



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary- General

Brussels,
SG.B.5/JMLC/mbp - sg.dsg1.b.5(2013)276468

Mr Joseph Caulfield

by email only to [REDACTED]@eircom.net

**Subject: Confirmatory application for access to a Commission document
reference GestDem 2012/4179**

Dear Sir,

I refer to your e-mail of 24 October 2012, in which you require, pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, a review of the position taken by the Director-General for Energy (DG ENER) of the European Commission on 19 October 2012 in reply to your initial application of 20 August 2012. In your initial application, registered under the above case number, you requested access to *all "environmental information" held by Commission for electricity projects E149, E150, E151, E152, E153, E154, E156 and E291 contained in the list of 27th of July 2012...referring to Regulation 1367/2006 for the definition of "environmental information."*

In its reply to your initial application, DG ENER pointed out that, at this stage, environmental information on these projects is really scarce in the Commission.

When examining your confirmatory application was checked what kind of information is currently available with regard to these projects. It appears that, at this stage, the Commission does not hold environmental information on the above mentioned projects, but has only received responses to a questionnaire with very limited information regarding expectations on sustainability.

Please find attached a blank project questionnaire (electricity) for your information.

You will see from the questionnaire that the question coming closest to the definition of "environmental information" is on sustainability and has been included under point "f". For your information, this question is covered by a few general sentences for every project.

The reason why no environmental information is available at this stage is that these projects are for the moment only indicative ideas. When, in future, any of these projects is finally decided for implementation, following the specific dedicated procedures, consultations will be carried out by the project promoters at project level according to EU and national legislation, such as the Strategic Environmental Assessment Directive

(2001/42/EC), the Environmental Impact Assessment Directive (2011/92/EU) or the Aarhus Convention.

The list you submit to us is part of the amended list of potential projects of common interest (as published on 27 July 2012) that includes ten years network development plans (TYNDP) and non-TYNDP projects. In your case, project E 152, E 153, E 154 and E 155 are TYNDP whereas the others are non-TYNDP projects.

For projects promoted by an established transmission system operator (TSO) and included in the latest TYNDP prepared by the European network of transmission system operators (ENTSO) for electricity (2012) or for gas (2011), the TSOs have submitted project information directly to the relevant ad hoc working groups. For projects not included in the latest TYNDPs for electricity and gas, the Commission coordinated a request for this same information on behalf of the working groups. This online request for information closed on 7 June 2012.

I can confirm that all these projects, including the ones you refer to in your application, have been subject to a public consultation last summer through the list to which you refer. However, no pre-selection has been made prior to the publication of these projects. The purpose of this consultation was to allow stakeholders' views to be heard at an early stage and before the project takes shape. Presently the Commission is assessing these projects in order to draw up the list of "project of common interest", but this process is still on-going.

For your information, it is only at a later stage, when some of these projects are put on the list of projects of common interest and once some of these projects have been formally proposed and approved by the Commission, that an environmental assessment will be conducted according to the relevant legislation. At that time, substantial and real environmental information and reports will be available and access to it may then be requested in accordance with Regulation 1049/2001.

Should you be interested in obtaining the questionnaires referred to above, please address your request to DG ENER (ENER-ACCES-DOCUMENTS@ec.europa.eu). This would be handled as a fresh application for access, for which a consultation of the third parties concerned will be required.

Since there is no other environmental information in the possession of the Commission as regards these projects, I consider that your confirmatory application is devoid of purpose. Indeed, a confirmatory application is a request to review a position by which access to one or more documents has been fully or partially denied. This is obviously not the case with regard to your request.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Catherine Day', with a stylized flourish at the end.

Catherine Day

Enclosure: (1)

Title of the project (electricity)

*** Please send to ENER-BI-PROJECTS@ec.europa.eu and specify the priority corridor in the subject line ***

Introductory information

Contact details of the project promoter(s) (if several, please fill in for each project promoter)

Company:.....

☐ TSO ☐ DSO ☐ Other project promoter¹

Contact person:

E-mail address:

Telephone number:

Type of project

☐ Transmission project included in TYNDP 2012 – please refer to Questionnaire I

☐ Transmission project not included in TYNDP 2012 – please refer to Questionnaire II

☐ Storage project – please refer to Questionnaire III

Priority corridor

For the implementation of which energy infrastructure priority corridor is the project necessary?

[NB: A separate questionnaire has been prepared for smart grid projects as well and has been discussed in the relevant ad hoc working group under the Smart Grid Task Force.]

¹ Project promoter is defined in Article 2.5 of the draft Regulation COM(2011) 658 of 19.10.2011. 'projectpromoter' means:

a) transmission system operator or distribution system operator or other operator or investor developing a project of common interest; or

b) if there are several transmission system operators, distribution system operators, other operators, investors, or any group thereof, the entity with legal personality under the applicable national law, which has been designated by contractual arrangement between them and which has the capacity to undertake legal obligations and assume financial liability on behalf of the parties to the contractual arrangement.

I. Questionnaire for transmission projects included in Ten-Year Network Development Plan (TYNDP)

1. Information concerning relevant Project of Pan-European relevance (PPER) as identified in TYNDP (i.e. cluster level)
--

- a) Name and number of PPER or PPERs to which the investment item belongs:

.....

- b) How is the PPER necessary for the implementation of the priority corridor?

.....

- c) Which EU Member States are involved in the PPER, at which borders?²

.....

- d) Does the PPER cross borders directly or does it have a cross-border impact?

☐ Yes or ☐ No

Please specify, including with regard to impact on grid transfer capability in MW/MVA.

.....

.....

- e) Are there any interdependencies and/or complementarities with other PPER of the TYNDP? If yes, which?

.....

² Definition in Article 4(1) c of the draft Regulation COM(2011) 658 of 19.10.2011: the project involves at least two Member States, either by directly crossing the border of one or more Member States or by being located on the territory of one Member State and having a significant cross-border impact as set out in point 1 of Annex IV.

2. General information concerning main investment item(s) within TYNDP PPER (i.e. project level)

Please identify, within a given PPER, the investment items contributing significantly to the benefits provided by the PPER. Provide the requested information below for each investment item selected within the PPER proposed as PCI.

- a) Name and number of investment item (as in TYNDP):
.....
- b) Brief description (as in TYNDP)
.....
- c) Are any other project promoters involved in the investment item? (list each)
- Countries: ☐ EU ☐ Non-EU, please specify:
 - Name of undertaking:
 - Contact details:
- d) Type of the investment item
- ☐ New
 - ☐ Upgrade
 - ☐ Extension
 - ☐ Replacement
- e) Key physical characteristics *[please submit map indicating existing and new lines]*
- Start point (area).....
 - End point (area).....
 - Length (km)
 - Route type: ☐ Onshore ☐ Offshore
- f) Key technical characteristics
- Transmission capacity (MW for DC/ MVA for AC):
 - Voltage (kV):
 - Current: ☐ DC ☐ AC
 - Line type: ☐ OHL ☐ Underground cable
- g) Estimated cost of the investment item(capital expenditure in million euros)
- h) Planned date of commissioning (year)
- i) Implementation status
- ☐ Pre-feasibility
 - ☐ Feasibility/FEED
 - ☐ Final Investment Decision (FID)
 - ☐ Permitting

☐ Construction

j) Obstacles for the implementation of the investment item

☐ Permit granting (please explain):.....

☐ Regulatory treatment (please explain):

☐ Financing (please explain):.....

☐ Other (please explain):.....

☐ None

3. Specific information concerning main investment item(s) within TYNDP PPER (i.e. project level)

Please provide the information requested below for each investment item selected within the PPER proposed as PCI.

- a) What are the main reasons for you to propose this investment item for consideration as a PCI?
.....
- b) Which EU Member States are involved or affected by the investment item with respect to grid transfer capability, at which borders?
.....
- c) Which non-EU Member States are involved or affected by the investment item with respect to grid transfer capability, at which borders?
.....
- d) Does the investment item cross borders directly or does it have a cross-border impact? Please specify, in particular with regard to impact on grid transfer capability of this investment item (in MW) compared to the impact of the whole PPER.
.....
- e) How will this investment item facilitate market integration, elimination of isolated markets, competition and system flexibility? Please specify in particular the impact on energy system-wide generation and transmission costs.
.....
- f) How will the investment item facilitate sustainability, inter alia through the transmission of renewable generation to major consumption centres and storage sites? Please specify in particular, which capacity of renewable generation will be connected directly or indirectly (in GW/1000 km²). Please specify also the type of renewable generation capacity concerned.
.....
- g) How will this investment item contribute to security of supply and secure and reliable system operation? Please specify the impact of the project on the loss of load expectation for the area of analysis as defined in point 10 of Annex V of the draft Regulation in terms of generation and transmission adequacy for a set of characteristic load periods, taking into account expected changes in climate-related extreme weather events and their impact on infrastructure resilience.
.....
- h) Why is this investment item particularly necessary for the implementation of the TYNDP PPER?
.....
- i) Why is the realisation of this investment item particularly urgent with regard to the EU energy policy targets of i) market integration and competition, ii) sustainability and iii) security of supply?

.....

<p>4. Please describe the interdependencies and complementarities between the proposed investment items of the TYNDP PPER.</p>

.....

.....

.....

From: "ENER-B1-CONSULTATION@ec.europa.eu" ENER-B1-CONSULTATION@ec.europa.eu

To: xxx@xxx

Sent: Monday, 30 July 2012, 9:58

Subject: RE: Public Consultation - Irish Electricity Projects

Dear XXX,

Thank you for your enquiry. The consultation lists published online contain all the information on each project that the Commission can publicly release. More detailed technical information is controlled by the individual project promoters and we cannot release it due to commercial confidentiality. Given that each project promoter is named for each project, what I can suggest is that you contact each one and request information from them. Some have quite a lot of data already available on their website and will be better able to advise you. Unfortunately, it is not in the power of the Commission to release this data on their behalf.

I hope this helps.

Best wishes,

Thomas BARRETT

European Commission
DG Energy
Unit B1

DM24 6/12
B-1040 Brussels/Belgium
+32 2 29 21420


From: xxxx@xxxx

Sent: Monday, July 30, 2012 9:28 AM

To: ENER B1 CONSULTATION

Subject: Public Consultation - Irish Electricity Projects

Dear Sir/Madam,

I refer to your webpage

http://ec.europa.eu/energy/infrastructure/consultations/20120620_infrastructure_plan_en.htm

Please advise where the detailed project information may be obtained in relation to electricity projects in Ireland.

Best Regards,

xxxxxxx

From: xxxx@xxxx
To: "ENER-B1-CONSULTATION@ec.europa.eu" ENER-B1-CONSULTATION@ec.europa.eu
Sent: Monday, 30 July 2012, 14:23
Subject: Re: Public Consultation - Irish Electricity Projects

Dear Mr. Barrett,

Thank you for the quick response to my query.

I have had a look at the online questionnaire and note the EU asks the following:

ELECTRICITY PROJECTS IN YOUR COUNTRY

Please identify the five electricity projects in your country that contribute the most to the following key energy policy objectives of the EU:

- market integration, competition and system flexibility;
- transmission of renewable generation to major consumption centres and storage sites;
- interoperability and security of supply.

ELECTRICITY PROJECTS - EU WIDE

Please identify the five EU-wide electricity projects that contribute the most to the following key energy policy objectives of the EU:

- market integration, competition and system flexibility;
- transmission of renewable generation to major consumption centres and storage sites;
- interoperability and security of supply.

I have also researched the websites of the companies responsible for the Irish projects and none of them provide any useful/detailed information to allow a citizen to evaluate projects as requested in the questionnaire.

Some examples:

- E151: <http://www.gaelectric.ie/index.php/energy-storage/>
- E150: <http://www.organicpower.ie/>
- E149: <http://www.naturalhydroenergy.com/>

This consultation process does not seem to meet the basic requirements for public participation as per Regulation 1367/2006

- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:264:0013:0013:EN:PDF>

I would appreciate if you could advise, that in the absence of any project information, how a citizen is supposed to participate in the consultation process?

Best Regards,

Xxxx

From: "ENER-B1-CONSULTATION@ec.europa.eu" ENER-B1-CONSULTATION@ec.europa.eu

Cc: ENER-B1-CONSULTATION@ec.europa.eu

Sent: Thursday, 23 August 2012, 9:25


Subject: RE: Public Consultation - Irish Electricity Projects

Dear Mr XX,

Please find attached an answer to your enquiry.

Kind regards,

Marija Mrdeza
Policy Officer

European Commission
DG Energy
Unit Internal Market I: Networks and Regional Initiatives
DM 24 06/013
B – 1049 Brussels
Phone: + 32 2 296 26 36


Dear Mr XXX,

Thank you very much for your enquiry concerning the consultation process. In answer to your question I would like to draw your attention to the following information:

The Process

The objective of this early consultation is to seek views on the list of all the projects that have been submitted to be considered by the ad hoc working groups as potential PCIs. The list of submitted projects has not been pre-screened and no assessment has been done on any of them. When evaluating the potential PCIs, the ad-hoc working groups will consider the results of this early public consultation, as well as the opinion of the National Regulatory Authorities on each of the projects, and the opinion of ACER on the cross-regional consistency. Once the submitted projects have been assessed, the Commission plans to launch a second consultation towards the end of the year on the results of the work of the ad hoc groups. This second consultation will include more detailed information about each project.

In addition, individual infrastructure projects have to comply with environmental legislation (e.g. EIA Directive¹, Aarhus Convention²), which require public

¹ Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment

² The United Nations Economic Commission for Europe (UNECE) [Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)

participation in decision-making. Project promoters are responsible for carrying out these consultations in line with the EU and national legislation. Under the proposed guidelines for trans-European energy infrastructure, the Commission has introduced rules on enhanced transparency and call for **citizens to be involved at a very early stage** of the permitting procedure of PCIs. Indeed the guidelines call for the project developers to carry out at least one public consultation before **they submit a formal application** for the permit. The objective is to render the permitting process more efficient while safeguarding the EU's high standards in environmental protection.

Personal and sensitive data

This current consultation includes information on the form and location of all projects. We must balance this with the need for commercial entities to have some confidentiality around planned investments, so we hope you appreciate that we cannot release sensitive technical data. If there are specific projects about which you would like to know more, the relevant project promoters may be willing to share more information.

In reference to the personal data of project promoters, we would like to clarify a few points. Each project has been submitted by a promoting organisation. While the public consultation contains the name of every project promoter as an organisation, we cannot give out the details of any named individuals.

According to regulation 45/2001, Article 6, Change of Purpose: "Without prejudice to Articles 4, 5 and 10: 1. Personal data shall only be processed for purposes other than those for which they have been collected if the change of purpose is expressly permitted by the internal rules of the Community institution or body".

The privacy statement for the initial submission of project information (accessible at: http://ec.europa.eu/energy/infrastructure/consultations/doc/20120607_non_tyndp_projects_privacy_statement.pdf) states that 'No personal data is transmitted to parties which are outside the recipients and the legal framework mentioned.'

As the privacy statement precludes sharing information with external parties, this would contravene the requirements of Regulation 45/2001.

Furthermore, according to regulation 45/2001 Article 8 'Transfer of personal data to recipients, other than Community institutions and bodies, subject to Directive 95/46/EC':

"Without prejudice to Articles 4, 5, 6 and 10, personal data shall only be transferred to recipients subject to the national law adopted for the implementation of Directive 95/46/EC,

(a) if the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority, or
(b) if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced".

Purpose of Consultation

The purpose of this consultation is to allow stakeholders' views to be heard in an early phase and before the project takes shape. Hence the "scarcity" of information. This consultation is a way of addressing environmental organisations' wish to be consulted as early in the process as possible. In addition, both this consultation, and the second consultation to come, will allow for a comprehensive view at the EU level, contrary to national project level consultations.

And of course this consultation does not prejudice any future consultations that will be carried out in particular those by the project promoter at project level according to EU and national legislation (e.g. SEA Directive³, EIA Directive⁴).

Environmental assessments⁵ are important tools for integrating environmental considerations into plans and programmes. Environmental assessment can be done for individual projects (EIA Directive), when it is the responsibility of the project promoter, or for plans or programmes (SEA Directive), where it is the Member state who is in charge. Where the implementation of a project or plan has a significant effects on the environment, consultations with the public are always foreseen. Member States shall identify the public, including relevant non-governmental organisations, and the opinions expressed by both the relevant authorities and the public have to be taken into account in the preparation of the project or plan.

Aarhus Convention:

The Aarhus Convention, which the EU is a signatory to since 2005, establishes a number of rights for the public with regard to the environment. This includes information on the state of the environment and policies and measures taken by public authorities, public participation in decision making and access to justice. According to Article 1 of the Aarhus Convention "each Party shall guarantee the rights of the access to information, public participation in decision making, and access to justice in environmental matters in accordance with this Convention". Nevertheless, requests may be refused to respect the confidentiality of commercial interest. A decision to refuse access must state the reasons for the refusal and indicate what forms of appeal are open to the applicant. All persons who feel their rights have not been respected must have access to a review procedure under national legislation. The European Union applies the [Aarhus Convention](#) to its own institutions and bodies.

Kind regards

³ Directive 2001/42/EC of the European Parliament and the Council of 27 June 20001 on the assessment of the effects of certain plans and programmes on the environment

⁴ Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment

⁵ According to Directive 2001/42/EC, Article 2 (b) "environmental assessment" shall mean the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with Articles 4 to 9



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Director-General

Brussels, 19 OCT. 2012
PL/ENER/B1/MRD/ab (2012) 1341824

Mr Joseph Caulfield

Ireland

By e-mail:
[redacted]@eircom.net

Dear Mr Caulfield,

In reaction to your request for access to documents of 20 August 2012 (registered under the reference GESTDEM 2012/4179) made under Regulation (EC) 1049/2001¹, I can now inform you as follows.

You have asked for a number of documents as regards the on-going work carried out in ad hoc regional working groups. These groups aim at preparing the identification of projects of common interest (PCI), so as to speed up the implementation of the proposed Regulation on Guidelines for Trans-European Energy Infrastructure.

Firstly, you requested "*Copies of the processes and procedures, which will be used to evaluate the projects*" as well as the "*Details of how the public consultation will be incorporated into the decision process e.g. weighting factors*". Please find in Annex A an excerpt from the Terms of Reference of the ad hoc working groups on the evaluation process and procedures as well as on the role of the public consultation. The Commission will prepare a report summarising the results of the public consultation. This report will be discussed in the meetings of the ad hoc regional groups. Targeted meetings will also be organised with stakeholders towards early 2013 or after the entry into force of the draft Regulation.

Secondly, you asked for the "*details of the membership (including qualifications) of the team who will be evaluating the projects*". The evaluation will be carried out in the context of the ad hoc regional groups, based on the submission of the project promoters. These groups include representatives of the competent Member State Ministry, of the National Regulatory Authorities, of the Commission, the Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission System Operators (ENTSOs). Please find in Annex B the list of all participating organisations to the ad hoc working groups.

¹ OJ L 145 of 31 May 2001, p. 43

However, in reference to the personal data, such as qualifications, of the members, we cannot give out the details of any named individuals. Such details are considered to be personal data according to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data².

According to Article 6, Change of Purpose of this Regulation: "Without prejudice to Articles 4, 5 and 10: 1. Personal data shall only be processed for purposes other than those for which they have been collected if the change of purpose is expressly permitted by the internal rules of the Community institution or body".

The privacy statement for the initial submission of project information (accessible at: http://ec.europa.eu/energy/infrastructure/consultations/doc/20120607_non_tyndp_projects_privacy_statement.pdf) states that 'No personal data is transmitted to parties which are outside the recipients and the legal framework mentioned.'

As the privacy statement precludes sharing information with external parties, this would contravene the requirements of Regulation 45/2001.

According to Regulation 45/2001 Article 8 'Transfer of personal data to recipients, other than Community institutions and bodies, subject to Directive 95/46/EC'³ the following applies.

"Without prejudice to Articles 4, 5, 6 and 10, personal data shall only be transferred to recipients subject to the national law adopted for the implementation of Directive 95/46/EC,

(a) if the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority, or

(b) if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced".

It should also be noted that the European Court of Justice in its judgement in case C-28/08 *Bavarian Lager*⁴ stated that "*Regulations Nos 45/2001 and 1049/2001 were adopted on dates very close to each other. They do not contain any provisions granting one regulation primacy over the other. In principle, their full application should be ensured*"⁵. Subsequently, *where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation No 45/2001 become applicable in their entirety*⁶.

In case you would wish to ask for a review of this position, you should inform the Secretary General of the Commission, on the below address, that you wish to confirm your original request for access to documents. You have fifteen working days as from receipt of the present letter to do so. In case you do not confirm your original application within this deadline, your request will be considered to be withdrawn.

² OJ L 8 of 12 January 2001, p. 1-22

³ OJ L281 of 23 November 1995

⁴ Judgment of the Court (Grand Chamber) of 29 June 2010 *European Commission v The Bavarian Lager Co. Ltd.*, Case C-28/08 P, ECR 2010, p. I-06055

⁵ *Idem*, paragraph 56

⁶ *Idem*, paragraph 63

The Secretary General will inform you within fifteen working days as from the registration of your confirmatory application of the result of the review, either by granting access to the documents concerned, or by confirming the refusal of disclosure. In the latter case, the Secretary General will also inform you about the possibilities for legal remedies that are available.

All correspondence in this respect should be sent to the following address:

The Secretary-General
European Commission
B-1049 BRUSSELS

Finally, with regard to your request to access *environmental information on certain projects*, I have to inform you that the Commission does not have more detailed information in its position at this stage. This is because the purpose of the consultation is to allow stakeholders' views to be heard in an early phase and before the project takes shape. Hence the "scarcity" of information. The consultation already included information on the form and location of all projects.

I would like to underline that this consultation does not prejudice any future consultations that will be carried out by the project promoter at project level according to EU and national legislation (e.g. SEA Directive⁷, EIA Directive⁸, Aarhus Convention⁹), which require public participation in decision-making. Project promoters are responsible for carrying out these consultations in line with the EU and national legislation.

I would also like to stress that the Commission has introduced new rules, as part of the proposed Regulation, on enhanced transparency and call for citizens to be involved at a very early stage of the permitting procedure. The project developers are requested to carry out at least one public consultation before they submit a formal application for the permit. The objective is to render the permitting process more efficient while safeguarding the EU's high standards in environmental protection.

Yours sincerely,



Philip LOWE

p.o.le Directeur Général
Fabrizio Barbato
Directeur Général Adjoint

⁷ Directive 2001/42/EC of the European Parliament and the Council of 27 June 2000 on the assessment of the effects of certain plans and programmes on the environment

⁸ Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment

⁹ The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

Annex A: Excerpt from the ToR of the ad hoc Working Groups¹⁰

Excerpt from the draft Regulation. This text will be modified as negotiations progress in the Council and the European Parliament.

"Annex 3 – Governance"

Article 3

Identification of projects of common interest

2. For the purpose of identifying projects of common interest, the Commission shall establish [] **twelve Regional Groups ("Groups")** as defined in section 1 of Annex III. **The membership of each Group shall be based on each priority corridor and area and their respective geographical coverage as set out in Annex I.**
- 2bis. Each Group shall adopt its own rules of procedure, having regard to the provisions set out in Annex III.**
3. Each Group shall **adopt a [] regional** list of projects of common interest, **drawn up** according to the process set out in section 2 of Annex III, according to the contribution of each project to implementing the energy infrastructure priority corridors and areas set out in Annex I and according to their fulfilment of the criteria set out in Article 4. **When a Group draws up its [] regional list**, each individual proposal for a project shall require the approval of the Member State(s), to the territory of which the project relates.
- 6a. **On the basis of the regional lists adopted [] by the Groups, [] the Commission shall adopt a Commission Decision** establishing a Union-wide list of projects of common interest. The list shall be reviewed [] every two years **following the procedure [] set out in points 3 to 6 of this Article. The list shall be updated as necessary following these reviews, and adopted.** The first list shall be adopted by [31 July 2013] at the latest.
7. Following the Commission decision for adoption referred to in paragraph 6a, projects of common interest shall become an integral part of the relevant regional investment plans pursuant Article 12 of Regulations (EC) No 714/2009 and (EC) No 715/2009 and of the relevant national ten-year network development plans pursuant Article 22 of Directives 72/2009/EC and 73/2009/EC and other national infrastructure plans concerned, as appropriate. The projects shall be conferred the highest possible priority within each of these plans.

"ANNEX III"

REGIONAL IDENTIFICATION OF PROJECTS OF COMMON INTEREST

1. RULES FOR REGIONAL GROUPS

¹⁰ The text taken as a reference was the state of play in the Council discussions at the time of the preparation of the ToRs. Council Doc. Reference: 5139/1/12 REV1 Interinstitutional File 2011/0300 (COD).

- (1) For electricity projects falling under the categories set out in point 1 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 6 of Directive 2009/72/EC and Article 12 of Regulation (EC) No 714/2009 [], as well as the Commission, the Agency and the ENTSO for Electricity.

For gas projects falling under the categories set out in point 2 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 7 of Directive 2009/73/EC and Article 12 of Regulation (EC) No 715/2009 [], as well as the Commission, the Agency and the ENTSO for Gas.

For oil and carbon dioxide transport projects falling under the categories referred to in Annex II(3) and (4), each Group shall be composed of the representatives of the Member States, project promoters concerned by each of the relevant priorities designated in Annex 1 and the Commission.

- (1a) Decision making powers in the Groups should be restricted to Member States and the Commission only. For this purpose, within each Group a High Level Steering Group (HLSG) may be set up. The HLSG may make the final decision on the regional project lists. The same HLSG could be competent for several corridors.**

- (2) Each Group shall organise its workload in line with regional cooperation efforts pursuant Article 6 of Directive 2009/72/EC, Article 7 of Directive 2009/73/EC, Article 12 of Regulation (EC) No 714/2009, and Article 12 of Regulation (EC) No 715/2009 and other existing regional cooperation structures.
- (3) Each Group shall invite, as appropriate in view of implementing the relevant priority designated in Annex I, **promoters of a project potentially eligible for selection as a project of common interest as well as** representatives of national administrations, of regulatory authorities, [] and transmission system operators from EU candidate countries and potential candidates, the member countries of the European Economic Area and the European Free Trade Association, representatives from the Energy Community institutions and bodies, countries covered by the European Neighbourhood policy and countries, with which the Union has established specific energy cooperation.
- (4) Each Group shall consult the organisations representing relevant stakeholders **- and, if deemed appropriate, stakeholders directly -** including producers, distribution system operators, suppliers, consumers, and, for the tasks set out in paragraph 2 of Article 5, organisations for environmental protection. The Group may organise hearings or consultations, where relevant for the accomplishments of its tasks.

Annex B - Members of ad hoc Working Groups:

Baltic Energy market Interconnection Plan – Gas & Electricity:

Finland:

Finish Ministry of Employment and the Economy, Energy Department

NRA: Energy Market Authority

Fingrid Oyj

Gasum Oy

Estonia:

Ministry of Economic Affairs and Communications

NRA: Estonian Competition Authority

Elering AS

AS EG Võrguteenus/Eesti Gaas

Latvia:

Ministry of Economics

NRA:

Augstsprieguma Tīkls

Latvijas Gāze

Lithuania:

Ministry of Energy

NRA: Gas and Electricity Department

Litgrid AB

Lietuvos Dujos

Poland:

Ministry of Economy

NRA: URE

Pse Operator S.A.

Gaz System

Germany:

Federal Ministry of Economics and technology

NRA: Federal Network Agency (Bundesnetzagentur)

50 Hertz

Gasunie Deutschland

Denmark:

Ministry of Climate, Energy and Buildings

Electricity TSO: Energinet.dk

Energinet.dk

Danish Energy Regulatory Authority

Sweden:

Ministry of Enterprise, Energy and Communications

Elec TSO: Swedish National Grid

Energy Markets Inspectorate

Norway:

Ministry of Finance

Project promoters:

Gasunie Deutschland

Maersk Oil

Elering AS

Balti Gaas

AS EG Võrguteenus (Estonian TSO)

GASUM

GASUM AS EG Võrguteenus (Estonian TSO)

Outokumpu

AB "Lietuvos dujos"

GAZ-SYSTEM S.A.

AB Lietuvos Dujos

AS Latvijas Gaze

AS Latvenargo

AB Lietuvos Dujos

Energinet.dk

Swedegas; VOPAK

Litgrid

OÜ Energiasalv

North-South interconnections in Western Europe – gas & electricity:

Austria

E-Control
Bundesministerium für Wirtschaft, Familie und Jugend
Permanent Representation
APG
Tiwwag

Belgium

Ministry for Economy SMEs, Self-Employed and Energy
Commission de Régulation de l'Electricité et du Gaz (CREG)
GDF SUEZ, FLUXYS BELGIUM
Commission de Régulation de l'Électricité et du Gaz
Permanent Representation
Elia

France

Ministère de l'écologie, du développement durable et de l'énergie
Commission de régulation de l'énergie (CRE)
TIGF, GRTgaz
FOS FASTER LNG, Storengy, ELENGY, EDF
Commission de régulation de l'énergie
Permanent Representation
RTE France

Germany

Federal Ministry for Economy and Technologies
Bundesministeriums für Wirtschaft und Technologie
Bundesnetzagentur
Open Grid Europe, bayernets GmbH
Permanent Representation
50Hertz Transmission
TransnetBW
Amprion
Tennet

Ireland

Department of Energy
EIRgrid, Shannon LNG Limited
Commission for Energy Regulation
Department of Communications, Energy and Natural Resources
Permanent Representation
Eirgrid
Organicpower
EuropaGrid

Italy

Ministry for Economic Development

Italian Regulatory Authority for Electricity and Gas

Snam, GALSI SPA, ENEL SPA, OLT Offshore LNG Toscana, LNG Medgas Terminal S.r.l.

Autorita Energia

Ministry of Economic Development

Permanent Representation

Terna

Greenconnector

Enel

2s Energy

Luxembourg

Ministère de l'Economie et du Commerce extérieur

Institut Luxembourgeois de Régulation

Permanent Representation

Creos

Malta

Ministry for resources and Rural Affairs

Malta Resources Authority

Permanent Representation

Portugal

Ministry for Economy and Employment

Entidade reguladora dos serviços energéticos (ERSE)

Permanent Representation

REN - Redes Energéticas Nacionais

Spain

Ministry of Industry, Energy and Tourism

CNE - Comisión Nacional de Energía

Enagas, Petroleum Oil & Gas España, S.A

Permanent Representation

Red Eléctrica de España

The Netherlands

Ministry of Economic Affairs, Agriculture and Innovation

Gas Transport Services

Netherlands Competition Authority

Permanent Representation

TenneT

The United Kingdom

Department of Energy and Climate Change (DECC)

Northern Ireland Utility Regulator, Ofgem
Mutual Energy Ltd, King Street Energy
Office of the Gas and Electricity Markets
Permanent Representation
National Grid
Transmission Capital
Nurenergie

Sweden

Swedish Energy markets Inspectorate

Switzerland

Swissgrid

ACER

ENTSO-E

ENTSO-G

North Seas offshore Grid:

Belgium

Commission de Régulation de l'Électricité et du Gaz
Service public fédéral Economie, P.M.E., Classes moyennes et Energie
Permanent Representation
Elia

Benelux

Benelux Secretariat

Germany

Bundesnetzagentur
Bundesministeriums für Wirtschaft und Technologie
Permanent Representation
50Hertz Transmission
TransnetBW
Amprion
Tennet

Denmark

Danish Energy Agency
Danish Energy Regulatory Authority
Danish Competition and Consumer Authority
Permanent Representation
Energinet.dk
ACER
ENTSO-E

France

Commission de régulation de l'énergie
Ministère de l'Ecologie, du Développement durable et de l'Energie
Permanent Representation
RTE France

Ireland

Commission for Energy Regulation
Department of foreign Affairs and Trade
Department of Communications, Energy and Natural Resources
Permanent Representation
Naturalhydroenergy
Eirgrid
Organicpower
Gaelectric

Luxembourg

Institut Luxembourgeois de Régulation
Ministère de l'Economie et du Commerce extérieur
Permanent Representation
Creos

The Netherlands

Netherlands Competition Authority
Ministry of Economic Affairs, Agriculture and Innovation
Permanent Representation
TenneT

Norway

Norwegian Water Resources and Energy Directorate
Ministry of Petroleum and Energy
Statnett

Sweden

Energy Markets Inspectorate
Ministry of Enterprise, Energy and Communications
Permanent Representation
Svenska Kraftnät

United Kingdom

Office of the Gas and Electricity Markets
Scottish Government
Department of Energy & Climate Change
Permanent Representation
Eleclink
National Grid
SSE
Star Capital

North South electricity interconnections in CEE and SEE - gas & electricity:

Slovakia

Ministry of Economy of Slovakia
Slovak regulatory authority
TSO: Eustream, a.s. (SK)
SEPS
MAVIR ZRt
Slovenská elektrizačná prenosová sústava, a.s.

Bulgaria

Ministry of Economy, Energy and Tourism of Bulgaria
NRA: DKER (BG)
Bulgartransgaz EAD (BG)
Electricity System Operator EAD (ESO)
EAD

Greece

Ministry for Environment, Energy and Climate Change of Greece
RAE (EL)
DESFA
Admie
PPCR S.A.
ELICA S.A.
TERNA ENERGY SA
Consortium of the following companies: Rokas Aeoliki Voreios Hellas I SA, Rokas Aeoliki Voreios Hellas II SA, Eoliki South Skyros SA
C. ROKAS SA
Kykladika Meltemia
Independent Power Transmission Operator (IPTO S.A)
IPTO, ADMIE, TSO Bulgaria

Hungary:

Ministry of National Development of Hungary
Hungarian Energy Office
Gas TSO: FGSZ (HU)
MAVIR ZRt

Poland:

Ministry of Economy of Poland
URE (PL)
GAZ-SYSTEM S.A. (PL)
PSE Operator S.A.
Energy Logistics Polska Sp. z o.o
PSE Operator S.A.

Czech Republic

Ministry of Industry and Trade of the Czech Republic
ERU (CZ)
NET4GAS, s.r.o. (CZ)
ČEPS

Italy

Ministry of Economy of Italy
TERNA S.p.A.
ELES
Adria Link srl
Enel Produzione SpA

Romania

Ministry of Economy, Trade and Business Environment of Romania
SNTGN Transgaz SA (RO)
C.N.T.E.E. TRANSELECTRICA S.A.

Austria

Federal Ministry for Economy, Family and Youth of Austria
NRA: e-Control Austria
GAS-CONNECT AUSTRIA
Austria Power Grid AG (TSO)
Salzburg Netz (DSO)

Cyprus

Ministry of Commerce, Industry and Tourism of Cyprus

Germany

German Ministry of Economy and Technology
Elec TSO: 50Hertz
TenneT TSO GmbH

Croatia:

Ministry of Economy
Croatian Energy Regulatory Authority: HERA (HR)
Plinacro (HR)
HEP-Transmission system operator LLC

Slovenia:

Gas TSO: Plinovodi d.o.o. (SI)
Elec TSO: ELES

Project promoters gas:

Rohöl-Aufsuchungs Aktiengesellschaft (RAG)
Snam Rete Gas S.p.A. (IT)
Tauerngasleitung GmbH (AT)
Salzburgnetz (AT)
Ontras (DE)
BEH (BG)
DEPA S.A. (EL)
E.On (HU)

E.ON Ruhrgas
Edison (IT)
EGL
Gastrade S.A. (EL)
GDF SUEZ Energy România SA
ICGB AD
IGI Poseidon SA
Magyar Gáz Tranzit Zrt. (HU)
MECMA
MVM Zrt. (HU)
NAFTA a.s. (SK)
NIC
POZAGAS, a.s (SK)
Romgaz
SPP Storage s.r.o. (CZ)
TAP a.g.

ENTSO-E
ENTSO-G
Energy Community Secretariat (Observer)
Danube Region Strategy - PA2 (Observer)
ACER

Southern Gas Corridor:

Austria

Außenministerium Österreich
Bundesministerium für Wirtschaft, Familie und Jugend
E-Control
AZ
SOCAR
South Caucasus Pipeline Company

Bulgaria (BG)

Bulgartransgaz
Ministry of Economy, Energy and Tourism
Permanent Representation
State Energy and Water Regulatory Commission

Cyprus

Cyprus Energy Regulatory Authority
Ministry of Commerce, Industry and Tourism

Czech Republic

Energy Regulatory Office
Ministry of Foreign Affairs
Ministry of Industry and Trade

Germany

Bundesministeriums für Wirtschaft und Technologie
Permanent Representation

ACER

Energy Community Secretariat
ENTSOG

France

Ministère de l'Ecologie, du Développement durable et de l'Energie
Permanent Representation

Greece

DEPA
DESFA
Ministry of Environment, Energy and Climate Change
Permanent Representation
Regulatory Authority for Energy

Croatia

Ministry of Economy
Ministry of Foreign and European Affairs
Permanent Representation

Hungary

FGSZ
Hungarian Energy Office

Ministry of Foreign Affairs
MVM
Permanent Representation

Italy
Autorità per l'energia elettrica e il gas
Ministry of Economic Development
Permanent Representation

OM
Nabucco Pipeline Corporation

Poland
Gaz-System
Ministerstwo Gospodarki
Ministry of Foreign Affairs

Romania
AUTORITATEA NATIONALA DE REGLEMENTARE IN DOMENIUL ENERGIEI
MINISTERUL ECONOMIEI, COMERȚULUI ȘI MEDIULUI DE AFACERI
Permanent Representation

Slovenia
Permanent Representation
Plinovodi

Slovakia
Ministry of Economy
Ministry of Foreign and European Affairs

United Kingdom
White stream

Smart Grids:

All Member States

Project promoters:

ERDF

RTE

Terna SPA

ENEL Distribuzione SPA

REN

REE

GNF

Iberdola

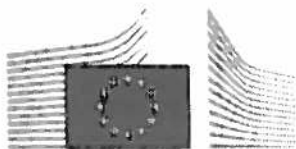
HC

ESBN

Eirgrid

Nothern Ireland Electricity (NIE)

SONIE



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Director-General

Brussels,
PL/ENER/B1/MRD/ab (2012) 1341824

Mr Joseph Caulfield

[REDACTED]

Ireland

By e-mail:

[REDACTED]@eircom.net

Dear Mr Caulfield,

In reaction to your request for access to documents of 20 August 2012 (registered under the reference GESTDEM 2012/4179) made under Regulation (EC) 1049/2001¹, I can now inform you as follows.

You have asked for a number of documents as regards the on-going work carried out in ad hoc regional working groups. These groups aim at preparing the identification of projects of common interest (PCI), so as to speed up the implementation of the proposed Regulation on Guidelines for Trans-European Energy Infrastructure.

Firstly, you requested "*Copies of the processes and procedures, which will be used to evaluate the projects*" as well as the "*Details of how the public consultation will be incorporated into the decision process e.g. weighting factors*". Please find in Annex A an excerpt from the Terms of Reference of the ad hoc working groups on the evaluation process and procedures as well as on the role of the public consultation. The Commission will prepare a report summarising the results of the public consultation. This report will be discussed in the meetings of the ad hoc regional groups. Targeted meetings will also be organised with stakeholders towards early 2013 or after the entry into force of the draft Regulation.

Secondly, you asked for the "*details of the membership (including qualifications) of the team who will be evaluating the projects*". The evaluation will be carried out in the context of the ad hoc regional groups, based on the submission of the project promoters. These groups include representatives of the competent Member State Ministry, of the National Regulatory Authorities, of the Commission, the Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission System Operators (ENTSOs). Please find in Annex B the list of all participating organisations to the ad hoc working groups.

¹ OJ L 145 of 31 May 2001, p. 43

However, in reference to the personal data, such as qualifications, of the members, we cannot give out the details of any named individuals. Such details are considered to be personal data according to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data².

According to Article 6, Change of Purpose of this Regulation: "Without prejudice to Articles 4, 5 and 10: 1. Personal data shall only be processed for purposes other than those for which they have been collected if the change of purpose is expressly permitted by the internal rules of the Community institution or body".

The privacy statement for the initial submission of project information (accessible at: http://ec.europa.eu/energy/infrastructure/consultations/doc/20120607_non_tyndp_projects_privacy_statement.pdf) states that 'No personal data is transmitted to parties which are outside the recipients and the legal framework mentioned.'

As the privacy statement precludes sharing information with external parties, this would contravene the requirements of Regulation 45/2001.

According to Regulation 45/2001 Article 8 'Transfer of personal data to recipients, other than Community institutions and bodies, subject to Directive 95/46/EC'³ the following applies.

"Without prejudice to Articles 4, 5, 6 and 10, personal data shall only be transferred to recipients subject to the national law adopted for the implementation of Directive 95/46/EC,

(a) if the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority, or

(b) if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced".

It should also be noted that the European Court of Justice in its judgement in case C-28/08 *Bavarian Lager*⁴ stated that "*Regulations Nos 45/2001 and 1049/2001 were adopted on dates very close to each other. They do not contain any provisions granting one regulation primacy over the other. In principle, their full application should be ensured*"⁵. Subsequently, *where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation No 45/2001 become applicable in their entirety*⁶.

In case you would wish to ask for a review of this position, you should inform the Secretary General of the Commission, on the below address, that you wish to confirm your original request for access to documents. You have fifteen working days as from receipt of the present letter to do so. In case you do not confirm your original application within this deadline, your request will be considered to be withdrawn.

² OJ L 8 of 12 January 2001, p. 1-22

³ OJ L281 of 23 November 1995

⁴ Judgment of the Court (Grand Chamber) of 29 June 2010 *European Commission v The Bavarian Lager Co. Ltd.*, Case C-28/08 P, ECR 2010, p. I-06055

⁵ *Idem*, paragraph 56

⁶ *Idem*, paragraph 63

The Secretary General will inform you within fifteen working days as from the registration of your confirmatory application of the result of the review, either by granting access to the documents concerned, or by confirming the refusal of disclosure. In the latter case, the Secretary General will also inform you about the possibilities for legal remedies that are available.

All correspondence in this respect should be sent to the following address:

The Secretary-General
European Commission
B-1049 BRUSSELS

Finally, with regard to your request to access *environmental information on certain projects*, I have to inform you that the Commission does not have more detailed information in its position at this stage. This is because the purpose of the consultation is to allow stakeholders' views to be heard in an early phase and before the project takes shape. Hence the "scarcity" of information. The consultation already included information on the form and location of all projects.

I would like to underline that this consultation does not prejudice any future consultations that will be carried out by the project promoter at project level according to EU and national legislation (e.g. SEA Directive⁷, EIA Directive⁸, Aarhus Convention⁹), which require public participation in decision-making. Project promoters are responsible for carrying out these consultations in line with the EU and national legislation.

I would also like to stress that the Commission has introduced new rules, as part of the proposed Regulation, on enhanced transparency and call for citizens to be involved at a very early stage of the permitting procedure. The project developers are requested to carry out at least one public consultation before they submit a formal application for the permit. The objective is to render the permitting process more efficient while safeguarding the EU's high standards in environmental protection.

Yours sincerely,

Philip LOWE

⁷ Directive 2001/42/EC of the European Parliament and the Council of 27 June 2000¹ on the assessment of the effects of certain plans and programmes on the environment

⁸ Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment

⁹ The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

Annex A: Excerpt from the ToR of the ad hoc Working Groups¹⁰

Excerpt from the draft Regulation. This text will be modified as negotiations progress in the Council and the European Parliament.

"Annex 3 – Governance"

Article 3

Identification of projects of common interest

2. For the purpose of identifying projects of common interest, the Commission shall establish ☐ twelve Regional Groups ("Groups") as defined in section 1 of Annex III. **The membership of each Group shall be based on each priority corridor and area and their respective geographical coverage as set out in Annex I.**
- 2bis. Each Group shall adopt its own rules of procedure, having regard to the provisions set out in Annex III.**
3. Each Group shall **adopt a ☐ regional** list of projects of common interest, **drawn up** according to the process set out in section 2 of Annex III, according to the contribution of each project to implementing the energy infrastructure priority corridors and areas set out in Annex I and according to their fulfilment of the criteria set out in Article 4. **When a Group draws up its ☐ regional list**, each individual proposal for a project shall require the approval of the Member State(s), to the territory of which the project relates.
- 6a. **On the basis of the regional lists adopted ☐ by the Groups, ☐ the Commission shall adopt a Commission Decision establishing a Union-wide list of projects of common interest. The list shall be reviewed ☐ every two years **following the procedure ☐ set out in points 3 to 6 of this Article. The list shall be updated as necessary following these reviews, and adopted.** The first list shall be adopted by [31 July 2013] at the latest.**
7. Following the Commission decision for adoption referred to in paragraph 6a, projects of common interest shall become an integral part of the relevant regional investment plans pursuant Article 12 of Regulations (EC) No 714/2009 and (EC) No 715/2009 and of the relevant national ten-year network development plans pursuant Article 22 of Directives 72/2009/EC and 73/2009/EC and other national infrastructure plans concerned, as appropriate. The projects shall be conferred the highest possible priority within each of these plans.

"ANNEX III"

REGIONAL IDENTIFICATION OF PROJECTS OF COMMON INTEREST

1. RULES FOR REGIONAL GROUPS

¹⁰ The text taken as a reference was the state of play in the Council discussions at the time of the preparation of the ToRs. Council Doc. Reference: 5139/1/12 REV1 Interinstitutional File 2011/0300 (COD).

- (1) For electricity projects falling under the categories set out in point 1 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 6 of Directive 2009/72/EC and Article 12 of Regulation (EC) No 714/2009 [], as well as the Commission, the Agency and the ENTSO for Electricity.

For gas projects falling under the categories set out in point 2 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 7 of Directive 2009/73/EC and Article 12 of Regulation (EC) No 715/2009 [], as well as the Commission, the Agency and the ENTSO for Gas.

For oil and carbon dioxide transport projects falling under the categories referred to in Annex II(3) and (4), each Group shall be composed of the representatives of the Member States, project promoters concerned by each of the relevant priorities designated in Annex 1 and the Commission.

- (1a) Decision making powers in the Groups should be restricted to Member States and the Commission only. For this purpose, within each Group a High Level Steering Group (HLSG) may be set up. The HLSG may make the final decision on the regional project lists. The same HLSG could be competent for several corridors.**

- (2) Each Group shall organise its workload in line with regional cooperation efforts pursuant Article 6 of Directive 2009/72/EC, Article 7 of Directive 2009/73/EC, Article 12 of Regulation (EC) No 714/2009, and Article 12 of Regulation (EC) No 715/2009 and other existing regional cooperation structures.
- (3) Each Group shall invite, as appropriate in view of implementing the relevant priority designated in Annex I, **promoters of a project potentially eligible for selection as a project of common interest as well as** representatives of national administrations, of regulatory authorities, [] and transmission system operators from EU candidate countries and potential candidates, the member countries of the European Economic Area and the European Free Trade Association, representatives from the Energy Community institutions and bodies, countries covered by the European Neighbourhood policy and countries, with which the Union has established specific energy cooperation.
- (4) Each Group shall consult the organisations representing relevant stakeholders **and, if deemed appropriate, stakeholders directly** - including producers, distribution system operators, suppliers, consumers, and, for the tasks set out in paragraph 2 of Article 5, organisations for environmental protection. The Group may organise hearings or consultations, where relevant for the accomplishments of its tasks.

Annex B - Members of ad hoc Working Groups:

Baltic Energy market Interconnection Plan – Gas & Electricity:

Finland:

Finish Ministry of Employment and the Economy, Energy Department

NRA: Energy Market Authority

Fingrid Oyj

Gasum Oy

Estonia:

Ministry of Economic Affairs and Communications

NRA: Estonian Competition Authority

Elering AS

AS EG Võrguteenus/Eesti Gaas

Latvia:

Ministry of Economics

NRA:

Augstsprieguma Tīkls

Latvijas Gāze

Lithuania:

Ministry of Energy

NRA: Gas and Electricity Department

Litgrid AB

Lietuvos Dujos

Poland:

Ministry of Economy

NRA: URE

Pse Operator S.A.

Gaz System

Germany:

Federal Ministry of Economics and technology

NRA: Federal Network Agency (Bundesnetzagentur)

50 Hertz

Gasunie Deutschland

Denmark:

Ministry of Climate, Energy and Buildings

Electricity TSO: Energinet.dk

Energinet.dk

Danish Energy Regulatory Authority

Sweden:

Ministry of Enterprise, Energy and Communications

Elec TSO: Swedish National Grid

Energy Markets Inspectorate

Norway:

Ministry of Finance

Project promoters:

Gasunie Deutschland

Maersk Oil

Elering AS

Balti Gaas

AS EG Võrguteenus (Estonian TSO)

GASUM

GASUM AS EG Võrguteenus (Estonian TSO)

Outokumpu

AB "Lietuvos dujos"

GAZ-SYSTEM S.A.

AB Lietuvos Dujos

AS Latvijas Gaze

AS Latvenargo

AB Lietuvos Dujos

Energinet.dk

Swedegas; VOPAK

Litgrid

OÜ Energiasalv

North-South interconnections in Western Europe – gas & electricity:

Austria

E-Control

Bundesministerium für Wirtschaft, Familie und Jugend

Permanent Representation

APG

Tiwag

Belgium

Ministry for Economy SMEs, Self-Employed and Energy

Commission de Régulation de l'Electricité et du Gaz (CREG)

GDF SUEZ, FLUXYS BELGIUM

Commission de Régulation de l'Électricité et du Gaz

Permanent Representation

Elia

France

Ministère de l'écologie, du développement durable et de l'énergie

Commission de régulation de l'énergie (CRE)

TIGF, GRTgaz

FOS FASTER LNG, Storengy, ELENGY, EDF

Commission de régulation de l'énergie

Permanent Representation

RTE France

Germany

Federal Ministry for Economy and Technologies

Bundesministeriums für Wirtschaft und Technologie

Bundesnetzagentur

Open Grid Europe, bayernets GmbH

Permanent Representation

50Hertz Transmission

TransnetBW

Amprion

Tennet

Ireland

Department of Energy

EIRgrid, Shannon LNG Limited

Commission for Energy Regulation

Department of Communications, Energy and Natural Resources

Permanent Representation

Eirgrid

Organicpower

EuropaGrid

Italy

Ministry for Economic Development

Italian Regulatory Authority for Electricity and Gas

Snam, GALSI SPA, ENEL SPA, OLT Offshore LNG Toscana, LNG Medgas Terminal S.r.l.

Autorita Energia

Ministry of Economic Development

Permanent Representation

Terna

Greenconnector

Enel

2s Energy

Luxembourg

Ministère de l'Economie et du Commerce extérieur

Institut Luxembourgeois de Régulation

Permanent Representation

Creos

Malta

Ministry for resources and Rural Affairs

Malta Resources Authority

Permanent Representation

Portugal

Ministry for Economy and Employment

Entidade reguladora dos serviços energéticos (ERSE)

Permanent Representation

REN - Redes Energéticas Nacionais

Spain

Ministry of Industry, Energy and Tourism

CNE - Comisión Nacional de Energía

Enagas, Petroleum Oil & Gas España, S.A

Permanent Representation

Red Eléctrica de España

The Netherlands

Ministry of Economic Affairs, Agriculture and Innovation

Gas Transport Services

Netherlands Competition Authority

Permanent Representation

TenneT

The United Kingdom

Department of Energy and Climate Change (DECC)

Northern Ireland Utility Regulator, Ofgem
Mutual Energy Ltd, King Street Energy
Office of the Gas and Electricity Markets
Permanent Representation
National Grid
Transmission Capital
Nurenergie

Sweden

Swedish Energy markets Inspectorate

Switzerland

Swissgrid

ACER

ENTSO-E

ENTSO-G

North Seas offshore Grid:

Belgium

Commission de Régulation de l'Électricité et du Gaz
Service public fédéral Economie, P.M.E., Classes moyennes et Energie
Permanent Representation
Elia

Benelux

Benelux Secretariat

Germany

Bundesnetzagentur
Bundesministeriums für Wirtschaft und Technologie
Permanent Representation
50Hertz Transmission
TransnetBW
Amprion
Tennet

Denmark

Danish Energy Agency
Danish Energy Regulatory Authority
Danish Competition and Consumer Authority
Permanent Representation
Energinet.dk
ACER
ENTSO-E

France

Commission de régulation de l'énergie
Ministère de l'Ecologie, du Développement durable et de l'Energie
Permanent Representation
RTE France

Ireland

Commission for Energy Regulation
Department of foreign Affairs and Trade
Department of Communications, Energy and Natural Resources
Permanent Representation
Naturalhydroenergy
Eirgrid
Organicpower
Gaelectric

Luxembourg

Institut Luxembourgeois de Régulation
Ministère de l'Economie et du Commerce extérieur
Permanent Representation
Creos

The Netherlands

Netherlands Competition Authority
Ministry of Economic Affairs, Agriculture and Innovation
Permanent Representation
TenneT

Norway

Norwegian Water Resources and Energy Directorate
Ministry of Petroleum and Energy
Statnett

Sweden

Energy Markets Inspectorate
Ministry of Enterprise, Energy and Communications
Permanent Representation
Svenska Kraftnät

United Kingdom

Office of the Gas and Electricity Markets
Scottish Government
Department of Energy & Climate Change
Permanent Representation
Eleclink
National Grid
SSE
Star Capital

North South electricity interconnections in CEE and SEE - gas & electricity:

Slovakia

Ministry of Economy of Slovakia
Slovak regulatory authority
TSO: Eustream, a.s. (SK)
SEPS
MAVIR ZRt
Slovenská elektrizačná prenosová sústava, a.s.

Bulgaria

Ministry of Economy, Energy and Tourism of Bulgaria
NRA: DKER (BG)
Bulgartransgaz EAD (BG)
Electricity System Operator EAD (ESO)
EAD

Greece

Ministry for Environment, Energy and Climate Change of Greece
RAE (EL)
DESFA
Admie
PPCR S.A.
ELICA S.A.
TERNA ENERGY SA
Consortium of the following companies: Rokas Aeoliki Voreios Hellas I SA, Rokas Aeoliki Voreios Hellas II SA, Eoliki South Skyros SA
C. ROKAS SA
Kykladika Meltemia
Independent Power Transmission Operator (IPTO S.A)
IPTO, ADMIE, TSO Bulgaria

Hungary:

Ministry of National Development of Hungary
Hungarian Energy Office
Gas TSO: FGSZ (HU)
MAVIR ZRt

Poland:

Ministry of Economy of Poland
URE (PL)
GAZ-SYSTEM S.A. (PL)
PSE Operator S.A.
Energy Logistics Polska Sp. z o.o
PSE Operator S.A.

Czech Republic

Ministry of Industry and Trade of the Czech Republic

ERU (CZ)

NET4GAS, s.r.o. (CZ)

ČEPS

Italy

Ministry of Economy of Italy

TERNA S.p.A.

ELES

Adria Link srl

Enel Produzione SpA

Romania

Ministry of Economy, Trade and Business Environment of Romania

SNTGN Transgaz SA (RO)

C.N.T.E.E. TRANSELECTRICA S.A.

Austria

Federal Ministry for Economy, Family and Youth of Austria

NRA: e-Control Austria

GAS-CONNECT AUSTRIA

Austria Power Grid AG (TSO)

Salzburg Netz (DSO)

Cyprus

Ministry of Commerce, Industry and Tourism of Cyprus

Germany

German Ministry of Economy and Technology

Elec TSO: 50Hertz

TenneT TSO GmbH

Croatia:

Ministry of Economy

Croatian Energy Regulatory Authority: HERA (HR)

Plinacro (HR)

HEP-Transmission system operator LLC

Slovenia:

Gas TSO: Plinovodi d.o.o. (SI)

Elec TSO: ELES

Project promoters gas:

Rohöl-Aufsuchungs Aktiengesellschaft (RAG)

Snam Rete Gas S.p.A. (IT)

Tauerngasleitung GmbH (AT)

Salzburgnetz (AT)

Ontras (DE)

BEH (BG)

DEPA S.A. (EL)

E.On (HU)

E.ON Ruhrgas
Edison (IT)
EGL
Gastrade S.A. (EL)
GDF SUEZ Energy România SA
ICGB AD
IGI Poseidon SA
Magyar Gáz Tranzit Zrt. (HU)
MECMA
MVM Zrt. (HU)
NAFTA a.s. (SK)
NIC
POZAGAS, a.s (SK)
Romgaz
SPP Storage s.r.o. (CZ)
TAP a.g.

ENTSO-E
ENTSO-G
Energy Community Secretariat (Observer)
Danube Region Strategy - PA2 (Observer)
ACER

Southern Gas Corridor:

Austria

Außenministerium Österreich
Bundesministerium für Wirtschaft, Familie und Jugend
E-Control

AZ

SOCAR
South Caucasus Pipeline Company

Bulgaria (BG)

Bulgartransgaz
Ministry of Economy, Energy and Tourism
Permanent Representation
State Energy and Water Regulatory Commission

Cyprus

Cyprus Energy Regulatory Authority
Ministry of Commerce, Industry and Tourism

Czech Republic

Energy Regulatory Office
Ministry of Foreign Affairs
Ministry of Industry and Trade

Germany

Bundesministeriums für Wirtschaft und Technologie
Permanent Representation

ACER

Energy Community Secretariat
ENTSOG

France

Ministère de l'Ecologie, du Développement durable et de l'Energie
Permanent Representation

Greece

DEPA
DESFA
Ministry of Environment, Energy and Climate Change
Permanent Representation
Regulatory Authority for Energy

Croatia

Ministry of Economy
Ministry of Foreign and European Affairs
Permanent Representation

Hungary

FGSZ
Hungarian Energy Office

Ministry of Foreign Affairs
MVM
Permanent Representation

Italy
Autorità per l'energia elettrica e il gas
Ministry of Economic Development
Permanent Representation

OM
Nabucco Pipeline Corporation

Poland
Gaz-System
Ministerstwo Gospodarki
Ministry of Foreign Affairs

Romania
AUTORITATEA NATIONALA DE REGLEMENTARE IN DOMENIUL ENERGIEI
MINISTERUL ECONOMIEI, COMERȚULUI ȘI MEDIULUI DE AFACERI
Permanent Representation

Slovenia
Permanent Representation
Plinovodi

Slovakia
Ministry of Economy
Ministry of Foreign and European Affairs

United Kingdom
White stream

Smart Grids:

All Member States

Project promoters:

ERDF

RTE

Terna SPA

ENEL Distribuzione SPA

REN

REE

GNF

Iberdola

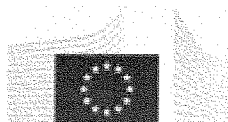
HC

ESBN

Eirgrid

Nothern Ireland Electricity (NIE)

SONIE



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Direction B
SG-B.5
Transparency

Brussels, 22.11.2012
SG.B.5/JMLC/rc -
sg.dsg1.b.5(2012) 1594256

Mr. Joseph CAULFIELD

@eircom.net

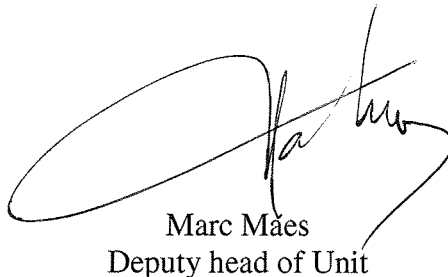
Subject: Confirmatory application for access to documents under Regulation (EC) No 1049/2001 – Ref.: GestDem 2012/4179

Dear Mr Caulfield,

I refer to your letter of 24 October 2012, registered on the 30 October 2012, in which you make a confirmatory application, pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹, requesting a review of the position of the Directorate-General for Energy (DG ENER) in reply to your initial application of 20 August 2012.

We note that DG ENER has replied in detail to your queries, but has refused to disclose personal data in accordance with Article 4(1) (b) of Regulation 1049/2001 and with Article 8 of Regulation 45/2001. It seems that you do not challenge this position of DG ENER. On the other hand, you question the whether DG ENER has properly identified relevant documents. We are currently assessing to what extent relevant documents have been overlooked in the handling of your application. We have not yet found any such documents. In order to allow us to pursue our search, we need to extend the time limit, which expires today with another 15 working days in accordance with Article 8(2) of Regulation 1049/2001. The new deadline expires on 13 December 2012.

Yours sincerely,


Marc Mäes
Deputy head of Unit

¹ OJ L145, 31.05.2001, p.43.



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Direction B
SG-B.5
Transparency

Brussels, 12.12.2012
SG.B.5/JMLC/rc -
sg.dsg1.b.5(2012) 1720743

Mr. Joseph CAULFIELD

By email only:
[redacted]@eircom.net

Subject: Confirmatory application for access to documents under Regulation (EC) No 1049/2001 – Ref.: GestDem 2012/4179

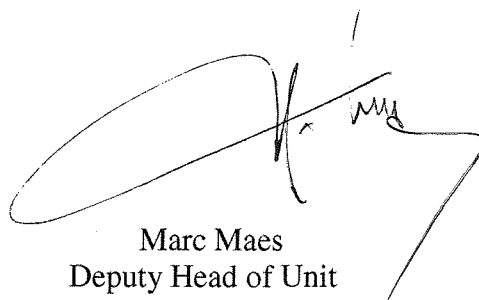
Dear Mr Caulfield,

I refer to your letter of 24 October 2012, registered on the 30 October 2012, in which you make a confirmatory application, pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹, requesting a review of the position of the Directorate-General for Energy (DG ENER) in reply to your initial application of 20 August 2012.

I also refer to the holding reply dated 22 November 2012, in which the time limit for replying to your confirmatory request was extended by 15 working days, pursuant to Article 8(2) of the Regulation. This extended time-limit will expire on 13 December 2012.

Unfortunately, we are still not in a position to provide you with a final reply to your request as the internal consultations are still on-going. I can assure you that we are doing our utmost to provide you with the final reply on your application as soon as possible. I regret this additional delay and sincerely apologise for any inconvenience this may cause.

Yours sincerely,



Marc Maes
Deputy Head of Unit

¹ OJ L145, 31.05.2001, p.43.

European Ombudsman

Complaint form

Complaint about maladministration

Complaint submitted on: 22 January 2013

European Ombudsman

First name: Joseph
Surname: Caulfield
On behalf of (if applicable): Turn 180
Address line 1: Rathrobin
Address line 2:
Town/City: Mountbolus
County/State/Province: Offaly
Postcode:
Country: Ireland
Tel.:
Fax:
E-mail address: [REDACTED]@eircom.net

Against which European Union (EU) institution or body do you wish to complain?

European Commission

What is the decision or matter about which you complain? When did you become aware of it? Add annexes if necessary.

Failure of the European Commission (DG Energy) to provide environmental information for the public consultation in relation to Projects of Common Interest (PCI) in energy infrastructure. (http://ec.europa.eu/energy/infrastructure/consultations/20120620_infrastructure_plan_en.htm)

A public consultation was held by the Commission from 26-Jun-12 to 10-Nov-12. As no environmental information was available to the public to participate effectively in the consultation a request in accordance with the Aarhus Legislation (Regulation 1367 of 2006 and Decision 2005/370/EC) was made on 20-Aug-12.

A Confirmatory Application in accordance under Article 8 of Regulation 1049/2001 was applied for on the 24-Oct-12. The Commission has requested a number of time extensions to this process and the last correspondence from the Commission was 12-Dec-12. The Commission has failed to respond to a number of email requests for updates on the situation.

This citizen is gravely concerned that the process for approving Projects of Common Interest is proceeding without proper authority.

Name	Size	Content type
Caulfield- 2012-4179 EN.pdf	165023	application/pdf
Caulfield- 2012-4179 EN (1).pdf	165429	application/pdf
Caulfield- 2012-4179 EN(1).pdf	165024	application/pdf
gesdem 1341824 (1).pdf	745694	application/pdf

What do you consider that the EU institution or body has done wrong?

The Commission has deliberately withheld environmental information which prevented citizens from effectively participating in the public consultation process.

The Commission has failed to deal with the request for information in a timely manner.

The Commission is ultimately in breach of Article I of REGULATION (EC) No 1367/2006

- (a) guaranteeing the right of public access to environmental information received or produced by Community institutions or bodies and held by them, and by setting out the basic terms and conditions of, and practical arrangements for, the exercise of that right;
- (b) ensuring that environmental information is progressively made available and disseminated to the public in order to achieve its widest possible systematic availability and dissemination. To that end, the use, in particular, of computer telecommunication and/or electronic technology, where available, shall be promoted;
- (c) providing for public participation concerning plans and programmes relating to the environment;

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

1. Provide the environmental information which was requested
2. Thoroughly investigate and publish the reasons for the deliberate withholding of information.
3. Re-open the public consultation and ensure that the environmental information is available to the communities affected.

4. Halt the legislative process in relation to Projects of Common Interest until all of the above have been adequately resolved.

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

Yes (please specify)

Please see attachments documenting the prolonged requests for information.

If the complaint concerns work relationships with the EU institutions and bodies: have you used all the possibilities for internal administrative requests and complaints provided for in the Staff Regulations? If so, have the time limits for replies by the institutions already expired?

Not applicable

Has the object of your complaint already been settled by a court or is it pending before a court?

No

Please select one of the following two options after having read the information in the box below:

Please treat my complaint publicly

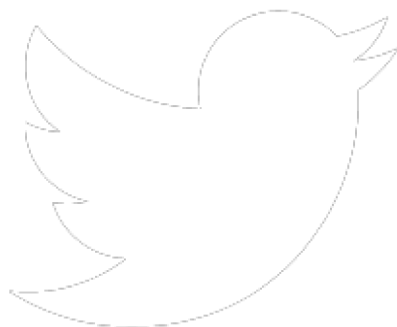
Do you agree that your complaint may be passed on to another institution or body (European or national), if the European Ombudsman decides that he is not entitled to deal with it?

Yes

1, avenue du Président Robert Schuman
CS 30403
F - 67001 Strasbourg Cedex

T. +33 (0)3 88 17 23 13
F. +33 (0)3 88 17 90 62

www.ombudsman.europa.eu





Directorate A
Registry

Joseph CAULFIELD
[REDACTED]@eircom.net

Strasbourg, 25/01/2013
Acknowledgement of receipt

Dear Sir/Dear Madam,

I am writing to let you know that your complaint dated 22/01/2013 was registered on 23/01/2013 and assigned registration number **0181/2013/JF**. It will be dealt with by Mr Juliano Franco (tel: +32 (0)2.284.38.58).

Enclosed, please find an information note concerning the treatment of your complaint and the rules governing the protection of personal data which the Ombudsman applies when dealing with complaints.

Your complaint will first be examined to determine if it falls within the Institution's mandate. If it does not, I shall inform you accordingly. If it does, the Ombudsman will write to you.

I would also like to draw your attention to the fact that complaints submitted to the Ombudsman do not affect time limits for appeals in any administrative or judicial proceedings (Article 2(6) of the Statute of the European Ombudsman).

Yours sincerely,

Peter Bonnor
Head of the Registry



Information note

What are the first steps?

Your complaint will first be examined to determine if it falls **within the Ombudsman's mandate**. If it does not, the Registry will inform you accordingly. If another institution could deal with your case, and you have already indicated that you consent to your complaint being transferred, the Registry may transfer your complaint to the appropriate body.

If your complaint falls within the Ombudsman's mandate, the Ombudsman will examine whether it meets the applicable **admissibility conditions**. You will normally be informed of these findings within one month.

If your complaint is admissible, the Ombudsman will then decide **whether to open an inquiry**. In some cases, he finds that there are **insufficient grounds** for opening an inquiry. This is normally the case, for instance, when the complainant has also turned to the Committee on Petitions of the European Parliament about the same matter.

What if the Ombudsman opens an inquiry into my complaint?

If the Ombudsman considers that an inquiry is needed, he has a number of possibilities at his disposal:

- If the Ombudsman considers that he needs further information from you, he can invite you to submit **clarifications**. The same approach can be used if the Ombudsman has doubts whether the facts reported by you indicate that maladministration has occurred. Depending on your clarifications, the Ombudsman may then decide to close the case, or, if he finds that the institution in question should explain its position on your complaint, he can ask it to submit an opinion. If he decides to close the case, he will inform you of the reasons for his decision. In some of these cases, he may find it appropriate to inform the institution complained against of his decision. He will do so in an anonymised form, which means that your name or other personal data will not be revealed.
- The Ombudsman may also decide to carry out an **inspection** of the documents in the institution's file in order to find out whether it is necessary to ask the institution for an opinion.
- The Ombudsman may **contact the institution informally** in order to try and bring about a rapid solution. This is often done in cases where the complaint is about an institution's failure to reply, or failure to provide an adequate reply.



What are the further steps in case the Ombudsman asks the institution for an opinion?

If the Ombudsman decides to ask the institution to provide an opinion on your complaint, he normally gives it three months to do so. Once the opinion has been received, you will be invited to make observations on it. If the Ombudsman considers that further information is needed to enable him to deal with your complaint, he can ask the institution to provide this information. The Ombudsman can also inspect the institution's file or take testimony from members of the institution's staff. You will be informed of the results of these steps and invited to make observations.

If the Ombudsman considers that no maladministration has occurred, he will close the case, informing you of the reasons for his decision. If the Ombudsman identifies a possible instance of maladministration that could be put right, he may make a proposal for a friendly solution. The Ombudsman may also make a draft recommendation for this purpose. The Ombudsman cannot oblige the institutions to accept his proposals and recommendations, but will normally criticise publicly any unjustified refusal to do so.

How does the Ombudsman deal with the personal data in my complaint?

A complaint to the Ombudsman may contain personal data relating to the complainant or to a third party. The processing of personal data by the Ombudsman is governed by **Regulation (EC) No 45/2001** of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ 2001 L 8, p.1. Please note that you have the right to obtain access to, and rectification of, your personal data. To exercise your rights or to obtain any further information, you may apply directly to the [Ombudsman](#). If you consider that your rights under Regulation 45/2001 have been infringed as a result of the processing of your personal data by the Ombudsman, you have the right of recourse at any time to the [European Data Protection Supervisor](#).

Will the Ombudsman handle my complaint confidentially?

If you ask the Ombudsman to handle your complaint confidentially, he will not give any third party access to the documents in the complaint file. Please note, however, the following:

a. Confidentiality only applies towards third parties. If the Ombudsman asks the institution concerned to submit an opinion on your complaint, he will have to send your complaint to that institution.

b. Confidentiality does not prevent the Ombudsman from disseminating information about your complaint in an anonymous form. If the Ombudsman asks the institution concerned for an opinion, he publishes your allegations and claims on his website, without disclosing your identity. He also publishes, also without disclosing your identity, any draft recommendation he may issue



during his inquiry, as well as his final decision. The Ombudsman will only very exceptionally decide not to publish information as described above. Finally, the Ombudsman may also decide to refer, again anonymously, to your complaint in his Annual Report.

A request for confidentiality can be made at any time. If you do not ask for confidentiality, your complaint will normally be classified as **public**. This means that any member of the public can ask for access to any part of the file on your complaint, including the complaint itself.

The Ombudsman may decide to treat your complaint confidentially even without any request to that effect from you, if he considers that there are good reasons for doing so.

If the Ombudsman receives a request for public access to documents contained in a complaint file and decides to comply with this request (that is to say, in cases where the complaint is not confidential), the Ombudsman will determine if it is necessary to **blank out any personal data concerning yourself**. He may also blank out personal data concerning **third parties**. This is done in order to comply with the applicable rules on **data protection**. In some cases, the Ombudsman may consult yourself or third parties about disclosure of personal data.

Can I contact the Ombudsman's services during their handling of my complaint?

The letter that you have received contains the name and contact details of the staff members entrusted with handling your complaint. You are welcome to contact the Ombudsman's services at any time by e-mail, telephone or letter.



P. Nikiforos Diamandouros
European Ombudsman

Mr Joseph Caulfield

IRLANDE

@eircom.net

Strasbourg, 14 -02- 2013

Complaint 181/2013/(JF)RT

Dear Mr Caulfield,

On 23 January 2013, acting on behalf of Turn 180 (hereinafter the 'complainant'), you submitted a complaint to the European Ombudsman against the European Commission, concerning its refusal to grant the complainant access to the documents it requested.

I have asked the Commission to submit an opinion on the following allegations and claim.

Allegations:

1. The Commission wrongly refused to grant the complainant access to the documents and environmental information requested.

In support of this allegation, the complainant argued that the Commission has deliberately withheld environmental information and has thus prevented citizens from effectively participating in the public consultation process. In this respect, according to the information published by the Irish authorities, the Commission was in possession of the environmental information to which the complainant requested access on 20 August 2012. Moreover, the Commission breached the provisions of Article 1 of Regulation (EC) No 1367/2006¹.

¹ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, OJ L 264 25.09.2006, p. 13.



2. The Commission failed to deal with the complainant's request for access to documents in a timely manner.

Claim:

1. The Commission should provide the complainant with the requested documents and information and it should give adequate reasons for its failure to do so in a timely manner.

In accordance with Articles 2(2) and 3(1) of the Statute of the European Ombudsman, I informed the President of the Commission of your complaint and invited him to submit an opinion on the allegations and claim included in my inquiry by 30 April 2013.

I also consider it appropriate to inspect the relevant Commission file. I have therefore informed the Commission that my services will carry out an inspection of the file.

As soon as I receive the Commission's opinion, I will forward it to you with an invitation to make observations. Any observations you wish to make should be submitted to my office within one month of receiving the opinion.

Once my office receives your observations, or the deadline has passed, the Legal Officer responsible for your case, Ms Raluca Trasca (tel. +32 (0)2 284 49 14), will then examine your file. Ms Trasca is a member of Complaints and Inquiries Unit 1, headed by Ms Marta Hirsch-Ziembinska, which is part of Directorate A. I will inform you if I need to inquire further into your complaint before making a decision on it.

Every effort is made to deal with cases as quickly as possible. I try to reach a preliminary conclusion in an inquiry on a complaint within one year of opening it.

As regards your claims that the Commission should i) reopen the public consultation and ensure that the requested environmental information is made available to the communities affected, and ii) stop the legislative process in relation to Projects of Common Interest until it adequately settles your above claim, I decided that they are inadmissible.

In this respect, please note that the Treaty on the Functioning of the European Union and the Statute of the European Ombudsman set certain conditions as to the opening of an inquiry by the Ombudsman.

One of these conditions is that the complaint must be preceded by appropriate administrative approaches to the institutions, bodies, offices or agencies concerned.

The purpose of this requirement is to give the institution or body concerned the possibility to correct its behaviour, or at least to explain itself, before a complaint is made to the Ombudsman, and subsequently, in case a complaint is lodged with the Ombudsman, to enable the Ombudsman to take into consideration the institution's reply when making a decision on the existence of sufficient grounds for opening an inquiry.



After a careful examination of your above claims, it appears that this condition is not met, because you do not appear to have made appropriate prior administrative approaches to the Commission in relation to these aspects of your complaint. I regret to have to inform you, therefore, that I am not entitled to deal with them.

Yours sincerely,

P. Nikiforos Diamandouros

Public consultation

YOUR DETAILS	
Title -single choice reply-(compulsory)	Mr
First name -open reply-(compulsory)	Pat
Last name -open reply-(compulsory)	Swords
Organisation / Company name -open reply-(optional)	Citizen - protesting over illegal EU Policies
Job title -open reply-(optional)	BE CEng FICHEM CEnv MIEMA
Address (street, number, post code, city) -open reply-(compulsory)	
10 Hillcourt Rd Glenageary Co. Dublin 0	
Country -single choice reply-(compulsory)	IE - Ireland
E-mail -open reply-(compulsory)	██████████@gmail.com
Telephone number -open reply-(compulsory)	0035314434831
COMMENTS ON THE LIST OF PROJECTS SUBMITTED TO BE CONSIDERED AS POTENTIAL PROJECTS OF COMMON INTEREST (PCI)	
Do you wish to comment on a particular project in the list? -single choice reply-(compulsory)	Yes
Project number (eg. E43, G121) -open reply-(compulsory)	E151, E149, E150, E154, E291,E153, E152,E155, E156
Comments on the project: -open reply-(compulsory)	
<p>The Commission knows that the UNECE Aarhus Convention Compliance Committee in Communication ACCC/C/2010/54 ruled that the EU's renewable energy programme is in breach of the Convention, a binding part of EU law. Proceeding with any of these and other renewable energy projects would be a further serious breach of law. In the European Platform Against Wind Energy's Complaint 1892/2012/VL to the EU Ombudsman it states: "The EU consultation team was then requested to provide data on the projects; they refused stating that this information was held by the developers not themselves. Note: Natural Hydro Energy have provided no details on location, scale, costs, impacts, etc. DG Energy was then requested with reference to the legal requirements under Regulation 1367/2006 to provide details on the projects, it refused to do so . Instead the privacy Regulation 45/2001 was invoked and refusal under the Aarhus Convention in relation to respecting the confidentiality of commercial interests".</p>	
Do you wish to comment on another project in the list? -single choice reply-(compulsory)	Yes
Project number (eg. E43, G121) -open reply-(compulsory)	G79, G80
Comments on the project: -open reply-(compulsory)	
<p>Ireland badly needs the Shannon LNG project to tap into the Global LNG market, currently the only gas supply is from Scotland via the Moffet interconnector. Anti-competitive price fixing on this single market supply is making the project viability of the Shannon LNG development uncertain. This has a serious anti-competitive disadvantage to the Irish gas and electricity consumer. Increasing the buffer capacity of the Kinsale field by a permanent subsea system, provides additional and vital security of supply, plus allows more efficient utilisation of the gas supply infrastructure to Ireland, which is at the end of the European gas network.</p>	
Do you wish to comment on another project in	No

the list? -single choice reply-(compulsory)

ADDITIONAL PROJECTS NOT LISTED

Do you wish to submit a project for consideration as a potential PCI? -single choice reply-(compulsory)

No

CONTRIBUTION TO EU ENERGY POLICY OBJECTIVES

ELECTRICITY PROJECTS IN YOUR COUNTRY

Please identify the five electricity projects in your country that contribute the most to the following key energy policy objectives of the EU:

- market integration, competition and system flexibility;
- transmission of renewable generation to major consumption centres and storage sites;
- interoperability and security of supply.

(Please use the project numbers as they appear in the list e.g. E43, G121)

-open reply-(optional)

None of these projects contribute to a proper balanced energy policy

ELECTRICITY PROJECTS - EU WIDE

Please identify the five EU-wide electricity projects that contribute the most to the following key energy policy objectives of the EU:

- market integration, competition and system flexibility;
- transmission of renewable generation to major consumption centres and storage sites;
- interoperability and security of supply.

(Please use the project numbers as they appear in the list e.g. E43, G121)

-open reply-(optional)

None of these projects contribute to a proper balanced energy policy

GAS PROJECTS IN YOUR COUNTRY

Please identify the five gas projects in your country that contribute the most to the following key energy policy objectives of the EU:

- market integration, interoperability and system flexibility;
- security of supply;
- competition;
- sustainability.

(Please use the project numbers as they appear in the list e.g. E43, G121)

-open reply-(optional)

G78, G79, G80, G81

GAS PROJECTS- EU WIDE

Please identify the five EU-wide gas projects that contribute the most to the following key energy policy objectives of the EU:

- market integration, interoperability and system flexibility;
- security of supply;
- competition;
- sustainability.

(Please use the project numbers as they appear in the list e.g. E43, G121)

-open reply-(optional)

Developing fracking and LNG are the key issues.

OIL PROJECTS EU WIDE

Please identify the oil projects that contribute the most to the following key energy policy objectives of the EU:

- security of supply;
- efficient and sustainable use of resources through mitigation of environmental risks;
- interoperability.

(Please use the project numbers as they appear in the list e.g. E43, G121)

-open reply-(optional)

ADDITIONAL COMMENTS ON FULL LIST

You are invited to submit general comments on the overall list of projects which have been submitted to be considered as potential Projects of Common Interest:

-open reply-(optional)