

EPAW's complaint to the European Ombudsman

Subject: maladministration

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The **European Platform Against Windfarms (EPAW)**, whose details have been noted in the EU Commission's Transparency Register, represents 550 federations and associations from 24 European countries. All of them are opposed to the EU's policies on wind energy, which are providing a huge financial incentive to the construction of thousands of wind farms throughout the EU-27, a programme which has no scientific, technical, economic, environmental or legal justification. EPAW has campaigned extensively on this matter since October 2008. EPAW contacted the EU Commission on the 22nd March 2012 in order to notify them that this complaint was forthcoming, see Attachment 1. The EU Commission replied on the 25th April that they would be replying as quickly as possible. No reply was obtained. On the 22nd August 2012, Hans Van Steen of the EU Commission was again contacted on this issue. Finally on the 31st August 2012, an unsatisfactory reply was received, which is included as Attachment 2.

Answering to the question: What do you consider that the EU institution or body has done wrong? (in this case, the European Commission)

The EU Commission has conceived and promoted a renewable energy policy, which does not comply with:

- EU Treaties, in particular Article 191 of the Lisbon Treaty in relation to the development of environmental policy and Article 11, which requires that the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
- The United Nations Economic Commission for Europe's (UNECE) Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which the EU ratified in February 2005.

Note: The UNECE Aarhus Convention Compliance Committee has ruled in August 2012 that the implementation of the EU's renewable energy programme (Directive 2009/28/EC) is non-compliant with the Convention having failed to comply with the necessary provisions related to environmental assessment and democratic accountability.

- The Directive on Strategic Environmental Assessment (2001/42/EC). The EU Commission has been complicit in ensuring that the Member States have by-passed this extremely important environmental assessment and public participation step in the implementation of this renewable energy programme.
- The State Aid funding mechanisms for environmental protection. There is therefore a failure with regard to the citizen's right under Article 3 of the Lisbon Treaty to access the benefits of a highly competitive social market economy.

For further details on the above legal non-compliances, please see Attachments 3 and 4.

It is also necessary to point out that if the renewable programme had been subject to proper independent analysis, the issues above would most likely not have arisen. In this regard, it is disturbing to note in EU documentation and funding arrangements, the close relationship between the EU Commission and the European Wind Energy Association (EWEA) and its affiliated members, when in fact, to repeat, clear and independent analysis of the effectiveness of this programme should be available.

- http://ec.europa.eu/energy/renewables/studies/wind_energy_en.htm

Simply put, despite the fact that some 100,000 MW of wind energy is now installed in the EU-27, representing a capital investment of over €170 billion, which has to be recovered in increased electricity charges, there is simply nothing which is available in the EU Commission's documentation, which would bear scrutiny as a proper engineering report on what has been achieved to date with this programme and what will be achieved going forward.

Answering to the question: What, in your view, should the institution or body do to put things right?

Article 2 of the Lisbon Treaty is clear in that it states that the Union is founded on the values of respect for the rule of law. The above clearly demonstrates that this is not the case. The renewable energy programme should therefore be halted and the four points highlighted above complied with. It is also necessary to point out that damages have occurred. These have not only been financial in relation to the unnecessary costs, which now have been incurred in relation to the implementation of policies, which did not comply with the rule of law, but also in relation to adverse human and environmental impacts. In particular, the large number of people who are suffering health degradation, in some cases hospitalization, and other effects related to low frequency noise and infrasound due to the proximity of wind turbines. Add to this the millions of birds and bats, many from protected and/or endangered species, being killed yearly by the wind turbines in the EU - see the SEO/Birdlife estimate:

<http://savetheeaglesinternational.org/releases/spanish-wind-farms-kill-6-to-18-million-birds-bats-a-year.html>

If the legally binding Strategic Environmental Assessments had been complied with, these impacts would have been identified, mitigated against and monitored for.

As such under the Charter of Fundamental Rights of the Lisbon Treaty there has been a failure in relation to the Right to good administration and citizens have the right to have damages made good.

Answering to the question: - Have you already contacted the EU institution or body concerned in order to obtain redress?

Yes (please specify)

The EU Commission has already been informed of these matters, see Attachments 1 and 2.