

To: Jean-Francois Brakeland, DG Environment Unit 2A
From: Pat Swords, 10 Hillcourt Rd, Glenageary, Co. Dublin
Re: CHAP (2010)0645
Date: 8th May 2011

With regard to your letter of the 6th April, which I received on the 26th April, I would like to point out that in over the 20 month period since documentation was first submitted to the EU Commission in August 2009, I have informed yourselves of:

- Constant failures in Ireland with regard to Pillar I of the Aarhus Convention, in which not only was there a refusal to answer requests for information, but that there was a culture of dissemination of information that clearly was not transparent, coupled to constant failures to have information that was required for proper legal compliance of the relevant public authority. Indeed, this information generated by myself and others lead to twelve cases with the Commissioner for Environmental Information.
- With regard to Pillar II what can only be described as a complete debacle in relation to the Corrib development, which in no uncertain terms can be traced back to the situation that almost 26 years since the Environmental Impact Assessment Directive 85/337/EEC was introduced, it is still not transposed into Irish law. Furthermore with regard to Directive 2003/35/EC, which amended this Directive to meet the requirements of Article 6 and Article 9 of the Aarhus Convention, there has been no effort made to either transpose or comply with its requirements, particularly in relation to the Corrib development, where the decision of the competent authority based solely on consequence assessment, had no basis in either EU or National law.
- With regard to the development of policies, the conduct of public participation which can only be described as a farce. This was clearly document not only with regard to the absence of any Strategic Environmental Assessment for the renewable energy programme, but also with regard to the public participation for the Offshore Renewable Energy Development Plan, the Climate Change Response Bill and the Waste Policy.
- The implementation of a massive wind energy programme, which has never been through the most rudimentary of environmental assessments, with unknown economic costs and glaring technical limitations¹. Where clearly whatever tenuous connection with environmental benefit in relation to greenhouse gases would have been obtained at a fraction of the cost by other technical approaches. With regard to the legalities of this programme, despite no environmental assessment of this programme ever been completed at EU and National level, we have not only 1,680 MW of wind energy in operation, representing about a thousand turbines in our landscape and €3 billion in capital expenditure, but a further 1,000 MW in construction. The reason for the granting of the planning approvals for these numerous projects was the

¹ Even the Government's own economic advisory institute, the ESRI, in their April 2011 Review of Irish Energy Policy is calling for a significant reduction in the financial support for the renewable sector and that "Ireland should contribute to a review of EU Policy on renewables, as current European policy is likely to increase the cost of reducing emissions while providing limited security of supply advantages":
http://www.esri.ie/news_events/latest_press_releases/a_review_of_irish_energy_/index.xml

very policies, which had completely bypassed the principles of the Aarhus Convention.

Furthermore following a request for a meeting to discuss these issues, prepared by myself and others in late August 2010, I attended a meeting with your staff on the 3rd December, in which I briefed them of the situation.

At this point I would like to point out that the EU is a Party to the Aarhus Convention since February 2005. It therefore fully applies to the application of Community Law in Ireland. Therefore a breach by the Irish Administration of the relevant Directives implementing the Convention is a breach by the EU of the Convention. As a Party to the Convention, the EU has responsibilities in relation to ensuring, among others, that environmental information is transparent and there is a transparent and fair framework for public participation. With regard to Article 3 paragraph 1 of the Convention, the “Aarhus Convention – An Implementation Guide” is clear in that:

- “Paragraph 1 clearly states the connection between having a clear, transparent and consistent framework for implementing the Convention, and properly enforcing it. It implies that even the most highly developed legislative or regulatory framework will deteriorate if it is not constantly renewed through enforcement mechanisms”.

With regard to your stated wish to close the CHAP(2010)0645 complaint file as:

- “Based on a first review of the documents you have sent us and the discussions that took place during your meeting with DG ENV and ENER officials on 3 December 2010, we are not in a position to clearly establish any infringement of EU law”.

Then all I can comment is that if your Unit 2A is not responsible for enforcement and implementation measures related to the Aarhus Convention at the EU, then you should direct me to the Unit, which is, as I would appreciate knowing the procedures and standards to which it operates, so that I can effectively deal with the matter in the future.