords

On Fri, Sep 18, 2009 at 4:40 PM, <Patrick.WEGERDT@ec.europa.eu> wrote:

Dear Mr. Swords,

your email has been forward to me to reply to you directly. I note your concerns regarding the application of EU environmental law in Ireland and would welcome any suggestions you may have as to how to improve this in practice, notably in light of the obligations under the Aarhus Convention. In that regard, it might be useful if you were to work together with one of the environmental NGOs in Ireland which share similar aims to yourself. If you have a specific complaint concerning a potential breach of EU environmental legislation in Ireland then you may also raise this directly with us, providing us with a summary of the issues and the relevant environmental legislation you consider has been breached.

I hope this is useful to you.

Yours sincerely,

*Patrick Wegerdt  
European Commission  
DG Environment  
Unit A.2 Infringements*

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**From:** Pat Swords [mailto:[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)]

**Sent:** Sunday, September 13, 2009 2:14 PM

**To:** COMM IE INFO REQUEST

**Subject:** Re: FW: FW: Meeting with Environmental NGOs and Access to Justice

Nelson

As regards the Letter to the Head of State and EU Commission dated 23-8-09, attached is the docket of the letter sent to the Head of State by registered mail the following morning. To date I have received no acknowledgement of this letter not to mention a reply. It is 100% clear that the Irish State is obstructing the implementation of the Environmental Acquis and that no efforts are being made to address the deep rooted problems of Access to Justice, Aarhus compliance, Media Complaints, etc. Not only are your efforts at the EU Commission being continually obstructed but as an Irish Citizen I do not even receive the courtesy of a reply when I address these issues and request what measures are being taken to address them.

Furthermore such maladministration is simply leading to huge 'business' opportunities for those that engage in unethical conduct, such as in exploiting a dysfunctional energy policy. This is clearly demonstrated in the attached documentation. Irish technical resources and the economy in general is taking a massive 'hit' due to this behaviour, which is clearly outside of the legislative basis of the Union. These issues need to be addressed in light of the job losses that are occurring, such as highlighted in the previous documentation from the Institute of Chemical Engineers. Indeed my own employer had no option but to impose salary cuts across the board of circa. 10% last week and if Ireland continues to be essentially a 'no go zone' for investment going forward even more suffering will occur.

Pat

On Mon, Aug 31, 2009 at 2:33 PM, Pat Swords

<[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)> wrote:

Nelson

Appreciate it. While it was well buried into the Irish Times last week the below says it all:

***Warning over projects with 'political risk'***

*A senior executive at StatoilHydro, one of the companies involved in the Corrib gas project, has said that in Ireland "political risk" has practical consequences for the progress of a project.*

*Peter Mellbye, Statoil's head of international exploration and production, said in an Norwegian press interview that while the processing facility for the Corrib gas project was ready, the company was still dependent on a approval for the 9km onshore pipeline, a process which seems to be "fairly complicated".*

*"When we look at political risk with practical consequence to project progress, then Ireland unfortunately stands out as an example," Mr Mellbye said. The company holds a large stake in the field. - (Bloomberg)*

The Corrib project and Indaver's waste to energy projects are not just an engineer running into a spot of bother with the local NIMBYs, they reflect the unpleasant front line in current Irish Politics. If for instance the above was to become the widespread International view on industrial development in Ireland, and it could very likely become so in an increasingly short time frame, then the consequences for the country as a whole would be devastating. Unfortunately the general public simply do not have a clue about these political issues and their consequences, mainly due the the reason they haven't been informed about the technical and legislative facts.

Pat

On Mon, Aug 31, 2009 at 9:57 AM, <COMM-IE-INFO-REQUEST@ec.europa.eu> wrote:

Dear colleagues,

Following my e-mail of 12th August, I'm sending you more documents from Mr Swords.

I'll appreciate if you could put me in copy when you reply.

Thank you.

Kind regards,

Nelson

Nelson Ferreira da Silva  
Information Officer  
European Commission  
European Union House  
18 Dawson Street  
Dublin 2

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**From:** Pat Swords [mailto:[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)]

**Sent:** Saturday, August 29, 2009 3:17 PM

**To:** COMM IE INFO REQUEST

**Cc:** [info@corribgas.com](mailto:info@corribgas.com); [info@amcham.ie](mailto:info@amcham.ie); Fox Lynda; Deniz Islam; [jhennessy@indaver.ie](mailto:jhennessy@indaver.ie)

**Subject:** Re: FW: Meeting with Environmental NGOs and Access to Justice

Nelson

A further update from that of Sunday 23-8-09 and close out of Documentation on this issue. The situation is not pleasant for us who earn a livelihood in industrial development and from the perspective of others whose livelihoods are also related to the proper functioning of an industrial sector. Therefore given the importance of the issues involved and the Lisbon Treaty vote that will be occurring shortly a rely / clarification with regard to the Union making good any damages due to failures with regard to Right to a Good Administration (Charter of Fundamental Rights) is of extreme importance.

Regards

Pat

On Wed, Aug 12, 2009 at 1:15 PM, <COMM-IE-INFO-REQUEST@ec.europa.eu> wrote:

Dear Pat,

Thank you for your e-mail.

Appear to be people in Brussels and not in Dublin. For that reason I will send your e-mail do DG Environment, and put you in copy.

Kind regards,

Nelson Ferreira da Silva  
Information Officer  
European Commission  
European Union House  
18 Dawson Street  
Dublin 2

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**From:** Pat Swords [mailto:[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)]

**Sent:** Monday, August 10, 2009 2:51 PM

**To:** COMM IE INFO REQUEST

**Subject:** Meeting with Environmental NGOs and Access to Justice

It was with a lot of interest I came accross the following minutes of a very useful meeting between three members of the EU Commission Representation and the environmental NGOs in Ireland.

<http://www.iem.ie/?p=1485>

The issue of our problematic justice system leading to our failures with regard to the ratification of the Aarhus Convention, the basic lack of access to justice and inappropriate application of a rational basis for environmental protection is something I have been highlighting for some time. Attached is my Submission made to the Oireachtas Joint Committee on Climate Change, which repeatedly raised this issue. Unfortunately, while submissions closed on the 6th July they have not yet been posted on the website as was the published agreement relating to the call for submission.

However, as a citizen I do have a personal concern about the inappropriate application of EU Environmental Policy in Ireland, this can be seen by the considerable amount of time I have put into the attached and related documentaion. I am also keenly aware that the EU Commission sees the proper implementation of Environmental Legislation resting with three parties; Regulators, Industry and the Public / NGOs. Indeed not only was I there for the speech by the Head of the EU Delegation in Croatia stating this ( <http://en.ifenel.hr/> ) but I actually gave a lot of the relevant seminars to industry and NGOs / Public, as I have done in Macedonia and Romania in

the past.

I would be therefore interested to follow up with the three representatives of the EU Commission mentioned in the minutes with regard to the situation in Ireland and how it can be improved, which as an Irish citizen and technical specialist in this area I currently consider totally unacceptable.

Pat Swords BE CEng FIChemE CEnv MIEMA  
10 Hillcourt Rd  
Glenageary  
Co. Dublin

----- Forwarded message -----

From: **Pat Swords** <[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)>

Date: Mon, Jun 15, 2009 at 5:53 PM

Subject: Fwd: Submission: Meeting Ireland's Electricity Needs Post-2020

To: [privateoffice@taoiseach.gov.ie](mailto:privateoffice@taoiseach.gov.ie), eu-ie-info-request@ec.europa.eu, [info@corribgas.com](mailto:info@corribgas.com)

----- Forwarded message -----

From: **Pat Swords** <[pat.swords.chemeng@gmail.com](mailto:pat.swords.chemeng@gmail.com)>

Date: Mon, Jun 15, 2009 at 8:51 AM

Subject: Submission: Meeting Ireland's Electricity Needs Post-2020

To: [energysecurity@oir.ie](mailto:energysecurity@oir.ie)

Cc: [info@ibec.ie](mailto:info@ibec.ie)

Submission relating to 'Call for Submissions by Joint Committee on Climate Change and Energy Security':

[http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-Climate\\_Change/Submissions/document1.htm](http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-Climate_Change/Submissions/document1.htm)



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