



**Iascach Intíre Éireann
Inland Fisheries Ireland**

Right to Know
requests@righttoknow.ie

BY EMAIL ONLY

19th June 2023

Our Ref: AIE-023-018-IFI

Dear Sirs

I refer to the request which you made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. No. 615 of 2014 and S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations) for access to environmental information held by Inland Fisheries Ireland (IFI). Your request is seeking:

“Under the AIE Regs to request

- a) name of defendant redacted in the following press statement**
- b) inspection reports / enforcement correspondence related to this case**

<https://www.fisheriesireland.ie/news/press-releases/ifi-secures-prosecution-and-fines-of-eu5500-against-farmer-for-riverbed>

Summary of Decision

I have made a decision on your request today, June 19th 2023 to part release records falling within the scope of your AIE request having regard to the provision of Articles 8 (a)(i) and 8(a)(iv) of the AIE Regulations subject to Article 10 (3) and (4) of the AIE Regulations. For ease of reference, set out hereunder are the relevant articles of the AIE Regulations and the grounds which apply to the part-refusal of some information.

To add value to my response I can advise that the records withheld (Record 6) pertains to legally privileged advice between IFI and James Reilly and Sons Solicitors.

Search Effort

All records relating to this case are held by me and were captured in the prosecution case file which is being released to you.

Exemptions Provisions and reasons for Decisions to Deny Access to Records

For ease of reference, set out hereunder are those articles of the AIE Regulations based on which I have had to deny access to records or parts of records.

Grounds that, subject to article 10, mandate a refusal

8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information –

(a) would adversely affect –

(i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law,

Article 4 of EU Regulation 2016/679 the General Data Protection Regulation (“GDPR”) defines personal data as:

“any information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”

Those parts of records withheld under this section contain personal information (personal home address of defendant) of third parties, from whom we have not received consent to release their personal information and in the circumstance, I do not believe it is appropriate for me to seek their consent. It is therefore my decision that these sections are exempt from release.

Subject to Article 10(3) and (4) I have also considered the following in relation to the public interest test:

Public Interest

We have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- The public interest in members of the public knowing that information held by public bodies about them, or those they represent, is accurate.
- The public interest in members of the public exercising their rights under the AIE regulations.

In considering the public interest factors which favour withholding the records I have taken account of the following;

- the public interest in public bodies being able to perform their functions effectively
- the public interest in protecting the right to privacy of individuals/third parties to whom the information relates.

On balance we have decided that it is not in the public interest to release the redacted parts of the record as it would impinge on the rights of the “data subject” under Article 4 of GDPR

Grounds that, subject to article 10, mandate a refusal

'8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information –

(a) would adversely affect –

(iv) without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 and with respect to exempt records within the meaning of those Acts);'

I have considered the following on how IFI would be adversely affected by the release of information by applying Section 31(1)(a) (Legal professional privilege) of the FOI act in line with Article 8(1)(iv) quoted above.

Section 31(1)(a) Legal professional privilege

31. (1) A head shall refuse to grant an FOI request if the record concerned –

(a) would be exempt from production in proceedings in a court on the ground of legal professional privilege

Record 6 is being withheld as it contains confidential communications between the client (IFI) and his/her professional legal adviser James Reilly and Sons Solicitors for the purpose of obtaining and giving legal advice (advice privilege) in relation to the case named SERBD-2022-ENV03-OMcG-Aidan Hynes.

Subject to Article 10(3) and (4) I have also considered the following in relation to the public interest test:

Public Interest Test

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- the public interest in openness, transparency and accountability
- the public interest in members of the public exercising their rights under the AIE regulations.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- the public interest in public bodies being able to perform their functions effectively
- the impact on the environment on the public knowing how IFI conducts proceedings in relation to enforcement cases.

On balance I determine that the public interest would be better served by refusing this record as it may impair the outcome of ongoing prosecutions in IFI, by interested parties knowing what information IFI seeks, discusses and holds from its legal advisors in relation to enforcement cases which have gone before and currently are before the courts. This would adversely affect the powers of IFI in enforcing its powers to protect the environment as it would give an insight into IFI's route to successful prosecutions.

Schedule of Records

I have attached a schedule of records with this letter. This lists the records that I consider relevant to your request. It provides a brief description of each record and the decision I have made on each record. Where the decision has been made to refuse or partially refuse access to a record, it specifies the Article of the AIE Regulations under which this refusal has been made.


Right of Review

Under Article 11 of the AIE Regulations you have a right to request an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of staff of IFI, unconnected with the original decision maker, of the same or higher rank than the original decision maker, who may affirm, vary or annul the original decision.

If you wish to request an internal review, you can do so by writing to AIE Officer, Inland Fisheries Ireland, 3044 Lake Drive, Citywest Business Campus, Dublin D24 CK66 or by e-mail to aie@fisheriesireland.ie, referring to this decision and quoting the AIE reference number **AIE-023-018-IFI**. This request must be made within one month of the date of receipt of this decision. The decision of an internal review will be communicated to you within one month of receipt of your request for an internal review.

Please do not hesitate to contact me on at lynda.connor@fisheriesireland.ie if I can assist you in any matter relating to your request.

Yours sincerely,



Lynda Connor
Decision Maker
Cc AIE Officer