

I would like to thank the Chairman and Committee for this opportunity to speak today.

### **Family Background:**

My family have been involved in fishing over many generations and my Father recently received an award for 60 years' service to Arklow Lifeboat and my brother is currently carrying on this tradition which also goes back many generations.

### **Purchase of the Vessel:**

On the 2<sup>nd</sup> of July 2007 we purchased the German fishing vessel, Evert Jan SC-30. The vessel was Dutch designed, built and owned, but registered under the German Flag.

The vessel was still fishing, had all up-to-date German paperwork, with all copies of her 2-year interval German Surveys and Sailing Permits. The stability book was stamped and approved by Germanischer Lloyd Classification Society and the German Marine Survey Office.

All this paperwork was accepted and approved by the MSO and she was accepted onto the Irish registry as Mary Kate WD-30.

### **Fishing the Vessel:**

From the beginning we didn't have a safe feeling in the vessel, something we never experienced in our former older Beam Trawler. We nearly capsized on a couple of occasions.

### **Stability Testing of the Vessel:**

We notified the Marine Survey Office and agreed that the vessel should be stability tested as soon as possible. On the 26<sup>th</sup> of May 2009, we carried out our first stability test which was done by our Naval Architect and witnessed by the Marine Survey Office. The results were devastating but not surprising.

On the 2<sup>nd</sup> of October 2009 we had a meeting with our solicitor and our insurance company. It was confirmed that we were not insured for a design mistake or latent defect, which the vessel was proven to have had.

After many stability tests and surveys by many experts in their field, they all have arrived at the same conclusion that the vessel was highly dangerous from day one and could never have passed her EU stability criteria and should never have been certified by Germanischer Lloyd and the German Marine Survey Office.

### **Lengthening of the Vessel:**

The vessel cost us a considerable amount to purchase and licence. We were left with two options; one was to scrap the vessel and the other was to have her lengthened by 5.85 meters, a massive increase of over 20% of her original length which we did as the only sensible option left to us.

After she was lengthened and fixed, several buyers from the UK were extremely interested in buying her as she was now a fabulous boat in fantastic condition but the Maritime & Coast Guard Agency (MCA), the UK equivalent of the MSO, would under no circumstances allow any of the interested parties to import the Mary Kate.

We had to voluntarily surrender the vessel and licence to the bank which resulted in a forced (fire) sale and even after the sale, we still owe the Bank a massive amount and since this time, we are facing the real threat of losing our family homes.

### **Legal Steps/Court Cases:**

We were told that we are time barred in Holland and Germany which stopped us taking a case against Germanischer Lloyd and the German Marine Survey Office.

In January 2011, we travelled to Brussels to give a presentation to the Directorate General Maritime Affairs. All in attendance were visibly shocked at the content of our presentation which was backed up with impartial professional evidence that the Mary Kate contained 20 tons of unaccounted steel from new build. We also gave evidence of a second German sister vessel with the same stability failures. The Directorate undertook to advise the EU countries where the sister vessels to the Mary Kate were registered.

The European Maritime Directorate said they can't compensate an individual as they can only deal with Countries, but that Ireland could compensate us out of the European Fisheries Fund and if their allocation was already used, they could submit our case and because of its unique circumstances, it would be approved. We pursued this possibility at every level and indeed with letters of support from MEP's and TD's, but again, our request was shot down by the Departments of Marine & Transport.

In 2014 we commenced legal proceeding in the Irish High Court against the German Marine Survey Office & Germanischer Lloyd, to get Jurisdiction for the case to be held in Ireland. It took until 12<sup>th</sup> November 2015 for a ruling that Ireland did not have Jurisdiction and in the Judges opinion, we should take a case either in Germany or Holland.

### **Compensation:**

The EU wrote to Sean Kelly MEP: Quote:

*"In terms of addressing the loss Mr Gaffney has suffered, on a previous occasion the possibility was outlined that the case might be addressed through the European Fisheries Fund, but this was a decision for the Irish Authorities as they oversee the allocation for such funding. The Commission could not instruct them in this regard."*

This Commission also had said this to us at our Brussels meeting in 2011, and if acted upon by Ireland, we would not have been put through this living hell. Ireland have never made a submission.

Sean Kelly, MEP and 9 other Irish MEPs wrote a joint letter to the Taoiseach and Minister of Marine Quote:

*"The Commission has made it clear on several occasions that Mr Gaffney's case can be exceptionally addressed through the European Fund for Maritime and Fisheries. At this stage the matter has been unresolved for 15 years and it does not reflect well on the Government that this case remains when a clear remedy is available."*

A previous Marine Minister told us, *"If we helped you, we'd have to help everyone and it would open the floodgates."*

Ours is the only ever Irish case like this, it is a total unique one-off that should be treated as such.

The Department of Fisheries and current Minister referred to our case as a “*Failed Private Commercial Transaction*.” I have never missed any payments on this or my previous vessels. A failed Private Commercial Transaction is buying a Restaurant but getting no bookings, nothing remotely like the above.

As you can see, this case has many similarities to the Mica saga, and has equally caused as much devastation and hurt, also through no fault of our own.

## **Conclusions and Resulting Personal Impacts:**

### **Process:**

From the very first day we have been treated abysmally by the Departments of Marine and Transport and every single proposal we have put forward has been turned down and not once has any help or support in any shape or form been forthcoming.

### **Personal:**

We have lost our livelihoods, career, way of life, all savings, our substantial family investment along with our family’s heritage. Our mental health has and continues to suffer, and personal relationships have been severed beyond repair. The never-ending stress and worry are something I wouldn’t wish on anybody and it is a real struggle to carry on and impossible to turn off, with this nightmare constantly on our minds.

I was a successful fisherman, providing for my family and creating local employment, with a real sense of pride and achievement, having climbed the ladder from being an apprentice deckhand at 15 years old, to owning and skippering a state-of-the-art vessel by 37, which took huge sacrifices and hard work to achieve. The Mary Kate was the last trawler in Arklow and was a huge source of pride for the whole town.

In the blink of an eye, this all changed, and I was left with nothing, and was thrust into an alien world I knew nothing about. With no income and with the social welfare office stating I wasn’t entitled to anything, I had to live off savings and rely on family handouts.

I was instructed by our Bank to visit the vessel daily to keep its machinery running and in good working order and keep a log. This went on for years. I also had to deal with the Bank, surveyors, naval architects, CLLR’s, TD’s, MEP’s, Ministers, Brussels, insurance, Journalists, Radio interviews, lawyers in Germany, Holland and Ireland, Barristers, Senior Councill, MSO, Shipyards & Government Departments, sometimes all in the same week.

It was overwhelming and I don’t know how as a family, we managed to cope. I’d like you all to really think about that for a minute, the stress, turmoil and mental fatigue, all while having been told we have zero rights, and all through no fault of our own.

There are no current EU directives to cover this size of vessel (Customer Protection or Vessel Safety).

*EU Charter of Human Rights: Article 47*

*Right to an effective remedy and to a fair trial:*

*Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.*

*Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.*

*Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.*

We were denied these rights because we were time barred in both Holland and Germany and the Irish High Court ruled Ireland had no Jurisdiction and awarded substantial costs against me. So, as you can see, we have no rights anywhere or support, even as an Irish and EU citizen, this unbelievably in 2024.

Without a shadow of doubt, this is a miscarriage of justice, and it should have been pursued vigorously by the Department of Foreign Affairs, Department of Marine and Department of Transport, until a satisfactory solution was found.

### **Our Request:**

We hope that you will rule in favour of:

**Recognition and Compensation**, just as the EU has done, with it being of no cost to the Irish taxpayer; and that we can at last get on with our lives,

and,

**An investigation done** (also regarding the existing sisterships) with **the findings shared with the EU, Holland and Germany** so lessons can be learned to stop this from ever happening again. **Health and Safety** should always be paramount when **fishermen's or anybody's lives** are at risk.

You are our last chance at ending this nightmare as we have nowhere else to go.

Yours sincerely,

C.J. Gaffney.

19th of February 2024