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CHAP(2010)00645: Access to Information on the Environment (AIE) Request under S.I. NO. 133 of 2007 to DCENR

Pat Swords <pat.swords.chemeng@gmail.com>

Wed, Sep 8, 2010 at 9:54 PM

To: env-chap <ENV-CHAP@ec.europa.eu>

Cc: info@ocei.ie

To: CHAP(2010)00645

CC: Office of the Commissioner for Environmental Information

Date: 8/9/2010

Please note this Access to Information Request had originally been requested on the 6th June 2010. No effort was made to comply with the statutory period for reply and as such an appeal had been lodged with the Commissioner for Environmental Information.

It is clear given the response below, the decision of the Commissioner in the case of RTE (CEI/09/0015) and the decision of the Broadcasting Authority of Ireland recently submitted to this complaints file, that Irish public authorities in the sphere of broadcasting do not see that they have obligations with respect to the Aarhus Convention and implementing the dissemination requirements of Directive 2003/4/EC. As regards the constant dissemination of false information on the environment by the State Broadcasters, then no action is to be taken at a national level with regard to preventing this from occurring.

Regards

Pat Swords BE CEng FIChemE CEnv MIEMA

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

From: **Barry Fulham** <Barry.Fulham@dcenr.gov.ie>

Date: Tue, Sep 7, 2010 at 4:23 PM

Subject: RE: Access to Information on the Environment (AIE) Request under S.I. NO. 133 of 2007 to DCENR

To: pat.swords.chemeng@gmail.com

Cc: Eanna O'Conghaile <Eanna.O'Conghaile@dcenr.gov.ie>, Jenny O'Hora <Jenny.O'Hora@dcenr.gov.ie>

Mr. Swords,

I refer to your Access to Environmental Information request under S.I. No. 133 of 2007.

Please note that this Department does not have any relevant records in respect of your request as per Section 7 (5) of S.I. No. 33 of 2007.

I once again apologise for the delay in reverting to you on your request but as I outlined in previous correspondence, I was awaiting legal advice on some of the issues which you raised which I have recently received.

Please refer to my comments hereunder in respect of the queries you have raised :

- What advice and guidance has DCENR issued to the Broadcasting Agencies (RTE and TG4) and other Public Bodies relating to compliance with Directive 2003/4/EC, in particular Article 7 on dissemination of environmental information. (Note: Requirements of Article 7 (1) first paragraph).

DCENR has not issued compliance or guidance to broadcasting agencies under our aegis in relation to compliance with Article 7 of Directive 2003/4/EC.

The issue here is whether there is a legal obligation on the Department to ensure compliance by the 'broadcasting agencies' with Directive 2003/4/EC. Article 7.1 of the Directive states that "Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available".

Regulation 5 of the European Communities (Access to Information on the Environment) Regulations states that "[a] public authority shall (a) inform the public of their rights under these Regulations and the Directive and provide information and guidance on the exercise of those rights, and (b) make all reasonable efforts to maintain environmental information held by or for it in a form or manner that is readily reproducible and accessible by information technology or by other electronic means". Regulation 5 gives effect to the legal obligation placed on Ireland as a Member State of the European Union by Article 7 of the Directive. It is a matter for Ireland to decide what the 'necessary measures' are to ensure that public authorities organise their environmental information. Ireland has decided that the 'necessary measure' is to place a legal obligation on public authorities under regulation 5 to do things set out there which conform to the requirements of Article 7.

Ireland has not nor is required to place a legal obligation on Departments of State to advise or guide public authorities under their aegis on compliance with Article 7 of the Directive.

- What is the policy of DCENR relating to its obligations under the Aarhus Convention for dissemination of environmental information.
- It is very unclear from the references to the Broadcasting Acts and other publications on the website of DCENR how the requirements of the Aarhus convention on dissemination of environmental information are implemented through the published legislative acts, regulations and guidance. Can the specific sections be highlighted?

I am not aware of what is being referred to here. I would have assumed that the above referred to Regulations giving effect to the Directive in Irish law. The Aarhus Convention itself has no domestic legal effect.

- What measures are implemented by DCENR in situations when clearly false information on the environment is being disseminated by the Broadcasting Agencies?

This Department has no compliance role in respect of the 'broadcasting agencies' and the Access

to Information on the Environment Regulations.

Regards,

Barry Fulham,

Department of Communications, Energy & Natural Resources

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Tá eolas sa teachtaireacht leictreonach seo (agus b'fhéidir sa chomhaid ceangailte leis) a d'fhéadfadh bheith príobháideach nó faoi rún. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo. Más trí earráid a fuair tú an teachtaireacht leictreonach seo cuir, más é do thoil é, an té ar sheol an teachtaireacht ar an eolas láithreach.

Deimhnítear leis seo freisin nár aimsíodh víreas sa phost seo tar éis a scanadh.