From: Pat Swords <email address redacted>
To: Fiona Marshall, Aarhus Compliance ,
Cc: David Malone, Neil van Dokkum <email addressed redacted>
Date: 06/03/2016 19:39
Subject: Failure to again deliver judgement on Swords v Minister for Communications Energy and Natural Resources

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Dear Fiona

As I had previously informed yourselves in the Secretariat and the Compliance Committee in relation to ACCC/C/2014/112 and Decision V/9g, there has been a repeated failure to deliver a written judgement on the above case related to the compliance of the Irish NREAP with Article 7 of the Convention. Today was no different, despite it being essentially a year since High Court proceedings concluded on the 12th March 2015, there was a failure to deliver written judgement on the due date and a further adjournment was made until the 20th May. Note, as previously highlighted, this case was originally commenced with leave for a Judicial Review in November 2012. At the subsequent High Court hearing in April 2013, the presiding Judge Justice Kearns, who was the then President of the High Court, saw that he could, without having to deliver any written judgement, just substitute Judicial Review proceedings for a Plenary Summons and therefore leave the matter to be recommenced with a different judge to himself. Neither did he see fit to resolve the issue of costs.

In short the Irish Court services have been nothing short of a disgrace. After nearly three and a half years not a scrap of paper has been produced with regard to resolving this issue, while all the time they have facilitate the Irish State in continuing to roll out a huge renewable energy programme, for which there has already been a decision of non-compliance with international law. Furthermore, they have fully demonstrated that not only are the provisions of the Convention completely unenforceable, but there is zero adherence to the requirements of 'fair, equitable, timely and not prohibitively expensive'.

As regards your recently published report of the 51st meeting of the Compliance Committee, Point 39 highlights that:

- *With respect to communication ACCC/C/2014/112 (Ireland), the Party concerned had provided its response to the communication on time on 30 November 2015. The Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-third meeting.*

As communicants of ACCC/C/2014/112 we would see it as very important to hold this hearing as soon as possible. There is nothing further to be gained by awaiting the outcome of a High Court hearing in Ireland, not least as there is no longer any validity to what could be delivered in such a written judgement. After all, in a legal tradition, which is not just adversarial, but heavily based on opposing oral presentations, how can one write a valid analysis of the issues raised some fourteen months later.

Relevant Court Lists

SWORDS -V- MINISTER FOR COMMUNICATIONS ENERGY AND NATURAL & ORS 2013/4122 P

Date	List	Position	Result	Note
04/06/2013	NON JURY / FOR MENTION	0012	Adjourned - no details available	
18/06/2013	NON JURY / FOR MENTION	0002	Adjourned - no details available	
16/07/2013	NON JURY / FOR MENTION	0004	Adjourned	
08/10/2013	NON JURY / FOR MENTION	0009	Adjourned - no details available	
31/10/2013	NON JURY / FOR MENTION	0000	Adjourned	
19/11/2013	NON JURY / FOR MENTION	0004	NOD	
07/04/2014	Chancery Court 5 / Motions	0058	TRA	
06/05/2014	Chancery Court 5 / Motions	0091	Adjourned - no details available	12/5
06/05/2014	Chancery Court 5 / For mention	0008	Adjourned - no details available	
	Chancery 5 Uncertified	0617	XX	
04/06/2014	Chancery Court 5 / For mention	0005	TRA	
04/06/2014	Chancery Court 5 / Motions	0009	TRA	
15/07/2014	Chancery Court 5 / For mention	0000	Adjourned - no details available	
06/11/2014	Chancery Court 5 / FOR HEARING	0020	Adjourned - no details available	11/11
03/03/2015	Chancery Court 5 / FOR HEARING	0015	TRA	
03/03/2015	ADV MR JUSTICE KEANE	0028	Adjourned - no details available	day 1
04/03/2015	ADV MR JUSTICE KEANE	0037	Adjourned - no details available	
03/03/2015	Chancery Court 5 / Motions	0000	TRA	
03/03/2015	ADV MR JUSTICE KEANE	0029	Adjourned - no details available	
04/03/2015	ADV MR JUSTICE KEANE	0038	Adjourned - no details available	
05/03/2015	ADV MR JUSTICE KEANE	0036	Adjourned - no details available	nb
05/03/2015	ADV MR JUSTICE KEANE	0037	Adjourned - no details available	
06/03/2015	ADV MR JUSTICE KEANE	0070	Adjourned - no details available	
06/03/2015	ADV MR JUSTICE KEANE	0071	Adjourned - no details available	
12/03/2015	ADV MR JUSTICE KEANE	0031	XX	
12/03/2015	ADV MR JUSTICE KEANE	0032	RES	
	RESERVED JUDGMENT / MR JUSTICE KEANE	0115	XX	
13/05/2015	ADV MR JUSTICE KEANE	0034	Adjourned - no details available	S.46.3
29/07/2015	ADV MR JUSTICE KEANE	0037	Adjourned - no details available	S46.4
13/10/2015	ADV MR JUSTICE KEANE	0028	Adjourned - no details available	JT
16/12/2015	ADV MR JUSTICE KEANE	0032	Adjourned - no details available	JT
20/05/2016	ADV MR JUSTICE KEANE	0009	XX	JMT

SWORDS -V- DEPARTMENT OF COMMUNICATIONS ENERGY AND NATURAL 2012/920 JR

Date	List	Position	Result	Note
12/11/2012	JUDICIAL REVIEW / EX PARTE	0007	Order	
15/01/2013	JUDICIAL REVIEW / FOR MENTION	0011	TRA	
12/03/2013	JUDICIAL REVIEW / FOR MENTION	0003	Transferred	13/3
12/03/2013	JUDICIAL REVIEW / FOR MENTION	0001	TRA	FH13/3
11/04/2013	JUDICIAL REVIEW / FOR HEARING	0003	Transferred	
11/04/2013	JUDICIAL REVIEW / FOR HEARING	0004	TRA	
12/04/2013	ADV MR JUSTICE KEARNS	0009	Adjourned - no details available	
12/04/2013	ADV MR JUSTICE KEARNS	0010	Adjourned - no details available	
15/04/2013	ADV MR JUSTICE KEARNS	0009	Adjourned - no details available	FM
15/04/2013	ADV MR JUSTICE KEARNS	0010	Adjourned - no details available	FM
16/04/2013	ADV MR JUSTICE KEARNS	0006	Order	FH1D
16/04/2013	ADV MR JUSTICE KEARNS	0007	Strike Out	

Regards

Pat