

MISSION REPORT

Names: [REDACTED]	Unit: ENV A2
Place: Dublin and Cork, Ireland	Date: 20-23 November 2011
Subject: Package meeting with Irish authorities; meeting with NGOs; site visit to toxic dump at Haulbowline, Co. Cork	

1. Overview of the main items of the mission

The main purpose of the mission was to meet the Irish authorities to discuss infringements in the environmental area, with a particular focus on governance and enforcement at local level. In addition, before meeting the authorities, we met with key Irish environmental NGOs to discuss their main strategic concerns. After meeting the authorities we travelled to Cork to visit the toxic dump in Haulbowline Island (subject of a 260 procedure after 10 years of inaction by previous governments).

The Commission team consisted of: [REDACTED] (Unit A2); [REDACTED] (A2), [REDACTED] (A3), [REDACTED] (B3), [REDACTED] (D2) and [REDACTED] (LS).

1.1. Meeting with NGOs

On the morning of 21 November, we met with representatives of the main environmental NGOs (An Taisce; Friends of the Irish Environment; Birdwatch and Coastwatch) at the Representation Office. [REDACTED] from the Environmental Pillar of the Social Partnership chaired the meeting. The 3-hour discussions were lively and intense and, overall, the NGOs appeared happy with the Commission's approach. The key concerns expressed by the NGOs were as follows:

- Need to change environmental decision-making and implementation; problems of governance.
- Good processes are sometimes set up, but there is an absence of clear deliverables on the ground.
- Need to ensure that the recently announced "Environmental Law Implementation Group" (made up of government and NGO representatives) to have clear terms of reference and objectives if it is to make a difference.
- Complexity of legislation is a barrier to effective implementation and makes informal guidance documents essential for compliance by citizens
- There are many problems in relation to access to information – the most common ones being delays in reply seriously undermining utility of information (NGOs to follow up with practical examples in writing) and denial on unfounded reasons.
- Satellite imagery should be used more in enforcement.
- Specific request that Government be asked to engage with the media more on the bogs issue as the resources of NGOs are limited.

1.2. Meeting with authorities

1.2.1. Plenary session

We met with the authorities on the afternoon of 21 November and the morning of 22 November. These meetings were hosted by the Department of the Environment.

The package meeting kicked off with a "plenary session" on implementation and enforcement which involved more than 60 participants from many different Government departments and agencies, including the Taoiseach and the Attorney General's office and local authorities. The session, chaired by [REDACTED], started with a presentation of the Commission's strategy in this area, including the priorities set in the 2008 Communication and the Commissioner's "strictly helpful, helpfully strict" approach, and the feedback from our meeting with the NGOs (see concerns listed above). This was followed by a series of presentations on decentralised enforcement, with two particularly informative ones from the manager of Fingal County Council (available upon request) and from a representative of the Ombudsman's office. A useful and varied discussion followed the presentations. It was important for other Departments to hear from the Commission directly as to what is expected to resolve infringements but also to prevent them. Especially welcome was the participation of the AG representatives in all the bilaterals.

It is abundantly clear that there are governance problems in Ireland and that access to justice and enforcement need to be improved. We discussed a newly established complaints system in the environmental area and how this could be improved. The authorities pointed to the oversight role that the Office of Environmental Enforcement has in relation to environmental complaints / local authorities. There have clearly been some efforts to improve access to justice through recent legislative changes, but it will be important to follow up with more in-depth discussions on this in order to see practical results.

1.2.2. Access to justice bilateral

In the bilateral meeting on access to justice the Irish authorities answered a series of questions which were outstanding in [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.2.3. Planning bilateral

Following a presentation of important new legislation in this highly complex area, there was a discussion on several infringement files.

[REDACTED]

[REDACTED]

1.2.4. Water bilateral

[REDACTED]

[REDACTED]

1.2.5. Nature bilateral

We discussed a number of key files with officials from the Department of Arts Heritage and the Gaeltacht (now responsible for nature), and other departments (around 30 officials participated).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.2.6. Waste bilateral

On the bus to Cork on the afternoon of the 22nd, we reviewed the status of Ireland's comprehensive plan to comply with the judgment in case C-494/01 (case 1999/5112). Considerable progress has been made in the past several years. In the last year, important steps have been taken towards achieving remediation of sites covered by the Court's ruling. One of these sites is Haulbowline (see below). We also discussed a series of complaints recently received, in particular on ELVs, as well as the enforcement practice in this sector, and the role of the OEE.

[REDACTED]

1.3. Visit to Haulbowline

On the morning of 23 November we visited the toxic landfill on Haulbowline Island, Co. Cork (this was reported in the Irish Examiner).

Back in April 2011, at the Petitions Committee, the Commission threatened to go back to Court with fines if something was not done to move forward the clean up of this site. This threat proved effective after 10 years of inaction by the local authorities. The Government took a decision in May 2011 to unblock a longstanding dispute over ownership and responsibility and allocated 40 million Euros to the clean up. Minister Coveney is now personally in charge of the "cleaning task force".

An important first step was to repair a breach on the sea wall, which had been causing flooding and dispersion of toxic waste into the bay water. This work was completed just two days before our visit. The inspection of the site was very informative. We were accompanied by the heads of the two complaining NGOs, who confirmed the new proactive engagement approach of the local authorities (and that nothing would have happened without Commission threats). Citizens are now able to follow developments closely through a website set up by Cork County Council at our request (e.g. the presentation that the Cork county officials made to the undersigned on the state of play is now available on the website).

2. To what extent were the objectives of the mission achieved

3. Follow up required and objectives of any further action

Cc: [REDACTED] (DG ENV);
[REDACTED] (LS); [REDACTED] (Dublin office):
[REDACTED] (SPP)