



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT
Directorate E - Implementation & Support to Member States
ENV.E.3 - Environmental Enforcement
Head of Unit

Brussels, 26 July 2019
ENV.E.3/SG /ad /

Ms Christine GIBSON

Email:

ask+request-7117-e067ba2e@asktheeu.org

Dear Ms Gibson,

The 'Environment 'Directorate-general' (DG ENV) received your e-mail of 10 July 2019, having as a subject 'Who is responsible for protecting Northern Ireland's Environment now and in the future?'

As mentioned in Mr Konrad's e-mail of 16 July 2019, the conclusion was reached that your email is a request for information under the Code of Good Administrative Behaviour. Indeed, despite your mentioning that 'Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information: ...', your application does in fact request a specific documents or environmental information. Accordingly, your e-mail has been forwarded to my unit for reply.

As far as we are aware environmental inspection and enforcement responsibilities fall mainly within the remit of the Department of Agriculture, Environment and Rural Affairs. The Northern Ireland Environment Agency is an executive agency of this Department. Enforcement functions for environmental legislation are also carried by local authorities. Whilst the Commission understands that the Agency in Northern Ireland does not have the same status as the equivalent agencies in the rest of the United Kingdom, it cannot be said that this situation leaves Northern Ireland without an environmental regulator.

This matter was before the Court of Justice in case C-474/10 (Seaport judgment) in 2011 where the Court found that there was no obligation on Member States to set up or create a new agency for the purposes of providing an independent consultee in the context of Article 6(3) of Directive 2001/42/EC the Strategic Assessment Directive, but that Member States did need to ensure that if only one body held environment responsibilities in this context that they must ensure sufficient functional separate of the powers exercised (See paragraphs 41 to 43 of this judgment). The Commission understands that amendments were made within Northern Ireland to the way in which such consultations were carried out after this judgment was rendered.

With regard to the situation in the future, I am aware that there is some debate to create either a stand-alone or a joint environmental watchdog, which would possibly also cover Northern Ireland. We have the debate, which proposed the setting up the Office for Environmental Protection in England and more recently the proposals by the UK's Secretary of State for the Environment that this should possibly also encompass other UK jurisdictions. We understand that the aim would be that this body (or these bodies if set up per jurisdiction) would replace the enforcement oversight functions of the European Commission after BREXIT. However, given that the European Commission is not involved in this national debate, I would suggest that this is a matter best pursued with the UK authorities directly.

Yours sincerely,

(E-signed)

Paul SPEIGHT