

To spend billions of our money a 'positive' has to be proven

Wind and solar energy, when the weather is right, are effective for what is on the clothes line. This does not mean that Ryanair are going to buy gliders or sailing ships will deliver cargo into our ports. Yet we revel in the fact that billions are to be spent in ensuring that 37% of Ireland's electricity is to be wind powered. Many engineers 'spoil the party' by pointing out that this technology is completely obsolete, is ineffective and can only be supported by massively inappropriate subsidies. Others argue that it is 'free energy' and our future wealth.

Pat Swords is a Fellow of the Institution of Chemical Engineers and a Chartered Environmentalist. He has not only designed high technology industry throughout Ireland and Europe, but over a decade on EU technical assistance projects helped implement EU environmental legislation into the new Member States. Pat, a specialist in environmental protection, will only tolerate expenditure on that which is cost effective and appropriate; Green and grandiose is out.

Pat's point is clear, public opinion does not bestow Rights; only the law does. Pat and other similar professionals can demonstrate, that the approximately one thousand wind turbines installed to date in Ireland, have completely failed to deliver their claimed emissions and fuel savings. Furthermore, no additional savings will ensue; as we implement the Government and EU approved plan to increase the number of turbines to nearly four thousand, complete with a doubling of our high voltage grid by an extra 5,000 km.

However, to be clear Pat does not have to prove a 'negative'. To implement such a plan, the Administration has to prove to us a 'positive'. After all, even for a small project at home, one has to know how much does it cost and why are we doing it!

So Pat started looking for the information, which should have been there by law. He is nearly three years later still looking, but now with the assistance of the United Nations Aarhus Convention Compliance Committee, who are well advanced on a compliance investigation (*Communication ACCC/C/2010/54*) against the EU.

To explain, while Irish law defers to that of the EU, the EU has also ratified International Treaties and Agreements. One such is the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. This is important, it is your Human and Environmental Rights, in particular your procedural rights to participate in the decision making around you. If one wants to implement a significant industrial policy or project, the public has to be provided with information related to costs / benefits / impacts and allowed to properly participate in both the policy development and individual planning decisions.

Ireland won't ratify the Convention; its Administration does not believe in transparency or in providing its citizens with access to a legal system, which is fair, equitable, timely and not prohibitively expensive to contest acts and omissions of the authorities. So in Europe and Central Asia, we are essentially alone with Russia in this regard. However, the EU ratified the Convention in 2005, so it applies to Community legal order here in Ireland.

To clarify, with regard to public participation in decision-making, members of the public do not have a veto right, but the authorities must, to an objectively high standard, show that public comments have been seriously considered. Therefore they should be able to show why a particular comment was rejected on substantive

grounds. Indeed in appropriate circumstances a member of the public, whose comments were not duly taken into account, should be able to challenge the final decision in a judicial proceeding. Elsewhere in Europe this is routine with a cost amounting to less than €5,000.

The Irish Administration has already been in and out of the European Court of Justice for a refusal to comply with the EU Directives implementing the Convention. However, this is where things are getting interesting. The Treaty of Lisbon is clear, the Citizen has a Right to Good Administration and to have damages made good. Furthermore, the European Court of Justice has several decades of case law on citizen's rights to damages where EU law was not adhered to.

Eirgrid engineers pointed out in 2004, the inefficiencies on the grid which would occur if the current level of wind energy, about one thousand turbines, was installed. They concluded a 15% increase in generation costs was not justified given other alternatives. They were ignored, so household electricity rates have gone from 15 cent per unit in 2006 to the current 20.5 cent per unit, while natural gas, which fuels 60% of our electricity, is still for industry consumers in the 2006 price range. If one installs lots of wind turbines from Denmark, where household rates are a whopping 29.5 cent per unit, then all these billions will have to be paid for.

Pat's efforts in his private time are demonstrating that neither the Irish Administration nor the EU made the slightest effort to comply with the legally binding Convention. Not only has no verification been made of emission savings to date, but the costs and emission savings associated with the now legally binding 40% renewable energy target are completely unknown. Indeed, under the original 2001 EU Directive on renewable energy, the EU Commission was legally required by 2005, to assess the environmental degradation cost associated with the greenhouse gas emissions from conventional power stations and the price distortion effects associated with public support for renewable energy. They simply decided not to complete the report and instead came up with an even bigger programme for renewable energy. This is a plan based completely on political ideology, which has by-passed the legally binding procedures in relation to assessment and democratic accountability.

As Ireland won't ratify the Convention, the Compliance Committee cannot accept a Communication in relation to alleged non-compliances by Ireland. So Pat had to document a case against the EU. As the Compliance Committee pointed out after their September meeting after hearing evidence from both parties; on approval of the Convention, the EU declared that it would be responsible "for the performance of those obligations resulting from the Convention which are covered by Community law in force". They therefore concluded in their follow up letter to the EU Commission with:

- "Could you please explain why the Commission says that it is not responsible for the actions of the Member State in this case?"

The Compliance Committee meet four times a year. They propose to issue their draft findings and recommendations after their March meeting. As Pat states; "the evidence of non-compliance is overwhelming, while one will have to wait for the ruling; non-compliance with the Convention is a breach of EU law. The Compliance Committee has already ruled that the EU has to provide better access to the European Courts for citizens to challenge acts and omissions of EU institutions. There is no reason why Irish citizens should be paying for renewable energy contracts, which were awarded without 'proper authority' or planning permissions, which were granted in a manner which was not legally compliant".