

Initial Complaint to the Commission:

- I. Ireland has no intention of ratifying Aarhus Convention – currently happening
- II. Ireland was in breach of the AIE Directive – see CEI decision CEI/09/0016 majority of the information does not exist
- III. Ireland was in breach of the SEA Directive – see response to cc Q.4 below
- IV. Irish citizens are being denied access to justice – As Ireland has not ratified Aarhus and EU have not legislated in this area article 9 is not directly applicable to Ireland. Furthermore Mr. Swords appears to have dropped this complaint in his communication to the cc.
- V. Irish administration was infringing the Irish legislation on corruption – this complaint is not within the remit of the Convention/EU law and thus outside the jurisdiction of the cc.

Initial Complaint to the Committee:

Complaint primarily centred on Ireland's National Energy Action Plan (NREAP) and its focus on wind energy which was developed in response to EU's 20/20/20 Energy Strategy. He asserted that the huge capital and operating costs are massively disproportionate to its environmental benefits. He claimed the same GHG emissions reduction could be achieved for 1/30th of the cost utilising other renewable energy sources such as waste to energy plants (incineration) and biogas projects. And that in doing so there are "considerable breaches of the EU Environmental Acquis occurring in Ireland". He ultimately complained:

- That the programme wasn't subjected to an SEA under Directive 2001/42/EC & as such cost/benefit analysis or alternatives were not considered in breach of *article 5*.
- Nor were the public participation rights under *article 7 pillar 2* observed as a result and that despite this the Commission went ahead and funded the Renewable Energy Feed in Tariff I Programme (REFIT I).
- Additionally he stated that Ireland are failing to disseminate information/disseminating false information in breach of *article 5 pillar 1* and it took him a year to obtain the relevant information (or find out the authorities didn't possess it in breach of Directive 2003/4/EC which he states requires Irish authorities to "develop" information) – see CEI/09/0016).

Scope of the complaint being heard by the Compliance Committee:

- (a) Responsibility of EU to monitor implementation of EU law related to the Convention by Ireland with respect to Ireland's NREAP. Complaint concerned articles 3, 4 and/ 5, 6 and/ 7 of the Convention. Concerning:
 - Access to information on SEA – information is not in existence see CEI/09/0016
 - Collection & dissemination of Information – Information is readily available on national and European websites
 - Public Participation – see response below to Q.4
- (b) Responsibility of EU in respect of the approval of State Aid for REFIT I with respect to the NREAP. Complaints concerns articles 3 and 5.
 - Approval of state aid and financing may not have complied with Convention
 - Failure to disseminate information in respect of the REFIT I – readily available on EU website.

Compliance Committee Q.3 Did the Commission ascertain whether the EireGrid Interconnector (between Ireland & UK) decision-making process was in compliance:

- Project falls outside the EIA Directive/Convention article 6(1) – submarine cables aren't within either of their scope.
- Nor is it a plan/programme under the SEA Directive/Convention article 7.

Compliance Committee Q. 4 Has the EU ascertained whether the NREAP was developed in compliance with the Convention i.e. was an SEA conducted for Ireland's NREAP:

- **2003:** consultation document "Options for Future Renewable Energy Policy, Targets & Programmes" was aimed at stimulating debate in developing future renewable energy policy in Ireland and specific information on **alternatives** considered can be seen in parts of this document.
 - **2006:** *Energy Policy Green Paper, "Towards a Sustainable Energy Future for Ireland"* - 2 month consultation process signalled at the launch.
 - **2007:** The content of the consultation and submissions stages informed the Government's *Energy Policy White Paper, "Delivering a Sustainable Energy Future for Ireland a Framework for Energy Policy to 2020"*.
 - **2010:** The above informed the *NREAP* – consultation with key stakeholders (Appendix 6), followed by a general public consultation (Appendix 8).
 - **2010-Present:** Sustainable Energy Ireland is currently conducting an SEA to evaluate likely significant environmental effects of plans to develop draft *Offshore Renewable Energy Development Plan* (ORED^P) – under public consultation is currently under way and EirGrid is undertaking an SEA for the implementation of *Grid 25 strategy*.
 - **2011:** Tender put out for the Provision of a study on the Viability and Cost Benefit Analysis for Ireland exporting renewable electricity (RES-E) using the Co-operation Mechanisms in Directive 2009/28/EC.
- Note:** EIA which apply to the project level are undertaken by developers prior to the grant of planning permission.