



**Decision of the Commissioner for Environmental Information
on an appeal made under article 12(5) of the European Communities
(Access to Information on the Environment) Regulations 2007 to 2018
(the AIE Regulations)**

Case: OCE-121815-Y1T4M6; OCE-122151-X4W3C6; OCE-122369-Z6M8L3; OCE-122373-C2W6G5; OCE-122362-R2X6T1; OCE-122354-F2H0W6; OCE-127475-L1H4H2; OCE-129543-Y6M3K5

Date of decision: 13 December 2023

Appellant: Mr. Neil Foulkes

Public Authority: Coillte

Issue: Whether Coillte was justified in refusing access to information relating to seven requests made by the appellant concerning road upgrades under article 9(2)(a) of the AIE Regulations and in refusing access to information relating to an eighth request also concerning road upgrades under article 7(5) of the AIE Regulations.

Summary of Commissioner's Decision: The Commissioner annulled Coillte's decisions relating to requests A to F and parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations and directed it to undertake a fresh decision-making process in respect of same. He affirmed Coillte's decision to refuse access to information relating to part (e) of request H under article 7(5) of the AIE Regulations.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision, as set out in article 13 of the AIE Regulations. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.



Background

1. This decision concerns eight requests submitted by the appellant to Coillte seeking access to information relating to road upgrades under the AIE Regulations. The full details of the eight requests and the reference numbers used by this Office, Coillte, and the appellant are set out in Appendix 1. For the purposes of this decision, I will refer to the requests as requests A to H.

2. Requests A to E

(i) Between 10 January 2022 and 14 February 2022, the appellant submitted seven requests to Coillte including requests A to E, as follows:

1. 10 January 2022 – not at issue in this decision
2. 20 January 2022 – not at issue in this decision (subsequently resubmitted as request G)
3. 21 January 2022 – request A
4. 24 January 2022 – request B
5. 7 February 2022 – request C
6. 14 February 2022 – request D
7. 31 January 2022 – request E

(ii) On 17 February 2022, Coillte wrote to the appellant, noting that he had submitted the seven requests above. It stated that the request dated 10 January 2022 had been responded to and the remainder were outstanding. It referred to article 9(2)(a) of the AIE Regulations and commented:

“As the decision maker assigned to your application, it is my opinion that your requests, as currently worded, are manifestly unreasonable having regard to the volume or range of information sought. Your requests as currently phrased would, in my opinion, place an unreasonable demand on Coillte’s resources and would disrupt its ability to perform its core functions.

The seven requests relate to the same issue and would be considered by the same decision-maker. Each request, in and of itself, relates to a very wide timeframe and would potentially capture a large number of records.

I invite you to make a more specific request taking into account, as outlined above, that one Coillte staff member is able to deal with these requests.

You will appreciate that the provision of a more specific request would significantly reduce the impact on the section concerned, allowing them to meet their commercial targets while compiling the information for your data request.

I invite you to make a more specific request. If you wish to discuss this further, I can be contacted by email at [detail provided].”

(iii) Also on 17 February 2022, the appellant responded stating “There is no provision in the AIE Regulations for a public authority to conflate individual AIE Requests merely because they have been made by the same individual as you have effectively done here. Each AIE request is a specific and unique request. Can you please respond to each AIE request individually.”



- (iv) On 24 February 2022, Coillte issued one decision regarding requests A to E, as well as the request submitted on 20 January 2022, which is not at issue in this decision. Coillte noted that it was combining those six requests on the basis that they related to the same issue and were sent to Coillte over a short period of time. Coillte refused access to all of the information sought under article 9(2)(a) of the AIE Regulations.
- (v) Also on 24 February 2022, the appellant sought an internal review of request A on the basis that he considered that there had been a deemed refusal of that request where Coillte had not issued a response within the statutory timeframe.
- (vi) On 26 February 2022, 22 March 2022, and 23 March 2023, the appellant sought an internal review of Coillte's decisions regarding each of requests B to E.
- (vii) On 23 March 2022, Coillte issued an internal review decision regarding request A, noting that it had been a deemed refusal. It outlined its decision to refuse access to all of the information sought in request A under article 9(2)(a) of the AIE Regulations. On 5 April 2022, the appellant submitted an appeal to this Office regarding request A.
- (viii) Also on 23 March 2022, Coillte issued an internal review decision regarding request B. It affirmed its decision to refuse access to all of the information sought in request B under article 9(2)(a) of the AIE Regulations. On 12 April 2022, the appellant submitted an appeal to this Office regarding request B.
- (ix) On 14 April 2022, Coillte issued four separate internal review decisions regarding requests C to E. It affirmed its decision to refuse access to all of the information sought in each request under article 9(2)(a) of the AIE Regulations. On 19 April 2022, the appellant submitted four separate appeals to this Office regarding requests C to E.

3. Request F

- (i) On 21 February 2022, the appellant submitted request F to Coillte.
- (ii) On 23 February 2022, Coillte wrote to the appellant. It referred to article 9(2)(a) of the AIE Regulations and stated:

“As the decision maker assigned to your application, it is my opinion that your request, as currently worded, is manifestly unreasonable having regard to the volume or range of information sought. Your request as currently phrased would, in my opinion, place an unreasonable demand on Coillte's resources and would disrupt its ability to perform its core functions.

I invite you to make a more specific request, taking into account that one Coillte staff member is able to deal with this request. You will appreciate that the provision of a more specific request would significantly reduce the impact on our staff member, allowing them to meet their commercial targets while compiling the information for your data request.”

- (iii) The appellant responded the same day, stating that he did not wish to refine his request.



- (iv) On 16 March 2022, Coillte issued its original decision regarding request F. While it refused access to all of the information sought under article 9(2)(b) of the AIE Regulations, it also made arguments relevant to the application of article 9(2)(a) of the AIE Regulations. On 17 March 2022, the appellant sought an internal review of Coillte's decision.
- (v) On 14 April 2022, Coillte issued its internal review decision regarding request F. It affirmed its decision to refuse access to all of the information sought in that request, clarifying that it was doing so under article 9(2)(a) of the AIE Regulations. On 19 April 2022, the appellant submitted an appeal to this Office regarding request F.

4. Request G

- (i) On 1 June 2022, the appellant submitted request G to Coillte, which was a resubmission of the request dated 20 January 2022 referred to in paragraph 2(i) above.
- (ii) On 23 June 2022, Coillte issued its original decision regarding request G, wherein it part-granted the request. It granted access in full to information relating to parts (a), (e), and (f) of the request. It refused access in full to information relating to part (b), (h), (i), and (j) on the basis that the information sought did not exist. It also refused access in full to information relating to parts (c), (d), and (g) under article 9(2)(a) of the AIE Regulations.
- (iii) On 24 June 2022, the appellant sought an internal review of Coillte's decision in respect of parts (c), (d), (e), (f), and (g). In respect of parts (e) and (f), the appellant argued that the information provided was not the information sought, noting that he was seeking the specific length of the section of the road upgraded and the date of the works, rather the full length of the road and the invoice processing date, which he had received.
- (iv) On 22 July 2022, Coillte issued its internal review decision regarding request G. It stated that the information provided relating to parts (e) and (f) was the only information available. It also affirmed its decision to refuse access to all the information sought relating to parts (c), (d), and (g) under article 9(2)(a) of the AIE Regulations.
- (v) On 18 August 2022, the appellant submitted an appeal to this Office regarding request G. In his statement of appeal, he specifically referred his wish "to appeal the decision of Coillte to part grant and part refuse the request...on the basis [of] Article 9(2)(a)" of the AIE Regulations.

5. Request H

- (i) On 25 July 2022, the appellant submitted request H to Coillte.
- (ii) On 24 August 2022, Coillte issued its original decision regarding request H, wherein it part granted the request. It granted access in full to information relating to parts (a), (e), (f), and (k) of the request and provided it to the appellant. It also granted access in full to information relating to parts (c) and (d) of the request, noting that the information was publicly available and could be accessed via Coillte's Interactive Web Map Viewer. It refused access in full to information relating to parts (b), (h), (i), and (j) on the basis that the information sought did not exist. It also refused access in full to information relating to part (g) of the request under article 9(2)(a) of the AIE Regulations.



- (iii) Also on 24 August 2022, the appellant sought an internal review of Coillte’s decision regarding request H in respect of parts (a), (c), (d), (e), (f), (g), and (k).
- (iv) On 23 September 2022, Coillte issued its internal review decision regarding request H. It stated that the information provided or publicly available relating to parts (a), (c), and (d) was the only information available. Regarding parts (e), (f), and (k), it refused access to the specific information sought under article 7(5) of the AIE Regulations on the basis that it did not exist. It affirmed its decision in respect of part (g) to refuse access to the information sought, however varied the basis on which it did so, relying on article 7(5) of the AIE Regulations.
- (v) On 7 October 2022, the appellant submitted an appeal to this Office regarding request H. In his statement of appeal, he specifically referred to part (e) of his request, submitting that he wished to “appeal the decision of Coillte to refuse Item (e)...on the basis of Article 7(5).”
6. I have now completed my review under article 12(5) of the AIE Regulations. In so doing, I have had regard to the correspondence between Coillte and the appellant, as outlined above, and to correspondence between this Office and both Coillte and the appellant on the matters involved in the requests. In addition, I have had regard to:
- the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister’s Guidance);
 - Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
 - the 1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention); and
 - The Aarhus Convention—An Implementation Guide (Second edition, June 2014) (the Aarhus Guide)
7. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Scope of Review

8. As noted above, the appellant in his statement of appeal to this Office regarding request G specifically referred to article 9(2)(a) of the AIE Regulations. A review by this Office is limited in scope by the wording of the statement of appeal. Coillte refused access to information relating to parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations. Accordingly, although the appellant, in subsequent submissions to this Office, referred to parts (e) and (f) of request G and indicated that the he was seeking access to information other than that provided, this appeal will only consider the information refused under article 9(2)(a) of the AIE Regulations relating to parts (c), (d), and (g) of request G.



9. Coillte, in its submissions to this Office, stated its view that “the 8 requests, individually and cumulatively are manifestly unreasonable having regard to the volume and range of information sought by reference to [a]rticle 9(2)(a) of the AIE Regulations”. I must assume that the 8 requests being referred to by Coillte are requests A to H. Regarding request H, no information was refused by Coillte at internal review under article 9(2)(a) of the AIE Regulations. I am also satisfied, having examined Coillte’s submissions to this Office, that Coillte did not refer to any specific information relating to request H as being refused under article 9(2)(a) of the AIE Regulations. Accordingly, I will only examine request H when considering the cumulative nature of the requests under article 9(2)(a) of the AIE Regulations.
10. In all the circumstances of these cases, the scope of this review is concerned with whether Coillte was justified in its decisions to refuse access to information relating to requests A to F and parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations, and in its decision to refuse access to information relating to part (e) of request H under article 7(5) of the AIE Regulations.

Preliminary Matters

11. Before I consider the substantive issues arising, I wish to make a number of preliminary comments.
12. First, this decision concerns eight separate appeals submitted by the appellant to this Office. In the circumstances of these appeals, where they concern eight requests that were submitted by the same requester to the same public authority and have similar subject matter, I have decided that a composite decision is appropriate.
13. Second, it is clear from the comments of the Court of Appeal in *Redmond & Another v Commissioner for Environmental Information & Another* [2020] IECA 83, at paragraph 51, that the nature of a review by my Office is inquisitorial, rather than adversarial in nature. The extent of the inquiry is determined by me, as Commissioner for Environmental Information, and not by the parties to the appeal.
14. Finally, a review by this Office is considered to be *de novo*, which means that it is based on the circumstances and the law as they pertain at the time of this decision.

Analysis and Findings

Article 9(2)(a)

15. Article 9(2)(a) of the AIE Regulations provides that a public authority may refuse to make environmental information available where the request is manifestly unreasonable having regard to the volume or range of information sought. This provision seeks to transpose Article 4(1)(b) of the AIE Directive, which provides that Member States may provide for a request for environmental information to be refused if the request is manifestly unreasonable, and, in turn, is based on part of Article 4(3)(b) of the Aarhus Convention.



16. Article 9(2)(a) of the AIE Regulations must be read alongside article 10 of the AIE Regulations. Article 10(3) of the AIE Regulations requires a public authority to consider each request on an individual basis and weigh the public interest served by disclosure against the interest served by refusal. Article 10(4) of the AIE Regulations provides that the grounds for refusal of a request shall be interpreted on a restrictive basis having regard to the public interest served by disclosure. Article 10(5) of the AIE Regulations provides that nothing in article 8 or 9 shall authorise a public authority not to make available environmental information which, although held with information to which article 8 or 9 relates, may be separated from such information.

Reformulation/Refinement of Requests

17. The Minister's Guidance, at paragraph 12.8, states that article 9(2) of the AIE Regulations "clarifies that a public authority may refuse to make information available if the request is considered unreasonable due to the range of material sought, if the request is too general or if the material requested is not yet completed. Public authorities are requested to invoke these grounds for refusal sparingly, **and to assist the applicant (to reformulate a request, for example) as appropriate**" (my emphasis). In light of this, I am of the view that where a public authority intends to refuse a request under article 9(2)(a) of the AIE Regulations, it should first assist the appellant to reformulate the request as appropriate. Both public authorities and appellants should seek to liaise constructively with a view to processing the request as efficiently as possible.
18. As indicated above, regarding requests A to E (and two further requests not at issue in this decision), Coillte contacted the appellant on 17 February 2022, inviting him to refine those requests. In response, the appellant stated he wished for each request to be responded to individually. Also, regarding request F, Coillte contacted the appellant on 23 February 2022, inviting him to refine that request. In response, the appellant stated "I do not agree that my request is manifestly unreasonable. It is very specific both in terms of the time period (2 years) and the geographic area covered (Slieve Beagh SPA)...I will not be refining my request."
19. In its submissions to this Office, Coillte stated:

"In any consideration of reasonableness, it must be acknowledged that before refusing the requests, Coillte engaged with the appellant through requests to refine. This was considered by the OCEI in Mr. Raymond Neilon and Tipperary County Council (Case OCE-104048-N2R9G9)...in which the Applicant did attempt to further refine his request. This stands in stark contrast to the present circumstances, in which the appellant expressly refused to narrow, refine or elaborate on the Requests. Furthermore, Coillte warned the appellant that failure to refine the Requests as worded would result in refusals under Article 9(2)(a) of the AIE Regulations. It is submitted that this refusal to engage with Coillte as the responsible public authority is manifestly unreasonable."

20. Coillte also stated, in its submissions to this Office:

"We would observe that it should have been straightforward for the appellant to refine his various requests by reference to already publicly available information via the Department of Agriculture, Food and the Marine's forestry licensing platform called the Forestry Licence Viewer ("FLV") and via Coillte's online mapping, spatial and forestry platform known as the Public Viewer, whereby he could have identified specific felling licence areas or specific forest roads rather than all roads within very large areas."



21. As noted, the requirement for a public authority to assist a requester when seeking to apply article 9(2)(a) of the AIE Regulations is set out in the Minister's Guidance, rather than the AIE Regulations. However, I note that Article 3(5) of the AIE Directive provides that Member States should ensure that officials are required to support the public in seeking access to information and that public authorities provide appropriate information, guidance and advice to the public with regard to their rights under AIE. The extent to which the obligations contained in Article 3(5) have been transposed by the AIE Regulations has not been fully explored. It is clear from the jurisprudence of the CJEU, in cases such as [C-188/89 Foster v British Gas plc](#), that these obligations can have a direct effect on public authorities to the extent they can be considered emanations of the state. That being said, I accept that the jurisdiction conferred on this Office by article 12 of the AIE Regulations relates to decisions on individual access requests, and not directly to the obligations relating to the provision of assistance to requesters. I also accept that the requester in this case made it clear that he did not wish to refine his request. However, I note that Coillte merely invited the appellant to refine his request and made no suggestions as to how he could do so. I also note that the suggestions made by Coillte with regard to the ability to use its Public Viewer to narrow the request were made to this Office and not to the appellant. I would encourage Coillte to engage, insofar as possible, with requesters in circumstances where it considers a request to be manifestly unreasonable, to provide reasonable assistance with regard to suggested reformulations of the request. In my view, Coillte, could have provided greater assistance, for example, by including some of the information set out in its submissions to this Office, or perhaps even using some of the publicly available information referred to, to inform its engagement with the requester. While I accept that it may not have done so in this case, such an approach may reduce the need for appeals to this Office in future cases.
22. In addition, with regard to Coillte's statement that the appellant's refusal "to engage with Coillte as the responsible public authority is manifestly unreasonable", I consider that the request itself is the relevant consideration when seeking to apply article 9(2)(a) of the AIE Regulations. Accordingly, while a requester's refusal to refine a request and reduce the volume or range of information sought may impact whether a request is manifestly unreasonable, and this Office would encourage both parties to liaise constructively, a requester's unwillingness to engage with a public authority is not, in and of itself, a basis for refusal under article 9(2)(a) of the AIE Regulations.

Extension of Time

23. The European Commission's First Proposal for the AIE Directive envisaged that the exception in Article 4(1)(b) would cover requests "variously described in national legal systems as vexatious or amounting to an abus de droit." It noted that "compliance with certain requests could involve the public authority in disproportionate cost or effort or would obstruct or significantly interfere with the normal course of its activities. Public authorities should be able to refuse access in such cases in order to ensure their proper functioning." The Aarhus Convention Compliance Committee (ACCC) has emphasised that "whether or not a request is manifestly unreasonable relates to the nature of the request itself, for example, its volume, vagueness, complexity or repetitive nature, rather than the reason for the request, which is not required to be stated." (Report adopted on request for advice by Belarus, ACCC/A/2014/1, paragraph 28).
24. In respect of a request which is voluminous or wide-ranging, within the meaning of article 9(2)(a) of the AIE Regulations, it is clear that a request is not necessarily covered by the "manifestly unreasonable" exception just because it is voluminous or complex. Both article 7(2)(b) of the AIE Regulations and Article 3(2)(b) of the AIE Directive specifically envisage that public authorities will deal with voluminous



or complex requests, albeit in a longer timeframe. I further note the parallel duty in Article 7(1) of the AIE Directive to ensure that public authorities organise environmental information with a view to its active and systematic dissemination to the public, and article 5 of the AIE Regulations which seeks to implement that provision. In his Opinion in C-217/97 Commission v Germany at paragraph 30, Advocate General Fennelly stated that the duty in Article 7 of the AIE Directive indicates that individual requests should, in principle, be on matters of detail. Accordingly, the fact that a request is detailed does not mean that it is necessarily unreasonable.

25. In its submissions to this Office, Coillte stated that it did not seek an extension under article 7(2)(b) of the AIE Regulations in respect of processing any of the requests at issue. In its internal review decisions, Coillte acknowledged that, if an extension had been sought, a further month could have been available to reply to each of the requests. It contended that the volume of information sought in each request imposes a burden and cost on Coillte, which it considered to be disproportionate. It submitted that it considered the work to comply with each request was voluminous and, even with extensions, the resources required would place a very heavy burden on Coillte.

Cumulative Approach to the Requests and Article 9(2)(a) of the AIE Regulations

26. The AIE Regulations indicate that a “request” is one made in accordance with requirements set out in article 6 of the Regulations. The Directive does not provide a definition of “request”. Having regard to the provisions of the Directive and the Aarhus Convention, this Office considers that a request for environmental information can be understood as the occurrence of a member of the public seeking information from a public authority. In cases where an appellant sends multiple communications to a public authority over a short period of time, the practical implication is that there are certain circumstances where some of these separate communications may reasonably be considered to constitute a single request, or a smaller number of requests. This will be fact specific and could be done by combining communications on thematic or temporal lines. Although not always possible, this exercise ideally should be carried out with cooperation between the parties, as the streamlining of the number of requests, and therefore the number of responses required, would ordinarily be mutually beneficial for the efficiency of the process. In cases where an appellant sends a multi-part request, it may also be the case that certain parts of the request are intrinsically linked and should be considered together, while other parts should be considered separately. Regardless of whether requests (or parts of requests) are considered together or separately, it is incumbent upon a public authority to ensure that it complies with each of the requirements of the AIE Regulations, including, the applicable timeframes and, where relevant, article 10(5) of the AIE Regulations.
27. As previously noted, Coillte wrote to the appellant on 17 February 2022, referring to article 9(2)(a) of the AIE Regulations and noting that he had submitted seven requests between 10 January 2022 and 14 February 2022, including requests A to E. On 24 February 2022, Coillte issued one original decision regarding six requests, requests A to E and the request submitted on 20 January 2022 (not at issue in this decision). Coillte noted that it was combining those requests on the basis that they related to the same issue and were sent to Coillte over a short period of time. Coillte refused access to the information sought in full under article 9(2)(a) of the AIE Regulations.
28. While Coillte issued separate internal review decisions, in its submissions to this Office it stated its view “that the 8 requests, individually and cumulatively are manifestly unreasonable having regard to the volume and range of information sought by reference to [a]rticle 9(2)(a) of the AIE Regulations”. Coillte noted that it would take at least 39 working days for it to process, collate, review, and disclose all of the



information relating to the various requests. As noted in the “Scope” section above, I understand the 8 requests referred to by Coillte are requests A to H. I will consider the cumulative approach first, before going on to consider the individual approach.

29. It is the appellant’s view that each request should be dealt with separately and they cannot be considered together. In his submissions to this Office, he contended that the requests do not relate to the same issue; they each relate to a specific site for a specific time period. He submitted that Coillte’s cumulative consideration of the requests is contrary to the provisions of the AIE Regulations, the AIE Directive, and the Aarhus Convention.
30. Requests A to H were submitted by the appellant to Coillte on the following dates:
 1. 21 January 2022 – request A
 2. 24 January 2022 – request B
 3. 31 January 2022 – request E
 4. 7 February 2022 – request C
 5. 14 February 2022 – request D
 6. 21 February 2022 – request F
 7. 1 June 2022 – request G
 8. 25 July 2022 – request H
31. Although requests A to H relate to different road upgrades in various geographical areas, they all seek access to very similar types of information about the different road upgrades, in particular requests B to H. However, only requests A to F (along with the requests not at issue dated 10 January 2022 and 20 January 2022) were submitted within a relatively short timeframe, only requests A to E (along with the requests not at issue dated 10 January 2022 and 20 January 2022) were considered in Coillte’s correspondence to the appellant dated 17 February 2022, and only requests A to E (along with the request not at issue dated 20 January 2022) were considered in Coillte’s original decision dated 24 February 2022. In addition, the original decision was outside the statutory timeframe for response in respect of request A (and the request not at issue dated 20 January 2022).
32. In the circumstances, while I consider it reasonable for Coillte to have considered requests B to E together, I consider it unreasonable for Coillte to have considered requests A, F, G, and H (along with the request not at issue dated 20 January 2022) within that approach. This is because the impact of the grouping of request A (and the request not at issue dated 20 January 2022) with requests B to E resulted in it being considered outside of the timeframe provided for in article 7(2) in circumstances where Coillte did not avail of the facility in that article to extend the timeframe, because request F was not originally considered as part of Coillte’s joint response to the appellant and requests G and H were made a number of months after requests A to E.
33. While I consider it reasonable for Coillte to have considered requests B to E together in seeking to apply article 9(2)(a) of the AIE Regulations, crucially, there is no evidence to suggest that any analysis was carried out by Coillte as to whether or not some of those requests (or parts of those requests), could have been separated out in order to provide a response, in accordance with article 10(5) of the AIE Regulations. From my review of the requests, it appears to me that Coillte could have made an effort to answer some or parts of them. Furthermore, given Coillte’s comment that a previous similar request had been responded to and given that the information sought relates to Special Protection Areas (SPAs) (even if road upgrades are not notifiable actions in SPAs), some of the requested information is of a



kind which I would expect to be readily available to Coillte for provision to the public, in particular given its obligation under article 5(1)(b) of the AIE Regulations to maintain environmental information in a manner that is readily reproducible and accessible. While I accept that the jurisdiction conferred on me by article 12 relates to decisions on individual access requests and not directly to the obligations relating to proactive dissemination, the obligations contained at article 7 of the Directive and article 5 of the Regulations are relevant to my obligation to interpret the Regulations teleologically, having regard to the purpose of the Directive, when performing the functions conferred on me by article 12 of those Regulations. The exception in article 9(2)(a) is not intended to endorse any failure by public authorities to comply with their duties to organise and disseminate information. This means that when considering the workload imposed by a request, it is important not to enable a situation where a failure to comply with the obligations imposed by articles 7 and 3(5) of the Directive and article 5 of the Regulations increases the prospect that a public authority will be able to successfully rely on the “manifestly unreasonable” exception. This would lead to a perverse situation whereby failure to comply with certain obligations under the Directive and Regulations would effectively be rewarded by the application of less onerous standards by this Office on review of requests under article 12.

34. Coillte refused access to all parts of all of requests B to E. Article 10(5) of the AIE Regulations requires that, in circumstances where some of the information requested is subject to an exception, Coillte must still consider whether parts of the request(s) can be answered. This includes where Coillte is relying on article 9(2)(a) of the AIE Regulations in stating that parts of the request(s) are manifestly unreasonable.
35. Having regard to all of the above, I believe Coillte has not justified its decision to refuse access to all of the information sought relating to requests A to F and parts (c), (d), and (g) of request G cumulatively under article 9(2)(a) of the AIE Regulations. I am therefore satisfied that it is not appropriate to refuse the appellant’s requests on the grounds that, considered cumulatively, they are manifestly unreasonable within the meaning of article 9(2)(a) of the Regulations.

Individual Approach to the Requests and Article 9(2)(a) of the AIE Regulations

36. I turn now to consider Coillte’s individual approach to its refusal of each of requests A to F, and parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations.
37. When considering whether a request is manifestly unreasonable, it is necessary to examine the impact on the public authority of dealing with the request. In particular, I must examine whether responding to the request would involve the public authority in disproportionate cost or effort, or would obstruct or significantly interfere with the normal course of its activities. The findings of the CJEU in T-2/03 *Verein für Konsumenteninformation* are of particular relevance when considering the application of the “manifestly unreasonable” exception. Although these findings relate to Regulation No 1049/2001, that Regulation contains a similar exception to that contained in article 9(2)(a) of the AIE Regulations. Paragraphs 101 to 103, 112, 113 and 115 in particular, provide useful guidance:

“...[I]t is possible for an applicant to make a request for access...relating to a manifestly unreasonable number of documents...thus imposing a volume of work for processing of his request which could very substantially paralyse the proper working of the institution.

[...]



An institution must therefore retain the right, in particular cases where concrete, individual examination of the documents would entail an unreasonable amount of administrative work, to balance the interest in public access to the documents against the burden of work so caused, in order to safeguard, in those particular cases, the interests of good administration...

However, that possibility remains applicable only in exceptional cases.

[...]

... [I]t is only in exceptional cases and only where the administrative burden entailed by a concrete, individual examination of the documents proves to be particularly heavy, thereby exceeding the limits of what may reasonably be required, that a derogation from that obligation to examine the documents may be permissible.

...[I]t is with the institution relying on an exception related to the unreasonableness of the task entailed by the request that the burden of proof of the scale of that task rests.

[...]

...It follows that the institution may avoid carrying out a concrete, individual examination only after it has genuinely investigated all other conceivable options and explained in detail in its decision the reasons for which those various options also involve an unreasonable amount of work."

38. In light of the findings of the CJEU in *Verein für Konsumenteninformation*, I consider that the exception in article 9(2)(a) is only available where the administrative burden entailed by dealing with the request is particularly heavy. The burden is on the public authority to demonstrate the unreasonableness of the task entailed by the request. I expect that if a public authority wishes to rely on the manifestly unreasonable nature of a request, that public authority will clearly demonstrate the actual and specific impact that dealing with the request would have on its normal activities.
39. As indicated above, it is also important to bear in mind article 5 of the AIE Regulations and Articles 7 and 3(5) of the AIE Directive, which place duties on public authorities to organise and actively disseminate environmental information, to support the public in seeking access to information and to put practical arrangements in place to ensure the effective exercise of the right to access environmental information. Furthermore, in every case, regard should be had to the purpose of the AIE Regime, as reflected in Recital 1 of the Preamble to the AIE Directive, which provides that "increased public access to environmental information and the dissemination of such information contribute to greater public awareness of environmental decision-making and, eventually, to a better environment."
40. I have summarised below details set out by Coillte in its internal review decisions in respect of each of the requests at issue regarding its reliance on article 9(2)(a) of the AIE Regulations.
- (i) Regarding request A, Coillte submitted that the request is very broad, referring to "all information", and includes a non-exhaustive detailed list of information relating to works which the appellant believes were carried out in or around 2015. Coillte stated that this is not information that would be stored in one repository due to the multiple teams and work areas involved. It stated that to process the request would require detailed searches going back at least 7 years. It further noted



that the searches would need to be carried out by various senior managers and their wider teams including, but not limited to, the Engineering Process Manager (re. “works specification” and “date of works”), the Conveyancing and Legal Manager (re. “permissions sought and received” and “details of rights of way”), the Business Area Unit (BAU) Estates Manager (re. “all consultations with local land owners” and “permissions sought and received”, and the Certification and Environment Manager (re. “environmental assessments including AA screening”). Coillte stated that there would also be considerable overlap between all of the foregoing teams and other teams to find the “correspondence” requested. It further noted that given the time period involved “it is highly likely that some staff involved in the Kiltyfeenaghty road upgrade c.7 years ago may have since retired and their email mailboxes and hard drive files have been deleted and are no longer accessible.”

- (ii) Regarding requests B to F and parts (c), (d), and (g) of request G, Coillte stated that the requests concern either a one- or two-year time period and broad geographical areas. It stated that the requests would require a review of a considerable amount of information.
- (iii) Regarding requests B to F, Coillte indicated that it would take the senior staff member who would be responsible for collating the information sought at least an estimated 5 days per request to locate, identify, extract and/or copy the requested information in each request. It stated that this estimate was based on the length of time that was required to process a similar request submitted in 2021.
- (iv) Regarding request G, Coillte indicated that it would take the senior staff member who would be responsible for collating the information sought an estimated 4.5 days to locate, identify and/or copy the requested information at parts (c), (d), and (g) of request G. Coillte noted that the following work would be involved:
 - a. Part (c) “Felling licence number of area served by the road (where applicable)” – Coillte stated “existing forest roads serve the management of the entire forest estate and may be upgraded at any time. A planned harvest event would very often be the trigger to upgrade a forest road. However, in many cases, the forest road would serve a large part of the estate in that particular area and consequently would serve many harvest events. These harvest events are called harvest units and are linked to a harvest block and subsequently a felling licence number. To obtain the felling licence number as requested is very much a manual task of identifying the section of road, investigating all associated harvest units, identifying the harvest units, and then researching to find the underlying felling licence number associated with each harvest unit. This is a manual task with no easy method of extraction of felling licence numbers that may be associated with a road upgrade, as that is not part of the primary or key data associated with road upgrade work.”
 - b. Part (d) “Location of upgrade (map)” – Coillte stated “to isolate a map of each of the roads from the existing published maps, we would have to manually edit the activity pack to remove other non-requested information.”
 - c. Part (g) “Source of Road Materials” – Coillte stated “we have interpreted this section to mean you wish to receive information as to the location of the quarry where gravel was purchased for the road upgrade works. This is not information that Coillte holds, but is information held by external forest road contractors. Coillte’s process is for the nominated contactor to provide gravel as part of the forest road works. The contractor does not include details of sources of



gravel in their invoice to Coillte. For Coillte to provide this information would mean isolating the costs for each road u[p]grade, communicating with each contactor to request they search their own records and to thereafter provide Coillte with details of the source of the gravel.”

- (v) Regarding requests A to F and parts (c), (d), and (g) of request G, Coillte stated that it did not believe that the information sought is of a kind which it is currently able to store in a manner that enables its easy dissemination.
- (vi) Regarding requests A to F and parts (c), (d), and (g) of request G, Coillte stated that it was established pursuant to the Forestry Act 1988 (as amended) to carry out the business of forestry and related activities on a commercial basis. Coillte stated that in exercise of those functions it sells land for a range of uses such as renewable energy, infrastructure, community projects, and commercial developments. Coillte outlined that it operates in a highly competitive forestry and timber supply market. Coillte stated that, accordingly, while it has a statutory remit it also operates under significant commercial pressures. Coillte stated that the overall time it would take to comply with each request would impose a particularly heavy burden on Coillte and unreasonably and disproportionately divert it from, and disrupt it in performing, its core functions, including its commercial activities.

41. I have also summarised below details set out by Coillte in its submissions to this Office in respect of each of the requests at issue regarding its reliance on article 9(2)(a) of the AIE Regulations.

42. Regarding all of the requests concerned, Coillte provided further detail related to the Forestry Act 1988 (as amended) and referred to its objects as set out in section 12. I note that section 12(1) states that “[t]he principal objects of the company shall be stated in its memorandum of association to be—(a) to carry on the business of forestry and related activities on a commercial basis and in accordance with efficient silvicultural practices,(b) to establish and carry on woodland industries, (c) to participate with others in forestry and related activities consistent with its objects, designed to enhance the effective and profitable operation of the company, and (d) to utilise and manage the resources available to it in a manner consistent with the above objects”. Coillte stated that sub-sections 1(a) to 1(c) detail the foundational purposes of the company, including conducting forestry activities on a commercial basis and carrying out woodland activities. Coillte highlighted that subsection 1(d) requires Coillte “to utilise and manage the resources available to it in a manner consistent with the above objects”. Coillte submitted that to comply with the terms of the 8 requests “would equate to a complete disregard for the company’s foundational purposes by diverting senior staff away from the ordinary focus of their work for substantial periods of time”. It stated that this is manifestly unreasonable.

43. Request A

- (i) Coillte highlighted that the appellant requested “all information” relating to the upgrade of a road which he believed may have been completed “c.2015”. Coillte referred to the decision of my predecessor in CEI/15/0018 *Councillor Thomas Cullen and the Department of Environment, Community and Local Government*, in which the appellant requested “all information relating to documentation” submitted to the Department by a third party. Coillte noted that the Commissioner held that requests must be reasonably limited with regard to subject matter, stating “[t]he wording of an AIE request should not require a public authority to read between the lines, or to guess at the precise subject the requester has in mind. Indeed, it would not be appropriate for a public authority to depart from an objective reading of a request without proper clarification from



a requester.” I note, however, that CEI/15/0018 concerned article 9(2)(b) of the AIE Regulations. Coillte submitted that, regarding Request A, “both the uncertain time period (c. 2015) and the broad unclear range of documents must be considered together”. It stated:

“In combining both an extended, yet uncertain period of time and a wide range of documents, Request A is excessively burdensome on Coillte and risks undermining the process guaranteed by the AIE Regulations. This is because Coillte would not be able to provide the information within the one-month period for disclosure, save in circumstances where it severely reduced both its own commercial capabilities and delayed processing all other requests under the AIE Regulations. In order for Coillte to fulfil its obligation to supply information that is “comprehensible, accurate and comparable” according to the Directive, we submit that a more specific request for environmental information would have been required from the appellant.”

- (ii) Coillte stated that the following five systems would need to be searched in order to identify the information sought in request A; the Land Resource Manager (LRM) system, the Business Resource Manager (BRM) system, the GeoHub Internal Mapping system, the Agresso Financial Payments system, and the Department of Agriculture’s Forestry Licence Viewer (FLV).
- (iii) Coillte stated that, further to searches of the systems identified above, the following would be required:
 - a. Searches by the Forest Legal Team of legal files and records, the Land Direct system (Tailte Éireann), GeoHub, and archives, for the “details of rights of way” and “permissions sought and received”.
 - b. Searches by the BAU Estates Manager and Estates Team of Outlook, OneDrive folders, and SharePoint files for “all consultations with local landowners” and “permissions sought and received”
 - c. Searches by the Certification and Environment Manager of the LRM system, the BRM system, Outlook, OneDrive folders, and SharePoint files for details of “environmental assessments including AA screening”.
- (iv) Coillte, in describing the actual steps that would be necessary to identify and compile the information sought in request A, referred to the steps as set out at paragraph 44(vi) (see below) regarding requests B to F and parts (c), (d), and (g) of request G.
- (v) In estimating the hours of work required to process request A, Coillte stated that on the basis that the appellant is seeking “all information”, it considered it to require similar searches to those required in respect of each of requests B to H, in addition to searches for additional categories of records e.g. rights of way). It noted that request A relates to one forest road, rather than all roads within a large geographical area and to works which are estimated to have been completed in 2015. It stated that one of the difficulties with the request, is the lack of clarity around when the works may have been completed, which may require the various teams “to search back earlier than 2015”. Coillte stated that, as many of the records may have been archived or destroyed due to their age, additional work is required to search older case files, older systems, archives etc. It stated, therefore, that the estimated minimum time to complete the searches would be:



- a. Engineering Process Team – 14 hours
 - b. Forest Legal Team – 14 hours
 - c. BAU Estates Manager and Estates Team – 7 hours
 - d. Certification and Environment Manager – 2 hours
- (vi) In providing further detail regarding the size and staffing level of the relevant teams, the work of those teams, and the impact of dealing with request A on the proper functioning of those teams, Coillte noted the following:
- a. Engineering Process Team – The work would be carried out by the Engineering Process Manager (senior engineer on the Engineering Process Team) - see the details set out paragraph 44(iii).
 - b. Forest Legal Team – The forest legal team is made up of two solicitors and one part-time legal secretary. One of the two solicitors would need to conduct the majority of the searches as the legal secretary works on a part-time basis and is not trained in a number of the systems that would need to be searched. Redaction of documents located would be required to protect the personal data of third parties involved and to exclude any commercially sensitive information. The Forest Legal Team is responsible for all legal services for the forest division of Coillte, primarily related to conveyancing, litigation, and procurement. The legal team currently manages a caseload of 600 active matters, many with transactional or court deadlines. Diverting one of the two solicitors away from their work for two full days would be very burdensome for the division.
 - c. BAU Estates Manager and Estates Team – The BAU Estates Manager and Estates Team comprises one manager and three forest managers. The search work would be completed by one of the forest managers, however, would require liaison across the Estates Team and across other teams due to the movement of staff since 2015.
 - d. Certification and Environment Team – The Certification and Environment Team is made up of one certification and environment manager, three environment managers, one quality assurance certification specialist, and one consultation and stakeholder manager. The search work would have to be completed by the Certification and Environment Manager due to the age of the records sought.

44. Requests B to F and parts (c), (d), and (g) of request G

- (i) Coillte stated that the same five systems as required for request A (see paragraph 43(ii) above) would need to be searched in order to identify the information sought in each of requests B to F and parts (c), (d), and (g) of request G.
- (ii) Coillte stated that it would take the Engineering Process Manager, who would be responsible for collating the information sought, at least an estimated 5 days per request to process requests B to F and 4.5 days to process parts (c), (d), and (g) of request G. It again stated that this estimate was based on the length of time that was required to process a similar request submitted in 2021. Coillte stated that the Engineering Process Manager had indicated that the time required is a



conservative estimate and it could take longer, depending on the size of each geographic area, the number of forest roads actually upgraded etc. Coillte stated that some categories of information sought would require the Engineering Process Manager to engage with multiple internal and external parties, which could take significant time. Coillte also noted that the Engineering Process Manager had carried out additional work on request H to provide some of the categories of information sought and, in carrying out this work, he verified his own estimate of at least 5 days of work per request being required to complete the full review for each of requests A to F.

- (iii) Coillte stated that the same individual, the Engineering Process Manager, would be required to process each of requests B to F and parts (c), (d), (g) of request G. In providing further detail regarding the size, staffing level, and the impact of dealing with each request on the proper functioning of the Engineering Process Team, Coillte outlined the following:
- a. Coillte stated that the work of the Engineering Process Manager includes budgeting, weekly reporting to senior management, development and implementation of effective engineering processes and standards, process improvements, contract management and procurement, and management/direction of the road licensing team. It stated that there is no other staff member within Coillte who does this work and there is no direct cover during holiday periods.
 - b. Coillte stated that 5 road licensing specialists report directly to the Engineering Process Manager. Coillte stated that the primary work of the specialists concerns road licensing. It stated that they are not engineers and therefore cannot cover the work of the senior engineer. It noted that their key functions are to manage the road planning and licensing process, to support the implementation of the engineering road programme, and to apply for road licenses from the regulator.
 - c. Coillte stated that there are 6 other engineers (one in each BAU) who report directly to the BAU lead, not the Engineering Process Manager. It stated that those other engineers carry out different duties to the Engineering Process Manager and their work is not related to the engineering process function. Its stated that their key functions are in planning and execution of the forest road network and construction of engineering structures within their respective BAU to access the forest estate.
 - d. Coillte stated that the Engineering Process Manager is the only person capable of searching for and collating the level of data sought by the appellant, as it requires “engineering expertise from the outset”. It stated that it would be “extremely detrimental” to the critical functioning of the Engineering Process Team to divert the senior engineer away from his key work. It stated that, as the Engineering Process Team has no other engineers, the Engineering Process Manager cannot delegate his duties.
- (iv) The appellant submits that, based on GIS data he had sourced from Coillte, the extent of Coillte’s road network in the Mullaghanish (23.6 km), Slieve Aughty (449.3 km), Slieve Beagh (33.3 km), and Slievefelim (211.6 km) Special Protection Areas (SPAs) varies greatly, and that this would impact the time required to process each request. In response to this contention, Coillte stated that it assumes that the appellant is seeking to assert that there should be less time required to search and collate information for those SPAs with smaller road networks. Coillte stated, however, this does not take account of how many road upgrades may have been completed in a given SPA, regardless of whether that SPA has a small road network or a large road network. Coillte stated that the real test



is the number of road upgrades conducted in a given year, which is information it does not have without conducting the full search and collation exercise.

- (v) Coillte, responding to this Office's query as to whether, given that the same information was sought in relation to different road upgrades at parts (a)-(j) of requests B to E, there would be efficiencies if parts were dealt with together (e.g. whether looking for all the parts (a) for the different road upgrades together would lead to a reduction in timeframe required), stated that each SPA is in a different geographical area and there would be no time saving in dealing with all the requests together.
- (vi) Coillte, in describing the actual steps that would be necessary to identify and compile the information at parts (a)-(j) of requests B to F and parts (c), (d), and (g) of request G, stated that the first step would be to identify all forest road upgrades carried out during the applicable time period in the relevant geographic areas. It stated that this would involve checking the systems referred to at paragraph 43(ii) above. It also provided more specific detail relating to the different categories of information sought by the appellant:
- a. Part (a) "Forest Area reference" (requests B to F) – Coillte stated that its forestry operations are split into BAUs, within which there are forest areas, within which there are forest properties. It noted:

"[b]y way of example, in one request, the appellant sought "Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA during 2021". This SPA is extremely large site measuring 56,673 hectares and centred on the borders between the counties of Cork, Kerry and Limerick. Almost half of the SPA is afforested, although we cannot comment on how much of the area is owned by Coillte without having to commence a very detailed review."

Coillte stated that to identify the information sought at part (a) for each request would require (1) checking the BRM system to search for works done across the area of forestry owned by Coillte within the overall area concerned, (2) cross-referencing with the list of areas on the LRM system to obtain more detail on any works done and to ensure that they were "road upgrades", and (3) checking maps within GeoHub "for ease of use re spatial location of each potential road, and to manually type a list of the forest areas."

- b. Part (b) "CN reference number (where applicable) (requests B to F) – Coillte stated that a CN reference will not exist where a forest road is established more than 10 years, however a CN reference and associated road licence will exist where a forest road has been established within the last 10 years and is being upgraded. Coillte stated that to verify if a CN reference exists for road upgrades would require a manual "rule in/rule out" check against each road upgrade completed during the applicable time period in the relevant geographical area.

Coillte stated that there could also be instances where a new road application (which would have a CN reference) overlaps with a road upgrade of an existing road and that it had interpreted the appellant's requests to include such instances. Coillte stated that to search for this information would require downloading data from the BRM system, downloading data



from the LRM system, and cross-referencing the output from the two systems within Excel. It also stated that this is a manual exercise to rule in/out if CN references exist.

- c. Part (c) “Felling licence number of area served by the road (where applicable) (requests B to F, and G) – Coillte stated that existing forest roads serve the management of all the forest estate and may be upgraded at any time. It noted that a planned harvest event is typically the trigger to carry out an upgrade. It explained that in many cases forest roads serve a large part of the estate and consequently serve multiple harvest events. It stated that the harvest events (called harvest units) are linked to a harvest block and, accordingly, a felling licence. Coillte stated that to obtain the felling licence number is a manual task which would require (1) identifying each road upgraded within the relevant geographical area (2) searching for the associated harvest unit details (3) searching for the associated felling licence number. It noted that this exercise would be completed using spatial viewers in the LRM system and GeoHub, cross-checked against a download of data from the BRM system.
- d. Part (d) “Location of upgrade (map)” (in GIS format) (requests B to F, and G) – Coillte stated that it does not record information on the location of each section of upgrade or the length of upgrades carried out on forest roads. It stated that contractors are provided with a work activity pack, which includes a map showing the entire length of the forest road that requires full or partial upgrading. It stated that to isolate maps of each road upgraded would require a manual exercise of separating the maps from the activity packs issued to contractors. It noted that such maps do not exist in GIS format and only exist in PDF format following the generation of the activity pack.
- e. Part (e) “Length of upgrade (requests B to F) – Coillte stated that the appellant was provided, in response to requests G and H, with details of the full length of the forest roads which were upgraded. Coillte stated that this is the only information which it can provide because that is how it works operationally. Coillte stated that it does not have information relating to the exact length of upgrades carried out.

Coillte explained that upgrades may be carried out at one or more sections along the relevant road. It noted that the full work programme is confirmed verbally with the contractor on site following a walk-over or drive-over to assess the road condition. It stated that this may result in sections of the forest road not requiring an upgrade. Coillte again noted that it issues an activity pack to the contractor containing the full length of the forest road, to ensure the contractor has all relevant site information.

Coillte also explained that contractor’s invoices contain details of the road number, activity and total cost. It stated that contractors are not required to provide a breakdown or detail of the total length upgraded. It explained that its payment system records total cost against the road number and the activity or activities completed by the contractor. It noted that activities can include road upgrades, road repairs, and road maintenance. It stated that a contractor may have carried out multiple activities along part or all of the length of a forest road, but their invoice does not provide a detailed breakdown of each activity carried out.

Coillte reiterated that the exercise undertaken to identify sections of road that do not require upgrade is a visual exercise and is not carried out using any measurement tools. It again explained that the on-site assessment with the contractor involves a walk-over or drive-over of



the forest road to assess its condition. It noted that the contractor and the Coillte staff member discuss which sections of the road require work and which do not. It reiterated that neither Coillte nor the contractor take measurements of sections requiring / not-requiring maintenance.

Coillte noted that following the walk-over/drive-over process, it will often happen that more or less works will be required than originally anticipated. It noted that this because when the contractor commences works on the ground, their expertise and experience will further inform the final works to be completed. It stated that additional factors such as adverse weather conditions post assessment, may also result in extra work being required than was originally anticipated.

- f. Part (f) “Date/s of upgrade works (requests B to F) – Coillte stated that the appellant was provided, in response to requests G and H, with details of invoice processing and was informed that that was the extent of the information held. Coillte stated that it does not manage the dates on which external contractors carry out the work and the only date recorded is the date the invoice is processed. Coillte stated that, in the majority of cases, the date should be close to the date of the works (on the assumption that most contractors promptly issue invoices).
- g. Part (g) “Source of road materials (requests B to F, and G) – Coillte stated that it interpreted this category of information as relating to the location of the quarry where gravel and road materials were purchased for the road upgrade works. Coillte noted that, in response to requests G and H, the appellant was informed that the procedure is for the contractor to provide gravel as part of the forest works contract. It stated that the records relating to the source of road materials used in road upgrades will therefore be held by the contractor. Coillte stated that it does not hold any information relating to the source of the road materials and that it also does not view any such information held by the contractor as being held “for” Coillte. Coillte stated that contractors do not provide this information in their invoices or in any manner to Coillte.
- h. Part (h) “AA Reports (requests B to F) – Coillte stated that the majority of road upgrades carried out on forest roads are exempt from the need to obtain a licence or consent from the Minister for Agriculture, Food and the Marine and, accordingly, in most instances, appropriate assessment (AA) reports do not exist for road upgrades. Coillte noted that there may, however, be instances where a new road application (which may have an associated AA report) overlaps with a road upgrade on an existing road. Coillte stated that to search for this information would require downloading data from the BRM system, downloading data from the LRM system, and cross-referencing the output from the two systems within Excel. It stated that this is a manual exercise to rule in/out if AA reports exist on a road/by road basis.
- i. Part (i) “NIS (if applicable) (requests B to F) – Coillte stated that the majority of road upgrades carried out on forest roads are exempt from the need to obtain a licence or consent from the Minister for Agriculture, Food and the Marine and, accordingly, in most instances, Natura Impact Statement (NIS) reports do not exist for road upgrades. Coillte noted that there may, however, be instances where a new road application (which may have an associated NIS report) overlaps with a road upgrade on an existing road. Coillte stated that to search for this information would require downloading data from the BRM system, downloading data from



the LRM system, and cross-referencing the output from the two systems within Excel. It stated that this is a manual exercise to rule in/out if NIS reports exist on a road/by road basis.

- j. Part (j) “Records of any consultations including public consultation (requests B to F) – Coillte stated that in respect of many different forest operations, it is required to engage with other bodies e.g. local authorities, NPWS, and the IFI, however road upgrades are not notifiable actions in SPAs and, therefore, it is unlikely that there will have been any consultation relating to forest road upgrades. Coillte stated that, in a small number of instances where the road upgrade included works to a bridge, there may have been engagement and consultation with Inland Fisheries Ireland. Coillte stated that there is also no requirement for public consultation relating to road upgrades but there may be informal consultation with neighbours or adjoining landowners in connection with the road upgrade works. Coillte stated that to identify records relating to any such consultation would involve the following steps: (1) identifying a list of all forest road upgrades in the relevant geographic area (2) identifying the Coillte forest workers responsible for engaging contractors to conduct the forest road upgrades during the relevant time period and providing them with a list of forest road upgrades, so they could conduct searches of their emails and files (3) identifying the external contractors responsible for completing the forest road upgrades during the relevant time period and providing them with a list of forest road upgrades to enquire if they, in completing the works, had engaged with landowners etc, and (4) providing a list of forest road upgrades to the Harvesting Team and the Estates Team in each relevant area, so they could conduct searches of their emails and files (as they may have been contacted by neighbours or landowners enquiring about the proposed works).

45. As indicated above, article 9(2)(a) of the AIE Regulations must also be read alongside article 10 of the AIE Regulations.

46. In its submissions to this Office, Coillte stated that, in the first instance, it continues to rely on its responses in its internal review decisions regarding its application of article 10 of the AIE Regulations. I have summarised those responses below:

- (i) Regarding request A, Coillte stated that it had, in accordance with article 10(3) and 10(4) of the AIE Regulations, considered the grounds for refusal on a restrictive basis and had weighed the public interest served by disclosure against the interests served by refusal of his request. It stated that it considered that the public interests served by disclosure are “openness and transparency.” It stated that the interests served by refusal are also public interests, including, “the fact that the unreasonable burden of fully processing the request would divert at least four senior members of staff away from their normal work and cause a substantial and unreasonable disruption to that work”. It noted that “there was engagement with [the appellant] in an effort to reduce the scope of the request so that it did not fall to be refused but that [the appellant] ultimately declined to refine [the] request” and stated that “there is also a strong public interest in the efficient and effective performance of Coillte.” Coillte stated that it weighed these considerations and determined that the public interest in disclosing the information withheld did not outweigh the protection of the interests served by refusal.
- (ii) Regarding requests B to E, Coillte stated that it had, in accordance with article 10(3) and 10(4) of the AIE Regulations, considered the grounds for refusal on a restrictive basis and had weighed the public interest served by disclosure against the interests served by refusal of his request. It stated



that it considered that the public interests served by disclosure are “openness and transparency.” It stated that the interests served by refusal are also public interests, including, “the fact that the unreasonable burden of fully processing the request would divert a senior member of staff away from their normal work and cause a substantial and unreasonable disruption to that work”. It again noted that “there was engagement with [the appellant] in an effort to reduce the scope of the request so that it did not fall to be refused but that [the appellant] declined to refine [the] request”. It went on to state that “the disruption to the work of the Engineering Process Team would be such that it would adversely impact the proper functioning of that team, with resultant adverse impacts to other divisions of the business dependent on the efficient operation of that team” and that “[t]here is also a strong public interest in the efficient, effective and commercially sustainable performance of Coillte.” Coillte outlined a similar position regarding request F. Regarding all of requests B to F, Coillte stated that it weighed these considerations and determined that the public interest in disclosing the information withheld did not outweigh the protection of the interests served by refusal.

- (iii) Regarding parts (c), (d), and (g) of request G, Coillte stated that it had, in accordance with article 10(3) and 10(4) of the AIE Regulations, considered the grounds for refusal on a restrictive basis and had weighed the public interest served by disclosure against the interests served by refusal of his request. It stated that it considered that the public interests served by disclosure are “openness and transparency.” It stated that the interests served by refusal are also public interests, including, “the fact that the unreasonable burden of fully processing the request would divert a member of staff away from their normal work and cause a substantial and unreasonable disruption to that work”. It noted that “this is the second time this exact Request has been submitted” and that “[t]here is also a strong public interest in the efficient and effective performance of Coillte.” Coillte stated that it weighed these considerations and determined that the public interest in disclosing the information withheld did not outweigh the protection of the interests served by refusal.

47. In its submissions to this Office, Coillte also provided the following detail regarding its consideration of article 10 of the AIE Regulations in respect all of the requests at issue:

- (i) Coillte referred to articles 10(3) and 10(4) of the AIE Regulations. It stated that it is aware that there is a public interest in disclosing environmental information, but considers that in the circumstances of the cases, this is outweighed by the competing public interest arguments for refusal of the requests. It stated that this is taken in light of the excessive burden the requests would place on its resources. Coillte stated that it considers that past decisions of the OCEI support the arguments advanced in its submission.
- (ii) Coillte stated that, as was noted in its decisions, in assessing the public interest concerns relating to the requests, the balance fell in favour of refusing the requests in light of the extremely detrimental effect that granting the requests would have on its ability to conduct its work in the ordinary course.
- (iii) Coillte acknowledged that there is an important general interest in the disclosure of environmental information in line with the AIE Regulations and the AIE Directive. Coillte stated that it fully respects its obligations under Irish legislation and the foundational principles of the Aarhus Convention more generally. It stated that it has consistently shown its dedication to transparency and openness through its public access systems, including BAU Plans, Public MapViewer, and its website. It stated that Coillte was commended in this regard in the OCEI Annual Review 2022.



- (iv) Coillte went on to note “however, it must also be acknowledged that Coillte’s work in the ordinary course also fulfils a necessary public service, one that seeks to support the pressing environmental concern of sustainable forestry, and one that is mandated by statute”. Coillte stated that the “OCEI has previously held in the case CEI/18/0021 that there is “a very strong public interest in giving public authorities the space to carry out their environmental protection functions”. It referred to the “What we do” section of its website, where it stated that it sets out its climate and sustainability ambitions.
- (v) Coillte stated that to process the requests would significantly reduce Coillte’s ability to conduct its duties under the Forestry Act 1988 (as amended) by diverting the attention of a senior employee for a total of almost two months. It stated that it is its position that the public interest balance falls decidedly in favour of refusing the request and guaranteeing the continued delivery of Coillte’s public offering, which affects the public at large, as Ireland’s largest forest manager and largest provider of outdoor recreation. It submitted that, in contrast, making the underlying information available to the appellant actively hinders the supply of environmental information to other members of the public by restricting Coillte’s ability to process other requests under the AIE Regulations and by diverting business critical staff away from their key functions. It contended that the public interest served by refusal must outweigh that of disclosure.
- (vi) Coillte stated that request G was received by Coillte on 1 June 2022, some 4.5 months after it was first submitted by the appellant (it was a resubmission of the request initially submitted on 20 January 2022). It stated that a different decision “was reached in Request G because, at that stage, the AIE team were aware of the importance of applying article 10(5) to each request to provide any information capable of being separated from the manifestly unreasonable elements of the request. For that reason, several categories of the request were capable of being responded to, with the remainder of the request being manifestly unreasonable.”
48. Regarding all of the requests at issue, I accept that Coillte was established pursuant to the Forestry Act 1988 (as amended) to carry out the business of forestry and related activities and that its objects are set out in section 12 of that Act. I note article 9(2)(a) of the AIE Regulations is an explicit acknowledgement of the fact that public authorities should not be required to undertake the processing of AIE requests where to do would place an unreasonable burden on what are often limited resources. However, it must also be remembered that the administration of the AIE Regulations is a statutory obligation which should be afforded as much weight as any other statutory obligation or the carrying out of any other operational or commercial functions.
49. The question of what is manifestly unreasonable for a public authority must take into account that the AIE Directive envisages widespread periodic proactive dissemination of environmental information as well as more detailed individual requests while article 5 of the Regulations imposes a duty on public authorities to “make all reasonable efforts to maintain environmental information held by or for [them] in a manner that is readily reproducible and accessible by information technology or by other electronic means”. Coillte submits that it has “consistently shown [its] dedication to transparency and openness through [its] public access systems, including BAU Plans, Public MapViewer and [its] website” and that it “was explicitly commended in this regard in the OCEI Annual Review 2022”. I accept that this Office’s 2022 Annual Review welcomed the publication of environmental information on Coillte’s public viewer and that Coillte has been involved in greater publication and dissemination of environmental information. However, Coillte’s submissions do not deal with the steps taken by it to organise information of the type requested in a manner which enables it to efficiently process the appellant’s



request. I note in this regard that Coillte's submissions indicate that it has received a request of a similar nature in the past which it did process. As I have already outlined, this Office has no direct role in monitoring compliance with the obligations contained in article 5 of the AIE Regulations and Articles 3(5) and 7 of the AIE Directive but it is a factor to which I consider it appropriate to have regard when assessing, from a teleological perspective, whether the requirements of article 9(2)(a) of the AIE Regulations are fulfilled in this case (see *National Asset Management Agency v Commissioner for Environmental Information* [2015] IESC 51 at paragraph 10). In addition, as the Advocate General noted in *Commission v Germany* the Directive and Regulations envisage the making of individual requests "on matters of detail". Therefore, while I welcome the making available of other information, this request must be decided regardless of what other information might already be publicly available or be disseminated by Coillte.

50. Regarding request A, while I note Coillte's position that the request is very broad, concerns "all information", and relates to an uncertain timeframe of circa. 2015, thus possibly requiring a search of older systems and incorporating other years, I also note that it relates to a specific road, forest property, and compartment, and that the appellant was in a position to provide a map. Coillte does not appear to have carried out any sort of assessment to ascertain whether the particular road identified in the request was upgraded in 2015 and whether or not a search of other years would, in fact, be required. Furthermore, while Coillte has estimated that the minimum timeframe to process the request is 5 days of work – this is spread across a number of different teams/individuals, with some parts of the request seemingly needing more hours of work than others. Notwithstanding details regarding the tasks of the teams/individuals involved, it appears to me that the longest time estimated, 14 hours, over a period of one month (or, indeed two months, had an extension been sought) is not unduly onerous and would not cause an unreasonable disruption to the work of Coillte or the particular functional area(s) involved. In the circumstances, I do not find that the threshold for request A to be manifestly unreasonable has been reached. Accordingly, Coillte has not justified its decision to refuse access to all of the information sought relating to request A individually under article 9(2)(a) of the AIE Regulations. The decision in *Verein für Konsumenteninformation* makes it clear that "it is with the institution relying on an exception related to the unreasonableness of the task entailed by the request that the burden of proof of the scale of that task rests" (paragraph 113). Coillte has not demonstrated that the processing of request A would impose a sufficiently heavy administrative burden of the type envisaged in *Verein für Konsumenteninformation*. I am not satisfied, based on the information before me that refusal on the basis of article 9(2)(a) is justified in the circumstances of this case.
51. Regarding requests B to F and parts (c), (d), and (g) of request G, I acknowledge that Coillte stated that the vast majority of the work would need to be carried out by one individual, the Engineering Process Manager. I understand that it is Coillte's position that no other individual can process the requests. It is not fully evident why there are no other individuals, for example, within the Engineering Process Team or within each of the BAUs, who could process the different requests (or parts of those requests). I accept that Coillte is far more familiar with its internal workings than this Office but I also note that the decision in *Verein für Konsumenteninformation* makes it clear that it is for the public authority to establish that the scale of the task involved in processing the request is unreasonable. Coillte has asserted that "there is no other person capable of searching for and collating the level of data sought by the appellant, as it requires engineering expertise from the outset". It has also submitted that the Engineering Process Manager "cannot delegate his duties to any other person". However, it has not provided any further detail as to why such expertise is required or why the work involved in processing the appellant's requests could not be carried out under the supervision of the Engineering Process Manager.



52. Even accepting that the Engineering Process Manager is the only individual who could process the requests and that an estimate of at least 5 days of work per request (for requests B to F) and 4.5 days of work (for parts (c), (d), and (g) of request G) is a substantial amount of work to be carried out by one individual which would significantly disrupt the other day to day duties of that individual and the Engineering Process Team, I do not consider that Coillte has sufficiently explained why the same minimum amount of time would be required for each of requests B to F, given that they all concern different locations, which vary in size and length of road network. While I note Coillte's comment that it is the number of roads upgraded which is relevant, Coillte did not give any sort of indication of what this number could be for each of requests B to F. Coillte stated that a full search and collation exercise would be required to state the number of road upgrades conducted in a given year. While I accept Coillte's position, having regard to the information provided by Coillte as set out at paragraph 44(vi), I cannot see why some form of high-level estimate of the number roads worked on for a larger area could not be ascertained, even if identifying whether those works were upgrades and/or compiling the specific information sought by the appellant may require further work.
53. Regarding request G, I note Coillte's comments that "a different decision was reached in Request G because, at that stage the AIE Team were aware of the importance of applying Article 10(5) to each request to provide any information capable of being separated from the manifestly unreasonable elements of the request". Coillte also acknowledged in its submissions to this Office that "several categories of the request were capable of being responded to" and submitted that "the remainder of the request [was] manifestly unreasonable". As outlined above, Coillte granted access to information it considered to relate to parts (a), (e), and (f) of request G (although the appellant takes issue with the information provided in response to (e) and (f)). It refused access in full to information relating to part (b), (h), (i), and (j) on the basis that the information sought does not exist. It also refused access in full to information relating to parts (c), (d), and (g) under article 9(2)(a) of the AIE Regulations. Accordingly, I assume that Coillte considered article 9(2)(a) of the AIE Regulations to apply to the entirety of request G and, in considering article 10(5) of the AIE Regulations, it assessed whether partial disclosure was possible by further processing parts (a), (b), (e), (f), (h), (i), and (j).
54. Although I have considered each request on its own merits, I note that the same information was sought at parts (a)-(j) of request G, as at parts (a)-(j) of requests B to F. I appreciate that request G was made at a later date (and was a resubmission of the request submitted on 20 January 2022), however, Coillte has not adequately explained what distinguished the further processing of parts (a), (b), (e), (f), (h), (i), and (j) of request G from similar parts of requests B to F, where those requests were considered individually. While Coillte provided significant detail regarding the steps to be taken when processing each of parts (a)-(j) of the requests (as set out at paragraph 44(vi)), it did not provide a breakdown of the hours required to process each part of each request. Coillte estimated that it would take at least 5 days of work per request to process all of parts (a)-(j) of requests B to F and that it would take at least 4.5 days of work to process parts (c), (d), and (g) of request G. It is not clear why the processing of parts (c), (d) and (g) of request G would take an almost equivalent minimum period of time to the processing of all of parts (a)-(j) of requests B to F and I do not consider the estimates provided to have been sufficiently explained. It was indicated in the original decision on request H, which again sought the same information at parts (a)-(j), that part (g) of that request would take 1.5 days to process and a breakdown of the parts to be processed by different teams and the hours required was provided in respect of request A, which was also estimated to take at least 5 days to process. However, no further breakdown for the other parts of request H was provided, request A concerned some different information, and the areas which are the subject of all of the requests vary greatly in size. Again, I



accept Coillte's position that the real test of how much information is covered by each request is the number of road upgrades conducted in a given year and note its statement that this "is information it does not have without conducting the full search and collation exercise". However, it is difficult to reconcile that explanation with Coillte's further processing of parts (a), (b), (e), (f), (h), (i), and (j) of request G.

55. In addition, I note that Coillte's submissions, as set out at paragraph 44(iv)(e), (f), and (g) above, suggest that information within the scope of parts (e), (f) and (g) of requests B to F and part (g) of request G is being refused, not on the basis that dealing with those portions of the request would be manifestly unreasonable but rather on the basis that no such information is held by or for Coillte. It is not clear whether this was taken into account by Coillte when calculating the 5 and 4.5 day estimates nor is it clear why those parts were not refused on the basis of article 7(5) of the Regulations if Coillte's position is that information relevant to those parts of the request is not held by or for it. As Coillte ought to be aware, generally, prior to considering whether article 8 or 9 of the AIE Regulations applies, a public authority should identify whether the information sought is held by or for them. However, I would note that, depending on the facts of a case, there are a number of different instances where the interaction between article 9(2)(a) and 7(5) may need to be considered, for example:

- Article 7(5) may be more relevant to rely on than article 9(2)(a) in cases where a public authority considers that the information sought would simply not be held by or for it and it is able to set out adequate reasoning for that position.
- Article 9(2)(a) may be more relevant to rely on than article 7(5) in cases where a public authority considers that the information sought may be held by or for it, however, the searches required locate any information would be manifestly unreasonable.
- Article 9(2)(a) and article 7(5) may be relevant to rely on in cases where a public authority considers article 9(2)(a) to apply, and in implementing article 10(5) of the AIE Regulations, also considers that would be appropriate to carry out searches for some of the information sought that may be held by or for it, however none is subsequently located.

56. Finally, I wish to comment on article 10(5) of the AIE Regulations. As previously indicated, article 10(5) of the AIE Regulations requires that, in circumstances where some of the requested information is subject to an exception, the public authority must still consider whether parts of the request can be answered. This includes where Coillte is relying on article 9(2)(a) of the AIE Regulations. It is clear that in considering requests B to F individually, Coillte refused access to all of parts (a)-(j) of those requests in full under article 9(2)(a) of the AIE Regulations, with no consideration as to whether partial disclosure was possible in line with article 10(5) of the AIE Regulations, as is required. In respect of request G, while I acknowledge Coillte's position that article 10(5) was taken into consideration, in circumstances where an almost equivalent minimum period of time is required to process parts (c), (d), and (g) of that request as all parts of requests B to F, it is difficult to find that article 10(5) was properly applied. This is particularly the case where the breakdown of hours required to process each part of the requests was not provided and where it is unclear if the time estimated included the time required for searches for information which may have been more appropriately refused at the outset under article 7(5) of the AIE Regulations.



57. Having regard to all of the above, I am not persuaded by the information before me that Coillte has adequately demonstrated the unreasonableness of the task entailed by the processing of requests B to F and parts (c), (d), and (g) of request G, in the manner set out in *Verein für Konsumenteninformation*. Nor has Coillte established that suitable regard was had to the requirements of article 10(5) of the AIE Regulations. Accordingly, I do not consider it necessary to assess Coillte's application of articles 10(3) and (4) of the AIE Regulations in these cases.
58. In the circumstances, Coillte has also not justified its decision to refuse access to all of the information sought relating to requests B to F and parts (c), (d), and (g) of request G individually under article 9(2)(a) of the AIE Regulations.

Article 7(5) of the AIE Regulations

59. Article 7(1) of the AIE Regulations requires public authorities to make available environmental information that is held by or for them on request. Article 7(5) of the AIE Regulations is the relevant provision to consider where the question arises as to whether the requested environmental information is held by or for the public authority concerned. In cases where a public authority has effectively refused a request under article 7(5), this Office must be satisfied that adequate steps have been taken to identify and locate relevant environmental information, having regard to the particular circumstances. In determining whether the steps taken are adequate in the circumstances, a standard of reasonableness must necessarily apply. It is not normally this Office's function to search for environmental information.
60. The appellant has appealed Coillte's refusal of part (e) of request H. Coillte, in its internal review decision, refused access to information relating to part (e) "length of upgrade" of request H under article 7(5) of the AIE Regulations on the basis that the specific information sought does not exist. Coillte commented:
- "At [original] decision stage, Coillte provided you with details of the full length of the road. This is the only data that we can provide, as this is the information provided to external forest road contractors for each road where upgrade works are required. This is how we work operationally. Road upgrades may be carried out on any section along the length of road and the full work programme is only confirmed once the contractor is on site. At that stage, the road is reassessed and sections of the road that do not require any upgrade works are identified. Coillte issues the activity pack with the full length of road to ensure the contractor has all relevant site information. We have furnished you with the only information we do have, and I therefore vary the decision and state that the information sought does not exist pursuant to article 7(5)."
61. The appellant, in submissions to this Office, noted Coillte's statement that "the road is reassessed and sections of the road that do not require any upgrade works are identified". He submitted therefore that if sections of the road which do not require upgrades are identified, by process of elimination, the sections of the road that have to be upgraded have also been identified and that it is difficult to contemplate that some record of this is not made. He argued that it is not credible that Coillte would not keep a record of the amount of road to be upgraded when it has to pay for the works and queried how the contractor would know how much to invoice for if the agreed length to be upgraded has not been recorded or how Coillte could know whether the amount invoiced for was correct. He submitted that forest roads can measure up to 4092m in length and that there is a very significant difference between the maximum and minimum amounts of work that could be done.



62. Coillte, in its submissions to this Office, again set out its view that the specific information sought at part (e) “length of upgrade” does not exist. In response to the appellant’s arguments, it submitted that while it completes an exercise to identify sections of the road that do not require upgrades, this is a visual exercise only and that neither Coillte nor the contractor carry out any measurement of sections requiring or not requiring maintenance. It further submitted that it will often happen that additional works will be required that are not anticipated, for example due to adverse weather, or that less work may be required than is originally anticipated and that once a contractor commences works their expertise will further inform the final works to be completed. It submitted that contractors’ invoices contain details of road number, activity and total cost and that contractors are not required to provide a breakdown or detail of the total length upgraded. It submitted that its payment system records total cost against the road number and the activities completed by the contractor which may include such categories as road upgrade, road repair and road maintenance. It submitted that a contractor may have carried out multiple activities along part or all of the length of a forest road but their invoice does not provide a detailed breakdown between each activity carried out. It submitted therefore that as a result it does not have information relating to the exact length of upgrades carried out. Coillte stated that it “is not obliged to create such information, nor is Coillte obliged to conduct unnecessary searches in circumstances where the subject matter expert is personally aware that such information is not provided to Coillte nor collated or prepared by Coillte or its contractors. Coillte’s obligations under the AIE Regulations relate, inter alia, to the provision of environmental information held in material form upon request, subject to certain exceptions. Coillte is not obliged to create environmental information.”
63. Coillte explained that there is no regulatory, legal, or financial reason compelling it to create or maintain information relating to the length of the road upgrade. Coillte referred to its comments at paragraph 44(vi)(e) and reiterated that neither it, nor external contractors, measure the lengths of road that require or do not require upgrading; a walk-over or drive-over process is undertaken. Coillte indicated that the Engineering Process Manager was interviewed and it is satisfied that the specific information sought at part (e) simply does not exist.
64. I wish to emphasise that it is outside my remit as Commissioner to adjudicate on how public authorities carry out their functions generally, including with respect to their environmental information or financial records management practices. I have no role in assessing how public authorities collect, maintain, and disseminate environmental or other information. My role concerns reviewing appeals of requests for access to environmental information, which is held by or for the relevant public authority. My conclusions should not be therefore read as a comment on the type of information which should be held by Coillte but rather whether Coillte is entitled to rely on article 7(5) on the basis that the information requested is not held by (or for) it.
65. In all the circumstances and having considered Coillte’s explanations as to why the specific information sought at part (e) “length of upgrade” does not exist, the information requested in part (e) of request H does not appear to be held by Coillte or held for Coillte by its contractors. Accordingly, I find that article 7(5) of the AIE Regulations applies.



Conclusion

66. I consider that the most appropriate course of action is to annul Coillte's decisions in respect of requests A to F and parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations and direct it to undertake a fresh decision-making process in respect of same. I affirm Coillte's decision in respect of the specific information sought at part (e) of request H under article 7(5) of the AIE Regulations.
67. In processing requests A to F and parts (c), (d), and (g) of request G afresh, the parties may care to note the following matters.
68. First, it is important to note that this decision should not be taken as meaning that Coillte cannot consider requests B to E together.
69. Second, this decision should also not be taken meaning that Coillte cannot rely on article 9(2)(a) of the AIE Regulations, subject to article 10, as a ground for refusal when reconsidering requests B to E cumulatively and/or requests B to F and parts (c), (d), and (g) of request G individually. However, in doing so, Coillte should have full regard to the provisions of the AIE Regulations.
70. Third, while it is unfortunate that the appellant declined to engage with Coillte to refine his request(s), I would remind Coillte that it alone is required to implement article 10(5) of the AIE Regulations. However, I would also remind both parties that they should seek to engage constructively in the spirit of the AIE Regime. I believe that prior to the processing of the requests afresh, there may be merit in the appellant and Coillte working together to determine the extent of the information sought.
71. Finally, I note that in the event of information being refused on foot of a fresh decision-making process, such decision should clarify the basis on which information is being refused and, if it is the case that any or all of parts (e), (f) and (g) of requests B to F and part (g) of request G are refused on the basis that no such information is held by or for Coillte, sufficient reasoning should be provided to the appellant in accordance with Coillte's obligations under articles 7(4) and 11(4) of the AIE Regulations.

Decision

72. Having carried out a review under article 12(5) of the AIE Regulations, I hereby annul Coillte's decisions refuse access to information relating to requests A to F and parts (c), (d), and (g) of request G under article 9(2)(a) of the AIE Regulations and direct it to undertake a fresh decision-making process in respect of same. I affirm its decision to refuse access to information relating to part (e) of request H under article 7(5) of the AIE Regulations.



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

Right of Appeal

73. A party to the appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Ger Deering
Commissioner for Environmental Information
13 December 2023



Appendix 1

Request A: 21 January 2022

- **OCEI Reference: OCE-121815-Y1T4M6; Coillte Reference: 20220011; Appellant Reference: Kiltyfeenaghty Road Upgrade** – “All information relating to the upgrade of a Private Road at Kiltyfeenaghty Glebe, Co. Leitrim c. 2015. The road services forest property LM08 – Kiltyfeenaghty and was upgraded to service the extraction of timber from Compartment 67730G. Records to include inter alia
 - Works specification
 - Environmental Assessments including AA Screening
 - Date of works
 - All consultations with local land owners
 - Permissions sought and received
 - Details of Rights of Way
 - Correspondence

To clarify, this is not Forest Road CN79420; the information sought relates to the private road leading in to the site from the R200 over which Coillte presumably has a Right of Way. I can provide a map if required.”

Request B: 24 January 2022

- **OCEI Reference: OCE-122151-X4W3C6; Coillte Reference: 20220012; Appellant Reference: Coillte Road Upgrades Staks 21** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA during 2021. Records to include
 - Forest Area reference (KY01, KY06, etc)
 - CN reference number (where applicable)
 - Felling licence number of area served by the road (where applicable)
 - Location of upgrade (map)*
 - Length of upgrade
 - Date/s of upgrade works
 - Source of road materials
 - AA Reports
 - NIS (if applicable)
 - Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant's email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”



Request C: 7 February 2022

- **OCEI Reference: OCE-122369-Z6M8L3; Coillte Reference: 20220019; Appellant Reference: Coillte Road Upgrades Slievefelim 20-21** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Slievefelim to Silvermines Mountains SPA from 1-1-2020 to 31-12-21. Records to include
 - a. Forest Area reference (TN01, TN06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant’s email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”

Request D: 14 February 2022

- **OCEI Reference: OCE-122373-C2W6G5; Coillte Reference: 20220023; Appellant Reference: Coillte Road Upgrades Mullaghanish 20-21** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Mullaghanish to Musheramore Mountains SPA from 1-1-2020 to 31-12-21. Records to include
 - a. Forest Area reference (LK01, LK06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant’s email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”



Request E: 31 January 2022

- **OCEI Reference: OCE-122362-R2X6T1; Coillte Reference: 20220014; Appellant Reference: Coillte Road Upgrades Slieve Aughty 20-21** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Slieve Aughty Mountains SPA from 1-1-2020 to 31-12-21. Records to include
 - a. Forest Area reference (CE01, CE06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant’s email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”

Request F: 21 February 2022

- **OCEI Reference: OCE-122354-F2H0W6; Coillte Reference: 20220027; Appellant Reference: Slieve Beagh Road Upgrades 20-21** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Slieve Beagh SPA from 1-1-2020 to 31-12-21. Records to include
 - a. Forest Area reference (MN01, MN06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant’s email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”



Request G: 1 June 2022

- **OCEI Reference: OCE-127475-L1H4H2; Coillte Reference: 20220156; Appellant Reference: Slieve Bloom Road Upgrade 21/2** – “Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Slieve Bloom Mountains SPA during 2021. Records to include
 - a. Forest Area reference (LS01, LS06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation

Should you wish to clarify any aspect of this request please do not hesitate to contact me at the email address indicated: [appellant’s email address]

*I wish to receive the records in electronic format with Item (d) in GIS format (ERSI Shapefiles). It would be acceptable to me for relevant elements of the request that could be included as attribute data to the Shapefiles to be provided in that format.”

Request H: 25 July 2022

- **OCEI Reference: OCE-129543-Y6M3K5; Coillte Reference: 20220238; Appellant Reference: Coillte Slieve Blooms Road Upgrades (3)** – Records of all Forest Road Upgrades carried out by or on behalf of Coillte within the Slieve Bloom Mountains SPA during 2022. Records to include
 - a. Forest Area reference (LS01, LS06, etc)
 - b. CN reference number (where applicable)
 - c. Felling licence number of area served by the road (where applicable)
 - d. Location of upgrade (map)*
 - e. Length of upgrade
 - f. Date/s of upgrade works
 - g. Source of road materials
 - h. AA Reports
 - i. NIS (if applicable)
 - j. Records of any consultations including public consultation
 - k. A copy of the tender / agreement between Coillte and the forest road contractor indicating, inter alia, what works are to be carried out, where and when

I wish to receive the information for in electronic format.

* I would prefer to receive the location of the upgrade in GIS format.”