



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-161548-POP7L0

Date of decision: 26 February 2026

Appellant: Mr. Neil Foulkes

Public Authority: Coillte

Issue: Whether articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations can be applied to the information requested by the appellant

Summary of Commissioner's Decision: The Commissioner annulled the decision of Coillte and directed release of the information.

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 29 May 2025, the appellant submitted an AIE request to Coillte seeking “a map (in GIS format) of the Harvest Units across the Coillte Estate”.
2. On 27 June 2025, Coillte provided the appellant with its decision (Ref. 20250127), refusing access to the information “pursuant to article 8(a)(iii), article 9(1)(a) and article 9(1)(b) of the AIE Regulations”. On the same date, the appellant submitted a request for internal review. An internal review outcome was not provided within the required statutory timeframe, and, on 29 July 2025, the appellant submitted an appeal to this Office based on Coillte's failure to respond to his request.
3. On 29 July 2025, this Office wrote to Coillte requesting confirmation of its internal review decision. On 31 July 2025 (following acceptance of an appeal under OCE-160988-KON0M9), this Office wrote again to Coillte requesting that it provide the appellant (and this Office) with a letter specifying the reasons for the effective position of Coillte under the provisions of the AIE Regulation in relation to the appellant’s internal review request, as soon as possible but no later than 15 August 2025.
4. Coillte issued correspondence to the appellant on 15 August 2025, outlining its position. It affirmed its original decision dated 27 June 2025, relying on the reasoning therein. In addition, as requested by this Office, Coillte outlined its reasoning for not processing the appellant’s request for internal review in a timely manner.
5. On 15 August 2025, the appellant confirmed that he wished to pursue an appeal of Coillte’s decision on his request for GIS data (current appeal refers). On 20 August 2025, the appellant provided a submission in support of his position; a copy of same was provided to Coillte on 21 August 2025. As per this Office’s standard procedures, Coillte was requested to forward both a copy of the information which is the subject of the request and a final submission in support of its decision.
6. On 26 August 2025, Coillte submitted correspondence stating: “Coillte does not wish to make a submission and instead relies entirely on the original decision dated 27 June 2025 for its full meaning and effect.” On 15 September 2025, it added: “I confirm that there are no subject records for this case.”
7. I am directed by the Commissioner for Environmental Information to complete a review under article 12(5) of the Regulations. In doing so, 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. 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’).
8. What follows does not comment or make findings on each and every argument advanced, but all relevant points have been considered.

Preliminary Matters

9. The duties for public authorities in relation to the carrying out of internal reviews are set out at article 11 of the Regulations. Article 11(3) states: “A decision under sub-article (2) shall be notified to the applicant within one month from receipt of the request for the internal review.”
10. In this case, the requestor sought an internal review on 27 June 2025 and Coillte failed to issue a decision within the statutory timeframe. In its correspondence dated 15 August 2025, Coillte set out the reasons for its failure to issue a decision.
11. 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. This approach has been endorsed by the decision of the High Court in *M50 Skip Hire Recycling Limited v the Commissioner for Environmental Information* [2020 IEHC 430](#). It is also 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 this Office is inquisitorial, rather than adversarial in nature. The extent of the inquiry is determined by this Office and not by the parties to the appeal.
12. I am satisfied, considering the inquisitorial and *de novo* nature of reviews conducted by this Office, that I am entitled to have regard to the late internal review decision issued by Coillte on 15 August 2025.

Scope of Review

13. In accordance with article 12(5) of the AIE Regulations, the role of this Office is to review the public authority's internal review decision and to affirm, annul or vary it. Where appropriate in the circumstances of an appeal, the Commissioner will require the public authority to make available environmental information to the appellant.



14. In this case, the internal review decision affirms the original decision made by Coillte on 27 June 2025 and relies entirely on the reasoning therein. As such, my review is concerned with whether Coillte was justified in its refusal of the requested information under articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations.

Analysis and Findings

15. The scheme of the AIE Regulations, and of the AIE Directive, makes it clear that there is a presumption in favour of release of environmental information. Subject to that presumption, a public authority may refuse to release environmental information only where an exemption under articles 8 or 9 applies and the interest in maintaining that exemption outweighs the public interest in disclosure.
16. The appellant is seeking “a map (in GIS format) of the Harvest Units across the Coillte Estate”. As outlined above, Coillte did not proffer a copy of the withheld information to this Office for the purposes of this review. In any event, I do not consider that an examination of the precise content of the requested information is necessary in this case. It is my understanding that Coillte ‘Harvest Units’ are distinct areas of forestry which Coillte has mapped across its estate to aid operational management. Coillte’s position is that to release this GIS map layer would be to release information on all active and planned harvesting sites at any given time.
17. As outlined above, Coillte’s decision dated 27 June 2025 stated that access to the requested information was being refused under articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations. That decision set out Coillte’s reasoning in respect of articles 8(a)(iii) and 9(1)(a); no arguments were provided to support Coillte’s view that article 9(1)(b) applied.
18. Article 8(a)(iii) of the AIE Regulations provides that a public authority shall not make available environmental information in accordance with article 7 where disclosure of the information would adversely affect the protection of the environment to which that information relates. Article 9(1)(a) provides a discretionary ground for refusal of information by a public authority where disclosure of the information requested would adversely affect international relations, national defence, or public security. Article 9(1)(b) also provides a discretionary ground for refusal where disclosure of the information requested would adversely affect the course of justice (including criminal inquiries and disciplinary inquiries).
19. The judgment of the High Court in *Right to Know v An Taoiseach* [\[2018\] IEHC 372](#) notes that: “... *the mere invoking of the statutory ground upon which disclosure of environmental information may be exempted cannot, to my mind, constitute a sufficient reason for the refusal.*” (paragraph 106)
20. This view aligns with the decision of the Court of Justice of the EU in [C-619/19 Land Baden Württemberg v DR](#). This decision contains some useful guidance in relation to the application



of exceptions generally. The CJEU noted in particular, at paragraph 69 of its judgment: “As the Advocate General has observed in point 34 of his Opinion, [the] obligation to state reasons is not fulfilled where a public authority merely refers formally to one of the exceptions provided for in Article 4(1) of Directive 2003/4. On the contrary, a public authority which adopts a decision refusing access to environmental information must set out the reasons why it considers that the disclosure of that information could specifically and actually undermine the interest protected by the exceptions relied upon. The risk of that interest being undermined must be reasonably foreseeable and not purely hypothetical.”

21. As pointed to by the appellant in his submission dated 20 August 2025, the Commissioner’s decision in [OCE-122539-B1T8K3](#), which was published on 11 August 2025, considered the application of article 9(1)(a) of the AIE Regulations in respect of information concerning active harvesting sites. That decision also considered article 8(a)(iii) and 9(1)(b) in this specific context. In that case, which concerned notifications of active harvesting sites provided by Coillte to the Department of Agriculture, Food and the Marine (“the Department”), Coillte made submissions to this Office as a relevant third party. It is notable that Coillte’s reasoning in respect of this AIE request consists of the same arguments as made in its submissions in that case (as set out paragraphs 82. – 86. of that published decision). In that case, the Commissioner annulled the Department’s decision to refuse the information under articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations and directed release of same to the appellant.
22. In summary, in relation to article 8(a)(iii), Coillte argues that disclosure of the information “could hamper the effective implementation of functions under the Forestry Act”. However, as outlined by the Commissioner in his decision in OCE-122539-B1T8K3, Coillte has not demonstrated any direct link between the withheld information and the effectiveness of the Department’s statutory functions. Even if such a link could be demonstrated, it is not clear that the sort of disruption envisaged would adversely affect the environment for the purposes of article 8(a)(iii). In relation to article 9(1)(a), Coillte argues that disclosure would result in incidents of unauthorised attendance on active sites and accordingly a risk to public security by way of risk to human life and health. Again however, in my view, Coillte’s decision dated 27 June 2025 falls short of substantiating that a reasonably foreseeable risk of an adverse impact on public security has been established such that article 9(1)(a) might be said to apply, bearing in mind the criteria set out by the Court of Justice at paragraph 69 of its decision in *Land Baden Württemberg v DR*. This case sets a high threshold as the risk must be reasonably foreseeable and not purely hypothetical. A mere assertion of an expectation of harm is not sufficient.
23. Coillte has not provided any additional arguments to support its view that a map of harvest units across the Coillte estate should be withheld pursuant to articles 8(a)(iii), 9(1)(a) or 9(1)(b) of the AIE Regulations. On this basis, and while the precise information held by Coillte was not made available for the purposes of this review, I am satisfied that none of the cited exceptions are engaged. As such, the question of considering the public interest test at article 10 of the AIE Regulations does not arise. I will therefore turn to the matter of making available the environmental information to the appellant.



24. While I am not bound by previous decisions of this Office, the Commissioner's view in respect of the type of information at issue in this case has been comprehensively set out in a number of recent decisions, including OCE-122539-B1T8K3 as referenced above, and [OCE-161964-L2L7F5](#) which was published on 26 November 2025. In the latter case, the Commissioner also annulled Coillte's decision to refuse a request for a copy (in GIS format) of certain map layers for the Coillte estate under articles 9(1)(a) and 9(1)(c) of the AIE Regulations and directed release of the environmental information concerned to the appellant.
25. In conclusion, in the circumstances of this appeal, I consider that a direction to release the requested information is appropriate and in keeping with the scheme of the AIE Regulations, and of the AIE Directive, where there is a presumption in favour of release of environmental information. I am also mindful of the decision of the CJEU in *Land Baden Württemberg v DR* and Coillte's limited engagement for the purposes of this review.

Decision

26. Having carried out a review under article 12(5) of the AIE Regulations, on behalf of the Commissioner for Environmental Information, I annul Coillte's decision and direct it to release the information requested by the appellant.

Appeal to the High Court

27. 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.

Gemma Farrell
On behalf of the Commissioner for Environmental Information
26 February 2026