



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-140469-H3V6K8

Date of decision: 2 September 2025

Appellant: Right to Know CLG

Public Authority: Inland Fisheries Ireland (IFI)

Issue: Whether IFI was justified in refusing the request under article 9(2)(a) of the AIE Regulations

Summary of Commissioner's Decision: The Commissioner found the request was manifestly unreasonable and affirmed the decision of IFI to refuse access to the information sought under article 9(2)(a) 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 case relates to a request for information, made on 11 April 2023, textually as follows:

Under the AIE Regs to request the following in relation to meetings of the IFI Board for the Years 2020, 2021, 2022 and 2023 YTD

1) Agenda/minutes of the Board

2) Copies of presentations, analysis, reports or other written records provided to the Board in relation to Board meeting agendas (i.e. where records are noted in agenda/minutes, please consider these records within scope of the AIE)

For the purposes of this AIE, please consider active disclosure, via publication on gov.ie or fisheriesireland.ie

2. On 9 June 2023, the IFI in its decision letter informed the appellant that, arising from the large volume of records identified as being relevant to the request and the disproportionate cost and effort required to fully respond to the request, this was refused under article 9(2)(a) as being manifestly unreasonable. The letter was accompanied by a schedule of records with details of the 1,024 records identified and indicated that, on 9 May 2023, IFI had notified the appellant that it was availing of the “30-day extension” provided by article 7(2)(b) in order to respond to the request. This explains the date of the decision letter, which in normal course was due on or before 11 May 2023. I shall comment below on the 30 day extension to which IFI avers in the decision letter. The letter indicated that the IFI was actively considering disclosure of “information” on its website “where resources permit such a worthy public service.”
3. On the same day, 9 June 2023, the appellant requested an internal review of the original decision, noting textually that “RTK believe that such blanket refusal does not meet public interest test [sic], and that IFI need to consider active publication of all Board Agenda/Minutes”.
4. On 12 July 2023, IFI issued its internal review decision to the appellant, upholding its original decision on the same ground but responding to the appellant’s suggestion that it ought to consider active publication of board documentation by saying that it was “proactively working towards making the board agenda and meeting reports available to the public in an easily accessible and digestible format. We are committed to openness and transparency.” To note that the letter also indicated that, as the internal review request had been received out of office hours on 9 June 2023, which happened to be a Friday, its receipt was deemed to have been made on the next working day, namely Monday 12 June 2023, for which reason, the IFI inferred, its internal review decision was ‘in date’. The decision-maker committed “to release of a subset of the records within the scope of [the] request to IFIs [sic] website.”
5. On 13 July 2023, an appeal was submitted to this Office by the appellant against IFI’s decision.
6. During the course of the review of this appeal, IFI made submissions to this Office, in which it made reference to receipt of a further AIE request from the appellant on the day of the internal review request, seeking 98 of the records that had been listed in the schedule of records pertaining to this appeal, and 50 of which “were fully or partially granted.” Further to this, on various dates (10 October 2023, 17 and 20 May 2024), the IFI published on its website [here](#) the information requested in part 1 of



the request (agendas and minutes of the IFI board for the years in question), amounting to 61 records. The appellant was invited to make submissions following publication of this material but stated that it had no submissions to make. However, it did confirm to the investigator that this part of the request, having become moot on publication of the information requested, in addition to the 50 records released on foot of the separate AIE request, were no longer being sought, for which reason they are considered to fall outside the scope of the request and of the review of this appeal.

7. Following this reduction in scope of the request, the IFI was requested to confirm whether it maintained reliance on article 9(2)(a) in order to prevent release of the remaining records. While confirming that this was the case, it indicated to this Office that a further two records in full and four in redacted form had issued to the appellant, pursuant to separate AIE/FOI requests. These records are now considered also to fall outside the scope of this review. In total, therefore, 56 of the records attaching to part 2 of the request fall not to be considered under appeal.
8. 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 the submissions made by the appellant and by IFI. In addition, I have had regard to:
 - (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](#)”);
 - [The Aarhus Convention—An Implementation Guide](#) (Second edition, June 2014) (the “Aarhus Guide”);
 - 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”)
 - the finding of the Court of Justice of the European Union (CJEU) in [T-2/03 Verein für Konsumenteninformation v. Commission of the European Communities \(Verein\)](#); the opinion of the Advocate General of the CJEU in [C-217/97 Commission v Germany](#) and [Bord na Móna v Commissioner for Environmental Information Case C-129/24](#);
9. What follows does not comment or make findings on each and every argument advanced but I have considered all materials submitted in the course of the investigation.

Scope of Review

10. In accordance with article 12(5) of the AIE Regulations, my role is to review the public authority's internal review decision and to affirm, annul or vary it. This review is concerned with whether IFI was justified in refusing access to the information pertaining to part 2 of the request not included in any of the 56 records released to the appellant by way of separate AIE/FOI requests, on the basis that the



request was manifestly unreasonable. The number of records relevant to part 1 of the request that were published on the IFI website amounted to 61. Added to the 56 released by way of separate requests, this means that 117 of the original 1,024 records identified by the IFI no longer form part of this review, leaving 907 records remaining in scope. As indicated above, in correspondence with this Office, the IFI has confirmed that it maintains its reliance on article 9(2)(a) to refuse the records that remain in scope.

Preliminary matters

11. In most appeals before my Office I require the public authority to search for and review all environmental information held, and to make this information available to my Office for the purposes of my review. However, where a public authority contends that a request is manifestly unreasonable with regard to volume or range, I must address this ground for refusal as a preliminary matter. It is my view that it would defeat the purpose of article 9(2)(a) to require a public authority to process an unreasonable volume or range of information for the purpose of providing it to my Office. For this reason, I have not required the provision to this Office of copies of the information that is potentially relevant to the request in this case, though I do note the compilation and provision to this Office, and to the appellant, of a lengthy schedule of records.
12. I note IFI's reference in both its decision letters to the appellant to a "30-day extension" provided by article 7(2)(b) of the AIE Regulations to allow a public authority to respond to a request that it considers necessary in cases of a voluminous or complex request. I am happy to clarify that the extension provided is of "one month", which has been interpreted to mean one calendar month, rather than the 30 days specified in IFI's letters. This means that, depending on the month in question, the extension period may be more or less than 30 days. I take the opportunity to remind public authorities of the importance of abiding by the provisions of the AIE Regulations in their responses to appellants.
13. I note that a URL link on IFI's internal review decision letter, intended to facilitate the making of an appeal against the decision to the Commissioner, is to the webpage of the Office of the Information Commissioner, and that the letter directs appeals in writing against the decision to be sent to the Office of the Information Commissioner. Whilst the Commissioner of that Office and of this Office is one and the same person, this Office is separate to, and is in possession of its own website that is separate to that of the Information Commissioner. I encourage the IFI and, indeed, all other public authorities, to ensure that directions given to requesters regarding the submission of appeals against AIE decisions refer, and links to the Commissioner and to this Office are, to this Office and to its website.

Article 9(2)(a) of the AIE Regulations

14. 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 is, in turn, based on part of Article 4(3)(b) of the Aarhus Convention.



15. Article 9(2)(a) must be read alongside article 10 of the AIE Regulations. Article 10(3) 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) 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) provides that nothing in articles 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

16. 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*". 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. It is important to note that constructive engagement is not, in and of itself, a requirement for a public body's reliance on or an immediate basis for refusal under article 9(2)(a) of the AIE Regulations.
17. I have seen no correspondence or any record of a telephone conversation between the public authority and the appellant in this case seeking or agreeing to a reformulation of the request. This is disappointing, as a refinement of the request may well have led to a greater reduction in the number of records in scope of the request, leading to the possibility of the release of more information than has been released to date. I am of the view that, while an approach from an appellant to a public authority to refine a request would not be untoward, the onus for such a move is primarily on a public authority that has received what it considers to be a voluminous and/or complex request that it suspects may fall to be considered manifestly unreasonable under article 9(2)(a). Public authorities are encouraged in such cases to engage proactively with requesters in order to be able to respond to a request, and to offer assistance in this endeavour, without seeking first to avail of the exemption provided in article 9(2)(a). I note that the appellant sought the same information in this case from a number of other public authorities and had displayed a willingness in one of them to refine its request upon production of a schedule of records, although such a schedule had not been provided in that particular case. In this appeal, the appellant was provided with a comprehensive schedule of records when the original decision issued. It would have been helpful if the appellant, being an organisation with significant experience of the AIE regime, had sought at that stage to engage with the IFI or had considered refining its request in its internal review request. I will remind requesters and public authorities alike that the reformulation of a request requires collaboration from both parties. This point notwithstanding, I do note that the IFI has considered it appropriate to publish information on its website pertaining to the first part of the request, a course of action that has reduced, at least in some measure, the scope of the original request.



Meeting the Manifestly Unreasonable Threshold

18. Article 4(1)(b) of the AIE Directive provides that “Member States may provide for a request for environmental information to be refused if the request is manifestly unreasonable”. 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 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.” (recommendation adopted by the ACCC on 18 June 2017, ACCC/A/2014/1, on a request for advice by Belarus, paragraph 28, which can be accessed [here](#)).
19. In respect of a request which is voluminous or wide-ranging, within the meaning of article 9(2)(a) of the AIE Regulations, more than simple volume or complexity is required. 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. In this respect, I note the findings of the CJEU in [T-2/03 Verein für Konsumenteninformation v. Commission \(Konsumenteninformation\)](#), at paragraphs 108-110, and the guidance at page 84 of the Aarhus Guide (see link to same at paragraph 8 above). I also 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. In his Opinion in [C-217/97 Commission v Germany](#) at paragraph 30, Advocate General Fennelly stated that this duty indicates that individual requests should, in principle, be on matters of detail. As such, the fact that a request is detailed does not mean that it is necessarily unreasonable.
20. 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. In light of the findings of the CJEU in [T-2/03 Verein für Konsumenteninformation v. Commission](#), at paragraphs 101-115, 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.
21. This position is supported by recent comments from Advocate General Medina in his opinion in [Bord na Móna v Commissioner for Environmental Information Case C-129/24](#), in which he stated “in so far as it constitutes an exception to the general rule that information must be provided, refusal on the ground of a manifestly unreasonable request must remain exceptional” (at paragraph 117). In this opinion he also states, “In particular, with regard to the volume of the information requested, according to Article 3(2)(b) of Directive 2003/4 that factor (as well as the complexity of the information requested) justifies an extension of the one-month time limit in which the administration must reply. It follows from a



combined reading of Article 3(2)(b) of Directive 2003/4 and Article 4(2)(b) of that directive that the volume of the requested information alone does not render a request manifestly unreasonable” (at paragraph 119). He concludes however that a holistic view must be taken of each case, stating “it follows that determining whether a request is manifestly unreasonable depends not on the number, the nature or the frequency of requests taken in isolation, but on all the circumstances of each case” (at paragraph 125).

22. 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. It is not within this Office’s powers to examine the implementation of article 5 of the AIE Regulations or article 7 of the AIE Directive by public authorities. However, I am satisfied that the exemption in article 9(2)(a) is not intended to endorse any failure by a public authority to comply with its duties to organise and disseminate environmental information under those provisions. Furthermore, in every case, regard should be had to the purpose of the AIE Regime, as reflected in Recital 1 of the Preamble 6 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.”* Accordingly, in cases involving article 9(2)(a) this Office may consider whether the information requested is the kind of environmental information that one would expect to be organised by the public authority in a manner that enables its easy dissemination.

Analysis and Findings

23. In both its original and internal review decisions, IFI refused the request on the basis of 9(2)(a), arising from its view that the request was manifestly unreasonable having regard to the volume or range of information sought and the time and resources that would have to be deployed in order to respond to the request. Given the IFI’s continued reliance on article 9(2)(a) to refuse the remaining records in scope, it should be borne in mind that any references made by it in the paragraphs below to the 1,024 records originally identified as relevant to the request should be interpreted to refer to those almost 910 outstanding records.
24. As IFI’s internal review decision relies heavily on the content of its original decision to find support in its affirming of that decision, I find it appropriate to transcribe relevant parts of the original decision-maker’s letter in this review in order to assess IFI’s reasons for refusal in this case, as follows:
- (a) *“1024 records have been identified as falling within the scope of this request. Due to the large volume of records, it is considered manifestly unreasonable as a disproportionate cost and effort would be required by IFI to fully respond to this request. As cited in the findings of CJEU in [Verein für Konsumenten \[T-2/03 Verein für Konsumenteninformation v. Commission of the European Communities\]](#) the allocation of resources to review each record that could paralyse the proper working of the institution (IFI) is considered manifestly unreasonable.”*



- (b) *“These archival records of Board meetings have significant potential of holding information which may require exemption, thus each record will must [sic] be analysed in detail prior to release. The capability to conduct this review is restricted to a very small number of staff and cannot be delegated in a rudimentary manner; namely me and one other member of staff. It is difficult to estimate precisely how long such an exercise could require, but no less than 15 working days by two members of staff, one at Assistant Principal and the second at Higher Executive Officer level. The review would significantly diminish the efficiency and effectiveness of the small Board Secretariat and Compliance team (3 individuals including myself), responsible for Data Protection, FOI, AIE, Garda Vetting, Child safeguarding, Customer Service, Complaints, compliance training, statutory reporting, secretariat to the Board and committees of the Board, Board governance etc.)”*
- (c) *“It is considered to be an unreasonable level of administrative burden and on balance would not be in the publics [sic] interest to provide access to the documents due to the burden of work involved and cost to the taxpayer.”*
25. The internal reviewer, while referring to the above reasons in her decision, specified that the 15 days of work required between the two IFI officials identified equated to *“1 calendar month in total of processing this request”*. She added that, as the records identified *“hold information which may require exemption...each record must be analysed in their own individual right in detail prior to release. This organisation is not resourced to conduct this work.”* The letter also referred to factors which IFI considered in weighing up the public interest in favour of release of the information against non-release, and I shall refer to these factors further below.
26. In submissions to this Office, IFI elaborated on certain of the matters to which it had made reference in its decision letters to the appellant, as follows:
- (a) In regard to the review of the records identified, it stated that *“the reviewing in detail of the 1,024 identified documents by a limited number of staff who would have to undertake this duty alongside their daily roles is considered to be an unreasonable level of administrative burden.”* It continued that the time required to process the request *“includes estimated time spent on retrieval of documents and coordination of response, the search and retrieval of the documents, examination and consideration for relevance and application of the AIE Regulations, preparation of the documents to be supplied (copying / scanning / formatting) and preparation of a schedule of documents.”*
- (b) In regard to the effect the processing of the request would have on IFI, it stated that the *“impact on IFI is that it would significantly diminish the efficiency and effectiveness of the small Board Secretariat and Compliance team interfering with the normal course of its activities as they are as stated the three individuals responsible for Data Protection, FOI, AIE, Garda vetting, Child safeguarding, Customer Service, Complaints, compliance training, statutory reporting, secretariat to the Board and committees of the Board, Board governance etc. of IFI.”* It added that processing the request *“would paralyse the proper working of this team within a highly specific and busy area in the institution”,* entailing *“the removal of the Board Secretary away from normal duties to accommodate this request and possibly one other member of staff from the limited number that have access to such records within the Compliance team.”*



27. In addition, the IFI referred in its submissions to the resources allocated to “conduct the necessary assessments and apply the requisite exemptions” prior to the release of the 50 records of the 98 requested in response to the supplementary AIE request submitted by the appellant in this case following the IFI’s internal review decision, as noted above. It stated that this work “took the board secretary approximately 2.5 days” to carry out.

Does the exception in article 9(2)(a) apply in this case?

28. Having regard to the nature of the request, I am satisfied that the information sought is both voluminous and wide-ranging, even taking into account the fact that 117 of the original 1,024 records identified have either issued to the appellant or have been made available via the IFI website. The time frame of the request spans not far short of three and a half years and the request seeks information that dates as far back as January 2020.
29. IFI originally identified 1,024 documents that potentially fall within the scope of the request and has given detailed information in regard to the work that would be required to review the remaining 900 or so documents and ascertain how many fall to be released or not released by virtue of any relevant AIE exempting provisions. It has already spent unknown time compiling an extensive schedule of records, a further 2.5 days responding to the first additional AIE request that allowed release of 50 records to the appellant and unknown time reviewing and releasing six further records in response to additional AIE/FOI requests. Even with the release of 56 of the documents and publication of a further 61, more than 900 remain to be reviewed and assessed for release or for the application of exemptions to prevent release. The IFI states that the time required to carry out these functions would interfere with its other core functions and would require no fewer than 15 days of work by two members of staff, one at middle management and one at senior management level (Higher Executive Officer and Assistant Principal Officer, respectively), devoted to the functions it has described as necessary, which it considers to be an unreasonable level of administrative burden. While the IFI in its submissions seems to equate 15 working days with one “uninterrupted calendar month”, I take this to mean 15 days of work by each officer combined, totalling 30 days or the equivalent of one calendar month. However, I view it as more correct to say that 15 working days equates to three working weeks on the basis that five working days equates to one working week. This would mean that, rather than a calendar month being required to carry out the work identified by the IFI, one and a half months is a better approximation, based on an estimation of the two officers working three working weeks each. Whichever interpretation is applied to the case, I am satisfied that IFI’s time estimates for the various functions required to verify the relevance of each identified document to the request and to ascertain the releasability of each are sufficiently detailed to warrant credibility and that they indicate a requirement by IFI to assign to the various tasks a person or persons of such seniority within the organisation that are capable of carrying out the review of the records and the application of any exempting AIE provisions.
30. I have had regard in this case to the volume and the range of information sought, the nature of the information requested, the task that has already been undertaken to identify it, and the impact of dealing further with the request on IFI’s other functions. I am mindful that the exception in 9(2)(a) is only available where the administrative burden entailed by dealing with the request is particularly heavy. I note in this regard that for a refusal under 9(2)(a) to be justified, it must be manifestly



unreasonable, not just voluminous. I am mindful, too, of the dictum in [Verein](#), at paragraph 104, that “individual examination of the documents referred to in a request for access...is one of the elementary duties of an institution in response to...a request.” This means that a public authority is obliged diligently to review each and every document prior to release in response to an AIE request and may not decline to do this work. In cases which involve large volumes of documents, as in this case, this can understandably represent a significant administrative challenge. It is for this reason that the AIE regime recognises that a derogation from this burden must be available to public authorities, otherwise diversion of resources to attend to voluminous and complex AIE requests could bring paralysis to the functioning of the other divisions that make up their organisational structure. This derogation is found in article 9(2)(a) of the AIE Regulations. I am satisfied that each record in this case requires to be examined in order that a determination be made as to the appropriateness of the application to it of any exempting provision and the public interest balancing test.

31. Article 9(2)(a) is an acknowledgement of the fact that public authorities should not be required to undertake the processing of AIE requests where to do so would place an unreasonable burden on what are often limited resources. In contrast with the public perception that public authorities have unlimited resources not only to carry out their other statutory functions but also to engage with the AIE access regime, the reality is that this is not the case. Rather, they have a budget within which to contain expenditure. In the circumstances of this case and having regard to IFI’s time estimates, which I find not to be unreasonable, and resources required, and the steps to be taken, I accept its contention that the processing of the request would place an unreasonable burden on it, involving disproportionate effort that would result in a significant interference with its other work. I am satisfied that the result would be a particularly heavy administrative burden on IFI. On the facts of this appeal, I find that the threshold under article 9(2)(a) has been met and that the request is manifestly unreasonable.
32. As noted above, the exception in article 9(2)(a) is not intended to endorse any failure by public authorities to comply with their duties of dissemination of environmental information under article 5 of the AIE Regulations and Article 7 of the AIE Directive. Accordingly, it is relevant to consider whether the information requested is the kind of environmental information that one would expect to be organised by the public authority in a manner that enables its easy dissemination. As regards part 2 of its request, the appellant in this case sought access to information consisting of documentation (presentations, analyses, reports or other written records) provided to the IFI board to be discussed or presented at its meetings. I note the appellant’s comment in its request to IFI that it should “consider active disclosure, via publication on [gov.ie](#) or [fisheriesireland.ie](#)”. Whilst I accept that it is a matter for the IFI to decide to publish all or some of the information the subject of this appeal, I acknowledge that, in response to this AIE request, it has published all the information encompassed within part 1 of the request (the board agendas and minutes for the years in question) in addition to other records that have been released pursuant to other AIE or FOI requests. However, I am equally cognisant that the IFI may be involved in commercial enterprises with other commercial entities and that the publication of certain material prepared and/or presented at IFI board meetings may include matters of a commercially sensitive nature that it is not appropriate to divulge to the world at large generally and to the detriment of its relationship with other commercial operators particularly. Moreover, I do not consider that commercially confidential information to be necessarily the kind of environmental information that one



would expect to be organised by the IFI in a manner that enables its easy dissemination under article 5 of the AIE Regulations, in particular, having regard to the type of information indicated at article 5(2) of the AIE Regulations. However, that is a matter for the IFI itself to consider.

33. I emphasise that my conclusion in this case should not be taken to mean that public authorities may rely on the exception in article 9(2)(a) in respect of every request for voluminous or wide-ranging information. Each request to a public authority must be considered on its own particular facts. Public authorities have obligations under the AIE Directive and AIE Regulations and must put in place adequate resources to comply with those obligations.

Article 10 of the AIE Regulations and Public Interest Factors

34. Although I have found article 9(2)(a) of the AIE Regulations is engaged, that is not the end of the matter. It is necessary to weigh the public interest served by disclosure against the interest served by refusal as is required by articles 10(3) and (4) of the AIE Regulations.
35. In considering the public interest served by disclosure, it is important to be mindful of 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.”* The AIE regime thereby recognises a very strong public interest in openness and transparency in relation to environmental decision-making.
36. The AIE regime also acknowledges that there may be exceptions to the general rule of disclosure of information, as noted in Recital 16 of the AIE Directive, which provides that *“public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases”*. One such case is where the request is manifestly unreasonable having regard to the volume or range of information sought. The public interest in maintaining the exception lies in ensuring that the processing of AIE requests does not cause an unreasonable interference and/or disruption of the work of a public authority.
37. In its internal review decision, and as indicated above, the IFI set out its view that, *“It is considered to be an unreasonable level of administrative burden and on balance would not be in the public’s interest to provide access to the documents due to the burden of work involved and the resultant cost to the taxpayer for this single task which would be to the detriment of the function of the Board Secretary and Compliance Unit roles within IFI.”*
38. In its submissions to this Office, while reiterating that point and insisting that to respond to the request would paralyse the Board Secretariat and the Compliance team that would be charged with the provision of a response, it itemised the factors that it had considered in weighing up the balance both in favour of release and in favour of withholding the requested information, as follows:

In favour of release:

“- The public interest in members of the public knowing ... information held by public bodies to contribute to the greater awareness of environmental matters.

“- The public interest in the openness and transparency of how public bodies carry out their decision making.”



In favour of withholding:

“- the public interest in a request that was more specific i.e. reduced timeframe and or a specific topic requested

“- the public interest in the allocation of appropriate recourses to tasks undertaken by a public body and the time and costs associated.”

39. It went on to state that, *“On balance IFI believes it is not in the public interest to release the 1,024 records identified due to the manifestly unreasonable administrative burden having regard to the volume of information sought and the resources and cost associated to respond to this single AIE request. The request would expose IFI to a disproportionate burden in terms of diverting staff resources from delivering its essential services within IFI and to the Irish public, including the delivery of important board related governance functions at this time.”*
40. Further, *“In both the original decision and the internal review the decision makers did recognise the release of information being in the public interest. The internal reviewer then confirmed that IFI is proactively working towards the publication of board agendas and board reports.”*
41. It also referred to the [Verein](#) case, finding support for its decision in paragraphs 101 to 115 of the decision where, for example, the court asserted (at paragraph 102) that *“[a]n institution must ... 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.”*

Does the public interest in refusal outweigh the public interest in disclosure?

42. The IFI states that the time required to carry out these functions would interfere with its other core functions and would require no fewer than 15 days of work by two members of staff, one at middle management and one at senior management level (Higher Executive Officer and Assistant Principal Officer, respectively), devoted to the functions it has described as necessary, which it considers to be an unreasonable level of administrative burden. As I have explained above, I take this to mean that it would take 15 days of work by each officer, leading to a combined total of 30 days or the equivalent of six working weeks based on one working week comprising five working days. The IFI has already spent unknown time compiling an extensive schedule of records, a further 2.5 days responding to the additional AIE request that allowed release of 50 of the records to the appellant and further additional unknown time releasing in full two further records and four records in redacted form, pursuant to additional AIE/FOI requests, as indicated above. Even with the release of these records and publication of a further 61, more than 900 remain to be reviewed and assessed for release or for the application of exemptions, if appropriate. I am satisfied that the total time required for review and the application of exemptions by the IFI to respond to these remaining records to be considerable.
43. In my view, there is a public interest in ensuring the proper administration of public authorities and ensuring that the administrative burden placed on them by virtue of the AIE Regulations is not unduly onerous or is such as could negatively affect their day-to-day administration or operations. I am also of the view that there is a very strong public interest in giving public authorities the space to carry out



their statutory functions. Additionally, there is a public interest in ensuring good corporate governance of public authorities, in consequence of which the imposition of a burden on a public authority to answer an AIE request of significant volume, which has the effect of diverting a senior member or members of staff from key duties on matters of strategic importance, regulation and governance, is not ultimately in the interests of the public. I am cognisant that the court in [Verein](#) asserted that the derogation for manifest unreasonableness from the general principle of free and open release of information on the environment “*was only available in exceptional circumstances, 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’*” (at paragraph 112).” However, I am of the view that this appeal is one such exceptional case, for the reasons given above.

44. In all the circumstances, having regard to the nature of the request, the period of time to which it relates, the resources and the work required to attend to the request, particularly the requirement that middle ranking and senior managers devote a not inconsequential number of weeks to this work, the resulting significant interference with the normal course of the IFI’s other activities, impacting negatively on the work it is required to carry out under statutory obligation, I accept the IFI’s submissions relating to the public interest weighing in favour of refusal.
45. I emphasise that my conclusion in this case should not be taken to mean that public authorities may rely on the exception in article 9(2)(a) in respect of every request for voluminous or wide-ranging information. Each request to a public authority must be considered on its own particular facts. Public authorities have obligations under the AIE Directive and Regulations and must put in place adequate resources to comply with those obligations.

Decision

46. Having carried out a review under article 12(5) of the AIE Regulations, I affirm the decision of the IFI.

Appeal to the High Court

47. 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.

Julie O’Leary
On behalf of the Commissioner for Environmental Information
2 September 2025