



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

**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- 137280-V1L4B3

Date of decision: 28 August 2025

Appellant: Mr. Neil Foulkes

Public Authority: Coillte

Issue: Whether Coillte was justified in refusing the information requested under article 9(2)(a) of the AIE Regulations.

Summary of Commissioner's Decision: The Commissioner found Coillte had not provided adequate reasons for the refusal of the requested information. He annulled the internal review decision of Coillte.

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. On 31 January 2023 the appellant submitted a request to Coillte as follows:

“1. A copy of the Management Plans for all BioClass Areas

With reference to Criterion 9.4 of FSC-STD-IRL-012012- Irish Forest Stewardship Standard-EN, the information requested is:

- 2. A copy of the latest completed annual monitoring plan for all identified HCVF areas to assess the effectiveness of the measures employed to maintain or enhance their conservation attributes.**
 - 3. Records from each latest completed Management Plan of the annual monitoring of the identified HCV attributes as determined in the monitoring plan; plus any field inspection reports.**
 - 4. Records from each latest completed Management Plan of any consideration of any impacts forest operations and recreation activities have on HCVF values”.**
2. On 27 February 2023, Coillte issued its original decision to the appellant wherein it stated, “I have decided that your request should be refused pursuant to Article 9(2)(a) of the AIE Regulations. Article 9(2) contains discretionary grounds for refusing disclosure where the request is manifestly unreasonable or the request is formulated in too general a manner, taking into account Article 7(8) of the Regulations”.
 3. On 27 February 2023, the appellant submitted a request for an internal review of Coilltes decision stating, “the decision maker has not demonstrated why this request is manifestly unreasonable”.
 4. In its internal review decision, issued on 23 March 2023, Coillte affirmed its original decision.
 5. I am directed by the Commissioner to carry out a review under article 12(5) of the Regulations. In carrying out my review I have had regard to submissions made by the appellant and to the decision-making records. In addition, I have had regard to:
 - a. 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);
 - b. Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
 - c. 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
 - d. The Aarhus Convention—An Implementation Guide (Second edition, June 2014) (‘the Aarhus Guide’).



6. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Scope of Review

7. The scope of my review in these appeals is whether Coillte was justified in refusing the information requested under article 9(2)(a) of the AIE Regulations.

Analysis and Findings

Article 9(2)(a) – manifestly unreasonable

8. 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.
9. 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.
10. 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 important to note that 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 the voluminous or complex request, albeit in a longer time frame. The fact that a request is detailed does not mean that it is necessarily unreasonable.
11. 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, it is necessary to 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 Court of Justice of the European Union (CJEU) in T-2/03 Verein für Konsumenteninformation v Commission, at paragraphs 101-115, suggest 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. If a public authority wishes to rely on the manifestly unreasonable nature of a request to refuse all or part of that request, it should be in a position to clearly demonstrate the actual and specific impact that dealing with the request would have on its normal activities.
12. I note in both the original decision and the internal review decision Coillte has referred to the impact of dealing with the request, as currently worded, where it states, “HCVF areas within the



Coillte estate are estimated to encompass up to 10% of the overall land mass of the estate, which could equate to approximately 44,000 hectares. HCVF areas are spread across Ireland, in each county and in each of Coillte's Business Area Units". Furthermore, with reference to the range of information sought the authority has stated that the appellant has "sought a variety of different reports, records and plans which may be held by multiple teams including operational processes, environmental technical team and recreation". This, in and of itself, is not sufficient to establish a request is manifestly unreasonable.

13. Given the above, the authority states that "complying with the Request within the timeframe permitted by the AIE Regulations would involve Coillte in disproportionate cost and effort and would obstruct and significantly interfere with the normal course of Coillte's activities and that it would, further, impose a particularly heavy burden on Coillte. I am of the view that the volume of information sought imposes a burden and cost on Coillte which I consider to be disproportionate, and that the work required to be carried out to comply with the Request is voluminous".
14. In further submissions to this Office the authority has stated that in terms of providing the requested information to the appellant for the 321 forests in Coillte's estate it estimates that it would take "1-day minimum for a small forest unit and up to 3 days for a larger forest unit". No information was submitted as to what that process would involve or why it would take that length of time for each forest unit. I would also note that this request refers to specific criteria contained in *FSC-STD-IRL-012012*- Irish Forest Stewardship Standard which Coillte are audited in respect of. It is therefore reasonable to suggest that this information should be available to Coillte in the event of an audit. The request also refers to management plans, and given the significance of that type of document, this is information that I would expect to be organised in a manner that would allow it to be easily accessible. Coillte have not explained or addressed why this would not be the case.
15. As set out above, the burden in on the public authority to demonstrate the unreasonableness of the task entailed by the request, and this requires the public authority to provide a satisfactory level of detail regarding the time it would take to process the request. This detail should typically include how many staff members would be required, what steps would be involved in answering the request and how much time would be spent on each of these tasks.
16. I am not satisfied that Coillte have provided sufficient detail to establish that this request is manifestly unreasonable and therefore I will annul the internal review decision of Coillte. Coillte should carry out a new internal review process in respect of this request.

Decision

17. Having carried out a review under article 12(5) of the AIE Regulations, I hereby annul Coillte's decisions to refuse access to information, as detailed above, under article 9(2)(a) of the AIE Regulations and direct it to undertake a fresh decision-making process in respect of same.

Appeal to the High Court

18. 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.



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Commissioner for Environmental Information

Julie O'Leary
On behalf of the Commissioner for Environmental Information
XX August 2025