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*Committee on Petitions*

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## **REPORT**

on fact finding visit to Ireland 26-29 June 2007

Committee on Petitions

Rapporteurs: Marcin Libicki, Radu Podgorean.

## **Introduction:**

The objectives of the mission to Ireland were to investigate and respond to several petitions submitted by Irish citizens, while at the same time allowing the Committee to consult the authorities at national and local level about ways in which certain issues raised by the petitioners might be best resolved.

The members of the delegation were pleased to be able to count on the support and advice from Irish members of the Committee who, as our guidelines preclude members from the country visited forming part of the official delegation, joined at various points in an ex officio capacity: Kathy Sinnott - 3rd Vice-Chairman of the Committee, Mairead McGuinness, Proinsias de Rossa and Marian Harkin.

The timing of the visit, which took place shortly after the appointment of a new government in Ireland, allowed members of the delegation to meet with Dick Roche TD, Minister for European Affairs, and John Gormley TD, Minister for the Environment and very constructive exchanges concerning the rights of European citizens were held with both. Prior to these meetings, in depth discussions with senior officials from several ministries, coordinated by the European Affairs ministry, allowed members of the delegation to obtain comments and explanations on all the topics which had been chosen by the Committee for investigation.

Members of the delegation wish, from the outset, to place on record their sincere thanks to all the officials involved who devoted a considerable amount of time and effort, and indeed patience, in order to respond to the many questions and issues raised by members on behalf of petitioners. The assistance of the Irish Permanent Representation in Brussels and the European Parliament Office in Dublin was also most valuable.

Locally, the delegation met with the Mayor of the County of Galway and senior county officials and with senior members of Dublin City Council and Kilkenny Council. At both of these meetings the delegation was impressed with the courtesy and helpfulness of all concerned, demonstrating a real spirit of cooperation with the Petitions Committee in the interests of local citizens.

Most of the issues raised in the course of the visit had already been the subject of discussion in full Committee and members therefore had not only the Committee's preliminary findings in mind, but also the contribution made by the European Commission on many of the petitions submitted. In addition however, the delegation was able to avail itself of the opportunity, while in Ireland to meet with many people who were able to submit new petitions as well as meet with and talk to members of the delegation. Meetings in Galway, Cork and Dublin allowed this.

Thus, in the course of three full days of meetings the following substantive issues were investigated with petitioners and local associations, often explaining directly to members of the delegation the extent of their concerns and requests: the Dublin Bay Incinerator at Poolbeg; the M3 motorway project at Tara and Lismullen; issues related to drinking water in Galway, Carreroe (An Cheathrú Rua) and Kilkenny; fundamental rights of EU citizens living in Western Gardens, Limerick; problems related to the possible discontinuation of water distribution from Bleach Lough; problems of waste disposal and pollution from the Aughinish Aluminium Plant; impact of the N8 toll road on the community of Watergrasshill; illegal

quarrying near Carrigtwohill and West Cork; retired farmers' pension schemes; Bio-fuel initiative; respect for fundamental rights and problems of the Irish Mental Health Act; problems related to acquisition of property for non-local residents and people with MS; problems with the Milk Quota regulation as a license or an asset; rest periods for Irish truck drivers; the dramatic situation at Dan Brennan's farm and his shrinking cattle; fluoridation of water and effects on health.

The number of petitions considered and the complexity of several of them set this particular visit apart from previous fact-finding visits which have, generally, tended to focus on one or two key petitions.

### **The Poolbeg Peninsula, the proposed Incinerator Plant and the Dublin Waste to Energy Project. (Petition 495/2006)**

For a very long time the Poolbeg Peninsular has been the site of various facilities linked to the Port of Dublin and has also included an electricity generating power station - soon to be decommissioned, a water treatment plant as well as small factory units such as for bottle production. It also contains the Irishtown Nature Park which is an area notable for Brent Geese and water fowl. Above all it houses a very tight-knit local community of 70,000 people within 3km of the site. The local community is particularly opposed to the site, according to the petitioners - the *Combined Residents against the Incinerator* - for a number of reasons, the most prominent being the disruption caused by the eventual construction of the site itself, the additional heavy lorry traffic which will be generated by the delivery of refuse for incineration<sup>1</sup>, the impact of a substantial new eight-story series of buildings for additional housing, and the fact that the incinerator will pollute and contaminate air and water and be an eyesore on the Dublin Bay skyline.

If the incinerator plant is built it will be one of the largest in the EU, burning 760,000 tonnes of waste each year and local people fear that the smell from the chimneys would seriously compound existing odours about which they have already complained in relation to the existing water treatment plant and the sludge it produces. It remains to be confirmed that an incinerator project of this magnitude would be in conformity with EU Directives on Waste Incineration (2000/76/EC) and on Integrated Pollution Prevention and Control (96/61/EC). There is also some doubt as to whether all the provisions of the EIA Directives have been complied with given the timing of the original impact assessment in 1999, its original scope and the change in circumstances since then, in particular as regards transport and access to the site area.

Dublin Bay itself is an area of high conservation importance and is legally protected under both the EU Habitats Directive and the EU Birds Directive. Specific sites of conservation importance include the Liffey and Tolka Estuaries, and Sandymount Strand, all immediately adjacent to the proposed development. This fact, although acknowledged by the developers has not been an element which has been included in the environment impact assessment which focussed only on the Poolbeg Peninsular itself.

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<sup>1</sup> Lorries would enter and leave the plant by the same route and therefore cause massive traffic jams along the narrow peninsular; there being no practical possibility for a more radial inward and outward traffic system. The Eastern Bypass scheme has been abandoned. This would potentially add considerably to traffic-caused air pollution with harmful effects in particular on the vulnerable sections of the local population.

The delegation met with Matt Twomey and Eileen Brady, representing the management of Dublin Council as well as the consultants involved in the public/private partnership which will develop the site if it goes ahead. The meeting was held in the Community Liaison Office which was set up in order to provide information for residents in the area. Chris Andrews TD, one of the petitioners was present, with the members of the delegation for the duration of the visit, including the site inspection.

For the Dublin City Council and the developers, the objectives of the site will also lead to an improvement in recycling of waste (for which they say Dublin already has a good record) and a reduction in landfill requirements for the Dublin area. The thermal treatment facility which will be built as part of the incinerator plant will supply heating and electricity for the local community. As a compensation measure for the local community the national Planning Board imposed a Community Gain Fund which will finance improved social facilities in the area of benefit to the population.

The visit to the proposed site by the delegation, accompanied by the Council management team and the petitioners demonstrated why the site had been chosen as it was clearly a brown-field development within a former and current urban industrial area, with access to dock and quay facilities for sea transport (facilitating the export of the solid ash residues from the plant for example).

Yet, the exiguity of access, the proximity of the housing estates and residential areas, the lack of roads adapted to heavy lorries and the potential for an alternative style of local development designed to improve the quality of life of the local population also showed without doubt just why so many serious and largely unanswered questions have been raised - including within the Dublin City Council and the Dail, about the suitability of Poolbeg, at a time when incineration as a form of waste disposal is being discarded completely by many of Europe's regions - or at least relegated to the last possible waste disposal option.

The delegation therefore considers, and recommends, that further more serious consideration should be given by the Irish Environmental Protection Agency, by the National Planning Board, by Dublin City Council and by the Department of the Environment to these issues and to their level of compliance with the EC Directives mentioned. The European Commission should further review these findings.

### **Water.**

For a country which manifestly has no shortage of water, and is blessed with many beautiful rivers and lakes, it is nothing less than a remarkable anomaly and a great shame that Ireland should have such difficulty in ensuring the provision of "wholesome and clean" water to so much of its population.

In several counties of Ireland, generally in rural areas, there is a failure to fulfil the country's general obligations under Article 4 of the Drinking Water Directive (98/83/EC).

This concern has been widely expressed by petitioners to the European Parliament which had already investigated the matter during a previous visit of the Petitions Committee to Ireland in 2003 which focussed on Kilkenny's Troyswood water treatment plant. (Petition 661/2000 by Pat Grogan) A number of discussions in Committee followed which also led to a protracted

infringement procedure initiated by the European Commission to ensure Ireland's compliance with the Directive.

On this occasion the delegation was given a firm commitment by the Minister for the Environment, John Gormley TD, that priority is to be given to this matter. He told the delegation that, regarding the problems of water and its supply, that there is "a need to be rigorous and thorough - the citizen must have access to clean drinking water. This is a matter of urgency and a priority".

Senior officials of the Department of the Environment, Heritage and Local Government, made a presentation to the members of the delegation pointing in particular to the 27% increase in planned investment to upgrade water services infrastructure in the period 2007 - 2013. (€4.7 billion) The rural water programme however, they admitted, only receives €142 million for the whole of 2007.

The delegation's concerns were directed in particular to the ongoing situation in the Galway area which has been the focus of a number of petitions and complaints and where, in addition, since the beginning of 2007 a serious outbreak of the cryptosporidium parasite in the water supply has entailed a ban on the drinking of any tap water that has not been previously boiled. The delegation was briefed on this personally by the Mayor of County Galway, Sean Kenney, and senior county officials. It also heard the views of a number of directly affected local people and the Chairman of the Chamber of Commerce.

The delegation had not, unfortunately, scheduled a meeting with the city authorities of Galway and is therefore unable to reflect their position in this report.

The Committee reported following its previous visit in 2003 about the unacceptable situation regarding the water supply in An Cheathrú Rua (Carraroe), the main community in the South Connemara area in Galway, and was told on this occasion by the authorities that significant steps had been taken to remedy the situation and the sewage system had finally been upgraded earlier this year. Local residents remained dissatisfied however with the quality of the water and the Chairman of the Parish Council told the delegation that water, which is sourced from the nearby lake, is still undrinkable. (This was not contested by the County authorities.) He added that although the sewage system had been improved there was still raw sewage entering the lake from un-maintained septic tanks and cattle slurry. There is no treatment plant as yet for the community's drinking water supply and no measures have been proposed to keep the lake itself clean.

The delegation noted and agreed with the importance of restoring and enhancing the environment around the lake, by tree planting for example, and also of the need to enforce regulations preventing unacceptable discharges from septic tanks. Cattle should also be kept at a far greater distance from the lake to prevent slurry entering the water after heavy rain.

The County authorities informed the delegation that they were dealing with this matter and a new water supply scheme was being developed, about which the delegation was given the details by the consultants who were advising on the project, which is to be subject to public consultation and completed by 2010.

The seriousness of the cryptosporidium crisis was widely recognised, as was its effect on public health. An Incidence Response Team was set up. The older of the two treatment plants

providing water to Galway city from Lough Curran was thought to be the cause of the problem linked to the heaviest rainfall in the area for 40 years and one of the rivers had flooded. Remedial measures had been taken and plant upgrading was now being implemented. But this had clearly satisfied nobody that the delegation met, including a father whose child had been the first victim in January 2007. It is not the first outbreak either: Laois, Ennis, Longford and Roscommon had also experienced cryptosporidium contamination in the recent period.

The petitioners with whom the delegation met at a public meeting in Galway were scathing in their remarks about the years of complacency and under-funding which had led to this crisis. Planning permission had been granted for new housing without considering its impact on the provision of safe drinking water; no checks were done on properties with septic tanks. The only people to have benefited seem to have been producers of specialised water filter systems - the hotel advertised the fact that it had installed a "Trojan UV Max F + Ultraviolet water filter & pre-filter" but most individual homes do not have the means for such systems. Most new houses are now built incorporating special water filters in order to respond to peoples' concerns.

Local business was also irate and could not explain how the third largest city in the country, and its surrounding area could not have clean water from the tap. The effect on tourism had been very negative indeed. Rural group schemes were outdated often antiquated, and under funded and the city water supply was a disgrace.

This issue has become therefore not just a problem for the local authorities, according to many petitioners, but a matter of national importance for public health. Ireland's natural environment is not respected. Collection sources for water are at least as important as the provision of treatment plants it was forcefully stated yet little or no attention had ever been paid to the protection of such sources. Individual river basin plans are required. What is the Environment Protection Agency doing about this, people want to know. This must change.

Years of complacency (and lack of financial resources) by the local authorities and totally unacceptable levels of contamination requires a national response to deal with what is quite clearly a structural problem in Ireland's water supply system. This was echoed in subsequent meetings of the delegation with petitioners from Bleach Lough, Cork and Kilkenny. Many of the obligations contained in EU Directives on water and waste management, to which citizens have a right, seem unobtainable in the short term unless much more urgency is injected into the system and structural changes made.

It was put to the delegation that the Irish local authorities are trying to solve a crisis and not the problem: they also have to tackle the problem. One petitioner from the Woodland League Environmental Forum wanted an answer as to why a landfill site was being built on top of an aquifer near Lough Carragh.

The meeting with petitioners from the Bleach Lough vicinity presented another important aspect to the drinking water conundrum. In this instance, Limerick County Council is seeking to transfer the source of supply from the lake to a mains system currently under development in order, according to the Council, to provide security of supply. The delegation visited the lake with petitioners, and the local water treatment plant, and was fully briefed by the Council on the interconnection between Askeaton and Pallaskenry using water from the River Deel -

which is much polluted according to the petitioners.

Many local residents want to retain the Bleach Lough supply which is pure and uncontaminated; they are not confident that the proposed new system would provide safer or better drinking water. The Council for its part said that it was obliged to take the broader picture of the county into account and that, in any event, it had no plans to decommission the existing water supply to local residents from Bleach Lough.

Other residents in the area wrote to the Committee supporting the Council's view, pointing out that they have had to endure severely polluted water supplies for fifteen years as did Kilcornan National School and they are eagerly awaiting the Kildimo/Pallaskrenry connection.<sup>1</sup>

Tests conducted on both water supplies from Bleach Lough three years ago have proved that they are compliant with the Drinking Water Directive however, some serious doubts remains about the regular conformity of the River Deel and the Shannon Estuary in terms of Directive 75/440/EC on the quality of surface waters designated for the production of drinking water. There are clearly no such doubts about Bleach Lough.

From the delegation's point of view, given the apparent regularity and purity of the water in Bleach Lough (which we were able to see was of an impressive clarity and taste) and the fact that the lake level was apparently regularly high, the reasons for a change of policy concerning the water supply seemed curious. As the supply was working efficiently to the satisfaction of the local residents who actually used the water, why should they have to have water which was any less pure?

At the same time, other local residents clearly have an urgent need of clean water which they are not getting. The delegation does not wish to overstep its competence in such matters, so it would merely point out this apparent anomaly in a way which is supportive of the petitioners' concerns to safeguard their existing source from Bleach Lough, without depriving the people of Cragreagh of access to new supplies of drinking water, and urge very serious analysis of the extent to which water from the River Deel is in fact compliant with the EU requirements mentioned above. Results from such analysis should obviously be made public and communicated to all interested parties.

The delegation had a most constructive meeting with senior officials from Kilkenny council and petitioners about the water situation there. In this instance the delegation was pleased to be able to acknowledge the efforts made by the Council to remedy the problems which had occurred in the Troyswood treatment plant and was also pleased to note the priority they attach to developing alternative groundwater sources rather than obtain water from the polluted River Nore. Also the planned investment in water services over the next 15 years is a source of reassurance to the local community and local industry. The creation of a contact group involving local people, local employers and Council members and officials was also considered to be a very useful suggestion in order to rebuild public confidence and provide direct feedback in relation to developments with the water supply. This is a considerable contrast to the situation which prevailed during the previous visit in 2003.

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<sup>1</sup> Letter dated February 14 2007, from Ballyshonick Group Water Scheme, Kilcornan Group Water Scheme and Kilcornan Community Council.

However, it was clearly understood that the prevention of aluminium sludge creeping into the water system required constant monitoring and attention (cracked pipes being a frequent cause); a reinforcement of surveillance (already much upgraded) by the local authority and police was also required as there are a growing number of examples of "rogue elements" pouring raw sewage of high organic strength (including septic tank contents, blood, slurry and milk) from lorries into manholes or directly into the river which has an immediate impact on the safety of drinking water supplies; greater efforts to reduce the odour emanating periodically from Purcillsinch plant (not unrelated to the previous point) and also to ensure the colour of the drinking water was improved.

The delegation was provided with many details of the Council's plans which cannot all be reproduced here. But, even as regards the older Freshwood plant, they seemed to reflect a real positive step forward by the authorities who undertook to accelerate delivery if possible. For the last two years sludge from the treatment plant at Troyswood has gone into landfill rather than being pumped back into the River Nore and UV filters have been introduced at the plant. An anorebic digester is also planned and is scheduled to come onstream within two years.

This situation requires a more direct interest and involvement from national level for it to be possible and the use of available European funding should be considered which would allow things to happen faster leading to real improvements sooner for local people and business. The positive assurances given by the Minister to the delegation therefore need to be confirmed by the effective delivery of new resources. More information should be made available to the population also about the cost of water and consideration given to reviewing the way in which the consumer contributes to the cost. It is apparently the lack of funding over so many years which has led to this situation developing, linked to the structural problems between the different water schemes and national and local authorities.

### **Tara.**

Eremon, the first chief of the Milesians was the first high king to reign at Tara on the site which has been used continuously from the Stone Age to the era of Christianity and which is mentioned as one of the Green Isle sites in the Book of Invasions. An Irish citizen today hears reports every day through the news media about the proposed M3 motorway route which will pass through the Tara area which remains of enormous heritage value to the nation and to the world. Many very detailed petitions have been received and assessed and it was therefore appropriate that the Committee decided that it was necessary to visit the site and surrounding area to establish a clearer opinion of the situation.

Today's residents on the site are maintaining a vigil and its many visitors are quickly made aware of the value with which this atmospheric spot on the Irish map is considered. Its situation and its artefacts constitute a national treasure; the integrity of the site an enormous challenge. When the original plans for the motorway were proposed (as a result of the need to upgrade and improve road transport and communications between this important commuter area and Dublin,) and the impact assessment conducted it was agreed to choose the second best option available in relation to the archaeological criteria and abandon the first choice option which would have avoided encroachment on the historic remains known at that time. It is however apparent and quite clear that the authorities fulfilled their obligations under EIA

Directives inasmuch as they clearly identified alternative options for the road.<sup>1</sup>

The first choice option would have entailed larger compensation payments to landowners and residents. But the option retained is outside the central Tara zone, 1.5km away over the brow of a hill and not visible from the Hill of Tara itself. It is considered the best corridor in terms of serving traffic demands and engineering impacts, and also the preferred crossing of the River Boyne according to the National Roads Authority which has the responsibility for the project. The current main road used is between the planned route and the Hill of Tara and clearly visible from the hill.

Since work began however, and specifically since March this year, several significant new discoveries have been made, notably at nearby Lismullen, which were not recognised in the original survey and the whole Tara domain is now said to be of greater historic value covering a wider area than originally known. Many prominent archaeologists have attested to this fact and it is also now accepted by the government which in June this year designated the Lismullen site as a National Monument.

This has clearly created a serious dilemma for the authorities who, it is considered, did their best to properly conduct archaeological investigations using internationally recognised methodology. It may be argued that they failed to fully respect the precautionary principle when evaluating the road corridor in relation to the Tara domain, but everything indicates that the planners acted diligently in assessing the practical options given the knowledge available at the time. Both geophysical and magnetometer surveys were conducted which, it turned out, led to the discovery of the Lismullen site. The decision was then taken to preserve the site by the outgoing government, not by maintaining its integrity but by recording and excavating its artefacts and treasures.

The Meath Archaeological and Historical Society has the support of many other similar societies within and without Ireland and as one of the main petitioners it speaks with a particular authority about the implications and the dangers of the M3 motorway development in the Tara-Skryne Valley.<sup>2</sup> Julia Clancy, the principle petitioner, conducted an incredibly useful and informative site visit for the members of the delegation with several of her colleagues and supporters from the Society. It is indeed painful to discover that several of the petitioners' allegations in relation to the failure to consider alternatives are not born out by the available facts, even though the alternatives proposed by the petitioners may indeed not have been assessed. Routes to the west of the main Tara site, running closer to the river Skane, for example, do not seem to have been seriously considered by the authorities. Whether they are more or less likely to contain historical remains is a mute point.

Here we are confronted with the limitations in assessing the application of EU Directives, and

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<sup>1</sup> Four route corridors with ten route options were considered by the planners. Source: The M3 Clonee – North of Kells Motorway Scheme, County Meath. Prepared by the NRA for the Committee on Petitions 27 June 2007. Information publicly available on Meath County Council and National Planning Board websites.

<sup>2</sup> The Carrickfergus and District Historical Society wrote to the Committee on July 5<sup>th</sup> in support of the petition 546/2005. Like others they compare the historical landscape of Tara with another Valley of the Kings. The Tara Foundation itself, author of petition 840/2004, has made a substantial case for the preservation of 'probably the most important archaeological site in Europe' 575/2006 also raises a number of contradictions between the Meath County Development Plan and the decisions of the NRA, as well as a possible mis-transposition of the EIA Directive itself.

indeed the inherent weaknesses in the Directive itself. The EIA Directive says alternatives must be considered, but it does not indicate which ones. Archaeological factors must be taken fully into account as well but there is no evidence they have not been. The public has been informed and involved in an oral hearing in 2002 – 2003, albeit before the recent findings at Lismullen were uncovered – a fact which renders such hearings meaningless for the petitioners.

There is not any impact, as far as the delegation is aware, on land protected under the Habitats or the Birds Directive for example; and were this to have been the case our assessment could well be very different. The European Commission has informed the Committee that in its opinion the provisions of the EIA Directive have been respected and the visit by the delegation has not found sufficient evidence to disprove that except in the Lismullen area.. (One might add – much as it would have liked to have done so.)

The delegation is however perplexed by the choice of route and by the damage done to the integrity of the many sites in the Tara area and the Gabhra Valley which have been vividly drawn to our attention by petitioners. (Sites in particular at Baronstown, Collierstown, Roestown and Dowdstown) It is also concerned as to why it has been deemed necessary to build one of the largest M3 intersections precisely at this most vulnerable location in terms of Ireland's national heritage, which destroys forever the intact archaeological landscape of the area. This, and subsequent analysis by the European Commission since the designation of the Lismullen site as a National Monument by the Irish Authorities<sup>1</sup>, motivates a clear call by this Committee for a substantial review of the environmental impact of the M3 and for less intrusive alternative routes to be designated which should safeguard this area for the Irish nation.

On the slightly broader picture, it is nevertheless surprising that so much emphasis is placed by the Irish authorities responsible for transport on the development of road infrastructure and so little on developing an efficient and more sustainable rail network for passengers and freight. It is surprising that there is no commuter rail service between this area, Navan, and Dublin, and that none is planned before 2015 at the earliest, a fact which condemns and confirms an inevitable choice of motorway construction. The National Roads Authority build roads. What would a National Transport Authority decide ask many of the petitioners? These are issues that need to be addressed by the Irish authorities with the competence to make decisions and the treaty does not allow for the European Parliament – or one of its committees, to take decisions in the place of the competent national authorities.

### **Dan Brennan and his shrinking cows.**

Of the thousands of petitions received in recent years by the Petitions Committee, none match the petition tabled by Dan Brennan on the subject of the impact of pollution on his livestock; or as the press has reported on his “shrinking cows”. Such a petition could only come from Ireland perhaps, but it is a matter which deserves to be taken much more seriously than it has been by the Irish authorities until now.<sup>2</sup>

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<sup>1</sup> The Committee welcomes Minister Gormley's decision to establish an expert advisory committee concerning the Lismullin site. (Letter dated July 24th 2007 from John Gormley to Marcin Libicki.)

<sup>2</sup> Petition 161/2001 by Dan Brennan has been supplemented by many authoritative documents supplied by independent veterinarians, scientists and academics, in particular from the University of Limerick and UCD. All of these contributions remain on file and can be obtained from the secretariat.

It is indicative of the importance of this case that the President of the Irish Farmers Association, Poraig Walsh was present to meet the delegation during their visit to the farm. It is important to note that Regional and National Veterinary Laboratory staff visited the farm from time to time and they also did on this occasion. The delegation did moreover discuss the case with the Deputy Chief Veterinary Officer, Michael Sheridan, in Dublin and he apologised for being unable to be present at the farm because of a prior commitment on behalf of the Irish Government.<sup>1</sup>

Since 1990 the cattle on the farm have been victim to a serious disorder which has restricted their growth and their milk production. The veterinary experts refer to this as lack of thrive. The delegation observed the cattle in the field and they are only half the size of other cattle of the same age. This has had serious consequences for the viability of the farm. For many years the petitioner had tried to obtain from the authorities a clear indication of the cause of the problem and different types of epidemiological studies and environmental monitoring were conducted, including feed trials, all of which proved inconclusive though continued weight loss and increased mortality was recorded. Most of the tests conducted it turns out had serious methodological shortcomings and in 2006 Dan Brennan petitioned the European Parliament. A further study being conducted by the Department of Agriculture since December 2006 has yet to report. Certain tests carried out by the Department were conducted when the factory was temporarily closed! The Office of Environmental Enforcement based in Wexford has been given responsibility for assessments but has not proved to be very forthcoming when asked to provide information.

Reports by independent vets, who have spent a considerable amount of time studying the phenomenon as well as some of the research conducted by the EPA indicate a likely source of contamination resulting from toxic emissions from the local brick factory in Castlecomer, owned by Cement Roadstone Holdings. (CRH)

The history of the problem was assessed in detail by the delegation and the timeline studied; cross referencing periods of serious difficulty with periods of increased production by the brick factory, which has also gone through periods of closure. The problem is therefore of a long term and intermittent nature. Whereas blood tests and samples have been taken from the animals, as yet no post-mortem and histological assessment of gastrointestinal organs and the liver has been carried out as repeatedly requested by the farmer and his expert advisers. It is evident that the cattle concerned gain weight, stay static or lose weight together when no anomalies are recorded on any other locality in the area. The conduct of post-mortems on the animals is therefore an urgent course of action to follow.

Topological and geographical conditions explain why only Dan Brennan's farm has been affected by the problem and not other farms in the area<sup>2</sup>. It is quite evident that the cattle grazing areas are situated on the hillside farm in a sort of hollow, at the bottom of which lies the brick factory whose chimney - a rather small chimney, can be easily identified.

It is not only the cattle which have been affected as the delegation was able to clearly see the impact of toxicity on the foliage and trees in the hedgerows where shrivelled branches and

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<sup>1</sup> Mr. Sheridan later visited the farm in mid-August, it has been reported to the Committee.

<sup>2</sup> There is evidence of foliage damage from pollution on part of an adjacent golf course.

dead leave areas where quite visible, next to areas of healthy plant growth. Some lichen studies conducted were extremely limited in their scope and gave little evidence of anomaly as they only looked at stand-alone trees (of which there are very few on the farm) and not so much the hedgerows around the field where, because of the land elevation in relation to the factory chimney the real damage has occurred and is most visible. Ecological damage is thus clearly defined, visible and very restricted.

The delegation has first hand corroborated witness reports which testify that while taking positional reading at the end of June with GPS equipment the experts moved into a "pocket of air in which there was a pungent odour" which was recognisable to the petitioner who was present and who wrote to inform us about the incident. The odour was chemical in nature and alien to all normal odours found in grassland. There was an unpleasant feeling when the odour was breathed in, and there was little or no wind at the time. "The vapour was hanging in the air in pockets over a fairly confined part of the paddock at one particular recorded elevation". The brick factory was in production.

For the delegation there exists enough tangible evidence available, linked to our own on-the-spot assessment of the environment and the cattle concerned, to indicate a probable or likely causal effect between the emissions from the CRH brick factory and the affected cattle. Indeed since July a further 'downturn in thrive' was observed subsequent to the above event.

No doubt further proof resulting from necessary post-mortem examinations conducted precisely and immediately when the animals are hit and being affected is essential in order to conclude and assess any eventual claim for compensation which the petitioner might wish to lodge through the Irish courts. An independent laboratory analysis including input from a toxicologist would also be important quantify the substances from which this pungent odour was produced. Continued and regular monitoring of air and soil on the fields and hedgerows affected is also essential and it is to say the least surprising that this does not seem to have been done already. These three issues are urgent matters which require a response from the authorities.

A much more objective scientific assessment also needs to be conducted of the brick factory as well looking at the state of the installation and filtering equipment, the chemicals used in the production process and a proper time-chart established which reflects the production statistics for the last ten years or so. The delegation was not able to meet with the manager of the factory and obtain this information directly so it will refrain from making any further detailed comments on this point.

If there is proof of a violation of EU law related to air pollution and contamination then the European Commission has the power to act and take the matter before the Court of Justice, but this would be an affair against the Irish state and not directly against individuals or companies. Judging by the visible environmental damage mentioned above there would definitely appear to be a prima facie case to be answered.

## **Limerick - Weston Gardens.**

Citizens of Europe from Ballinacurra,  
Sent a petition about life in Clarina,  
There is so much rubbish and dirt  
It makes our eyes hurt  
But its the rats that are thriving - the b\*\*\*\*\* .

The good people met with PETI's bold members  
In the rain, outside, with umbrellas,  
Weston Gardens needs attention,  
We call on Europe for redemption  
For our rights and our claims,  
For our hopes and our aims  
For a neighbourhood decent to live in.

Weston Gardens and the kids from Rosbrien  
Have got three burnt out houses to play in,  
They would like the green  
To be healthy and clean  
But the rubbish bags pile up and drown 'em.

The boundary walls look like Belfast or Baghdad,  
Steel spikes and barbed wire've been erected  
The space for their children  
Their homes and their freedom  
Is swapped for nine shots from a handgun.

Members asked which Directive is broken  
By your troubled estate's awful condition  
We're not sure on that one  
But there must be some  
Lying unused and needing attention.

What about the government in Dublin  
Don't they have some powers of persuasion?  
When something goes wrong  
Someone bangs the gong  
The Gardai should stand to attention.

All that has been tried; we're defeated.  
The only course of action, they pleaded,  
Is for Europe to help  
To provide us with strength  
And deliver to us all that is needed.

We will do our best to provide  
A solution which will soon decide  
A better future for all  
Weston Gardens, no walls  
Just clean streets, some sunshine and pride.

For that we need full cooperation  
With Limerick Council, with the Irish nation,  
More effort by the elected  
More respect for the affected  
Some solutions with Europe's benediction.

Weston Gardens is part of a neighbourhood on the outskirts of Limerick which has become a no-go area, where residents have had to put up with serious anti-social behaviour, including aggressive behaviour, drug-taking and vandalism by local gangs which have turned this old established community into a divided and neglected area.

Elderly residents have been the most affected and they remain the most vulnerable to aggression and insult. The brick and metal fencing and barriers which have been erected make the area now look more like a prison for its inhabitants, keeping them inside and the gangs outside. The barriers have added little, if anything, to their safety and created even more problems for the local community which is now unable to have its rubbish collected effectively, which in turn has led to a serious and persistent health hazard.

Local children every day risk infection from the piled up rubbish and the rat infestations in the burnt out houses. Limerick sends out a cleaning truck only twice a year and the residents are left to do the cleaning themselves as best they can.<sup>1</sup> The gangs have nevertheless returned and they set light to the rubbish creating a serious fire hazard which has already engulfed the community - an open-air incinerator site. The fire brigade have been stoned when they arrived to extinguish the fires.

Complaints made to the Local Council (Corporation of Limerick) have gone unheeded. In 2001 a resident sounded the alarm because of one house which had been torched; this did not prevent the burning of the two houses next to it in the following period.

The citizens living in this area have had enough: they consider that their fundamental rights are being ignored by the local and national authorities and they have appealed to the Petitions Committee to assist. In the course of the visit, members gave a commitment that they would be heard, even though under the terms of the Treaty the European Parliament has no direct power to intervene except by urging the responsible authorities to do their duty.

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<sup>1</sup> Reports by the Environmental Health Officer, 2003, 2004, 2005; correspondence with the Mid-Western Health Board, The Fitzgerald report to the Cabinet Committee on Social Inclusion, April 2007, a complaint concerning Keyes Park have all so far to be acted upon by responsible authorities.

## **Aughinish - Cappagh Farm Action Group. (0010/2006)**

The view of the Shannon Estuary from the top of a tall hill on which an old graveyard is sited is a most spectacular one. The landscape and the seascape are stunning. The Aughinish Aluminium Factory, which continues to provide jobs for the surrounding communities and to inject valuable earnings into the local economy, is a blot on this landscape, surrounded by bauxite sludge - shining red mud pools contrasting with the green fields and shallow water of the estuary.

Accompanied by representatives of the Environmental Protection Agency and the petitioners from the Cappagh Farm Action Group, members of the delegation were briefed about the 3.9 million tonnes of bauxite imported from Africa and New Guinea each year and the 50% waste sludge produced and stored as a result of aluminium production: a situation which could not continue for much longer. The plant also produces 1 million tonnes of CO<sub>2</sub> waste per year.

The landfill site covers 100 hectares and received its permit ten years ago; it is seeking to double its size. The new zone for the landfill is planned in a special area of conservation. There remains a large question mark (in spite of a much criticised inquiry - the Askeaton Inquiry which did lead to some improvements in the installation being carried out) over the conformity of the plant with the IPPC Directive (96/61/EC) and the Mining Waste Directive and also whether an Environmental Impact Assessment would provide grounds to allow further expansion or not. The official view is currently that given the size of the plant it is remarkably compliant with Environment Directives even though there are serious doubts about long-term structural stability of the mud stacking process. Alternative means are being explored to evacuate the waste either by the use of neutralising materials or by dumping at sea in the Atlantic Trench.

The petitioners are very concerned by the seepage of toxic substances from the unlined part of the landfill into the groundwater supply as well as by the airborne toxic dust particles which they believe have led to serious lesions in the cattle of at least two neighbouring farms.<sup>1</sup> They consider that the EPA has not conducted its research thoroughly enough concerning the possible contamination by the factory. They complained that monitoring stations should be placed specifically on the farms where the suspicion is greatest and not spread out over such a wide area as was the case at present. The methods used for the assessment of pollution risk and contamination did not take into account the specific conditions prevailing around the site and the petitioners were very worried about the impact of the plant on their own health and on their farms.

The plant is under a strict obligation to conform with the IPPC Directive by October 30th 2007. As the deadline is now reached, concerns about contamination and the methodology of the EPA assessment need to be urgently reviewed by the Commission and the Irish Authorities. The local community must be directly informed and be given the assurance that the monitoring facilities are credible and are commensurate with their local requirements.

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<sup>1</sup> Specific concerns relate to sulphur dioxide emissions, sodium hydroxide seepage into the groundwater, particulate emissions, and high pH readings on surface water, sodium aluminates and sodium hydroxide spillage into the estuary, and thresh holds for the following pollutants are exceeded according to the petitioners : carbon dioxide, nitrogen dioxide, PM10, arsenic, cadmium, copper, chromium, nickel and zinc.

## **N8 Road Scheme -Watergrasshill.**

On their way from Limerick through to Cork the delegation met with the petitioners who are protesting about the new road scheme in their area which has been part-funded with EU resources. The road has recently become a toll road (M8) however and vehicles have reverted as a result to the old route through the village. Some 10,000 heavy vehicles a day were passing through the village again.

While in Dublin, members were briefed by NRA officials about this situation and assured that an alternative plan which would avoid the bottleneck in the village of Watergrasshill was to be soon implemented. No action by the Petitions committee would be likely to directly affect the toll issue as such but there was an undertaking given that the toll payments would be reviewed for local people and regular users of this section of the M8.

This will need to be monitored as it must be a source of concern to the EU and the Commission, and possibly the Budgetary Control Committee of the Parliament, that EU funding was used with a clear objective in mind which included the need to reduce pressure and pollution on Watergrasshill. If the introduction of the toll makes that original objective redundant then some claim may be made on the Irish authorities responsible.

## **Carrigtwohill Quarries.**

On the basis of several petitions received from Irish citizens the Committee had previously requested the European Commission to look into the matter and provide a preliminary view on the subject. The Irish authorities have been called to account for this.<sup>1</sup> The particular example of the Carrigtwohill Quarry development, near Cork, exemplifies the types of general concerns expressed and the delegation's visit there proved very instructive.

The area is situated on the inner reach of Cork Harbour along the North Channel near Cobh Island and the towns of Barryscourt, Rossmore, Ballintubbrid and Ballyvodock, within the Cork Metropolitan Green belt. It is a special area of conservation (SAC & SPA) under the Birds directive and contains areas which are important Neolithic heritage sites.

Earlier smaller scale quarrying in the area for limestone sand and gravel has now given way to a whole series of quarry sites (and a landfill facility at Rossmore) which has led to the disfigurement of the fragile estuary and its eco-system as a result of the cumulative effects of this activity. Now another large quarrying site has been planned, also at Rossmore, and local residents have reacted angrily to this and petitioned the Parliament. It appears to be the case that authorisation has been considered without regard for European Directives (notably the EIA and Habitats Directive) and the cumulative impact of the activity has also been ignored. The local people were very tolerant of the quarrying for a long time due to the requirements of local employment. But, they now have a very legitimate concern that the value of their local environment has been sacrificed for needs of excessive quarrying which is destroying this

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<sup>1</sup> A case against Ireland has been lodged with the European Court of Justice C-215/06 concerning several unauthorised quarry developments. Photographs and other details of the Carrigtwohill site are available. Another petition from nearby 1061/2006 concerning Ballyhest, near Mallow, Cork is also being considered.

very precious coastal estuary and its local communities.

Unfortunately the delegation was unable to meet with representatives of Cork County Council as it would have wished due to time constraints. It would welcome comments from them, and from the National Planning Board, on these questions.

### **Petitions considered at a Public meeting in Cork.**

About fifty persons from the Cork area attended an evening meeting with members of the delegation.

#### **Farm retirement Group for Justice. (600/2003)**

The delegation were pleased to meet with these petitioners whose case has been the subject of several discussions and an exchange of letters with the Irish authorities. The members received additional information from Sean Guerin and Bertie Wall who commented upon the reply received from the then Agriculture Minister, Mary Coughlan. The letter received by the Committee appeared to be identical with that sent to several petitioners and failed to respond to a number of questions raised concerning indexation and offsetting of pensions. A memo containing fifteen anomalies within the farm retirement scheme was handed to the members for their assessment.

#### **Irish Bio-fuels Initiative.**

A number of sugar farmers who had been affected badly by the reform of the CAP relating to their industry submitted a supplementary petition concerning a number of proposals worthy of much more detailed analysis on the development of bio-fuels. The Chairman of the Young Farmers' Association made a very authoritative declaration on the ability of the sugar industry in the Cork area, and all over Ireland, to respond to future fuel requirements by the structural reform of their industry towards bio-fuel production, thus keeping many in work and contributing positively to the environment. The members undertook to register the suggestion and to forward the proposal to other competent committees in the European Parliament for analysis.

#### **Western Cork Quarry at Inchafine.**

Brian Nixon presented a detailed new petition to the Committee concerning the Inchafine Quarry at Dunmanway, County Cork. He said that many people had been subject to intimidation for opposing the planning permission for an extension of the quarry. The impact on the local environment and on the Bandon River - renowned for its salmon and trout - is feared to be negative and intrusive. No residents were consulted about the quarry development even though they are affected by the noise, dust, and traffic. There are serious concerns for groundwater and artesian wells in the area as well as local heritage sites including four ring forts and a standing stone. The documentation is to be forwarded to the European Commission for information by the Petitions Committee.

### **Irish Truck Drivers and EU Regulations on rest periods.**

James Lane presented a new petition concerning the problems faced by Irish lorry drivers and the problems they are made to face regarding drivers' hours and rest periods. He welcomes the Working Time Directive, but says it is virtually impossible to apply due to the very limited number of safe parking spaces to be found in the country. What facilities do exist are inadequate and quickly filled leaving the unlucky latecomer to travel further and further in search of a suitable rest stop, frequently having to pull up on the 'hard shoulder' which is dangerous and anyway illegal. HGV drivers are particularly affected by this because of the size of their vehicles and the value of their loads. It is considered that the Irish NRA received considerable sums of money from the EU for road development but little if any thought was given to the provision of suitable stopping points, filling stations and resting space. He makes a number of suggestions to alleviate this problem while providing additional incomes to many rural towns and villages. He is particularly critical of the new N4 between Dublin and Galway where only two rest places exist each taking two articulated lorries only!

### **Problems with Milk Quota regulation.**

The Walsh family were concerned about the application of the milk quota scheme by the Irish authorities and whether the milk quota was a license - as the government believes, or an asset as the banks believe. The result of the application is in any event negative on young farming families in particular, it was claimed.

### **Mental health Act and Fundamental Rights.**

Mr. John McCarthy made a statement about the application of the Irish Mental Health Act which he considers to be in contravention with the ECHR (quoting from J Bowis Report on Mental Health) Many people are forced into treatment against their will with very damaging effects, including such treatment as ECT.

### **Land Acquisition in rural areas.**

Michael Sullivan has always lived on a farm and raised his sons and daughters there also. Now he is unable to obtain planning permission for a small business on his land due to obstructions which he feels are in contradiction with his rights, particularly as he is a person with multiple sclerosis and unable to travel long distances beyond his local rural neighbourhood. The members undertook to look into this matter with the responsible authorities in Dublin.

### **The McGuire Petition 659/1993**

A former petitioner Mr McGuire met with the delegation and informed them of how he was denied his right to obtain income from land he owned which had been taken over by the Forestry Commission.

### **Fluoridation in water: VOICE Petition 210/2007**

The petitioner, Mr Robert Pocock, had previously submitted his petition against the compulsory use of fluosilicic acid in the water supply believing that it infringes the Drinking water Directive and the Medicines Directive. Members agreed to pass on his concerns, following the preliminary assessment by the European Commission, to the Environment Committee in the European Parliament.

### **Conclusions.**

As can be seen from the contents and recommendations contained in this report, the visit to Ireland was very intense and dealt with a number of varied and complex issues. What emerges from this visit as being of great importance is the opportunity it provided for the Committee itself to act as a sort of catalyser between the petitioners and the Irish authorities both nationally and locally.

It would be good to think that the contents of a report could resolve all the outstanding problems and contentious issues which were discussed. But that is of course not the case as the major burden is on the Irish government in that respect. It is to be hoped nevertheless that by raising some issues of major concern, of national significance in several cases, and which are directly related to the competence of the EU under the Treaty, the visit will have demonstrated to many Irish citizens how important their rights as European citizens are as well and what added value is gained by the right of petition.

The approach adopted by the members of the delegation is solution oriented and based on close cooperation and understanding with the competent levels of the Irish Government. It hopes it has encouraged the authorities in Ireland to look more closely for solutions where problems have been identified, and its impressions in that respect, given the many levels of authority which we had the privilege to meet with, are encouraging.

All the issues raised by the mission will be followed up by the Petitions Committee at its future meetings. Both petitioners and the Irish authorities are invited to inform the Committee directly of any developments which occur resulting from this visit.

