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Call for Input: Consultation on Ireland's draft Plan of Action pursuant to Decision VIII/8h of the Meeting of the Parties to the Aarhus Convention

Body: Department of Climate, Energy and the Environment

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Comments on proposed Plan of Action in relation to Recommendations 2(c)(i), 2(c)(ii) and 2(d) of Decision VIII/8h

	Plan of Action	Comment
Recommendation: Paragraph 2 (c)(i) of decision VIII/8h	In paragraph 2 (c)(i) of decision VIII/8h, the 8th session of the Meeting of the Parties reaffirms decision VII/8i and requests the Party concerned, as a matter of urgency, to take: (c) The necessary legislative or regulatory measures to ensure that: (i) Appeals under the Access to Information on the Environment Regulations to the Office of the Commissioner for Environmental Information 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;	
Proposed measures to fulfil recommendation	• A suite of measures including the revision of the current European Communities (Access to Information on the Environment) Regulations 2007 - 2018 to include a timeliness provision with a specified deadline within which the Office of the Commissioner for Environmental Information (OCEI) must issue a decision is proposed.	Not clear if this is different to A10.8(a) of the draft regulations published 14 November 2023 Mandatory element, 'must', is qualified below by 'insofar as practicable' - (see 'steps necessary' below)
	• The timeliness provision is to be reviewed regularly with a view to reducing the timeframe.	The latest OCEI report does not set out a plan by which the decision timeframe can be brought within 4 months. OCEI appears to be against any time limit while acknowledging delays in investigating reviews (see below). *"However, regardless of the steps taken, the amount of resources applied or the number of staff available, I believe the setting of a timeline in statute is inappropriate. Furthermore, in many cases it is simply not possible to issue a decision within four months while at the same time adhering to the requirements of fair procedure imposed by Irish law. I remain hopeful that the final version of the regulations will not include this flawed and inappropriate provision."* OCEI Annual Review 2025 p.2 *"Typical examples of where settlements have been achieved include appeals which have taken some months from the time of acceptance to reach investigation stage."* OCEI Annual Review 2025 p.12
	• Enhancing training of public authority staff in order to improve the quality of AIE decision-making thereby reducing the administrative burden on stakeholders and the need to appeal to the OCEI.	
	• Engagement with public authorities in order to provide for the proactive publication of environmental information, in order to reduce the volume of appeals to the OCEI, thereby reducing the backlog of cases and promoting improved timeliness. •	Not clear what 'Engagement' means and what measurable outcomes are expected. Portals of varying quality not ideal. Common environmental datasets across LAs suggests common catalogue template or common portal.
	• Publication of revised Ministerial Guidelines to accompany the revised Regulations	Revised guidelines should be published now to take account of courts and OCEI guidance since 2013.
	• Issue of a Departmental Circular to public authorities to highlight new provisions and to remind public authorities of their obligations and the rights of information requesters under the Regulations.	Should be issued now. Circular would hopefully be a positive statement of principles and purpose rather than a neutral reformulation of the regulations.
	• The Progress Report submitted to the ACCC on 1 October 2024 referred to Practice Direction HC126, That Practice Direction has since been revoked as of 13 April 2026 and replaced by Practice Direction HC137 which states at §192 that it is an objective of the Planning and Environment List that judgments be given within the 2 month period (excluding vacations, etc.)	

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Outline of the steps necessary to implement the proposed measures	• Ireland held two public consultations on the review of the AIE Regulations •	
	• It is proposed to send the draft revised AIE Regulations to the Parliamentary Draftsman to finalise the text in the coming months. •	
	• These revised regulations will specify that a decision by the Commissioner shall be made in a timely manner and insofar as practicable, not later than 4 months after the date of receipt by the Commissioner of the application for the review concerned. •	Does not tally with 'proposed measures' above (see red highlight). Not clear how this is a change from draft regulations of 14 November 2023.
	• A review of the 4 month timeline shall take place no more than 2 years after the commencement of these Regulations with a view to bringing the time limit of the Commissioner closer to one month.	Unclear whether the review will be specified in the regulations along with the one month aspiration. Unclear who will be in charge of review, what measurements will be used, and whether there is continuing responsibility for outcomes. Unknown whether will the review have the power to acquire/deploy more resources on behalf of OCEI?
Actors involved	Department of Climate, Energy and the Environment	
Final date by when implementation of recommendation will be completed	It is planned that the revised Regulations will be finalised during Q4 2026. It is planned that the revised Ministerial Guidelines will issue in Q.1 2027 and it is planned that the Departmental Circular will issue in Q.2 of 2027.	The new Guidelines and Circular ought to be issued immediately to address the current problems. They can be updated again when new Regulations are enacted. • OCEI report 55% of decisions were annulled in 2025, in the context of the current guidelines. • OCEI reports in recent years have described the causes for referral of decisions and the causes of annulments. Guidelines and circular could address the causes. • OCEI backlog greater than ever. (noted 220 are from one source) • Relevant court judgements have accumulated since publication of current guidelines - 2013 • Obligation to attend OCEI training course is not clear; the guidelines might be the only reference a decision-maker will use.
Recommendation: Paragraph 2 (c)(ii) of decision VIII/8h	In paragraph 2 (c)(ii) of decision VIII/8h, the 8th session of the Meeting of the Parties reaffirms decision VII/8i and requests the Party concerned, as a matter of urgency, to take: (c) The necessary legislative or regulatory measures to ensure that: (ii) 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 Access to Information on the Environment Regulations, the underlying information request is thereafter resolved in an adequate and effective manner;	
Proposed measures to fulfil recommendation	• Revise the current existing European Communities (Access to Information on the Environment) Regulations 2007 - 2018 to include a requirement that pursuant to Article 13 of the Al E Regulations public authorities shall comply with any order of the court requiring the requested information to be issued to the person making the request.	Presumed to be A11.5 of those published 14 November 2023
	• The draft revised AIE Regulations propose that in an appeal to the High Court or, on appeal from that Court, the Court of Appeal or the Supreme Court, the court shall, where appropriate, specify the period within which effect shall be given to its order and may include such other matters as the court thinks appropriate to ensure the provision of an adequate and effective remedy.	Presumed to be A11.4 of those published 14 November 2023

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	• The draft revised Regulations also proposes that Public authorities shall comply with any order of a court requiring information to be issued to the person making the request concerned and that the courts shall act as expeditiously as possible consistent with the administration of justice in determining any application made to them under these Regulations.	Presumed to be A11.6 of those published 14 November 2023
	• S.I. No. 246/2025 - Rules of the Superior Courts (Planning & Environment) 2025 introduced Order 103 of the Rules of the Superior Courts which came into force on 18 June 2025.	
	• Order 103 rule 22(1) states that the Court may give such directions, or make such interim, interlocutory or consequential orders pursuant to these Rules, any other enactment or its inherent jurisdiction, as it considers appropriate, having regard to a number of matters and expressly refers to "(e) the requirement of an expeditious procedure under article 9(1) of the Aarhus Convention"	
	• Order 103 rule 36(1) also states that where the Court makes a final order remitting a matter to a respondent for reconsideration and in (b) in the case of an order remitting a matter for reconsideration under Directive 2003/4/EC, the Court, having heard the parties, shall issue such directions for the timely, adequate and effective resolution of the matter as are appropriate in the circumstances, including directions resolving any legal or procedural questions likely to arise on the remitted consideration, or a direction that the matter be prioritised on the basis of the original date of the request for information rather than the date of remittal.	
Outline of the steps necessary to implement the proposed measures	As above.	
Actors involved	Department of Climate, Energy and the Environment.	
Final date by when implementation of recommendation will be completed	It is planned that the revised Regulations will be finalised during Q4 2026. It is planned that the revised Ministerial Guidelines will issue in Q.1 2027 and it is planned that the Departmental Circular will issue in Q.2 of 2027.	
Recommendation: Paragraph 2 (d) of decision VIII/8h	In paragraph 2 (d) of decision VIII/8h, the 8th session of the Meeting of the Parties reaffirms decision VII/8i and requests the Party concerned, as a matter of urgency, to take: (d) The necessary legislative, regulatory, administrative and practical measures to ensure that access to cost-benefit studies used in environmental decision-making is not refused on the basis that it is not "environmental information" within the meaning of article 2 (3) (b) of the Convention;	

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Proposed measures to fulfil recommendation	The definition of 'environmental information' has been the subject of consideration by the Superior Courts in Ireland since the communicant and Ireland appeared before the Committee in respect of this issue at the fifty third meeting of the Committee. In particular, the definition has been considered by the Superior Courts in the following decisions: • Minch v the Commissioner for Environmental Information [2017] IECA 233 • Redmond v the Commissioner for Environmental Information [2020] IECA 83 • Electricity Supply Board v the Commissioner for Environmental Information [2020] IEHC 190 • Right to Know CLG v the Commissioner for Environmental Information and Radio Teilifis Eireann [2021] IEHC 353 These decisions have brought much welcome guidance on the scope and interpretation of the definition of 'environmental information'. In particular, the question of how the release of documents which comprise a cost benefit analysis was addressed by the Court of Appeal in Minch v the Commissioner for Environmental Information [2017] IECA 233.	
	The Office of the Commissioner for Environmental Information has advised us that it has adapted its approach to the application of the definition of environmental information in the context of these decisions. As such, the rationale which formed the basis of the decision in CEI/13/0005 has been revised and adapted in light of clearer guidance from the Courts.	
Outline of the steps necessary to implement the proposed measures	The Department hosts training events for public authorities with regards to Access to Environmental Information. The most recent of these was held on 10 December 2025 and was attended by over 100 officials from public authorities. That training event addressed the definition of 'environmental information' including the most recent case law of the Superior Courts in Ireland. The Department will be organising further training days on access to environmental information in the future and will draw the attention of the participants to the developments including the definition of 'environmental information'.	As above, absent training for all, up-to-date guidelines would be necessary now. They can be updated again as necessary to take account of new regulations or judgements. Difficult to assess whether '100 officials' is significant when set against the total number of potential decision-makers.
	When the revised AIE Regulations are finalised, the Department will issue a Departmental Circular, revise the current AIE Ministerial Guidelines to reflect the amended Regulations, recent case law including relating to the definition of environmental information and, in particular, access to cost benefit analysis.	The case for this sequencing is weak. Assumes current guidelines adequately reflect current understanding of case law.
Actors involved	Department of Climate, Energy and the Environment	
Final date by when implementation of recommendation will be completed	It is anticipated that the revised AIE Ministerial Guidelines, which will include information on this issue, will be finalised during Q1 of 2027 and that the Departmental Circular on AIE will issue in Q.2 of 2027	As above, the revised guidelines and circular need to be delivered now. They can be updated again as necessary when new regulations are enacted.