



OPEN

TRANSPARENT ACCOUNTABLE

LEGISLATION COMPLIANCE

ACCESS INVESTIGATION

SETTLEMENT DECISION

EXEMPT PUBLIC INTEREST

RECORDS STATISTICS

CONFIDENTIAL REFUSED RELEASE

ENVIRONMENT APPEAL

FEEES HABITAT



Oifig an Choimisinéara um Faisnéise Comhshaoil
Office of the Commissioner for Environmental Information

CHAPTER 1

Chapter 1: The AIE Regime In Ireland

Introduction

The Access to Information on the Environment (AIE) regime is based on Directive 2003/4/EC on public access to environmental information. The Directive was adopted by the European Union (EU) in order to give effect to the first pillar of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which is more commonly known as the "Aarhus Convention". Ireland ratified the Convention on 20 June 2012, but the EU has been a Party to the Convention since May 2005.

The Directive has, as its key provision, the establishment of a right of access to environmental information held by public authorities. The Directive has been transposed into Irish law by the European Communities (Access to Information on the Environment) Regulations 2007 to 2011. An unofficial consolidated version of the Regulations is available on the website of the Department of the Environment, Heritage and Local Government (the Department) at <http://www.environ.ie/en/AboutUs/AccessstoInformationontheEnvironment/>.

The Office of the Commissioner for Environmental Information (OCEI) was established under Article 12 of the AIE Regulations, and it is also considered as relevant to Ireland's obligations under the access to justice pillar of the Aarhus Convention. I became the Commissioner for Environmental Information, because Article 12(2) assigns this position to the person holding the Office of the Information Commissioner under the FOI Act. My role as Commissioner for Environmental Information, which is additional to and legally independent of the roles I have as Ombudsman and Information Commissioner, is to review decisions of public authorities on appeal by members of the public who are not satisfied with the outcome of their requests for environmental information. My decisions on appeal are final and binding on the affected parties, unless a further appeal is made to the High Court within two months of the decision concerned.

The purpose and obligations of the AIE regime

The ultimate goal of the AIE regime is to contribute to a better environment through more effective public participation in environmental decision-making. To this end, AIE imposes significant obligations on public authorities that are designed to facilitate public access to environmental information. Access to environmental information is also meant to be generally affordable, if not free.

Objectives

The purpose of the AIE regime is reflected in Recital 1 of the preamble to the Directive: “Increased public access to environmental information and the dissemination of such information contribute to greater public awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually, to a better environment.” The objectives of the Directive are stated in Article 1 and include setting out “practical arrangements” for the exercise of the right of access and also ensuring that environmental information is “progressively made available and disseminated to the public in order to achieve the widest possible systemic availability”.

Obligations & Expectations

Accordingly, the Regulations impose certain general duties on public authorities in order to facilitate access to environmental information. Public authorities are under a duty to inform the public of their rights and to provide information and guidance on the exercise of those rights. Public authorities must “make all reasonable efforts to maintain environmental information held by or for it in a manner that is readily reproducible and accessible by information technology or by other electronic means”. The Regulations, as amended, now require public authorities to “ensure that environmental information compiled by or for it, is up-to-date, accurate and comparable”. In addition, public authorities are required to “maintain registers or lists of the environmental information held by the authority and designate an information officer for such purposes or provide an information point to give clear indications of where such information can be found”. In line with Article 7(4) of the Directive, a public authority is also required, in the event of an imminent threat to human health or the environment, to “ensure that all information held by or for it, which could enable the public likely to be affected to take measures to prevent or mitigate harm, is disseminated immediately and without delay”.

Thus, the scheme of the AIE regime envisions that the environmental information held by or for public authorities will be systematically organised, managed, catalogued, and at least ready for active dissemination to the public. It is also the expectation that requests for environmental information will generally be granted. Although the Regulations set out certain mandatory and discretionary grounds for refusal, requests for environmental information cannot, in most cases, be refused where the request relates to emissions into the environment. All requests are subject to consideration of the public interest under Article 10(3) of the Regulations. Article

10(4) of the Regulations, in turn, specifies that the grounds for refusal of a request shall be interpreted on a restrictive basis having regard to the public interest.

Charges

Moreover, under the AIE regime, no upfront fee applies for making a request or for applying for an internal review of a decision to refuse a request. The on-sight examination of the information requested is also free of charge. A public authority may charge a fee when it makes environmental information available, but any such fee must be “reasonable having regard to the Directive”. Where a public authority proposes to charge fees, it is obliged to make a list of the chargeable fees available to the public. There is a right of appeal (internal and external) on the ground that the amount of the fee charged is excessive.

However, as a general rule, a fee of €150 must be charged for making an appeal to my Office. A reduced fee of €50 applies in respect of an appeal to my Office by a medical card holder, a dependent of a medical card holder, or a relevant third party. The Regulations, as amended, now provide that I may waive all or part of the appeal fee where the original decision was untimely.

The scope of the AIE regime

While there are limits to the scope of the AIE regime, it has a broad application by virtue of its wide-ranging definitions of “environmental information” and “public authority”.

What is environmental information?

The definition of “environmental information” in the Directive and in the Regulations covers information “in written, visual, aural, electronic or any other material form on” the following six categories:

- the state of the elements of the environment (e.g., air, water, soil, land, landscape, biological diversity),
- factors affecting or likely to affect the elements of the environment (e.g., energy, noise, radiation, waste, emissions),
- measures (e.g., policies, legislation, plans, programmes, environmental agreements) and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements,
- reports on the implementation of environmental legislation,
- cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to above, and
- the state of human health and safety, conditions of human life, cultural sites and built structures inasmuch as they are, or may be, affected by the state of the elements of the environment.

What is a public authority?

Unlike FOI legislation, the Regulations do not prescribe a list of individual public authorities that are subject to the AIE regime. Rather, the Regulations broadly define the term “public authority” to mean –

- government or other public administration (including public advisory bodies) at national, regional or local level,
- any natural or legal person performing public administrative functions under national law, including in relation to the environment, and
- any natural or legal person having public administrative responsibilities or functions, or providing public services, relating to the environment under the control of a body or person encompassed by either of the first two categories.

The definition in the Regulations states that it includes certain types of entities. The Regulations, as amended, require the Minister for the Environment, Heritage and Local Government to “ensure that an indicative list of public authorities is publicly available in electronic format”. An indicative list of a general nature is available on the Department’s website. Where there is a dispute as to whether a body is a public authority, the person making the request has a right of appeal to my Office.

Guidance

Guidelines relating to the implementation of the Regulations have been issued by the Minister and are available on the Department’s website. Although public authorities are required to have regard to the guidelines in performing their functions under the Regulations, the guidelines do not purport to be a legal interpretation of the Regulations. Another guide for understanding the AIE regime is *The Aarhus Convention: An Implementation Guide* [ECE/CEP/72] (the Aarhus Guide), which is available at www.unece.org/fileadmin/DAM/env/pp/acig.

Breast cancer misdiagnosis features highly in legal actions

MORE THAN a quarter of the legal actions taken against Irish hospitals for alleged cancer misdiagnosis over the past eight years related to cases of breast cancer, data released under the Freedom of Information Acts shows.

Some 100 claims of alleged cancer misdiagnosis were received by the State Claims Agency between January 2004 and December 2011 following treatment at 33 hospitals across the State, according to figures released to *The Irish Times*.

Irish Times 13-10-2012

Documents show ongoing issues at refugee centre

THE results of a series of inspections at the Eyre Powell asylum centre in Newbridge, obtained by the *Leinster Leader*, show there has been ongoing issues concerning nutrition and fire safety since 2010. The recent protest of 44 refugees at the Eyre Powell Asylum Centre in Newbridge over poor hygiene, lack of basic provisions, poor food supplies, staff behaviour and the management system prompted a Freedom of Information request by the *Leinster Leader* into all inspections carried out between 2010 and 2011 at the former hotel.

Leinster Leader 24-07-12

Clarity needed on finance lobbying

FROM a Freedom of Information request, I have discovered the massive extent of the international finance industry's regular and direct access into the heart of the Irish government, to influence not only Irish policy but also EU policy.

When this group is influencing policy that not only affects the financial services sector but also impacts on the lives of all sections of Irish society.

Leinster Express 09-05-2012

Public deserve more detail on new health service structure

So, Taoiseach Enda Kenny owns a house and an office in Mayo, an apartment in Dublin - and a field at his parents' house.

We learn all this courtesy of a national newspaper which deemed it important enough to splash it across its front page. The Bull McCabe must be grinding his gums in envy.

This is the new transparency and we had better get used to it. We don't know if the paper used the Freedom of Information (FoI) Act to extract the information. If it did, it is a legitimate way of making our leaders more accountable.

Meath Chronicle 21-01-12



OPEN

TRANSPARENT ACCOUNTABLE

LEGISLATION COMPLIANCE

ACCESS INVESTIGATION

SETTLEMENT DECISION

EXEMPT PUBLIC INTEREST

RECORDS STATISTICS

CONFIDENTIAL REFUSED RELEASE

ENVIRONMENT APPEAL

FEEES HABITAT



Oifig an Choimisinéara um Faisnéise Comhshaoil
Office of the Commissioner for Environmental Information

CHAPTER 2

Chapter 2: The Year In Review

Appeals and enquiries

During 2012, thirteen appeals were received by my Office. My Office recorded that four of these appeals involved a deemed refusal of the request concerned at the original and/or internal review decision-making stage. A deemed refusal occurs when the public authority fails to issue a decision on the request within the relevant time limit specified in the Regulations (usually one month).

Eleven appeals were closed during the year. Five formal decisions were issued; relevant summaries are set out in the chapter following. The one decision which has not been summarised was very similar in nature to case CEI/11/0009, in that it involved a dispute over whether any further relevant records pertaining to the Glanbia site in Waterford were held by or for Waterford City Council. As a general rule, appeal decisions are published in full on my Office's website at www.ocei.gov.ie.

One case was deemed to have been withdrawn as settled once the information sought was released following my Office's intervention. One appeal was withdrawn prior to acceptance, because the requested information was made available by the public authority, albeit belatedly. Another appeal was withdrawn following contacts with my Office. One other case was discontinued on the basis that, while the appellant was not satisfied with the outcome of the appeal, she accepted that no further relevant information was held by or for the public authority concerned and that nothing further would therefore be accomplished by pursuing the matter. A further two appeals were deemed to be invalid, in one case because no internal review request had been made and in the other because it was determined that this Office did not have the jurisdiction to review the matter concerned.

A little over half of the appeals arose from requests to local authorities and government departments. Other public authorities whose decisions were appealed included Ordnance Survey Ireland, the Marine Institute, Eirgrid Plc, and the National Transport Authority.

Sixteen cases were on hand at the end of the year. My staff recorded 30 general enquiries about the Regulations.

Article 12(6) of the Regulations

Article 12(6) gives me certain powers in dealing with an appeal. I may:

- require a public authority to make environmental information available to me,
- examine and take copies of environmental information held by a public authority, and
- enter any premises occupied by a public authority so as to obtain environmental information.

I am pleased to report that I had no need to invoke this provision in 2012.

Issues arising in 2012

Last year, as in previous years, I commented on the low level of activity under the Regulations. In last year's Report, I also highlighted some of the practical difficulties my Office has encountered in relation to the operation of the AIE regime. This year I wish to emphasise the lack of adequate resources available to my Office.

Although the OCEI is a legally independent Office, to date, it has not received any funding allocation from the State and must rely entirely on the resources that can be made available from the Office of the Information Commissioner (OIC). However, the OIC is stretched beyond its limits at present, with a significant backlog of cases already on hand, and is facing a significant increase in demand arising from the proposed Freedom of Information legislative changes. Moreover, while the number of AIE appeals received each year has remained quite low, the reviews tend to be complex or otherwise resource intensive.

Consequently, there generally are considerable delays in bringing AIE appeals to completion. One particularly complex case from 2010, involving the contract for the construction and operation of the Poolbeg incinerator, closed only recently by way of settlement, and another case from 2011 remains pending. I am aware that this situation is very unsatisfactory for members of the public who seek access to environmental information in order to participate more effectively in environmental decision-making, as envisioned by the Directive. The Director General of both Offices has written on my behalf to the Department of Public Expenditure and Reform requesting additional staff. For the time being, however, I simply am not in a position to devote more staff resources to processing AIE appeals.

I note that one measure that public authorities generally can take to reduce the administrative burden involved in dealing with AIE requests in the long-term is to comply with the information management requirements that are set out in Article 5 of the Regulations. As I observed in chapter 1, the scheme of the AIE regime envisions that the environmental information held by or for public authorities will be systematically organised, managed, catalogued, and at least ready for active dissemination to the public. Such information management practices would reduce the resources required of individual staff members in searching for and retrieving the environmental information requested. The active

dissemination of the environmental information held by a public authority through publication on its website could obviate the need for a formal request in the first instance. I refer to this matter again in the next chapter in my summary of Case CEI/11/0009.

High Court and Supreme Court judgments

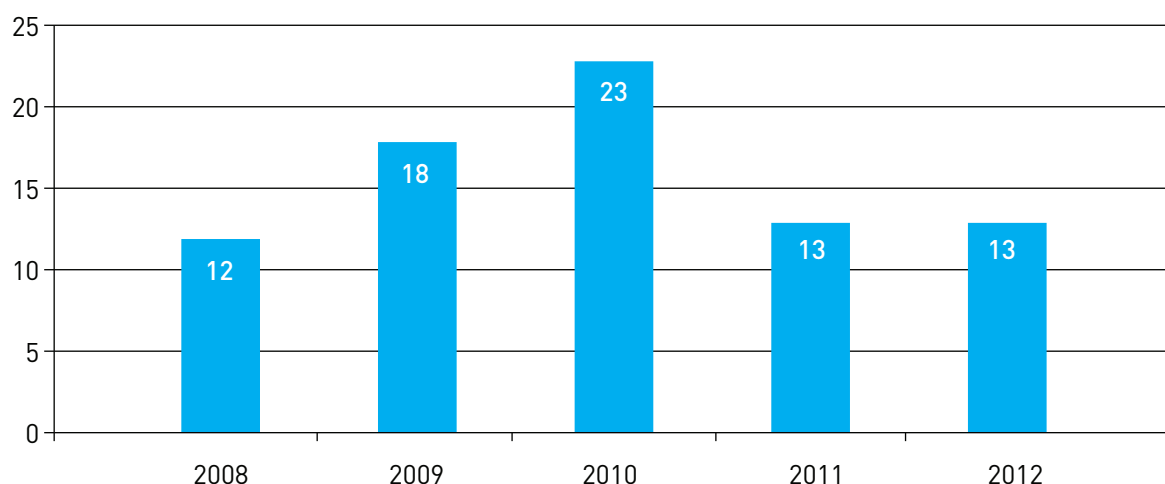
A party to an appeal to my Office or any other person affected by my decision may appeal to the High Court on a point of law from the decision. My decisions in two similar cases dealing with the scope of the public authority definition, CEI/10/0005 – *Mr. Gavin Sheridan and the National Asset Management Agency*, and CEI/10/0007 – *Mr. Gavin Sheridan and Anglo Irish Bank*, were appealed to the High Court in November 2011. The appeal brought by the National Asset Management Agency (NAMA) was heard for two days in July 2012. Subsequently, the Court required further submissions, and a further hearing was then held on 31 October 2012. Judgment was delivered on 27 February 2013, upholding my decision finding that NAMA is a public authority within the meaning of the Regulations.

There were no new High Court appeals taken against decisions of my Office in 2012. My Office's appeal to the Supreme Court against the judgment of Mr. Justice O'Neill in *An Taoiseach v. Commissioner for Environmental Information* (Case CEI/07/0005) is still pending.

Statistics

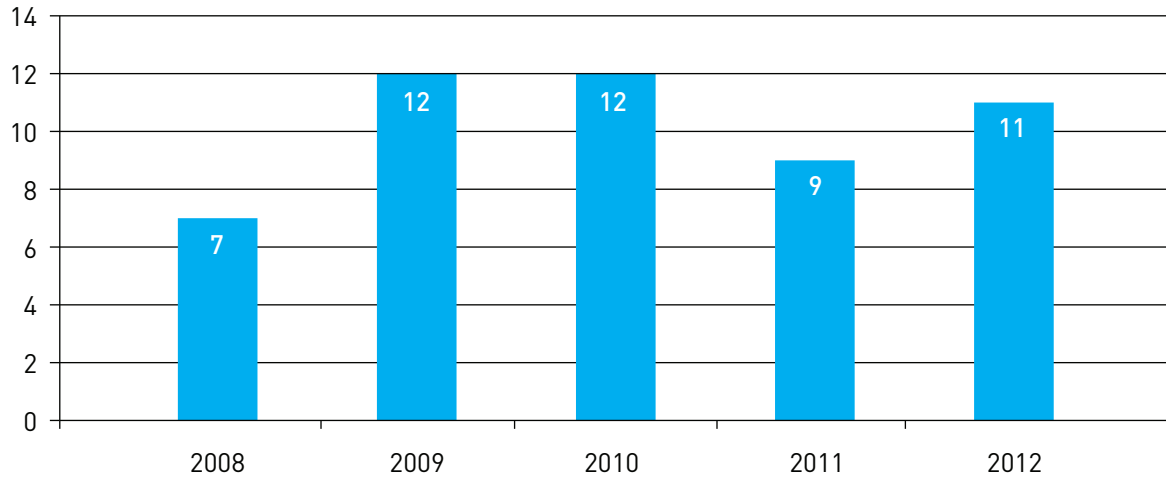
- Appeals received: 13

Appeals received



- Appellants to CEI: 11

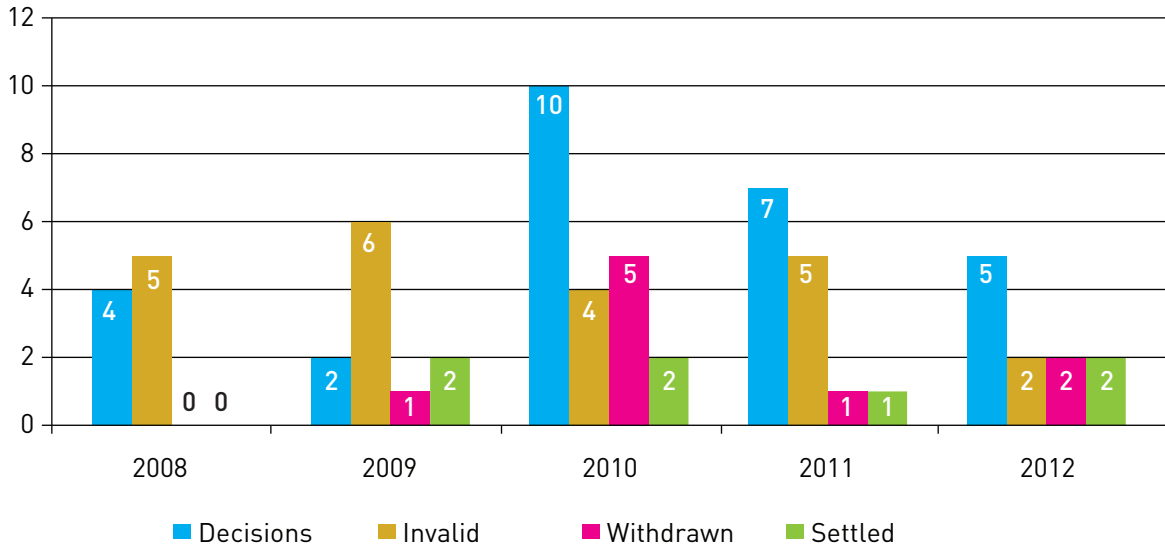
Appellants to CEI



- Outcome: of CEI appeals by year
 - 5 decisions
 - 2 invalid
 - 2 withdrawn
 - 1 settled
 - 1 discontinued *

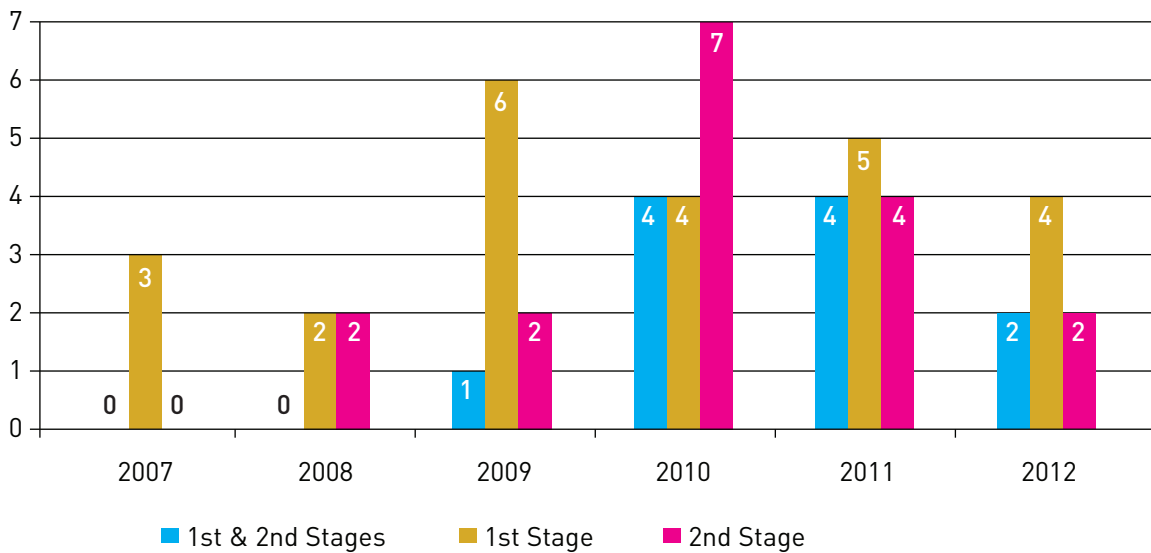
* For consistency in recording outcomes, the 'discontinued' review is included in the 'settled' statistic in the bar chart below.

Outcome of CEI appeals by year



- Deemed refusals (first and/or second stage)

Deemed Refusals



- Beginning with my next Annual Report, I propose to include in future Reports details of the public bodies where the decision was deemed to have been a refusal arising from the failure to respond within the deadlines specified in the Regulations at first and/or second stage.



OPEN

TRANSPARENT ACCOUNTABLE

LEGISLATION COMPLIANCE

ACCESS INVESTIGATION

SETTLEMENT DECISION

EXEMPT PUBLIC INTEREST

RECORDS STATISTICS

CONFIDENTIAL REFUSED RELEASE

ENVIRONMENT APPEAL

FEEES HABITAT



Oifig an Choimisinéara um Faisnéise Comhshaoil
Office of the Commissioner for Environmental Information

CHAPTER 3

Chapter 3: Decisions

In this chapter, I provide summaries of four decisions made in 2012. The full text of these decisions can be found on my website at www.ocei.gov.ie.

Mr. Tony Lowes, Friends of the Irish Environment, and the Office of the Attorney General (AGO) – Decision of 3 May 2012 - Case CEI/09/0014

Whether the AGO was justified in refusing access to all records held in relation to two cases brought against Ireland by the European Commission

This is my first decision applying the provisions of Article 9(2)(a) of the Regulations. The request, which was made on 21 July 2009, was for access to all records held, including but not limited to Letters of Formal Notice, Reasoned Opinions, advice sought or received [including all legal advice], minutes of meetings, and all internal and external communications by email or otherwise, in relation to two cases involving infringement proceedings brought against Ireland by the European Commission [Case C-392/96 and Case C-294/03]. The AGO took no action on the request within the one-month deadline specified in Article 7 of the Regulations. On internal review, however, the AGO refused the request in reference to Article 6(1)(d) of the Regulations, stating that the request was not specifically directed to environmental information and therefore fell outside the scope of the Regulations.

In my decision, I noted that Case C-392/96 and Case C-294/03 were two related actions concerning, in essence, the adequacy of required legislative measures designed to protect certain environmental elements referred to in paragraph (a). In light of the subject matter of the appellant's request, and based on my examination of a sample of records that had been made available to my Office for the purposes of my review, I considered it likely that most of the records relevant to the request would contain environmental information within the meaning of Article 3(1)(c) of the environment information definition set out in the Regulations.

However, Article 9(2)(a) of the Regulations allows a public authority to refuse to make environmental information available where the request is manifestly unreasonable having regard to the volume or range of information sought. In this case, the proceedings referred to in the request spanned a period of over a decade and it was therefore to be expected that

the relevant files held by the AGO would include a voluminous amount of correspondence, legal advice, and legislative material. Moreover, the request did not seek access to particular items of environmental information relevant to the legislative measures underlying Cases C-392/96 and C-294/03, but rather was directed at all records relating to the proceedings. On the face of it, therefore, the request seemed to be more about how the AGO dealt with the infringement proceedings on behalf of the State than it was about access to environmental information per se. In the circumstances, I found that the request was manifestly unreasonable by its very nature. Given the broad nature of the request and the large number of files involved, I also accepted that processing the request would impose an unreasonable burden on staff resources. I was therefore satisfied that the AGO's decision to refuse the request was justified under Article 9(2)(a) of the Regulations, and I affirmed the decision accordingly.

Mr. Gavin Sheridan and Central Bank of Ireland (the Bank) – Decision of 26 March 2012 - Case CEI/11/0001

Whether the Bank was justified in refusing access to certain items of information relating to mileage claims on the ground that the information concerned was not environmental information within the meaning of the Regulations

In a request originally dated 30 November 2010 and subsequently revised on 13 January 2012, the applicant sought access to a "datadump" of mileage claims as recorded by the Bank during a certain period. The Bank refused the request on the basis that the requested information was not environmental information within the meaning of the Regulations. Following the applicant's appeal to my Office, the Bank produced a travel spreadsheet with the relevant information for the purposes of my review. The Bank also agreed to release the information appearing in the columns under the headings of Mode of Transport, KM per trip, Date Outward, and Date Return. The question before me was whether the remainder of the information in the spreadsheet relating to the mileage claims was environmental information within the meaning of the Regulations.

I noted that there are limits to the scope of the AIE regime. Having regard to the comments of the European Court of Justice (ECJ) in *Glawischnig v. Bundesminister für soziale Sicherheit und Generationen*, Case-316/01 (12 June 2003) in relation to the definition of environmental information, I found that, in order for information to qualify as "environmental information" for purposes of the Regulations, it is necessary for the information to fall within one of the six categories set out in the definition in Article 3(1).

In relation to the question of "activities" under paragraph (c) of the definition, I noted that such activities only come within the scope of the definition by virtue of their direct or indirect link to an impact on the elements of the environment. In the circumstances, I found that information on an activity must, at a minimum, reflect the link to the environmental impact of the activity in order to fall within the ambit of paragraph (c); it is not sufficient for information simply to be related to the activity. To put it another way, there must be a sufficient

connection between the information concerned and an aspect of the activity that has an effect on the environmental elements and factors referred to in paragraphs (a) and (b) of the definition.

With some reservation, I accepted that official travel by car is an activity within ambit of paragraph (c) of the definition. However, I determined that the remaining items of information that were at issue, including destination, motor expenses, and mileage amounts, do not have a sufficient connection with the environmental impact of the activity of travel by car to meet the definition of “environmental information” under the AIE Regulations. I found in the circumstances that the Bank’s decision to refuse the appellant’s request for information relating to mileage claims, apart from the information which had already been released, was justified and should be affirmed.

Ms. Rita Canney and Waterford City Council (the City Council) – Decision of 7 June 2012 - CEI/11/0009

Whether the City Council was justified in refusing access to the original Tree Protection Order (TPO) file relating to trees on the Glanbia site in Waterford

In a request dated 9 February 2011, the applicant sought access to all documentation pertaining to TPO PD 271/76, a file relating to trees on lands associated with the Glanbia premises, (Glenville), Maypark Lane, Waterford. No written decision was made by the City Council within the relevant time limits set out in the Regulations. Belatedly, however, on 16 May 2011, the City Council issued a statement explaining that some information relating to TPO PD 271/76 had been located and was available on file in the Environmental Services and Planning Office, but that the original documentation relating to the TPO could not be found. The applicant appealed to my Office against the City Council’s decision on 10 June 2011.

Article 7(5) of the Regulations is the relevant provision that applies where the information requested is not held by or for the public authority concerned. In this case, I explained that where a public authority effectively seeks to refuse a request for environmental information on the basis of Article 7(5), I must be satisfied that adequate steps have been taken to identify and locate relevant records, having regard to the relevant circumstances. Moreover, I noted that, in determining whether the steps taken are adequate in the circumstances, a standard of reasonableness must necessarily apply.

The City Council provided a detailed explanation of its efforts to locate the original TPO PD 271/76 file, which admittedly should have been transferred with other 1976 files to its Records Centre from Waterford County Council following a boundary extension that took place in 1980. The City Council also presented supporting documentation to show that the file was marked as missing on the County Council’s records system and was not included in the transfer sheet when the 1976 files were transferred to the City Council Records Centre. Having regard to the relevant submissions, the age of the file in question, and date of the transfer of records from the County Council to the City Council following the boundary

extension in 1980, I was satisfied that the City Council had fulfilled its obligations under Article 7 of the AIE Regulations with respect to the applicant's request for documentation pertaining to TPO PD 271/76 and that Article 7(5) applied.

I observed, however, that Article 5 of the Regulations imposes certain requirements on public authorities that are designed to facilitate access to environmental information. Although I have no enforcement powers in relation to Article 5 of the Regulations, I noted that it is undoubtedly the case that compliance with its requirements would involve the implementation of organisational systems and efficiencies that ultimately would reduce the resources required of individual staff members to search for and retrieve environmental information. I further noted that, if the relevant environmental information were made available on the public authority's website, this could obviate the need for a formal access request in the first instance. Therefore, I considered it appropriate to urge public authorities, such as the City Council, to have due regard to the requirements of Article 5 not only to facilitate access to environmental information, but also to reduce the administrative burden that can otherwise ensue.

Ms. Rita Canney and Waterford City Council (the City Council) – Decision of 23 October 2012 - CEI/10/0015

Whether the City Council was justified in refusing access to further relevant records relating to the Greening of Waterford Study and Report

In a request dated 13 April 2010, the appellant sought access to all information, whether in hard or soft copy format, relating to the Greening of Waterford Study and Report, excepting copies of the final report and previous drafts already in her possession. The City Council carried out searches for the relevant records and made them available for viewing at its offices, in compliance with the terms of her request. The adequacy of the searches carried out was not ultimately a matter of serious dispute. The problem that arose, however, was due to the fact that the software used by the City Council for storing the soft copy records was "quite specialised" and thus difficult for an untrained person to avail of.

During the course of my review, arrangements were made for the appellant to access the relevant soft copy files at the City Council's offices. The records that were supposed to be made thus available to the appellant included (1) the large-scale maps of "Locally Sensitive Sites" and (2) maps of other locally significant habitats referenced in the Greening Report. A member of staff was present during the appellant's visit to the offices in order to assist her with accessing the files. Evidently, however, despite the staff member's best efforts, the visit was not a success because of difficulties encountered in locating and assembling the information sought. It was not disputed that the difficulties were due to the specialised nature of the software needed to view the information concerned.

Thus, the appellant had been granted access to the soft copy records held by the City Council relating to the Greening of Waterford project, as she had requested, but the form of access

did not meet her expectations. Moreover, because of the difficulties encountered with the software, it remained unclear whether all of the maps that the appellant considered should exist were actually held by the Council or not. This situation was understandably frustrating for the appellant, particularly given the apparent importance of the maps for the conservation of Waterford City's wetlands.

I noted that the overall purpose of the AIE regime is to contribute to a better environment by increasing public access to environmental information and thereby achieve more effective public participation in environmental decision-making. The failure by a public authority to maintain environmental information in a manner that is readily reproducible and accessible by the public would obviously tend to undermine this purpose, which is why it is inconsistent with the requirements of Article 5 of the Regulations, as amended. I further noted, however, that I have no enforcement powers in relation to Article 5 of the Regulations. Therefore, while the City Council's grant of access to the soft copy records held by it in this case could not be said to be truly satisfactory from an environmental perspective, I simply was not in a position to require the City Council to produce readily accessible maps where such maps were not already held by or on behalf of the City Council. In the circumstances, I concluded that the City Council's effective decision to refuse the appellant's request for further records relevant to her request was justified under Article 7(5) of the Regulations.