



To: DG Energy

Re: EU Commission: Communication on renewable energy policy, outlining options for the period beyond 2020 – Request for Internal Review under Regulation 1367/2006

8<sup>th</sup> July 2012

With regard to the EU Commission's announcement of a Communication (2012) 271 on renewable energy policy of the 6<sup>th</sup> June 2012<sup>1</sup>, the European Platform Against Windfarms (EPAW) hereby requests an Internal Review. In addition, the request for this Internal Review on grounds noted below is supported by Communities Against Turbines Scotland (CATs), World Council for Nature (WCFN) and Save the Eagles International (STEI) and by Mrs. V.C.K. Metcalfe on behalf of Avich and Kilchrenan Community Council (AKCC). AKCC has had a communication to UNECE's Aarhus Compliance Committee featuring these issues, accepted as valid for consideration.

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<sup>1</sup> [http://ec.europa.eu/energy/renewables/communication\\_2012\\_en.htm](http://ec.europa.eu/energy/renewables/communication_2012_en.htm)

EPAW's<sup>2</sup> details have been noted in your Transparency Register. It represents 535 federations and associations from 23 European countries, i.e. members of the public in the EU-27, who have been affected or likely to be affected by the EU's renewable energy programme and who therefore have a right to participate in the decision-making. See Attachment 1 for further details.

CATS<sup>3</sup> is an umbrella group, supported by experts, representing all individuals and groups contesting by legal and public means the negative impacts of wind turbine development in Scotland. CATS coordinates the activities of a number of groups and individuals and works to educate the public, lobby governments and public bodies to change Scotland's whole energy policy and gain a foothold by arguing for a legal moratorium on any future developments of wind turbines, county by county.  
See Attachment 2 for further details.

WCFN<sup>4</sup> details have been entered in your Transparency Register. Internationally it represents NGOs working, in whole or in part or contributing to the conservation of Nature, defined as animal species and their habitats but also landscape quality, as one implies the other. See Attachment 3 for further details.

STEI<sup>5</sup> details have been entered in your Transparency Register. STEI is an international organisation comprising bird lovers, ornithologists, and associations from 13 different countries, who believe and submit that EU27 cannot count on mainstream ornithologists and bird societies to save bird life from the threats to their existence posed by large scale development of windfarms.  
See Attachment 4 for further details.

AKCC is a Community Council in rural Western Scotland, which has opposed the development of the Carraig Gheal Wind Farm in their area and the associated access route to serve the wind farm. This has resulted in the disturbance to the nesting Golden Eagles (*aquila chrysaetos*) in the area, an Annex 1- protected species, which are under threat in Scotland.

Mrs. V.C.K. Metcalfe of AKCC is empowered to represent the parties above for the purpose of making the request. Her contact details are below:

email [luanam@btinternet.com](mailto:luanam@btinternet.com)

Address:- Taigh a Luana, Loch Avich, Taynuilt, Argyll. PA35 1HJ

The grounds for the request relate to the failure of the Communication and associated consultation process to comply with the obligations under the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental matters. Since the EU has ratified the Aarhus Convention in February 2005, Article 9 of the Convention in relation to Access to Justice applies.

The grounds for requesting the internal review are many and include:

1. The consultation was not conducted in a fair and transparent manner in conjunction with the requirements of the Aarhus Convention, such as:

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<sup>2</sup> <http://www.epaw.org/index.php?lang=en>

<sup>3</sup> <http://www.communitiesagainststurbusinesscotland.com/about-us/>

<sup>4</sup> <http://wcfn.org/about/>

<sup>5</sup> <http://savetheeaglesinternational.org/>

- The public concerned were not adequately informed in an adequate, timely and effective manner, for instance the documentation was only in English, which is the first language of less than 20% of the EU-27;
- Insufficient information was provided to the public in the consultation, such as on the environmental and financial impacts of the renewable energy programme.
- As Hans Van Steen of the EU Commission stated in his reply of 20<sup>th</sup> March to EPAW's request for information of 22<sup>nd</sup> January 2012 under Regulation 1367/2006 in relation to the conduct of the consultation, the procedure used for conducting the consultation was COM (2002) 704. This pre-dated the ratification of the Aarhus Convention and did not comply with it, in particular with regard to the Convention's requirement in relation to taking due account of the public participation in the final decision.
- As a result the EU Commission failed to take due account of the public participation<sup>6</sup> in the final Communication published, as those submissions of EPAW and others, which were critical of the EU renewable energy programme, its impacts and lack of legal compliance, were simply ignored.

2. The Communication (2012) 271 and its associated documentation once again simply ignored the obligations of the Aarhus Convention, which are not mentioned once. In this regard the Commission is already aware that in Communication ACCC/C/2010/54 the UNECE Compliance Committee has already found the implementation of Directive 2009/28/EC through the National Renewable Energy Action Plans to be non-compliant with the Convention and has clearly recommended that the EU adopt the necessary legislative changes to ensure compliance with its obligations under the Convention.

3. The claims in the Communication and associated documentation in relation to emission savings are not substantiated by any verified data and are such a statement of opinion. In particular the progress reports of the National Renewable Energy Action Plans are inaccurate and have not been verified by the EU Commission<sup>7</sup>. The programme requires a full independent audit and production of verified emissions savings, in particular in relation to highly intermittent renewable sources, such as wind.

4. The claims in the impact assessment, in particular the environmental impacts, completely understate the considerable impacts, which are occurring on human health, biodiversity, landscape, etc. Neither is it acceptable to make claims in relation to "*well established environmental rules (including strategic environmental assessments and environmental impact assessments), plus the engagement of local communities as stakeholders*", when clearly in the implementation of the renewable energy programme to date these have not been complied with. In particular, not only were the Strategic Environmental Assessments in relation to the National Renewable Energy Action Plans by-passed, but the EU Commission was directly complicit in this regard<sup>8</sup>. Not only does the programme require compliance with Article 7 of the Aarhus Convention, as per the ruling of the UNECE Compliance Committee, but full and legally compliant Strategic Environmental Assessments should be completed before any further investment is supported.

5. As the Commission admits in its own documentation, the Communication is a 'Major Policy Initiative', in which the proposed measures are clearly designed to protect the business interests of those operating in a highly subsidised market, which has been created by the policies of the EU Commission. Clearly there is direct effect in the Communication in supporting the financial model of the investors and accelerating the pace of renewable

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<sup>6</sup> Page 109 of: <http://www.unece.org/fileadmin/DAM/env/pp/acig.pdf>

development in Europe, while the principles of environmental protection and the rights of the citizens with regard to public participation have been by-passed.

7 See document of 13.03.2012

<http://www.unece.org/env/pp/compliance/Compliancecommittee/54TableEU.html>

<sup>8</sup> See documentation of 10.012012:

<http://www.unece.org/env/pp/compliance/Compliancecommittee/54TableEU.html>

Susan Crosthwaite (Chair on behalf of CATS)

*Susan Crosthwaite*

**Signature:** *Mrs. V.C.K. Metcalfe*  
Mrs. V.C.K. Metcalfe (Jul 10, 2012)

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