

Response to AIE Consultation dated 14 November 2023

Right to Know CLG

8 January 2024

Introduction

1. Right to Know refers to the consultation published on 14 November 2023 with a response deadline of 18 December 2023, subsequently extended to 8 January 2024. The consultation seeks to invite feedback on proposed draft AIE Regulations (**Draft Regulations**) which incorporate proposed amendments to the existing AIE Regulations (SI 133 of 2007).
2. The consultation further seeks feedback on some suggested questions:
 1. Should any of the proposed updates outlined be amended? If yes, please provide details of the suggested amendment and why you consider such an amendment to be necessary.
 2. Should any other specific part of the Regulations be amended? If yes, please provide details of the suggested amendment and why you consider such an amendment to be necessary.
 3. Any other comments on the existing AIE Regulations and their implementation of the AIE Directive 2003/4/EC.

Summary of requested changes

3. Right to Know therefore asks that the following changes be made
 - a. Implement appropriate monitoring and governance of public authorities
 - b. The concept of applicant should be aligned with the definition of “public” in the Convention to also include bodies without separate legal personality.
 - c. The scope of the Draft Regulations should be all environmental information regardless of whether other legislative provisions provide for access or oblige active dissemination.
 - d. The OCEI for Environmental Information should be a separate office-holder with no other functions.
 - e. The provisions for active dissemination need to be brought in line with the AIE Directive and Article 5 of the Convention. In particular, detailed rules and requirements need to be set down in legislation, including obligations on all public authorities to prepare and

implement active dissemination strategies in consultation with the public, subject to direct supervision by the OCEI.

- f. The rules need to ensure that notice is given and the information required for public participation and access to justice is published in advance of the beginning of any relevant time limits.
- g. All formalities for making a request should be removed unless expressly provided for in the AIE Directive or in the Convention.
- h. Bodies acting in a legislative capacity should be included in the definition of public authority. This reflects the position in the EU and would reflect the case law of the CJEU which emphasises the democratic value of enhanced transparency around legislative activities (*ClientEarth v Commission*, C-57/16 P, *Council v Pech*, C-408/21)
- i. A full list of public authorities should be included in the legislation, this should include all bodies which are public bodies and prescribed under the Freedom of Information Act 2014 (including partially included and exempt agencies), all entities owned or controlled either directly or indirectly by the state, all subsidiaries owned or controlled by public authorities, all bodies tasked with performing public functions and all bodies with powers such as CPO powers. There should be a delegated power to prescribe bodies as public authorities.
- j. Regulation 6(8) is contrary to the Directive and the Convention. Where a request is made too generally, the Directive requires the public authority to ask the requestor to “specify the request” and to provide assistance. It is a mis-transposition to ask the requestor to make a new request since this amounts to a de-facto refusal that is not provided for in the AIE Directive. There is also no basis for a “deemed withdrawal” as envisaged by Regulation 6(8)(c). In fact, what the Directive requires is that the public authority is meant to help the requestor specify the request within the 1 month period and if despite this the request remains too general (in other words the scope of the request cannot be identified despite this) it is at that point that it can be refused. Regulation 6(8) as framed is contrary to the Directive and will inevitably lead to litigation.
- k. References to cabinet confidentiality should be removed given that the case law in the High Court and CJEU has now clarified that information relating to cabinet discussions is not a special category of information.
- l. Internal review should be removed, and public authority internal review resources reassigned to ensure better decisions and proper active dissemination.
- m. The OCEI should be given the same powers as the High Court to handle appeals, including the power to hold oral hearings and to take oaths. The legislation should specify in which instances a direct application to the High Court can be made (for

example for interim relief, where the invalidity of legislation is claimed, in urgent cases etc). It is contrary to EU law to have a mandatory exhaustion of an administrative remedy (see also GDPR where the courts and the Supervisory Authority are concurrent jurisdictions.)

- n. There ought to be a statutory definition of “timely” and there should be detailed provisions for resolution of requests and appeals when the information is required for public participation or access to justice purposes. Without such a definition there will inevitably disputes and litigation in relation to this concept.
- o. All fees should be abolished. The Convention only permits charging for materials and doesn't permit charging for indirect costs. The OCEI's appeal fee serves no purpose and should be removed. The OCEI should be entitled to order a public authority to pay the legal costs to a successful appellant in the same manner that the courts are, there being no material difference between the Courts and the OCEI under the Convention.
- p. There should be system of administrative fines and compensation for delays and other maladministration of the legislation.

Please see the table below for more detailed commentary.

Response to findings of Ireland's non-compliance with the Aarhus Convention

- 2. It is stated in the consultation documents that in 2020 Ireland committed to amending the AIE Regulations in response to findings of non-compliance by the Aarhus Convention Compliance Committee (the **Compliance Committee**). This is a reference to communication no ACCC/C/2016/141¹ which was brought by Right to Know where the Compliance Committee found that Ireland was not in compliance with the Aarhus Convention (the **Convention**) and recommended that Ireland take the necessary legislative or regulatory measures to ensure that:

- (a) Appeals under the AIE Regulations to the OCEI or the courts, whether commenced by the applicant or any other person, are required to be decided in a timely manner, for instance by setting a specified deadline;

- (b) There are mandatory directions in place to ensure that, should a court rule that a public authority or an information request falls within the scope of the AIE Regulations, the underlying information request is thereafter resolved in an adequate and effective manner

- 3. There are a number of elements of the Compliance Committee findings that are of note.

¹ Findings and Recommendations with regard to communication ACCC/C/2016/141 concerning compliance by Ireland adopted by the Compliance Committee on 9 November 2020 https://unece.org/env/pp/cc/acc.c.2016.141_ireland which findings were endorsed by the Meeting of the Parties in decision VII/8i during the seventh session of the Meeting of the Parties held in Geneva between 18 and 20 October 2021.

4. The Communication from Right to Know in essence concerned complaints that the review procedures under the first paragraph of Article 9(1) of the Convention are not timely. This was based firstly on data which showed that for the years 2016, 2017, 2018 and 2019 the OCEI for Environmental Information (**OCEI**) took an average of 316, 262, 279 and 249 days respectively to close a case², which times did not include the two-month period following the adoption of a decision during which either party may appeal. The communication was based secondly on data showing delays in three statutory appeals to the High Court on jurisdictional issues³.
5. The Compliance Committee found that the jurisdiction of the OCEI is derived from the first sentence of Article 9(1) of the Convention on the basis that it has jurisdiction to carry out “*a full factual and legal review of the public authority’s decision*”⁴. The Compliance Committee made it clear that Article 9(4) applies to both the OCEI and to any subsequent appeals to the courts⁵.
6. In relation to the timeliness of the OCEI procedure the Compliance Committee observed that “*time is an essential factor in many access to information requests, for instance because the information may have been requested to facilitate public participation in an ongoing decision-making procedure*” and that the working practices of the OCEI failed to take account of this essential factor⁶. It pointed to the OCEI procedures manual and to the instances when a case might be given priority, nearly all of which related to the administrative convenience of the OCEI. Even where priority could be given for specific pressing reasons, this was caveated to the extent that the Committee concluded that it fell well short of recognising that time will be an essential factor whenever information has been requested for the purposes of an ongoing public participation procedure or when deciding whether to challenge a particular decision before the courts.
7. The Compliance Committee observed that the average time taken for the OCEI to publish decisions on appeals of 279 and 249 days in 2018 and 2019 far exceeds the deadlines set for public participation or commencing court proceedings with a significant proportion of appeals taking far longer⁷.
8. The Compliance Committee observed that the fact that the OCEI carries out a full review of the facts and the law cannot justify systemic delays that prevent members of the public from exercising their rights under the Convention⁸.

² Para 36

³ Paragraphs 40 to 43

⁴ Paragraph 96

⁵ Paragraph 99

⁶ Paragraph 103 and 104

⁷ Paragraph 105

⁸ Paragraph 106

9. The Compliance Committee found that the situation was “exacerbated” by the fact that Irish law does not make provision for the OCEI to make a decision within a certain time frame or even to act in a timely manner⁹.

10. In relation to Court appeals the Compliance Committee noted that Ireland does not have a legal framework which requires the courts to deliver their decisions within a certain period of time or even that they do so in a “timely” manner. The Committee found that this failure has significant consequences, pointing to the four-years that it took to finally decide that NAMA was a public authority¹⁰. The Compliance Committee also considered the *Anglo Irish Bank* and *Minch* cases which also involved serious court delays before concluding that “in no sense” could those review procedures be considered timely.

11. In relation to adequate and effective remedies, the Compliance Committee also criticised Ireland and found further non-compliance with Article 9(4) for failing to ensure that courts issue directions following a ruling that a request falls within the scope of the AIE Regulations for their adequate and effective resolution thereafter¹¹.

12. Thus it is clear that there are three distinct instances of non-compliance which need to be addressed in any proposed new legislation:
 - a. Timely decisions of the OCEI, in particular where access to information is required by a member of the public in order to exercise public participation or access to justice rights under the Convention (this includes the work practices of the OCEI and not just the legislative framework).

 - b. Timely decisions of the Courts, particularly for threshold jurisdictional issues

 - c. Effective remedies of the Courts, which rule without issuing any directions for their adequate and effective resolution thereafter.

13. Right to Know also notes that there are currently three pending communications from it to the Compliance Committee concerning Ireland’s compliance with the environmental information pillar of the Convention. The present review of the AIE legislation provides Ireland with a good opportunity to also address the issues raised in these communications, many of which have already been subject to earlier decisions of the Compliance Committee:

Reference	Subject Matter
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⁹ Paragraph 107
¹⁰ Paragraph 116
¹¹ Paragraph 127

ACCC/C/2023/198	Failure to comply with Article 5 of the Aarhus Convention in relation to active dissemination of environmental information by public authorities
ACCC/C/2023/199	Unlawful charging for access to environmental information and breach of the requirement that the OCEI procedure not be prohibitively expensive
ACCC/C/2023/204	Unlawful formality requirements for a valid request including requirements that the requestor must cite the AIE Regulations and a request must be in writing.

14. It is in light of the above that the following observations are made. Right to Know will make some general comments before commenting on the specific provisions of the proposed draft Regulations as set out in the table copied below.

General comments

15. In Right to Know's submission, the primary objective of this consultation should be to bring Ireland into compliance with the Convention, including a comprehensive response to the findings of non-compliance in case C/141 through legislation which complies with both the letter and spirit of the Compliance Committee's findings. In particular, updated legislation must define the concept of "timely" so as to ensure timely procedures of the OCEI and the Courts under the first sentence of Article 9(1), particularly in cases where public participation and access to justice rights are at issue. The updated legislation must also address the work practices of the OCEI which were heavily criticised by the Compliance Committee.
16. Right to Know does not believe that the proposal to simply require the OCEI to make timely decisions is sufficient, particularly since it may in fact be impossible in some instances within the current legislative framework. Right to Know also notes that the OCEI's procedures manual already asserts that it will make timely decisions¹², yet as we will show below, OCEI delays are now much worse than when Right to Know made its Communication. Therefore, it appears that any lack of clarity about what constitutes a timely decision, or any caveat such as "insofar as practicable" will undermine if not remove entirely the possibility of bringing Ireland into compliance with the Convention in relation to timely decisions from the OCEI. Similar concerns apply to the court stage where the Draft Regulations don't even require timely decisions.

¹² <https://www.ocei.ie/Resources/OCEI-procedures-manual.pdf.pdf> para 14.1

17. A secondary objective should be to address other areas of non-compliance with the Convention as set out in Right to Know's three pending communications as well as other areas where Ireland has either manifestly failed to comply with the Convention and/or transpose the AIE Directive¹³.
18. A third objective would be to avoid introducing new mis-transpositions of the AIE Directive and new provisions which manifestly fail to comply with the Convention of which there are several instances in the Draft Regulations as set out in this document.
19. Overall, in Right to Know's view, the Draft Regulations fail to address these objectives representing a missed opportunity to introduce an exemplary piece of legislation implementing the Aarhus Convention. Right to Know is concerned that there no substantive engagement with the Compliance Committee's specific reasoning in C/141 and a failure to adequately analyse the situation in Ireland to understand why decision-making is so slow or to specify precisely what "timely" means in the Irish system. In the absence of this the proposed changes appear superficial and do not even come close to addressing the substantive non-compliance by Ireland in relation to both the OCEI and the Courts. There is a high risk they will therefore fail. Furthermore there are provisions in the Draft Regulations which have already been found to constitute non-compliance with the Convention in communications concerning other parties.
20. It is concerning that the consultation papers do not set out a root-cause analysis or provide any other information as to why OCEI and court decisions are so slow. The natural question that arises and which Right to Know cannot understand is how, in a procedure that is not inter-partes and where the Commission has full control over the procedure, what exactly is being done by the OCEI in the lengthy period between when a submission is made, and a decision issues. Remarkably, it is now quicker to bring an appeal to court than to the OCEI. Right to Know accepts that there may be complex cases that can take time to decide but, now almost 20 years after the AIE Directive was enacted these are generally the exception. The vast majority of the OCEI's decisions apply well settled law to fairly straightforward requests yet they are now taking 40% longer than they did 7 years ago. The reasons for this need to be understood because it is a fair assumption that delays should reduce over time as public authorities and the OCEI gain experience and the law becomes clearer.
21. Equally the consultation papers do not define the Department's understanding of the concepts of "timely" and "adequate and effective" remedies under the Convention, particularly when requests for access to environmental information relate to public participation indecision-making and access to justice procedures.
22. Generally, in Ireland there is a trend for greater expedition of public participation procedures and related judicial review and for mandatory time limits for decision-making. None of this is

¹³ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC OJ L 41, 14.2.2003, p. 26-32

reflected in the Draft Regulations which appear to have been drafted without considering how they are to be made compatible with the other pillars of the Convention as required by Article 3(1).

23. It is also regrettable that the Department has not examined the current state of play and updated the data. Right to Know analysed the OCEI decisions made in 2023 and has found that on average the appeals decided in 2023 took 444 days to reach a final decision. This is 40% longer than the 316 days in 2016 which was the worst year cited by Right to Know in its communication. It is also the case that 70% of the decisions annulling the public authority decision (46/65) in 2023 resulted in remittal and therefore were not final decisions meaning that the ongoing delay in these cases is potentially twice as long as the data would appear to suggest¹⁴, the proposal to now put remittal on a statutory footing appears to be aimed at perpetuating this issue rather than eliminating the root cause.
24. Unlike the Courts, the OCEI doesn't have powers to direct the public authority on remittal, therefore it is doubtful that remittal by the OCEI is an adequate and effective remedy since appropriate directions cannot be given to the public authority to ensure timely resolution of a request. The Compliance Committee in C/141 expressed similar concerns about a lack of directions from Courts on remittal.
25. A further issue of delay arises from cases which were put on hold pending court decisions. These included cases put on hold to wait for the *People Over Wind*¹⁵ judgment of the High Court and the *An Taoiseach*¹⁶ judgment of the Court of Justice. In respect of the cases that Right to Know is aware of none has been restarted following these judgments.
26. By way of another example, the hearing in the Supreme Court in *Right to Know v OCEI for Environmental Information and Raheenleagh Power DAC* took place on 9 and 10 May 2023 and there is still no indication as to when judgment will be delivered. This is a case where the appeal to the OCEI was brought on 14 July 2017 and yet some five and half years later a final decision on the issue of whether Raheenleagh Power DAC is a public authority has yet to be made. This is far in excess of the four-year delay in the *NAMA* case criticised by the Compliance Committee in C/141.
27. More than 85% of OCEI decisions resulted in the public authority decision being annulled. This is an extraordinary rate of reversal and seems to indicate systemic issues in public authority decision making that has not been addressed by the training provided to public authorities. This statistic seems to indicate a serious lack of supervision and governance of the implementation of the AIE Regulations by public authorities which needs to be addressed.

¹⁴ Full details set out in Appendix 2

¹⁵ OCEI for Environmental Information v Coillte and People Over Wind, High Court No 2021/242 MCA, judgment of 26 May 2023

¹⁶ Right to Know v An Taoiseach, Case C-84/22, judgment of 23 November 2023

28. It is very hard to see how legislation can be proposed to ensure timely decision making when we don't actually know why there are so many bad decisions of public authorities, why OCEI and Court decisions are taking so long (even for routine or non-complex cases), and why the OCEI cannot make final decision in such a large proportion of the appeals. It appears to Right to Know that, at the very least, the OCEI procedures are not efficient, do not have regard to the obligation of timeliness, and are not being appropriately managed or resourced. In that regard it is noted that despite the OCEI updating its procedures manual in 2020 there has been no change to the prioritisation procedures which the Compliance Committee criticised. It also seems to be the case that the part-time nature of the OCEI (who is also Ombudsman, Information OCEI, Protected Disclosure OCEI, and a member of SIPO) is contributing to delays.
29. Another root-cause seems to be endemic and systematic poor decision-making at public authority level, which is not being addressed at internal review or through implementation of OCEI decisions more broadly or through training or governance mechanisms. There seems to be a persistent lack of searching, misinterpretation of the request, blanket refusals, general misapplication of exceptions and a lack of active dissemination. None of this is being reviewed or has any consequences for public authorities despite the actual prejudice to applicants that follows.
30. The Department should carry out a full review of the root causes of delay and should also examine in detail how access to information procedures can be made compatible with public participation and access to justice procedures. The Department should take a view as to what appropriate carrot and stick measures are required to ensure that the public's right of access to environmental information under the Convention is fully vindicated.
31. For example, there could be an expedited appeal the OCEI in particular cases, there could be suspension of public participation or court time limits or further participation rights following provision of information. Where access to justice procedures apply, any access to information issues could immediately transfer into the jurisdiction of the courts to be resolved as a preliminary issue.
32. The AIE Regulations should introduce a system of compensation, penalties and other sanctions for late decisions similar to what is proposed for late planning decision under the Planning and Development Bill and similar to what is in place in the Netherlands¹⁷. Administrative sanctions are already in place under GDPR and under the European Convention of Human Rights. Having sanctions in place would reflect the fact that access to environmental information is a rights-based framework and any unwarranted interference in that right should be sanctioned and the victims of such interference should be compensated. In fact, at the moment, the system

¹⁷ <https://business.gov.nl/regulation/objecting-and-appealing-against-government-decision/#art:penalty-when-deciding-late>

is inverted since applicants are expected to pay exorbitant charges and a fee to the OCEI despite very serious interferences with their fundamental rights.

33. We already see that there are proposals for late planning decisions to incur a penalty. A similar incentive should be introduced for public authorities and the OCEI to ensure that timely decisions are made. It would be particularly important for such penalties to accrue where the public authority doesn't have proper regard to the timescale specified by the applicant and/or where its delay prejudices an applicant's participation and access to justice rights. In a similar vein, the OCEI should be empowered to order a public authority to pay the applicant's costs of an appeal by amending the Environment (Miscellaneous Provisions) Act 2011.

Comments on the Draft Regulations

34. RIGHT TO KNOW is firmly of the view that primary legislation is needed. The AIE Regulations are transposing measures for Directive 2003/4/EC on public access to information on the environment (the **AIE Directive**) and are implementing measures for the Aarhus Convention. There are several key aspects of the AIE Directive and Aarhus Convention which are optional or require detailed legislative measures. For example, it is for the Member State to choose whether bodies performing judicial or legislative functions should be classified as public authorities. The EU is an example of a Party to the Convention that has chosen not to implement this optional exclusion for its institutions. There is no reason why Ireland cannot follow suit. Similarly, the exceptions under Article 4 are not mandatory under the AIE Directive. Charges under Article 5 are also not required by the Directive. The implementation of these articles is a political matter and cannot be delegated to the executive having regard to the Constitutional separation of powers.
35. The recital to the Draft Regulations makes no mention of the Aarhus Convention which these Regulations give effect to. Therefore, the recital/short title to the Draft Regulations should make reference to the fact that the legislation gives effect to certain provisions of the Aarhus Convention (see for example the short title to the Environment (Miscellaneous Provisions) Act 2011 which contains such a reference).
36. Finally, in Right to Know's view, where the AIE Directive itself is not consistent with the Convention and/or decisions of the Compliance Committee, the provisions of the Convention should prevail.

Request for meeting

37. Right to Know would welcome the opportunity to meet the officials preparing new legislation to share and discuss its practical experience of making 1000s of requests, scores of OCEI appeals, and many cases at national, EU and international level. It feels that this experience

would enrich the Department's approach and would ensure compliance with the letter and spirit of Ireland's obligations under EU law and under the Convention and thereby greatly improve standards and compliance generally and reduce the level of ongoing disputes over access to environmental information.

Appendix 1

Specific Comments on the draft Regulations

Regulation No	Comments
<u>Regulation 1 - Citation</u>	No comment
<u>Regulation 2 - Definitions</u>	<p>The definition of “applicant” should align with the definition of “public” in the Aarhus Convention notwithstanding that the AIE Directive refers only to natural and legal persons. As proposed, only natural or legal persons may request access to environmental information, however the Aarhus Convention confers the right of access to environmental information on all members of the public which is defined as all natural or legal persons and in accordance with national legislation or practice, their associations, organisations or groups. Therefore, the concept of “applicant” should also include associations, organisation or groups regardless of whether they are natural or legal persons¹⁸. National law and practice provides that unincorporated associations, which are by definition not legal persons, rights to participate in decision-making and to litigate in their own name. The proposed legislation should reflect this.</p> <p>The definition of “public authority” requires primary legislation given that the legislative intent is not simply to reproduce the general definition of public authority from the AIE Directive but also to specify certain bodies and categories of bodies as public authorities. However, the decision of the Supreme Court in <i>NAMA</i> ruled that the list of bodies in the AIE Regulations could not be interpreted on a standalone basis since reference always had to be had to the three categories of public authority set out in the Directive. This was a consequence of the original decision to transpose the AIE Directive by way of Regulations rather than by primary legislation which would have been required if the state wanted to expand the definition of public authority beyond the strict scope of the three categories in the AIE Directive.</p>

¹⁸ See also Case C-252/22, *Societatea Civilă Profesională de Avocați AB & CD*

Regulation No	Comments
	<p>RIGHT TO KNOW thinks that the concept of public authority should be clarified as intended, using primary legislation so that this lacuna is removed. It also considers that it should be clarified that all entities which are public bodies or prescribed bodies under the FOI Act including exempt agencies and partially included agencies are public authorities.</p>
<p><u>Regulation 3 - Scope</u></p>	<p>Regulation 3(1) purports to exclude information that under any statutory provision apart from the Regulations is required to be made available to the public whether for inspection or otherwise with the exception of the three provisions listed in Regulation 3(2).</p> <p>The scope of the Draft Regulations is therefore misplaced since it is the AIE Directive and the Aarhus Convention which set minimum requirements and standards for access to and dissemination of environmental information. The scope of the Draft Regulations should therefore be reframed to apply to all environmental information and provision should be made to clarify that where environmental information is required to be made available to the public it should comply with these Regulations notwithstanding any other provisions. This is to ensure that where there are conflicting legislative provisions it is made clear that the AIE Regulations prevail. This is particularly important since the AIE Directive sets down standards of timeliness, format, manner of access, active dissemination and so on.</p>
<p><u>Regulation 4 - General Duties of public authorities</u></p>	<p>This Regulation appears to transpose both Article 3(5) and Article 7 of the AIE Directive even though these provisions impose separate and distinct obligations on public authorities which serve different purposes under the AIE Legislation. Right to Know thinks that these Articles should be addressed separately in the proposed legislation since mixing them up like this is confusing.</p> <p>Article 3(5) sets down the duty of public authorities in relation to requests to access environmental information whereas Article 7 concerns the duties of public authorities in relation to active dissemination of environmental information. These duties should be addressed in separate sections of the legislation since they are distinct and serve different purposes.</p>

Regulation No	Comments
	<p>Under Article 3 of the AIE Directive the requirement for officials to support the public in seeking access to information is distinct from the requirement to define practical arrangements to ensure effective access to environmental information. This distinction is not reflected in the Draft Regulations.</p> <p>The Draft Regulations do not appear to transpose Article 3(5)(a) of the AIE Directive, therefore the Draft AIE Regulations are incomplete. This is an important provision since it applies to all officials who ought to be appropriately trained and subject to a general requirement to support the public in seeking access to information.</p> <p>Regulation 4(1)(h) appears to transpose Regulation 3(5)(c).</p> <p>In terms of Article 7 - Dissemination of Environmental Information, the entirety of the purported transposition appears be via Regulation 4(1)(b) - (f) and 4(2) - (5). This is clearly not an adequate transposition.</p> <p>First of all, there is no obligation in the Draft Regulations on public authorities to actually disseminate environmental information. The duties, as proposed, are simply to inform the public, organize the information and to ensure the information is up-to-date, accurate and comparable. Even in terms of this limited transposition no flesh is put on the bones of what is actually expected of public authorities. In particular, the categories of environmental information listed in Regulation 4(2) are only required to be organised under Regulation 4(1)(f) with a view to active and systemic dissemination without an actual obligation to disseminate whereas Articles 7(1) third sentence and 7(2) of the AIE Directive require such information to be made available and disseminated including progressively through the internet. The duty to organise is to be found in Article 7(1) and not Article 7(2) of the directive yet the Drafts Regulations appear to conflate these two distinct duties, i.e. the duties to organise and make available and disseminate. The lack of compliance with the Convention in this regard, is subject to a pending communication to the Compliance Committee (ACCC/C/2023/198)</p>

Regulation No	Comments
	<p>There therefore needs to be a positive obligation on public authorities to actively disseminate environmental information in a way that is transparent and effective in particular through the internet.</p> <p>In addition to stating the basic obligations, the AIE Regulations should set out precisely the necessary measures to ensure compliance with the active dissemination obligation. This could include regularly compiling an inventory of environmental information, having a publication scheme, consulting with the public at regular intervals and giving the OCEI a role in ensuring compliance with these obligations, including the jurisdiction to handle complaints alleging breaches by public authorities of their obligations to actively disseminate environmental information in compliance with the letter and spirit of Article 5 of the Convention.</p> <p>Furthermore it should be made express in the Regulations that where environmental information is made available electronically it must comply with the standards set down in the Open Data Directive (Directive (EU) 2019/1024) and the Web Accessibility Directive (Directive (EU) 2016/2102).</p> <p>The Minister will be aware of RIGHT TO KNOW's detailed communication to the Compliance Committee in relation to active dissemination. RIGHT TO KNOW therefore urges the Minister to use the opportunity of the review of the AIE Regulation to address these concerns with detailed legislative provisions.</p>
<p><u>Regulation 5 - Request for environmental information</u></p>	<p>There is no requirement in either the Convention or the AIE Directive for a request to be in writing or electronic form. The Directive allows requests to be made orally and in fact many EU member states as well as the UK make such provision and require public authorities to have practical arrangements for oral requests, for example by maintaining a register of oral requests.</p> <p>Similarly the Convention appears to envisage oral requests¹⁹.</p>

¹⁹ The Aarhus Convention: An Implementation Guide (2nd Edition, 2014), page 79

Regulation No	Comments
	<p>Therefore Regulation 5(1)(a) is contrary to the AIE Directive and the Convention and should be removed.</p> <p>Regulation 5(1)(b) requires the applicant to state that the request is made under the AIE Regulations. There is no such provision in the AIE Directive. The Compliance Committee has already ruled in case <i>ACCC/C/2007/21</i> that the Convention does not impose such a requirement or even a requirement that the request must state that it is for environmental information. Similarly requests to EU institutions under the Aarhus Regulation (1367/2006) and Transparency Regulation (1049/2001) do not need to cite the legal basis²⁰. Therefore this regulation should be removed.</p> <p>Regulation 5(1)(c) requires the applicant to state their name. This is not required by the AIE Directive or the Convention and should also be removed. What is simply needed is a way to ensure that the requestor can receive the information. It may well be that a name and address is needed to send information by post, an email address for email delivery but it is also possible that a requestor may wish to collect the information from the public authority or to nominate an agent to handle the request. In many of those cases the applicant's name is not required.</p>
<p><u>Regulation 6 - action on request</u></p>	<p>Regulations 6(2)(a) and (b) should be combined so as to require the information to be made available as soon as possible and in any event within the timescale specified by the applicant or one month at the latest. Where the public authority is unable to provide the information according to the timescale specified by the applicant it shall update the requestor within this timescale and give reasons for why it cannot comply with the timescale.</p> <p>Furthermore there needs to be consideration here as to how this interacts with the response to C/141 and in particular where access to environmental information is required for public participation and access to justice rights. At the moment, if a requestor's time scale is not respected they must still in principle wait 2-3 months for a final decision of the public authority before they can appeal to the OCEI. This situation is not compatible with the requirement for timely decisions in situations where</p>

²⁰ Judgment of 13 January 2022, Case C-351/20, *Dragnea*, EU:C:2022:8, paragraphs 69 to 73

Regulation No	Comments
	<p>downstream rights are at stake. These typically have timescales measured in weeks, not months (see for example case OCE-109717-K5Y2Z9 where the request to access a planning file was only resolved long after the judicial review had ended). In Right to Know's view and without prejudice to its overall position that internal review should be removed entirely, where an applicant specifies a timescale and it is not met by the public authority it should give rise to an immediate right of appeal to the OCEI at that point.</p> <p>Regulation 6(3)(a)(i) and (ii) should refer to "another form or format" and not "another form or manner" in light of Article 3(4) of the AIE Directive. RIGHT TO KNOW also requests that it should be clarified that a request for copies of information that is available for inspection in-situ cannot be refused on the basis that it is available for inspection in-situ. This reflects the language in the Directive that expressly includes copies in the concept of "form or format" which has not been included in the Draft Regulations. This is because it is often the case that information needs to be worked on by an applicant, whether in hard or soft copy and this cannot be generally done in the offices of a public authority so in-situ examination is in many cases not substitutable for a request for copies.</p> <p>Regulation 6(3)(c) should be strengthened to reflect the modern world where the vast majority of environmental information is produced in electronic format or is easily converted to electronic format by requiring public authorities to maintain information in electronic format rather than merely making reasonable efforts to do so. This is reflected in the Compliance Committee findings in case ACCC/C/2015/131 concerning active dissemination of environmental information.</p> <p>Regulation 6(4)(a) gives an obligation to notify a decision not later than one month following receipt of a request, this provision is not consistent with Regulation 6(2)(a) which requires information to be made available as soon as possible, having regard to the timescale specified by the applicant.</p> <p>Regulation 6(7)(b) is not needed in light of the deletion of Regulation 5(1)(b) since even where a request specifies a different legal basis it must still be handled under the AIE Regulations.</p>

Regulation No	Comments
	<p>RIGHT TO KNOW welcomes the third-party procedure equivalent to Section 38 of the Freedom of Information Act 2014. However it should reflect that section. For example, it is only triggered when the public authority has decided to release the information and there are reasonable grounds for believing that certain specified third party rights may be affected (as envisaged in the exceptions) so that the third party may be heard before a final decision is made. The third party should only have a right of appeal against a decision to release information relating to them where there are grounds to suspect that it falls within one of the exceptions protecting third party rights. It should be made clear that this provision does not constitute a veto or provide a general third-party right to intervene. There should be strict timeframes since this procedure cannot affect the maximum one-month time limit for making a decision or the obligation for timely reviews under Article 9.</p> <p>Regulation 6(8) is not compatible with the AIE Directive. The scheme of the AIE Directive is that where a request is formulated in too general a manner the public authority will ask the applicant to “specify the request” - it does not permit a public authority to invite the applicant to make “a more specific request” as proposed in the Draft Regulations. It is clear that the Directive’s procedure where the requestor would specify the request that is formulated too generally does not affect the one-month time limit since the public authority may refuse the request on the basis of Article 4(1)(c) if the request is not specified before a decision is due. Therefore the provision suspending time limits is contrary to the AIE Directive and the Convention. The procedure provided in this Regulation is therefore manifestly contrary to the AIE Directive and should be adapted to comply with the AIE Directive. Similar there is no basis for deeming a request to be withdrawn as is proposed.</p>
<p><u>Regulation 7 - Grounds for refusal of environmental information</u></p>	<p>As already noted, the grounds for refusal of access to environmental information are not mandatory under the AIE Directive and therefore it is doubtful whether these provisions can be transposed via secondary regulation.</p> <p>The Draft Regulations provide for four categories of grounds for refusal Regulation 7(1)(a) provides grounds for refusal which apply subject to Regulation 7(2) which provides for the so-called emissions override; grounds for refusal under Regulation 7(1)(b) are grounds which are not subject to the emissions override, Regulation 7(1)(c) is a sui-generis exception relating to cabinet discussions and Regulation 7(1)(d) are grounds corresponding to Article 4(1) of the AIE Directive.</p>

Regulation No	Comments
	<p>Regulation 7(1)(c) should not be in the Regulations in light of the case law. It is clear that Ireland may not create grounds for refusal which are not in the AIE Directive, therefore there is no basis for a sui-generis ground relating to cabinet discussions. The High Court essentially ruled as such in <i>Right to Know v An Taoiseach</i> [2018] IEHC 382. The Court of Justice has recently in <i>Right to Know v An Taoiseach</i> C-84/22 that the ground for refusal the protects adverse effects on the proceedings of public authorities is a special case of the ground protecting internal communications of a public authority and therefore they may not apply cumulatively since the former takes precedence. Therefore Regulation 7(1)(c) should be removed since it is contrary to the case law.</p> <p>Finally, RIGHT TO KNOW considers that the ground for refusal based on the information not being held by or for the public authority should be in this part of the regulations. At the moment it is transposed in Regulation 6 which concerns requests. We therefore recommend that Article 4(1)(a) be transposed expressly as a ground for refusal as it is presented in the AIE Directive.</p>
<u>Regulation 8 - Incidental provisions relating to refusal of information.</u>	<p>Regulation 8(3) does not correspond with Article 4(4) of the AIE Directive. The AIE Directive imposes a requirement to part-grant a request other than (a) where information is not held, (b) the request is manifestly unreasonable or (c) the request remains formulated in too general a manner. Therefore, there is a major error in Regulation 8 as proposed.</p>
<u>Regulation 9 - Internal Review</u>	<p>In RIGHT TO KNOW's view the internal review should be abolished entirely. In our experience internal reviews rarely result in a refusal being annulled. In the majority of cases the refusal is simply rubber stamped or at best different reasons are given. This leads to wasted effort on the part of the public authorities and serious delays to information access. We feel that public authority resources currently dedicated to internal reviews would be better put to use in ensuing better decision making and proper active dissemination.</p>
<u>Regulation 10 - Appeal to the OCEI for Environmental Information</u>	<p>The OCEI's role should not be shared with other offices. At the moment the OCEI is essentially working part time since the same person is the Information OCEI (who also handles appeals under the Reuse of Public Sector Information Regulations), Ombudsman, Protected Disclosure OCEI, and is a member of the Standards in Public Office Commission. It is clear that the</p>

Regulation No	Comments
	<p data-bbox="539 244 2029 320">current system of having a part-time OCEI is not compatible with the AIE Directive and the Convention, particularly when timely decisions are required.</p> <p data-bbox="539 384 2029 596">Right to Know has been involved in several cases where there were disputes and uncertainty over the scope of the OCEI's jurisdiction vis-à-vis the Courts. This should be expressly clarified in the proposed legislation, particularly in light of the Compliance Committee's view that the OCEI jurisdiction covers all issues of law and fact relating to disputed requests. There should also be clarity as to exhaustion. It is contrary to EU law to have as strict rule of exhaustion, therefore the instances when applications may be made directly to the courts need to be specified.</p> <p data-bbox="539 660 2029 873">The OCEI should be given a full suite of powers capable of allowing it to determine all appeals in a single decision without the need for remittal. If there has been a failure of the public authority to search for information or give reasons, then this should be dealt with by the OCEI exercising powers rather than remitting a matter to the public authority. Such remittals introduce extraordinary amounts of delay. In Right to Know's view, Regulation 10(3) is not sufficient since it doesn't deal with the situation where the information has not been identified by the public authority.</p> <p data-bbox="539 936 2029 1289">A remittal restarts the time limits on first instance decision making and when the two-month appeal period is factored in results in a further delay of four months at the very least. The remitting of cases is now the most frequent outcome in the OCEI's decisions and seems to indicate a lack of powers or an unwillingness to use them as well as systemic compliance issues at public authority level. Providing for a mandatory remittal under Regulation 10(7)(a) is entirely inappropriate. Regulation 10(7) should therefore be removed entirely or else the exceptional circumstances where it can be used should be set out as well as safeguards to ensure timely decision-making following remittal. If there is to be remittal, this should be supplemented with extensive powers of direction and sanctions and compensation for non-compliance, so that the OCEI can ensure timely resolution of appeals.</p>

Regulation No	Comments
	<p data-bbox="539 244 2029 643">Regulation 10(8)(a) doesn't address the issues arising from case C/141, in particular it doesn't specify a mandatory time limit and doesn't deal with specific instances where information is required for public participation and access to justice or for other time-sensitive purposes (for example imminent or ongoing environmental pollution). The current situation as evidenced by Right to Know is that the delays in the OCEI are manifestly worse than they were in 2016 to 2019 when Right to Know made its communication to the Compliance Committee. Right to Know is deeply sceptical that Regulation 10(8)(a) will make any difference given that the OCEI already says that it provides timely resolution of appeals. The absence of a statutory definition of timeliness and a root cause analysis examining why the OCEI decision-making is so slow are major concerns with this proposal. It is hard to believe that but for a provision such as this, the OCEI would be making much faster decisions given that the OCEI already says it makes timely decisions, but nonetheless the Compliance Committee has ruled that this is not the case.</p> <p data-bbox="539 707 2029 922">Regulation 10(8)(b) is incompatible and contrary to case C/141, the whole idea of the findings of this case was the decision-making ought to be timely. Providing for a suspension of the obligation for timeliness while procedural steps are being taken is not the correct approach. Article 9(4) requires the procedure to be timely regardless of the steps taken. This is clear from the Compliance Committee's finding that the fact that the OCEI carries out a review of both fact and law was not a reason to excuse systematic delays in deciding appeals.</p> <p data-bbox="539 986 2029 1201">The legislation should also clarify that insofar as there is a requirement to exhaust the OCEI appeal before bringing judicial review proceedings such limitation on access to the Court does not apply where an appeal to the OCEI (a) would serve no purpose; (b) not provide an adequate or effective remedy, including a remedy requiring interim measures and injunctive relief; or (c) involve disproportionate costs and/or delays. It is contrary to EU law to require exhaustion of an administrative remedy in situations such as this²¹.</p>

²¹ Puškár, [C-73/16](#)

Regulation No	Comments
	<p>While remittal may be required in exceptional circumstances, the Regulations should ensure that there is a timely final decision as envisaged in the Compliance Committee in decision in C/141 whatever procedural steps there are. Where public participation rights are at stake under Articles 6, 7 and access to justice under Article 9 of the Convention then the OCEI must be required to issue a final decision which must become effective and be complied with while the applicant still has a reasonable amount of time to exercise their rights. Similar considerations apply in urgent cases, for example imminent threats to the environment. Alternatively, the legislation could provide for a suspension of time limits and/or the making of submissions after the general deadline following an OCEI decision. Another idea would be where there is a judicial procedure, any pending case would transfer to the judge having jurisdiction to be finally resolved as a preliminary matter in the litigation.</p> <p>Given that mandatory time limits are now a proposed feature of the Planning Acts, the Regulations should in any event, specify mandatory time limits for OCEI decisions which are in line with those mandatory time limits (for example a planning authority has eight weeks to make a decision on a planning permission including all environmental assessments). There is no reason the OCEI cannot operate to a similar standard.</p> <p>The OCEI should be empowered to issue directions to public authorities, including the production of information, production of statements of reasons. He should also be empowered to take evidence on oath and to hold public hearings where there are disputed facts. The latter two powers are required having regard to the <i>Zalewski</i> decision of the Supreme Court²².</p> <p>The OCEI should be given the power to order a public authority to pay the costs of an applicant in circumstances where the application succeeds in annulling a decision in whole or in part and/or if the interest of justice requires the costs to be paid by the public authority to ensure that the OCEI's procedure is not prohibitively expensive.</p>

²² *Zalewski v Adjudication Officer* [2021] IESC 24, [2022] 1 IR 421

Regulation No	Comments
	<p>The power to deem an appeal withdrawn when information is disclosed should be removed. The OCEI has a wide scope of review which is not confined to release of information. It can review decisions which are not made in the form or manner requested or where there is a dispute about whether information has been provided in a timely manner. The power to deem an appeal withdrawn under Regulation 10(9) is based on the fallacy that appeals are only concerned with accessing information.</p> <p>In relation to the powers that are identified in Draft Regulations, there are no enforcement measures to compel compliance with these powers. The enforcement powers given to the OCEI under Regulations 10(11) and 10(12) only concern its decisions under paragraph 5 and not the exercise of its powers under paragraph 10.</p> <p>The OCEI should have powers of supervision and review of the operation of the AIE legislation as well as the power to levy fines on public authorities and direct them to pay compensation to applicants for breaches of the AIE legislation.</p> <p>The OCEI should have powers to ensure effective and transparent active dissemination including the power to direct public authorities as to how they must comply with these obligations.</p>
<p><u>Regulation 11 - Appeal to High Court on point of law</u></p>	<p>It is noted that the draft Regulations have not proposed mandatory or even indicative timescale for court appeals or even require a timely decision. Equally Regulation 11(7) does not require a timely decision of the OCEI following a decision of a court.</p> <p>In Right to Know's view the appeal time limit should be shortened and made similar to that under the FOI Act. There should in general be a two- week appal time limit for public authorities and four weeks for applicants. If the public authority doesn't appeal against the annulation of a decision it must make the requested information available within those two weeks. The appeal time limit should be four weeks for an applicant reflecting the inequality of arms between applicant and public authority. Alternatively, where the public authority doesn't appeal and the OCEI appeal results in partial release of information the applicant should have a further four-weeks to appeal.</p>

Regulation No	Comments
<u>Regulation 12 - Guidelines</u>	<p data-bbox="539 244 1464 272">There should be provision for the OCEI to issue guidelines and practice notes.</p> <p data-bbox="539 336 2029 549">The Minister has only issued guidelines once, in 2007 just after the Regulations were transposed. There was a minor update in 2013 to incorporate guidance on charging fees. A consultation on guidelines took place more than five years ago, but it did not result in new guidance or any other output. The AIE Guidelines are hopelessly out of date and the lack of regular updating is another reflection on the general lack of attention given to this crucial legislation. In that regard, the Draft Regulations should have a provision requiring public consultation on guidance and a review every three years.</p>
<u>Regulation 13 - Fees of public authorities</u>	<p data-bbox="539 619 2007 647">As pointed out already, charges are not required by the AIE Directive and therefore may not be implemented by Regulations.</p> <p data-bbox="539 711 2029 783">More to the point, the Compliance Committee has issued two important rulings on charges which need to inform the proposed legislation.</p> <p data-bbox="539 847 2029 1289">In case ACCC/C/2017/147 the Compliance Committee found Moldova not to be in compliance with the Convention since public authorities in that party charged for the indirect costs of supplying environmental information. The Compliance Committee first indicated that under Article 4(8) of the Convention that there was a presumption is that such information should be supplied free of charge, but Parties may allow charges provided that they do not exceed a reasonable amount, it went on to state that “<i>any charges for supplying environmental information must be based on a transparent calculation and, while they may include a contribution towards the material costs for supplying the environmental information, they must not include the cost of the initial production, collection or acquisition of the information itself or any other indirect cost. Thus, information held by public authorities should be provided for free or at no more than the reasonable material costs of supplying the requested information (e.g. postage or copying costs). Lastly, any charge must not have a deterrent effect on persons wishing to obtain information, effectively restricting their right of access to information.</i>”</p> <p data-bbox="539 1353 1391 1382">The provisions in the draft legislation are not consistent with this finding.</p>

Regulation No	Comments
	<p>In case ACCC/C/2008/24 concerning Spain the Compliance Committee ruled that reasonable charges for supplying environmental information can only cover the actual costs of materials and could not cover indirect costs, such as searching for information. In light of the low costs of materials such as paper and printing and the pervasive use of electronic information exchange, the possibility for public authorities to charge for supplying environmental information should be removed.</p>
<p><u>Regulation 14 - Fees for appeals</u></p>	<p>The fee for making an appeal serves no purpose and should be removed since it is an unreasonable and disproportionate barrier to access to justice. If it is to be maintained there should be a provision for the fee to be waived in so far as it is prohibitively expensive. Given that the costs of handling an application for a fee waiver is likely to cause delay and cost more than €50 then in effect the fee should be removed entirely.</p> <p>Under this section the OCEI should also be given the power to order a public authority to pay the costs of an appellant to ensure that the OCEI's procedures are not prohibitively expensive.</p>
<p><u>Regulation 15 - Revocations</u></p>	<p>No further comments</p>
<p><u>Regulation 16 - Transitional Provisions</u></p>	<p>No further comments</p>

Appendix 2

OCEI decision 2023

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-109584-Z8S5F4	Coillte (National Forestry Service)	25/06/2021	06/01/2023	560	Annul	Direct Release	
OCE-118678-F2W1Q9	Department of Agriculture, Food and the Marine	28/01/2022	19/01/2023	356	Annul	Remit	Incomplete decision
OCE-118975-C8L3Z6	Department of Agriculture, Food and the Marine	07/02/2022	20/01/2023	347	Annul	Remit	Inadequate Search
OCE-109192-Q3C0F2	Department of Agriculture, Food and the Marine	21/06/2021	06/03/2023	623	Annul	Remit	New issues raised on appeal
OCE-111727-H7J5J7	Forestry Appeals Committee	17/08/2021	06/03/2023	566	Annul	Remit	Incomplete decision
OCE-107135-P8N2Q0	ESB Networks DAC (Electricity Supply Board)	04/05/2021	20/03/2023	685	Annul	Remit	Dispute over whether information held
OCE-114766-J4X0Y7	Paul Hogarth Company (Architects)	17/10/2021	20/03/2023	519	Affirm	No Further action	
OCE-118952-D7H1Q2	Department of Agriculture, Food and the Marine	02/02/2022	23/03/2023	414	Annul	Direct Release	
OCE-119758-L8R2B8	Department of Agriculture, Food and the Marine	17/02/2022	23/03/2023	399	Annul	Remit	Incomplete decision

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-116233-H0K1M3	Department of Agriculture, Food and the Marine	24/11/2021	24/03/2023	485	Annul	Remit	Environmental Information
OCE-115424-T4K5P6	Office of Public Works (OPW)	20/09/2021	29/03/2023	555	Annul	Remit	Not Manifestly Unreasonable Request
OCE-118395-Y6B8D7	Department of Foreign Affairs	02/02/2022	30/03/2023	421	Affirm	No Further action	
OCE-124303-G4V2N6	Galway County Council	31/05/2022	31/03/2023	304	Affirm in Part	Direct Release	
OCE-131983-N2F3X9	Department of Public Expenditure, NDP Delivery and Reform	02/11/2022	12/05/2023	191	Annul	No Further action	
OCE-109587-X4V6N9	Department of Housing, Local Government and Heritage	25/06/2021	16/05/2023	690	Annul	No Further action	
OCE-126112-P7B4F7	Department of Agriculture, Food and the Marine	07/07/2022	17/05/2023	314	Annul	Remit	Incomplete decision
OCE-129497-C3R3C7, OCE-132734-K2K5D8	Coillte (National Forestry Service)	06/10/2022	19/05/2023	225	Annul	Remit	Incomplete decision
OCE-117650-X6L4K7	Department of Foreign Affairs	23/12/2021	25/05/2023	518	Affirm	No Further action	
OCE-125285-R5R7T4, OCE-120471-J6M2B9, OCE-125080-	Department of Agriculture, Food and the Marine	18/02/2022	30/05/2023	466	Annul	Remit	No Reasons for Refusal

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
H6N7N8, OCE-119761-F1D1Q9, OCE-125566-Z6L2Z3; OCE-125567-P6G3H5, OCE-125768-L4S6W8, OCE-125790-Z0S2H6, OCE-125793-Y8F4B0, OCE-125856-V9Z3Y1; OCE-125858-Z7P9T4, OCE-125863-L2L3H8, OCE-127670-P3C6F4, OCE-129127-Z0Z4H4, OCE-132200-J8B4N5; OCE-133297-N4F7G5, OCE-133307-R2Z4D2, OCE-135259-H7Z9K9, OCE-135364-L1W0G6, OCE-137101-Q4H1J5							
OCE-128164-Z1W0K0	Fingal County Council	12/09/2022	01/06/2023	262	Annul	Direct Release	
OCE-120518-X2W6N8	Environmental Protection Agency	08/03/2022	01/06/2023	450	Annul	Remit	Incomplete decision

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-120059-J8M5X7	Commission for Regulation of Utilities	25/02/2022	07/06/2023	467	Affirm in Part	Direct Release	
OCE-127738-G5G7B7	Irish Aviation Authority	30/08/2022	30/06/2023	304	Annul	Remit	Inadequate Search
OCE-119760-Z5D4W4	Department of Agriculture, Food and the Marine	17/02/2022	10/07/2023	508	Annul	Remit	Incomplete decision
OCE-118014-C9Z8S2, OCE-118019-N9V3D1, OCE-118020- J7H3W9, OCE118021- J1L3C9, OCE-118022- P3H2W7, OCE- 118023-V5B1T8, OCE-118024-P1R4D1, OCE-118025- F6J2Q5, OCE-120045-S5B0Q	Kildare County Council	29/11/2021	12/07/2023	590	Annul	Remit	Environmental Information
OCE-119755-L7K7K4	Department of Agriculture, Food and the Marine	21/02/2022	20/07/2023	514	Annul	Remit	Incomplete decision
OCE-139596-G8H3D9 OCE-138488-J3C7Q2 OCE-137399- G7W5W1 OCE-	Coillte (National Forestry Service)	01/06/2022	04/08/2023	429	Annul	Remit	Inadequate Search

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
137146-N7W8H1 OCE-133713-P2G5R3							
OCE-135470-K8Q9G8 OCE-137143-Z2N9D6 OCE-139077G4C2M6 OCE-137870-P8H4R1 OCE-137308-T9D1F4; OCE-137137-X0S9V4 OCE-135469-W6N5L2 OCE-128393-H3G5N6 OCE-129455-J9C5R1 OCE-138820- M8X1H8; OCE- 137743-C3C4Y4 OCE- 137273-W3J9M2 OCE-136439-H9S7W5 OCE-133754-N7Y2T4 OCE-135169-Q7L8F6	Coillte (National Forestry Service)	01/06/2022	04/08/2023	429	Annul	Remit	Inadequate Search
OCE-113779-M3S0Z5	Department of Housing, Local Government and Heritage	01/10/2021	04/08/2023	672	Annul	Remit	Environmental Information
OCE-135353-K4C6Q3	Coillte (National Forestry Service)	10/02/2023	11/08/2023	182	Affirm	No Further action	

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-118384-M1X5T9, OCE-118412-N4R7L8, OCE-118414-N8P5T6, OCE-118415- B0V3W9, OCE- 118416-P0M2J	Department of Defence	12/01/2022	31/08/2023	596	Annul	Remit	Form or Manner
OCE-136180-Q6G7B9	Fingal County Council	25/01/2023	31/08/2023	218	Annul	No Further action	
OCE-127083-R3M4C1	Department of Agriculture, Food and the Marine	10/08/2022	01/09/2023	387	Annul	Remit	Inadequate Search
OCE-110745-C2C9S9	Meath County Council	22/07/2021	01/09/2023	771	Annul	No Further action	
OCE-130454-P8G5D2	Coillte (National Forestry Service)	12/10/2022	15/09/2023	338	Annul	Remit	Not Manifestly Unreasonable Request
OCE-124934-S2K4B4	Department of Agriculture, Food and the Marine	13/06/2022	02/10/2023	476	Annul	Remit	Inadequate Search
OCE-138269-Y2J4B1	Dun Laoghaire Rathdown County Council	15/05/2023	04/10/2023	142	Annul	Remit	Inadequate Search
OCE-129253-V8R6Z0	Department of Agriculture, Food and the Marine	29/09/2022	17/10/2023	383	Annul	Remit	No Reasons for Refusal
OCE-133286-Q7G0H6	Department of Agriculture, Food and the Marine	14/12/2022	18/10/2023	308	Annul	Remit	Inadequate Search

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-129105-D9Q2K4	Department of Agriculture, Food and the Marine	26/09/2022	19/10/2023	388	Annul	Direct Release	
OCE-132005-T6H0N5	Longford County Council	04/11/2022	19/10/2023	349	Affirm in Part	Direct Release	
OCE-133765-H6K8S8	National Transport Agency	09/01/2022	20/10/2023	649	Affirm	No Further action	
OCE-135329-K9G7M1	Department of Agriculture, Food and the Marine	09/02/2023	23/10/2023	256	Annul	Remit	Incomplete decision
OCE-116966-W8P0M5	Coillte (National Forestry Service)	07/12/2021	31/10/2023	693	Annul	Direct Release	
OCE-128187-X0B4Q4	Clare County Council	13/09/2022	31/10/2023	413	Annul	No Further action	
OCE-129141-W2S4R8	Galway City Council	26/09/2022	31/10/2023	400	Annul	No Further action	
OCE-128262-B9G0Z2, OCE-138020-L5T6K8	Department of Agriculture, Food and the Marine	14/04/2023	01/11/2023	201	Annul	Direct Release	
OCE-136235-Z5J0S9	Department of Agriculture, Food and the Marine	13/03/2023	02/11/2023	234	Annul	Remit	Inadequate Search
OCE-136877-P1T9D3	DAA plc (Dublin Airport Authority)	27/03/2023	07/11/2023	225	Annul	Remit	Incomplete decision
OCE-137279-M3G7T5, OCE-137565-Q1J5W8	Department of Agriculture, Food and the Marine	11/04/2023	07/11/2023	210	Annul	Remit	Not Manifestly Unreasonable Request

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-124513-C1V0F9	Data Protection Commission	03/06/2022	09/11/2023	524	Annul	Direct Release	
OCE-136869-N6S0J3	Department of Agriculture, Food and the Marine	06/04/2023	13/11/2023	221	Annul	Remit	Inadequate Search
OCE-122139-H8B8H5	Environmental Protection Agency	13/04/2022	24/11/2023	590	Annul	Direct Release	
OCE-136880-Q2N3W3	An Bord Pleanála (National Planning Authority)	28/03/2023	24/11/2023	241	Annul	Remit	Incomplete decision
OCE-137148-T5C1J9	Department of Agriculture, Food and the Marine	04/04/2023	28/11/2023	238	Annul	Remit	Inadequate Search
OCE-135566-K8T9M3	Coillte (National Forestry Service)	16/02/2023	29/11/2023	286	Annul	Remit	Incomplete decision
OCE-127739-F6N9X8	Irish Aviation Authority	30/08/2022	30/11/2023	457	Annul	Remit	No Reasons for Refusal
OCE-113639-G4G9Z9	RTÉ (National Public Broadcaster)	29/09/2021	30/11/2023	792	Annul	Remit	Not Manifestly Unreasonable Request
OCE-118187-Q5V7J7	Department of Agriculture, Food and the Marine	17/01/2022	08/12/2023	690	Annul	Remit	Incomplete decision
OCE-133697-G6F9K9	Coillte (National Forestry Service)	06/01/2023	11/12/2023	339	Annul	Remit	Incomplete decision
OCE-129103-T7K2X7	Department of Agriculture, Food and the Marine	26/09/2022	11/12/2023	441	Annul	Remit	Incomplete decision

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
OCE-132739-R5R6N7	Department of Agriculture, Food and the Marine	29/11/2022	11/12/2023	377	Annul	Remit	Environmental Information
OCE-135613-M9V5V3	Department of Agriculture, Food and the Marine	20/02/2023	12/12/2023	295	Annul	Remit	Inadequate Search
OCE-136164-G1L0L2	Clare County Council	06/03/2023	12/12/2023	281	Affirm in Part	No Further action	
OCE-135471-L1L8F7	Coillte (National Forestry Service)	14/02/2023	13/12/2023	302	Annul	Remit	Inadequate Search
OCE-132492-C9F8H9	Department of Agriculture, Food and the Marine	21/11/2022	13/12/2023	387	Annul	Remit	Environmental Information
OCE-133525-W9Z4B9	Department of Agriculture, Food and the Marine	23/12/2022	13/12/2023	355	Annul	Remit	Environmental Information
OCE-112656-B6W4T3	Department of Public Expenditure, NDP Delivery and Reform	09/09/2021	13/12/2023	825	Annul	Remit	Inadequate Search
OCE-121815-Y1T4M6; OCE-122151-X4W3C6; OCE-122369-Z6M8L3; OCE-122373-C2W6G5; OCE-122362-R2X6T1; OCE-122354-F2H0W6;	Coillte (National Forestry Service)	05/04/2022	13/12/2023	617	Affirm in Part	Remit	Incomplete decision

Case No.	Public Authority	Date of Appeal	Date of Decision	Duration (Days)	Decision	Direction	Reasons
127475-L1H4H2; OCE-129543-Y6M3K5							
OCE-132481-B4S5S9	Cork County Council	19/11/2022	14/12/2023	390	Annul	No Further action	
OCE-121133-T2Q9Z2	Department of Housing, Local Government and Heritage	10/01/2022	15/12/2023	704	Annul	Direct Release	
OCE-129542-X0K1C8	Galway County Council	14/10/2022	21/12/2023	433	Annul	Direct Release	
OCE-103363-N4S3M2	ESB Networks DAC	05/02/2021	21/12/2023	1049	Annul	Direct Release	
OCE-103365-V1F3H9	Electricity Supply Board	05/02/2021	21/12/2023	1049	Annul	Direct Release	
OCE-134520-D1G1H3	Department of Agriculture, Food and the Marine	16/01/2023	21/12/2023	339	Annul	Remit	Incomplete decision