

**Format for the Aarhus Convention implementation
report in accordance with Decision IV/4
(ECE/MP.PP/2011/2/Add.1)**

**The following report is submitted on behalf of Ireland in
accordance with decisions I/8, II/10 and IV/4.**

Name of officer responsible for
submitting the national report:

Signature: Aoife ~~Joyce~~Byrne

Date: ~~31st December 2013~~ 5th January 2017

Implementation report

Please provide the following details on the origin of this report

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I. Process by which the report has been prepared

Provide a brief summary of the process by which this report has been prepared, including information on the type of public authorities that were consulted or contributed to its preparation, how the public was consulted and how the outcome of the public consultation was taken into account, as well as on the material that was used as a basis for preparing the report.

Answer:

~~The preliminary first draft of the report was made available for public consultation on 7th June 2013 with a closing date for submissions of 9th August. A second draft was made available in September, with a closing date for submissions of 1st November. Twenty two individual submissions were received on draft 1, with twelve submissions received on the second draft. All submissions have been considered and amendments have been included in the final report, as appropriate. All submissions are available on the website of the DECLG. Furthermore, decision making tables which outline the main points made in the submissions were prepared. These tables detail why certain issues raised in submissions were not reflected in the final draft.~~

~~To raise public awareness of the consultation process, DECLG developed a page on the Aarhus Convention section of its website; issued a press release at each stage of the consultation and issued reminders of the consultation through the RSS feed of DECLG and its twitter account.~~

Government Consultation:

~~All government departments and a number of key other public authorities such as local authorities; the Environmental Protection Agency (EPA), An Bord Pleanála and the Office of the Attorney General were consulted as part of the consultation process.~~

Public/Stakeholder Consultation:

~~A number of environmental organisations and networks such as the Irish Environmental Network, the Environmental Pillar, the Environmental Legislation Implementation Group, An Taisce and Friends of the Irish Environment, amongst others, were directly notified of the each phase of the consultation process, provided with an opportunity to participate and asked to disseminate details of the public consultation to their members, constituent bodies and other interested parties.~~

The former Department of the Environment, Community and Local Government (DECLG) which held responsibility for the implementation of the Aarhus Convention in Ireland underwent a change of functions after the formation of the new government in Ireland in 2016. These functions have now transferred to the reconfigured Department of Communications, Climate Action and Environment: DCCAE (formerly the Department of Communications, Energy and Natural Resources). This transfer of functions was completed on 23rd July 2016.

Thereafter, a public consultation inviting submissions regarding the implementation of the Aarhus Convention in Ireland was launched in September 2016. This is to support the drafting of the second National Implementation Report for Ireland. The preliminary first draft of the report was made available for public consultation on the DCCAE website in September 2016 with a closing date for submissions of 28th October 2016. Twenty four individual submissions were received on the draft report.

All submissions have been considered and amendments have been included in the final report, as appropriate. A decision-making table has been prepared to facilitate understanding of the decision-making process. The table details why certain issues raised in submissions were not reflected in the final draft report. This will be published on the DCCAE website in due course.

To raise public awareness, a press release on it was issued at the outset of the consultation process, and a webpage was maintained on the DCCAE website throughout the process.

Government Consultation:

Letters issued to all Government Departments and other public bodies on 13th September 2016 informing them of the launch of the consultation, inviting comments and also requesting further dissemination of the public consultation within that organisation and any bodies under the aegis of those organisations to ensure optimum participation in the consultation process.

A number of key public authorities such as local authorities, the Environmental Protection Agency (EPA), An Bord Pleanála and the Office of the Commissioner for Environmental Information (OCEI) were also consulted as part of the consultation process.

Public/Stakeholder Consultation:

A number of environmental organisations and networks such as including the Irish Environmental Network, the Mary Robinson Foundation - Climate Justice, the Environmental Legislation Implementation Group and the Irish Environment Law Association amongst others, were directly notified of the consultation process. This provided them with an opportunity to participate. They were also requested and to disseminate details of the public consultation to their members, constituent bodies and other interested parties.

Late submissions were accommodated, in so far as was possible, where extensions were sought before the closing deadline.

II. Particular circumstances relevant for understanding the report

Report any particular circumstances that are relevant for understanding the report, e.g., whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

As Ireland has a dualist legal system, it was necessary to implement fully all of the obligations that are contained in the Aarhus Convention prior to ratification of the Convention.

The Irish legal system is a common law system, where both legislation and judicial decisions make up the national law. Therefore, when examining the implementation of the Aarhus Convention in Ireland, regard must be had to both statutory law and the case law of the courts. Reference to relevant case law is included in the access to justice section of the

report.

The EU ratified the Aarhus Convention in February 2005. Ireland ratified the Convention in June 2012.

III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8

List legislative, regulatory and other measures that implement the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8, of the Convention.

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations,
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
 - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are on-going;
 - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;
 - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party's delegation in international environmental negotiations, or involving NGOs in forming the Party's official position for such negotiations), including the stages at which access to information was provided;
 - (iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;
 - (v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed

Answer:

- (a) Ireland has taken the following measures to ensure that officials and public authorities assist and provide guidance to members of the public in asserting their right to access ~~to~~ environmental information, to participation in decision making and obtaining access

to justice in environmental matters.

Access to Environmental Information

Under Article 5 of the European Communities (Access to Information on the Environment) Regulations 2007 to ~~2011~~2014¹ (see [S.I. No. 133/2007](#) and [S.I. No. 662/2011](#) and [S.I. 615/2014](#) and an [unofficial consolidated version](#)) there is a statutory duty on public authorities to provide guidance to members of the public seeking access to environmental information. Article 5(1)(a) of the Regulations requires public authorities to inform the public of their rights under the Regulations and to provide information and guidance on the exercise of those rights. In addition, both Articles 7(7) and (8) require officials to support the public in accessing information.

To facilitate officials in public authorities in fulfilling their duties under the AIE Regulations, ~~DECLG has prepared guidance notes~~ [on the Regulations have been published](#). These are [publically available](#) and have been circulated to public authorities.

The Environment Policy and Awareness section in ~~DCCAEECLG~~ is available as an information point for staff in public authorities dealing with AIE requests. [In contributing to the overarching objective of raising awareness of the Aarhus Convention in Ireland, the DCCAE committed to providing training on the AIE Regulations and their application amongst relevant personnel in public authorities. The first training event took place in September 2014 in Tullamore with the second such training event taking place on the 19th in November 2015 in Athlone. 117 members of staff representing 44 public authorities in 2014, and 117 members of staff representing 52 public authorities in 2015 attended these AIE training events, and the feedback from participants was very positive. The training event in 2016 was hosted in Newbridge in November 2016, there were 101 attendees representing 44 public authorities. It has commenced work establishing a formal network of AIE officers, initially in local authorities with a view to expanding the network to include AIE officers in other public authorities.](#)

[An AIE Advisory Group has been established to consider updates to a number of AIE resources, including the guidelines.](#)

Public Participation and Access to Justice in Environmental Matters

The European Communities (Public Participation) Regulations 2010 ([S.I. No. 352/2010](#)) require notices providing for public participation on certain consent procedures to identify where practical information on review mechanisms can be found.

The [Citizens Information Board](#), which has a statutory obligation to provide information to the public under [the Comhairle Act 2000](#) and the [Citizens Information Act 2007](#), provides information on [accessing information on the environment](#), [appealing planning decisions](#) and commenting on [Environmental Impact Statements \(EIS\)](#).

The primary agencies responsible for dealing with environmental activities under these pillars, the [Environmental Protection Agency \(EPA\)](#) and [An Bord Pleanála](#), can be contacted by any member of the public. The EPA has established an Environmental Queries Unit which the public can contact with any query of an environmental nature via email, a lo-call number or in person. An Bord Pleanála is also easily contactable by any member of the public.

¹ These are referred to generally throughout the report as the AIE Regulations.

~~(b) Ireland has long cultivated initiatives raising environmental awareness. Measures taken include Green Schools/Green Campus Initiative²; Tidy Towns Competition; National Spring Clean Initiative; Notice Nature Campaign; Power of One Campaign³ and ENFO (the environmental information service) which is available on the online platform www.askaboutireland.ie and provided on a nationwide basis through ENFOpoints in public libraries.~~

Ireland has long cultivated initiatives raising environmental awareness. Measures taken include the Green Schools/Green Campus Initiative; Tidy Towns Competition; Local Environmental Partnership Fund (LA21); National Spring Clean Initiative; Anti-Litter and Anti-Graffiti Awareness Grants Scheme; Power of One Campaign and ENFO (the environmental information service) which is available on the online platform <http://www.askaboutireland.ie/> and provided on a nationwide basis through ENFO points in public libraries.

The EPA also co-ordinates a number of Green Programmes, which are funded through the national Environment Fund. Programmes include: Greening Hospitality Award; Green Business; Green Home; Green Healthcare; Stop Food Waste; Cleaner Greener Production Programme; Green Retail and the SMILE Resource Exchange (Saving Money through Industry Links Exchange). See <http://www.epa.ie/waste/nwpp> and <http://www.epa.ie/irelandsenvironment/getinvolved/www.epa.ie/begreen/programmes/>.

The Waste Management Act 1996 (as amended by the Waste Management (Amendment) Act 2001 ([No. 36/2001](#))) sets out in law that money from the [Environment Fund](#) may be used to promote awareness of the need to protect the environment including promotional campaigns, education and/or training to raise such awareness.

~~DECLG-DCCAE~~ has a dedicated Awareness Unit, whose function is, inter alia, to enhance awareness of the importance of protecting our environmental resources through working with communities, environmental Non-Governmental Organisations (eNGOs) and private and public sector stakeholders. In addition the Department co-funds, in conjunction with local authorities, the [Local Agenda 21 Environmental Partnership Fund](#). This fund promotes sustainable development by assisting small scale, non-profit environmental projects at local level. In ~~2012-2015~~ a total of ~~€390,000~~~~€674,500~~ funding was granted. See www.environ.ie/en/Environment/LocalAgenda21/EnvironmentalPartnershipFund/News/MainBody,31103,en.htm<http://www.environ.ie/sites/default/files/migrated-files/en/Publications/Environment/Miscellaneous/FileDownload%2C42998%2Cen.pdf> for an example of the projects funded.

Environmental statistics are made available to the public by the Department of Public Expenditure and Reform (DPER) and by the Central Statistics Office (CSO).

(e)(b) Ireland ensures that there is appropriate recognition of and support to associations in a number of ways, including:

- (i) representation by environmental organisations on the National Economic and Social Council (NESC).
- (ii) funding eNGOs, as per section 12 of the [Waste Management \(Amendment\) Act 2001](#), which provides that money from the Environment Fund may be allocated to assist, support or promote activities undertaken by community or environmental groups.
- (iii) affording legal rights ~~to~~ certain eNGOs under section 37(4)(c) of the Planning and Development Acts ([consolidated version](#)), which means these eNGOs may participate in appeals to An Bord Pleanála even if they have not lodged initial objections with the planning authority. Similarly, eNGOs are not required to meet

² Administrated by An Taisce, funded by DECLG; over 90% of schools and 24 third level institutions are now registered

³ Administered by SEAI

the sufficient interest standing test in planning judicial reviews; being exempted from this requirement by [section 50A\(3\)\(b\)\(ii\) of the Planning and Development Acts](#). [Special standing rules are provided for certain eNGOs S.I. No. 352/2014 - European Union \(Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection\) Regulations 2014](#).

(iv) under section 27(5)(b) of the [Environmental Protection Agency Act 1992](#) (as amended), organisations concerned with environmental protection may have a representative appointed to the Advisory Committee of the EPA.

~~(d)~~(c) Ireland promotes the principles of the Aarhus Conventions and Article 3(7) specifically by supporting application of Aarhus principles on the international stage, e.g. at climate change negotiations and ~~at Rio+20 Sustainable Development Conference~~[the COP21 negotiations that were held in Paris from 30th November to 12th - December 2015](#).

(i)/(iv) Circulars on the Aarhus Convention have issued to all Government Departments and have been disseminated to all public bodies. In addition to including general information on the Aarhus Convention, these have notified officials engaged in other international environmental forums of their duty to promote the principles of the Aarhus Convention in the procedures, programmes, projects, decisions and other substantive outputs of such international forums.

(ii) Information held or created by Irish public officials as part of their involvement in international environmental forums is subject to Access to Information (and Freedom of Information) legislation. Details of Ministerial and official level involvement in international forums are provided on the websites of the relevant bodies.

(iii) Through the Environment Fund, ~~DECLG-DCCAE~~ provides significant funding to the Irish Environmental Network (IEN), an umbrella group for 34 national environmental NGOs. This funding facilitates core funding for the IEN's members, [to support](#) capacity building, training, research projects, participation in meetings with Government bodies, international and intergovernmental meetings and participation in social partnership. ~~The table below illustrates some of the specific budget lines applicable to promoting and enabling public participation at the national level with respect to international forums~~[Funding provided to the IEN is set out in the table below.](#)

IEN funding allocations	2012 2014	2013 2015
	€415,000	€579,000
Rio +20 preparation	10,000	0
Research & preparation of policy submissions	10,000	10,000
Participation in meetings of Government bodies	10,000	10,000
Participation in Intergovernmental Conventions	10,000	10,000
Participation in international meetings	10,000	10,000
Participation in planning	5,000	5,000

[Irish NGOs and academics \(Oxfam, Trocaire, Friends of the Earth, An Taisce, Dublin City University, University College Cork, National University of Ireland-Maynooth\) formed part of the “Overflow” of the Irish Delegation to COP21.](#)

[In total around 25 individuals from these organisations were facilitated in being given access to the COP21 negotiation space as part of the Irish delegation. These members were very active at the COP21 venue both in the lead up to and during the negotiations.](#)

The delegation also included officials from a range of Government Departments and Agencies and was led by An Taoiseach, Mr Enda Kenny, T.D. At different times the then, Minister for the Environment, Community and Local Government, Mr Alan Kelly, T.D. and the then, Minister for Communications Energy and Natural Resources, Mr Alex White, T.D., also participated in COP21.

While in Paris, the Irish Delegation met with the NGOs and academics and asked that they continue to constructively mobilise public awareness, and support for an Agreement both inside COP21 and in the wider public arena. The NGOs helped shape opinion on the long term goal, the inclusion of references to the 1.5 °C target, food security and human rights in the Agreement.

~~NGO members have been included in Irish delegations for the Rio+20 Conference and UNEP Governing Council meetings. NGO attendees at these meetings are nominated by the IEN.~~

~~NGOs are consulted as part of general public consultations for events such as the Rio conference.~~

~~The Department of Agriculture, Food and the Marine (DAFM) has engaged with eNGOs when developing national positions for EU/International forums. Specific recent examples include engagement with the Environment Pillar during the CAP reform process, the environmental assessment of Food Harvest 2020, the EIA Directive and the inclusion of the Pillar as a member of the national monitoring committee for the Rural Development Plan.~~

The Department of Agriculture, Food and the Marine (DAFM) has engaged with eNGOs when developing national positions for EU/International forums. Specific recent examples include engagement with the Environment Pillar during the environmental assessment of Food Wise 2025, and the inclusion of the Pillar as a member of the national Monitoring Committee for the Rural Development Programme. DAFM maintains an open and cordial relationship with the Pillar through various fora and bilateral meetings. It will also be consulting eNGOs as part of the wider public consultation process for the development of its climate change adaptation plan.

(e) Ireland ensures that anyone exercising any of their rights, including their rights under the Aarhus Convention, are not penalised in the following ways:

- Article 40.3.1 of the Constitution places a positive obligation on the State to guarantee in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.
- ~~The Non Fatal Offences Against the Person Act 1997 sections 2, 5, 9 and 10 respectively prohibit assaults on another person, threats to kill or cause serious harm to another person and the coercion or harassment of another person.~~
- Article 38 of the Constitution of Ireland provides that '[n]o person shall be tried on any criminal charge save in due course of law';
- ~~Article 40.3.1 of the Constitution places a positive obligation on the State to guarantee in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.~~
- ~~The Protected Disclosures Bill Act 2013 was published on 3 July 2013. This will established~~ a detailed and comprehensive legislative framework protecting whistle-blowers in all sectors of the economy.
- Section 42 of the Irish Human Rights and Equality Commission Act 2014 puts a new positive duty on public bodies to have regard to human rights and equality in

the carrying out of their functions and gives an important role to the Irish Human Rights and Equality Commission to guide and support public bodies in implementing the new positive duty this.

- The Non-Fatal Offences Against the Person Act 1997 sections 2, 5, 9 and 10 respectively prohibit assaults on another person, threats to kill or cause serious harm to another person and the coercion or harassment of another person.

IV. Obstacles encountered in the implementation of article 3

Describe any *obstacles encountered* in the implementation of any of the paragraphs of article 3 listed above.

Answer:

~~During the public consultation, it was raised that there had not been a public awareness campaign on the Aarhus Convention at the time of ratification. Maximising use of the limited financial resources available, DECLG has endeavoured to increase awareness of the Aarhus Convention through issuing press releases, developing a specific page on its website and raising awareness of the Convention and the resultant rights of the public where possible, including through Ministerial speeches.~~

~~DECLG has also supported various eNGO activities to promote awareness of the Aarhus Convention including providing funding for the participation of eNGOs (coordinated by the IEN) at the National Ploughing Championships. This was an opportunity for the eNGOs to raise awareness of the Aarhus Convention, particularly among rural communities. DECLG funded the development and printing of 10,000 information leaflets on the Aarhus Convention for distribution at this event and other future events. DECLG has also enabled an eNGO led application for LIFE+ funding, by agreeing to co-finance the project if the application is successful. The proposed LIFE+ project aims to enhance public participation in environmental decision making by raising awareness of the Aarhus Convention. Training on the Aarhus Convention with a specific focus on the Compliance Committee, organised by the IEN, chaired and supported by DECLG was held on 26th November 2013. Attendees included representatives of a number of public authorities and members of the public.~~

~~The Heritage Council promoted awareness of the Aarhus Convention at a workshop on its "Community led Village Design Statements Toolkit", which provided training to over a 100 people including community leaders, local authorities, LEADER groups, consultants and public bodies.~~

Submissions received during the public consultation referred to the lack of a clear and transparent framework to implement the Convention in Ireland. Due to Ireland's legal system, specific implementation measures were required for each and every provision of the Convention. In total over 60 pieces of legislation have been used to implement the Convention in Ireland. It is noted that this could be seen as difficult to navigate by the public. An implementation table was completed on ratification of the Convention which lists the legislation used to implement the Convention. This is available at: <http://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/Environment/Miscellaneous/FileDownload%2C30637%2Cen.pdf>

V. Further information on the practical application of the general provisions of article 3

Provide further information on the practical application of the general provisions of article 3.

Answer: See relevant sections above.

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

Answer: See relevant sections above. ~~Please see the relevant sections above.~~

VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet

- the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

The provisions of Article 4 of the Convention fall within the competence of the European Union, Directive 2003/4/EC [public access to environmental information and repealing Council Directive 90/313/EEC](#).

Ireland has transposed the provisions of Article 4 of the Convention in accordance with the requirements of Directive 2003/4/EC through the European Communities ([Access to Information on the Environment](#)) Regulations 2007 to ~~2011-2014~~ (SI 133/2007 ~~and~~, SI 662/2011 and S.I. 615/2014)⁺. Further information on access to information on the environment in Ireland can be found on the [DECCAELG](#) website.

- (a) (i) Article 6(2) states that an applicant shall not be required to state an interest when making a request.
- (ii) Article 7(1) states that, subject to certain exceptions (see response to (c)(i) below), a public authority shall make the information requested available to the applicant.
- (iii) Article 7(3) states that a public authority shall give the information in the form/manner requested, unless the information is already publically available in an easily accessible form/manner or provision in another form/manner would be reasonable. In both these cases the applicant will receive the information requested.
- (b) Article 7(2) requires a public authority to make the information available as soon as possible and not later than one month from the date the request was received. This time frame can be extended once for up to one month if the request is complex or voluminous.
- (c) (i) The Regulations distinguish between mandatory grounds by which a public authority shall refuse access to information (Article 8, subject to Article 10) and discretionary grounds under which the authority may refuse such information (Article 9, subject to Article 10).

Mandatory exceptions are limited to the following situations:

- personal information: where the confidentiality of personal information is protected by law, such personal information must not be made available without the consent of the person to whom the information relates;
- material supplied by a third party without that party being, or capable of being, under a legal obligation to [supply the information agree to its release](#);
- information which could lead to the environment being damaged;
- confidentiality of the proceedings of public authorities; and
- discussions at meetings of the Government.

Discretionary exceptions are limited to the following situations:

- information that could adversely affect international relations, national defence or public security;
- the course of justice;
- commercial or industrial confidentiality;

⁺ Referred to hereafter as the AIE Regulations

- intellectual property rights; or
- material in the course of completion (however, the release of interim reports should be considered; once the material is completed it is free to be made available, subject to the exceptions in the Regulations-);
- internal communications of public authorities, if there are good and substantial reasons for withholding such information; and
- where a request is considered unreasonable due to the range of material sought or if the request is too general.

Public authorities are requested to invoke these grounds for refusal sparingly, and to assist the applicant (for example, to reformulate a request) as appropriate.

(ii) Under Article 10(3) public authorities must consider each application on an individual basis and weigh the public interest served by disclosure against the interest served by refusal. This "public interest" test applies to all applications for information irrespective of whether any provision of Article 8 or Article 9 may apply in relation to a particular application.

Furthermore Article 10(4) provides that the grounds for refusing a request for information shall be interpreted restrictively.

- (d) Under Article 7(5) and (6) where the information requested is not held by or for the public authority concerned, the authority is required to inform the applicant. If the public authority is aware that the information requested is held by another authority they may either- transfer the request to that authority and inform the applicant that they have done so, or, advise the applicant of the public authority to whom they believe the request should be directed.
- (e) Under Article 10(5) public authorities are required to provide access to material which is not subject to the grounds for exclusion (Articles 8 and 9) where it is possible to separate information which can be disclosed from that which cannot.
- (f) A refusal under Article 7(4) is subject to the timelines provided for in Article 7(1) and (2) (see answer to (b) above).
- (g) Under Article 15 charges applicable under the Regulations are limited to costs associated with making the ~~actual supplying of the information~~ available. Furthermore, any such charge may not exceed a reasonable amount.

VIII. Obstacles encountered in the implementation of article 4

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.*

Answer: ~~It was stated during the consultation process that individual cases that have been successfully appealed to the Commissioner for Environmental Information (CEI) may be considered illustrative of an obstacle to the implementation of article 4. However, these appeals also illustrate that access to justice is provided for when an applicant is not satisfied that their rights under article 4 have been provided, as required by article 9(1) of the Convention.~~

~~Specific issues raised in the context of the submissions are:~~

~~Lack of resources of the OCEI~~

~~Time taken for appeals to be heard (average length of time for an appeal to date has been 12.3 months)~~

The appeal fee

~~Lack of public awareness / awareness in public authorities~~

~~As with the rest of the public service in Ireland, the OCEI has been required to maximise efficiencies and productivity and to provide an effective organisation that delivers maximum value for money. The complexity of the appeals received by the OCEI cannot be disregarded or minimised in considering the length of time taken to process appeals. The work of the OCEI is commendable for its thoroughness and the time applied by staff to each query.~~

~~While the OCEI is funded through the general government allocation to the Office of the Ombudsman and it is a matter for that Office to allocate the funding to the various bodies under its remit as it deems appropriate, it is acknowledged that the significant economic challenges facing the State arising from the financial crisis have presented significant funding difficulties for all public service organisations, including the Office of the Ombudsman.~~

~~No studies have been undertaken on the awareness of the public or of public authorities of the AIE regime. The lack of statistics is recognised as a challenge and DECLG has commenced a data collection exercise through public authorities on AIE. It is hoped that this will establish a baseline from which future public awareness campaigns can be launched. DECLG is also undertaking a project on the promotion of the Aarhus Convention, with a specific focus on AIE. This training module, which will commence in 2014, seeks to raise awareness amongst staff in public authorities of the AIE regime.~~

~~A number of challenges in the AIE area were referenced in the consultation process. These include:~~

- ~~• insufficient resources for the OCEI~~
- ~~• time taken to process appeals~~
- ~~• the definition of environmental information~~
- ~~• that the AIE appeal fee is too high~~
- ~~• lack of public awareness of the AIE regime~~
- ~~• a number of areas were identified as requiring further guidance to public authorities.~~

~~These include:~~

- ~~- application of public interest test~~
- ~~- timeframe requested by applicant~~

~~In 2014, the Commissioner made a successful budget submission to the Department of Public Expenditure and Reform for increased resources to meet the operational needs of the OCEI. Following an open recruitment process, two additional investigators were appointed in June 2015 to work specifically on OCEI appeals. This represents a significant improvement in the resourcing of the office and has contributed to improved turnaround times for appeals. However there has been a significant increase in the number of appeals received and the increased number of appeals has complicated efforts to reduce the backlog. Furthermore, the Commissioner has noted that "AIE appeals are time-consuming due to factors such as the volume of records involved, the complexity of the subject matter, legal issues arising, delays in receipt of information from public authorities, uncertainty whether information sought is environmental information, potential of third party consultation and expectations of applicants".~~

~~The definition of environmental information in the AIE Regulations mirrors that of the AIE Directive. It is currently under appeal to the Irish Supreme Court (Minch -v- Commissioner for Environmental Information [2016] IEHC 91).~~

The European Communities (Access to Information on the Environment) (Amendment) Regulations 2014 reduced the fee for making an appeal to the OCEI from €150 to €50. A lower rate of €15 applies to holders of medical cards and their dependents or a third party who is appealing the decision of a public authority to release information.

Evidence shows that public awareness of the AIE regime has increased in recent years. The numbers of AIE requests received are set out in the following table:

<u>2013</u>	<u>2014</u>	<u>2015</u>
<u>374</u>	<u>608</u>	<u>658</u>

The number of new appeals received by the OCEI are as follows:

<u>2013</u>	<u>2014</u>	<u>2015</u>
<u>19</u>	<u>18</u>	<u>31</u>

An AIE Advisory Group has been established to consider updates to a number of AIE resources, including guidelines. Matters raised in the context of the public consultation will be considered for inclusion in the updated guidelines.

IX. Further information on the practical application of the provisions of article 4

Provide further information on the practical application of the provisions on access to information in article 4, e.g., are there any statistics available on the number of requests made, the number of refusals and the reasons for such refusals?

Answer:

The former Department of DECLG collected and published statistics on AIE requests received by that Department in its annual reports. In addition statistics for AIE requests received by all public authorities in 2013, 2014 & 2015 are published on the Department's website. - Each public authority has been advised that they should, in turn, publish their own AIE statistics on their websites. Annual national statistics will continue to be collected and published by the newly configured DCCAE.

The Office of the -Commissioner for Environmental Information publishes statistics and reports on appeals received by her-his office.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

Answer: See relevant sections above. Please see the relevant sections above.

XI. Legislative, regulatory and other measures implementing the provisions on the collection and dissemination of environmental information in article 5

List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (d) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

The provisions of Article 5 of the Convention fall within the competence of the European Union; [Directive 2003/4/EC on public access to environmental information](#).

Ireland has transposed the provisions of Article 5 of the Convention in accordance with the requirements of [Directive 2003/4/EC](#) through the AIE Regulations. Further information on access to environmental information may be found at www.environ.ie/en/Environment/AccessToInformationOnTheEnvironment/.

(a) (i) Ireland requires public authorities to possess and update environmental information through Article 5(1).

(ii) Ireland ensures that there is an adequate flow of information to public authorities by requiring the EPA, under the following sections of the Environmental Protection Agency Act 1992, to:

- take appropriate steps to ensure that a monitoring programme is implemented by local and public authorities and to assist in carrying out the monitoring programme under the act (section 65(3));
- oversee an administration scheme to assess analytical performance and ensure the validity and comparability of environmental data, establish, or arrange for the establishment of an analytical quality control programme (section 66);
- supervise monitoring carried out by local authorities for the purpose of any enactment relating to environmental protection (section 68);
- maintain a register of environmental decisions undertaken by them for inspection by the public (section 91) and;
- prepare, co-ordinate and assist (including financial assistance) programmes of environmental research, which is implemented by the [STRIVE](#) (Science, Technology, Research and Innovation for the Environment) programme (section 71).

(iii) In the event of an imminent threat to human health or the environment, public authorities are required, in line with Article 5(3) of the [AIE Regulations](#), to ensure that all appropriate information is disseminated immediately and without delay to enable the public likely to be affected to take measures to prevent or mitigate harm.

(b) Article 5 of the [AIE Regulations](#) establishes measures to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible.

An objective of the [AIE Regulations](#) is, as stated in Article 1 of [EU Directive 2003/4/EC](#), “to guarantee the right of access to environmental information held by or for public authorities”. This places a general responsibility on public authorities to

facilitate access to environmental information. Article 5 of the [AIE Regulations](#) establishes the basic requirements with which public authorities must comply, including:

- informing the public of their rights and providing information and guidance on exercising those rights;
- making all reasonable efforts to maintain environmental information in a form that is readily reproducible and accessible, including the texts of international treaties, conventions or agreements and any relevant legislation; policies, plans and programmes; progress reports on the implementation of such treaties, policies, programmes etc. and data or summaries of data that they have collected in monitoring of activities that affect the environment;
- ensuring that environmental information for which it is responsible for compiling is up-to-date, accurate and comparable and
- maintaining lists or registers of environmental information that the body holds or providing a clear information point or officer.

The following is a non-exhaustive list of public bodies that publish extensive information relating to the environment on their websites:

- [Department of Communications, Climate Action and Environment](#)
- [Department of Housing, Planning, ~~Environment~~, Community and Local Government](#)
- [Environmental Protection Agency](#) (see also [Environmental Protection Agency Geoportal Site](#))
- ~~[Department of Agriculture, Food and the Marine](#)~~
- ~~[Department of Communications, Energy and Natural Resources](#)~~
- ~~[Department of Arts, Heritage, Regional, Rural and the Gaeltacht Affairs](#)~~
- [Department of Transport, Tourism and Sport](#)
- ~~[An Bord Pleanála](#)~~
- ~~[Office of the Commissioner for Environmental Information](#)~~
- [Citizens Information](#)
- [Commission for Energy Regulation](#)
- [Health Service Executive](#)

A comprehensive [list](#) of government websites and links to each website is available at www.gov.ie/sites/

Additionally, ~~the DHPCLG DECLG maintains~~ ~~has recently launched~~ the [MyPlan](#) website. This is a web-based interactive map service which brings together environmental information from across government provided by ~~DHPECLG~~ on behalf of each of the 88 planning authorities. This website aims to create a one-stop-shop for information about local area plans, development plans and also to provide other information which is relevant to planning decision-making (census, heritage sites, patterns of housing development etc.). It is a free, easy to use public information system which enables any member of the public to access development plans or local area plans in any area of the country.

[An example of recently enacted legislation which will increase environmental information available to the public is Section 6 of the Urban Regeneration and Housing Act 2015 which requires that by January 2017 each planning authority must have in place a Register of Vacant Sites including the details of the ownership of such sites, valuation etc. The Register is to be publicly available including on planning authority's website.](#)

(c) Article 5 of the [AIE Regulations](#) provides that environmental information is progressively made available through electronic databases (online) which are easily

accessible to the public.

Article 5(1)(a) states that a public authority shall make all reasonable efforts to maintain environmental information which is available by information technology or by other electronic means. Article 5(5) further states that public authorities may satisfy their access to environmental information requirements by creating links to internet sites where the information can be found.

The [EPA](#) is one of the largest holders of environmental information. In its most recent strategy statement, it ~~stated~~[committed to](#):

~~“Providing timely and accessible environmental information to all our stakeholders is a key objective of our strategic plan. The EPA has a strong track record in making environmental information and data available to the public and other stakeholders and is committed to continuing to improve the quality and quantity of data and information provided. This will be facilitated through the development of a new EPA website which will have more user friendly and timely information available. ... We will continue to develop new means of communicating our information and key messages to a wider audience. This will be achieved through expanded use of social media ... dissemination of local and regional environmental information from our key national reports, sponsorship of television programmes, development of guidance and educational material.”~~

[“Accelerate the provision of timely and tailored information to meet the specific needs of stakeholder groups”](#); and [“Better provision of online, up-to-date and accessible information on the environment to stakeholders.”](#)

- (d) Section 70 of the [Environmental Protection Agency Act 1992](#) (as amended) requires the EPA to prepare and publish [State of the Environment reports](#) every 4 years.

Furthermore, the EPA requires all licensees to submit Annual Environmental Reports detailing the environmental performance of the activity concerned. As part of the EPA’s policy of openness and transparency and in accordance with the AIE Regulations, these reports are published and are available free of charge at www.epa.ie/monitoringassessment/assessment/soe/

- (e) Article 5(1)(b) of the [AIE Regulations](#) requires that, as a minimum, public authorities make all reasonable efforts to facilitate access to environmental information through electronic means. Article 5(2) of the Regulations requires that the information to be made available through electronic means includes texts, treaties, conventions, agreements or legislation and policies, plans, and programmes relevant to the environment.

The website of the [Irish Statute Book](#) contains all national legislation enacted since 1922. The public bodies listed in response to (b) above include relevant legislation, policy documents and international and European documents pertaining to the environment on their websites.

- (f) Ireland has fulfilled its obligations by encouraging operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products through the establishment of www.envirocentre.ie. This website is an environmental information portal from Enterprise Ireland, which is designed to enhance environmental awareness and improve performance in Irish industry and contains information on the EU Eco Management Audit Scheme (EMAS).

- (g) -Ireland has fulfilled its obligation under Article 5(7) through a number of measures including:

- Implementation of [Directive 2003/98/EC](#) of the European Parliament and of the

Council of 17 November 2003 on the re-use of public sector information through the transposition of the [European Communities \(Re-Use of Public Sector Information\) Regulations 2005 \(S.I. No. 279 of 2005\)](#). These Regulations set out a harmonised framework within which public sector data from across the EU can be accessed. They apply to non-commercial public sector bodies generally, with certain exceptions, notably educational, research and cultural organisations.

- The [Government White Paper Regulating Better \(2004\)](#) set out guidelines to ensure the rigorous assessment, improved accessibility and comprehension of legislation. One of the six key principles of this paper is transparency. This involves empowering citizens by giving access to information which enhances their decision-making abilities as consumers and as participants in the community, and aims to provide maximum clarity and openness in the operation of government and public administration. It also introduced the process of regulatory impact assessment (RIA) which contains the information which has been considered in the process of policy making. All RIAs prepared in line with the Government decision on RIA must be published on an easily accessible section of the website of the relevant Department. Publishing RIAs makes the policy development process more transparent and accessible to stakeholders and helps to better inform the parliamentary process.

In order to improve transparency Explanatory Guides, which explain the main purpose and principal provisions of the legislation should be published alongside Acts or secondary legislation with significant impacts, particularly those with major implications for the consumer/citizen or SMEs. These Explanatory Guides are required to be in a user-friendly, accessible form. By informing citizens such guides will help promote greater compliance and reduce the burden of enforcement on the Exchequer. This will also complement the drive for customer-centred delivery of public services.

Furthermore, recently published guidelines on consultation provide for the creation of a legislative footprint. “A legislative 'footprint' is intended to increase the transparency of the legislative process by providing more information to the public on the evolution and development of legislative proposals. Provision of such a footprint in relation to legislative proposals is a requirement under the Open Government Partnership National Action Plan. In specific terms it is proposed that at each of the main milestones during the preparation of legislation, (for example consultations on an initial policy paper, publication of the General Scheme, pre-legislative scrutiny and publication of the draft Bill), summary information would be published on such issues as meetings held with stakeholders/representative bodies, submissions received and identifying any substantive changes that may have been made in the policy approach. It is envisaged that publication of this summary information (perhaps in tabular form) would be alongside the policy paper or the scheme or draft Bill and would contain links to publications of submissions received where appropriate and/or any consultation reports developed during the process.

- The EPA website lists in detail the authorities that have responsibility for various environmental functions: www.epa.ie/terminalfour/whodoeswhat/

(h) Ireland has taken the following measures to ensure that sufficient product information is made available to the public to facilitate the public in making informed environmental decisions.

The [Sustainable Energy Authority of Ireland](#) (SEAI) is charged with implementing significant aspects of government policy on sustainable energy and climate change abatement. It provides a comprehensive information portal to consumers on a variety of schemes to promote energy efficiency in Ireland. See for example:

www.seai.ie/Power_of_One/.

Ireland has established product labelling mechanisms to assist consumers to make informed choices:

- *Eco-labelling*

Businesses are encouraged to partake in the voluntary European eco-labelling scheme established in 1992 to encourage businesses to market products and services that are kinder to the environment, see www.irdg.ie/eco-label-initiative.

Under the Enterprise Ireland Ecolabel Initiative, companies can apply for support towards validation, testing and application for an eco-label for a particular product.

- *Motor Vehicles*

Under EU and Irish law it is mandatory for the fuel economy and CO₂ emissions of new passenger cars to be clearly displayed, allowing consumers to make informed purchasing choices on both environmental and economic grounds. This is implemented by the [European Communities \(Consumer Information on Fuel Economy and CO₂ Emissions of New Passenger Cars\) Regulations 2001 \(S.I. No. 339 of 2001\)](#).

- *Electrical Appliances*

In line with EU law, Ireland has implemented a range of legislation providing for the labelling of electrical appliances. The full suite of legislation is outlined at: www.seai.ie/Power_of_One/Appliances_and_Labelling/Legislation. Retail outlets are regularly inspected for compliance with the energy labelling regulations.

(i) The [Irish Pollutant Release and Transfer Register \(PRTR\)](#) was established in October 2011 by the EPA. The Irish PRTR was placed on a statutory footing in December 2011 by the enactment of ~~the Pollutant Release and Transfer Register Regulations 2011~~[the Pollutant Release and Transfer Register Regulations 2011 \(S.I. No. 649 of 2011\)](#). The Regulations designate the EPA as competent authority for the purposes of the Irish PRTR.

- The obligation on operators to submit PRTR data to the EPA has been incorporated into the Integrated Pollution Prevention Control (IPPC)/Industrial Emissions Directive (IED)/Waste/Wastewater Discharge Authorisations (WWDA) licensing codes.
- Operators are required to furnish the required information to the Agency on an annual basis.
- The information is reported electronically in the national system and is publicly accessible, free of charge, on the national website.

XII. Obstacles encountered in the implementation of article 5

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.*

Answer: It was submitted during the public consultation process that limiting of the jurisdiction of the OCEI to cases relating to article 4 of the Convention is a challenge in the implementation of article 5. However, the Aarhus Convention does not require that a review procedure be in place for article 5 of the Aarhus Convention.

XIII. Further information on the practical application of the provisions of article 5

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g., are there any statistics available on the information published?

Answer:

~~DECLG has published~~ Guidelines have been published to help public authorities to meet their requirements relating to collection and dissemination of environmental information. In the forthcoming review and updating of these guidelines, the information regarding the collection and dissemination of environmental information will be reviewed.

Accessibility of environmental information:

An Bord ~~Pleanála's~~ Pleanála's website was designed to be user-friendly including best practice in accessibility for people with disabilities. It was nominated for an Irish eGovernment Award in the Best Accessible website category, judged under criteria such as enhanced ease of use for all, including content, use of clear and simple language, overall usability of the site, accessibility for people with disabilities, look and feel, functionality and information architecture and navigation.

The EPA has detailed their work to maximise access for all to the information on their website <http://epa.ie/footer/accessibility/>. This includes a list of areas for improvement, an accessible information policy and contact details for their accessibility officer.

IFI promotes access of its information to people with disabilities, <http://www.fisheriesireland.ie/About-Us/contact-us.html>.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

~~Answer: See relevant sections above. Please see the relevant sections above.~~

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities

not listed in annex I which may have a significant effect on the environment;

(b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;

(d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;

(e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

(f) With respect to **paragraph 6**, measures taken to ensure that:

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

(g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

(h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

(i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

(j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

The provisions of Articles 6 of the Convention fall within the competence of the European Union, [Directive 2003/35/EC](#), providing for public participation in respect of the drawing up of plans and programmes relating to the environment.

Ireland has fulfilled its obligation under Article 6 through its implementation of [Directive 2003/35/EC](#). The combination of (i) the mandatory national thresholds for each of the Annex I project classes, (ii) the requirement for case-by-case examination of the need for Environment Impact Assessment (EIA) in the case of sub-threshold development on sites of conservation sensitivity and (iii) the general requirement that sub-threshold projects likely to have significant effects on the environment must be subject to EIA represents transposition of this article in Ireland.

(a)

(i) Ireland has fulfilled its obligation under Article 6(1) of the Convention through a range of consent procedures:

- permissions and consents pursuant to the [Planning and Development Act 2000](#) (as amended);
- [section 83 of the Environmental Protection Agency Act 1992](#) (as amended) (integrated pollution control licenses);
- section 32 of [the Air Pollution Act 1987](#) (as amended) (provision of licenses);
- sections 4 and 16 of the [Local Government \(Water Pollution\) Act 1977](#) (as amended) (licensing of trade and sewage effluents; licensing of discharges to sewers);
- sections 63 and 81 of the [Water Services Act 2007](#) (as amended) (licensing of discharges to sewers; determination of an action as a licensing water services activity);
- [sections 34 and 40 of the Waste Management Act 1996](#) (as amended) (waste collection permits; grant of waste licenses);
- sections 23, 26 and 29 of the [Wildlife Act 1976](#) (as amended) (e.g. enforcement of protection of wild animals (other than wild birds); licenses to hunt otters or deer and to hunt or course hares; licenses to hunt with firearms);
- section 5 [Dumping at Sea Act 1996](#) (as amended) (permits in relation to dumping);
- sections 40, 48 and [49 Forestry Act 1946](#) (as amended) (felling licenses);
- ~~section 30 [Radiological Protection Act 1991](#) (as amended) (control of radioactive substances);~~
- sections 2 and 3 [Foreshore Act 1933](#) (as amended) (power for Minister to make leases / grant licenses for foreshore);
- sections 8, 22, 26 and 40 [Minerals Development Act 1940](#) (as amended) (prospecting licenses; licenses in respect of State acquired minerals; state mining leases; applications for ancillary rights licenses);
- sections 8, 9, 13, 19 and 26 [Petroleum and Other Minerals Development Act 1960](#) (as amended) (exploration licenses; petroleum prospecting licenses; petroleum leases; reserved area licenses; working facilities permits);
- [section 40 of the Gas Act 1976](#) (as amended) (restriction on construction and

operation of pipelines by persons other than Bord Gáis Éireann).

The First Schedule to European Communities (EIA) Regulations 1989 (as amended) ([S.I. No. 349/1989](#)) contains a list of developments automatically subject to an EIA. The activities are covered in S.I. No. 349/1989 and the subsequent amending EIA Regulations; [S.I. No. 84/1994](#); [S.I. No. 101/1996](#); [S.I. No. 351/1998](#)—~~and~~, [S.I. No. 93/1999](#) and [S.I. No. 538/2001](#).

Public participation is provided for with respect to Integrated Pollution Control / Industrial Emissions Directive licences under Part IV of the Environmental Protection Agency Act 1992 as amended by the [Protection of the Environment Act 2003](#) and the [EU \(Industrial Emissions\) Regulations 2013 \(S.I. No. 138 of 2013\)](#); the [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) Regulations 2013 \(S.I. No. 137 of 2013\)](#) and the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) Regulations 2013 \(S.I. No. 283 of 2013\)](#).

(ii) Public participation provisions for activities not listed in Annex I, include, *inter alia*:

- ~~Regulation~~[Section 103](#) of the Planning and Development Regulations 2001 (as amended) ([S.I. No. 600/2001](#)) authorises a planning authority to request an EIS for projects outside Annex 1. Schedule 7 of these Regulations lays down the criteria for determining whether a development is likely to have a significant effect on the environment for proposed activities which are not listed in annex 1. Section 13 and schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (as amended) ([S.I. No. 436/2004](#)) provide for the same with respect to development plans.
- The consolidated Environmental Impact Assessment Directive ([Directive 2011/92/EU](#)) sets out, in Annex III, guidance criteria which have been fully transposed into Irish legislation, in the Third Schedule to the European Communities (EIA) (Amendment) Regulations 1999 ([S.I. No. 93/1999](#)).
- ~~Regulation~~[Section 103 of the Planning and Development Regulations 2001](#) requires the planning authority to request an EIS in the case of sub-threshold applications, where it considers the development is likely to have a significant effect on the environment under the criteria listed in Schedule 7 of the Regulations.
- ~~Regulation~~[Section 13](#) and Schedule 2 of the [Planning and Development \(Strategic Environmental Assessment\) Regulations 2004](#) establishes criteria for determining whether a plan is likely to have a significant effect on the environment for proposed activities not listed in Annex 1.
- The [EIA Guidance for Consent Authorities regarding Sub Threshold Development in 2003](#) provides practical guidance for the competent/consent authorities in deciding whether or not a sub-threshold development is likely to have “significant” effects on the environment. The guidance is also of assistance to developers and EIA practitioners in forming an opinion on whether an EIA is appropriate to a specific sub-threshold development proposal.

b) In line with the [Aarhus Implementation Guide](#), Irish legislation pertaining to EIA and public participation procedures require notices to be published in a newspaper that is circulated in the relevant area and/or published on-line.

The [Planning and Development Act 2000 \(as amended\)](#) provides for the publication of notifications of proposed plans or proposed amendments to plans in a newspaper circulated in the area of the public concerned before any plans/decisions are finalised, of:

- local area plans (section 20);

- regional planning guidelines (section 24);
- strategic development zones (section 169) and
- exemptions from requirement to prepare an EIS (section 172).

Article 23(3) of the European Communities (EIA) Regulations 1989 ([S.I. No. 349/1989](#)), as amended also requires the publication of notices. These regulations amend various consent systems to require publication of notices and public participation.

[Sections 85 and 87 of the Environmental Protection Agency Act](#) (as amended) require applicants for a licence, or the Agency when reviewing a licence, to publish and/or give notice of the licence application. The Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)), require the applicants to publish a notice in a local newspaper (regulation 5) and erect a site notice (regulation 6) of their intention to apply for a licence and where relevant documentation necessary under regulation 10 (which includes the information listed here) can be obtained/viewed.

Article 17 of the [Planning and Development Regulations 2001 \(as amended\)](#) requires applicants to:

- publish a notice of intention to apply for planning permission in a newspaper (article 18) and
- erect a site notice (article 19) two weeks before the making of the planning application.

Article 13F of the Planning and Development Regulations 2001 (inserted by [Planning and Development Regulations 2004](#)) applies the above requirements with respect to a trans-boundary EIA.

- c) National transposing measures to ensure that timeframes for public participation procedures are reasonable and thus allow time for effective participation during environmental decision making, include, *inter alia*:

Planning/EIA – Planning and Development Regulations 2001 [S.I. No. 600/2001](#)

- Article 27 requires the local planning authority to publish a weekly list of planning applications.
- The public can make submissions / observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application (article 29).
- The planning authority cannot make a decision on the application until after the 5 week public participation period has expired (article 30).
- The applicant or anybody who participated in the public participation procedure has 4 weeks to appeal any decision of the planning authority to An Bord Pleanála (article 31(j)).

Strategic Environmental Assessment (SEA)

~~The Planning and Development (SEA) Regulations 2004 (S.I. No. 436 of 2004) provide set time frames for public participation in development plans (article 7), local area plans (article 8), regional planning guidelines (article 10) and strategic development zones (article 11) at the beginning of the planning process by requiring that proposals for plans and programmes be accompanied by an environmental report during the drafting of which the public are to be afforded an opportunity to make submissions or observations and before any final decisions are made.~~

Waste Management

Under section 23 of the [Waste Management Act 1996](#) (as amended) a local authority is required to publish, in a relevant newspaper, notice of the proposal to make, vary or replace a waste management plan, providing, inter alia, details of where the plan is available to view for a minimum of 8 weeks and that written representations can be made to the local authority on the plan in that time which will be taken into consideration by the local authority.

Environmental licences

Sections 87 and 89 of the [Environmental Protection Agency Act 1992](#) (as amended) require applicants for a licence, or the Agency when reviewing a licence, to publish and/or give notice of the licence application. The [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) Regulations 2013 \(S.I. No. 137 of 2013\)](#) and the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) Regulations 2013 \(S.I. No. 283 of 2013\)](#) require the applicants to publish a notice in a local newspaper (regulation 5) and erect a site notice (regulation 6) of their intention to apply.

Sections 87(2) and (3) of the [Environmental Protection Agency Act 1992 \(as amended\)](#) require the Agency to notify the public of its proposed determination of a licence application within 8 weeks from the date of receipt of the application. Regulation 20 of the [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) Regulations 2013](#) and the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) Regulations 2013 \(S.I. No. 283 of 2013\)](#) requires the notice to inform the public of the proposed determination and where and how an objection can be lodged.

Under regulation 37(3)(l) of the [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) Regulations 2013 \(S.I. No 137 of 2013\)](#) and the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) Regulations \(S.I. No. 283 of 2013\)](#), the notice of the final decision published by the Agency must state that leave for judicial review has to be instituted within 8 weeks of the date the final decision is made, in accordance with section 87(10) of the [Environmental Protection Agency Act 1992 \(as amended\)](#).

Part II of the [Waste Management \(Licensing\) Regulations 2004 \(S.I. No. 395/ 2004\)](#) and [Waste Management \(Licensing\)\(Amendment\) Regulations 2010 \(S.I. No. 350/2010\)](#) provide for the same with respect to waste licences issued by the Agency.

(d) As illustrated by the timelines outlined above, Irish environmental law provides for early public participation. In all instances there is a chance for the public to participate before any final decisions are made.

Planning/EIA

Articles 29 and 30 of the [Planning and Development Regulations 2001](#) state that the public must be given 5 weeks to comment on a planning application and that the planning authority shall not make a decision before the 5 weeks have expired.

Strategic Environmental Assessment and Waste Management and Environmental Licences

~~Details of the public participation time frames for the SEA, waste management and environmental licences are outlined above.~~

(e) The relevant legislative provisions in relation to Annex I activities do not require a person who wishes to participate in the consent process to demonstrate any particular personal impact or interest. Therefore, no specific definition of “the public” or “the public concerned” has been included in Ireland’s legislation.

~~Ireland encourages applicants for environmental consents to engage the public in public participation in the following ways:~~

~~As discussed in more detail above p~~Prospective applicants who wish to apply for a licence for Annex I activities are required by the Environmental Protection Agency (Industrial Emissions) Licensing) Regulations 2013 ([S.I. No. 137/2013](#)), the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) Regulations \(S.I. No. 283 of 2013\)](#) and the Planning and Development Regulations ([S.I. No. 600/2001](#)) to notify the public before they make an application. Methods of notification include, inter alia, the erection of site notices at prospective sites and publishing of notices in newspapers stating where the proposed activity may happen, the relevant competent authorities handling the application, whether an EIS will be necessary and where a copy of the application or further information may be obtained.

(f)

(i) - (iii) Ireland has taken the following measures to ensure that the public have access to all information relevant to the decision-making procedure (available at the time of the public participation) before a decision is taken and in particular the information listed in Article 6(6)(a) – (f) through the following legislation:

Planning/EIA

Article 105(2)(f) of the [Planning and Development Regulations 2001](#) requires that notices state that the EIS will be available for inspection during office hours at the offices of the authority, free of charge.

Article 35 of the [Planning and Development Regulations 2001](#) requires the local authority make available for purchase copies and extracts from the EIS.

Waste Management Licensing Regulations

Article 6(e) of the [Waste Management \(Licensing\) Regulations 2004](#) states that a notice shall state that a copy of (i) the application for a waste licence or for the review of a waste licence, (ii) the EIS (which, under article 94 and schedule 6 of the [Planning and Development Regulations 2001](#) is required to contain the information listed here) and (iii) such further information relating to the application as may be furnished to the Agency in the course of the Agency's consideration of the application, will, as soon as is practicable after receipt by the Agency, be available for inspection or purchase, at the headquarters of the Agency and, where the applicant is a local authority, at the principal office of that authority.

Environmental Protection Agency Licensing Regulations

Regulations 5 and 6 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)) requires an applicant to publish a notice in a newspaper circulating in the district and erect a site notice. This notice is to state that a copy of the licence application and any accompanying EIS can be obtained or inspected at the Agency's headquarters. These requirements are set out in legislation to ensure that the information becomes available at the time the application is submitted and before any decisions are made.

Article 94 and Schedule 6 of the [Planning and Development Regulations 2001](#), regulation 11 of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)) require an EIS to contain information corresponding with the requirements of Article 6.6(a)-(f) of the Convention, which is implemented in EU law by [Directives 2011/92/EU](#) (EIA) and [2008/1/EC](#) (IPPC) (recast by the [Industrial Emissions Directive \(2010/75/EU\)](#)).

(g) *Planning Decisions/EIA activities*

- Under article 27 of the [Planning and Development Regulations 2001](#) a planning

authority is required to publish a weekly list of planning applications received which informs the public of planning applications before any decisions are made.

- Article 29 of the [Planning and Development Regulations 2001](#) provides that the public can make submissions/observations, on payment of a prescribed fee, within 5 weeks from the date the planning authority received the application.
- Article 76 of the [Planning and Development Regulations 2001](#) makes provisions for the public to make submissions/observations at an oral hearing to consider a planning application.

Environmental licences

- Regulation 22(f) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations ([S.I. No. 283 of 2013](#)) provides that every notification by the EPA shall specify that an objection can be made against the Agency's proposed determination and how and where this can be made.
- Under article 15 of the [Waste Management \(Licensing\) Regulations 2004](#) a person may make written submissions to the EPA in relation to an application for a waste licence or such plans, documents, other information and particulars, including an EIS, which are required to be submitted by the applicant.
- Section 42(2) – (11) of the [Waste Management Act 1996](#) (as amended) allows any person to make an objection to a proposed decision to grant a waste licence and to request an oral hearing of the matter.

(h) The following legislation provides that due account of public participation is taken in decision-making:

EIA/Planning

Section 34(6)(a)(iii) of the [Planning and Development Act \(as amended\)](#) provides that “any submission or observation as regards the making of a decision to grant permission and which is received by the planning authority not later than 4 weeks after the first publication of the notice shall be duly considered by the authority”.

SEA

~~Planning and Development (SEA) Regulations 2004, (S.I. No. 436 of 2004) provide that any submission or observations received in accordance with the public participation notification is taken into consideration and that information is available to the public on how such submissions and observations have been taken into account during the preparation or amendment of a development plan; local area plan; regional planning guidelines or strategic development zones.~~

Environmental Licences

Implemented by regulation 37(3)(g)(ii) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)), the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)) and by Article 34(3)(b) of the [Waste Management \(Licensing\) Regulations 1994](#) (as amended).

(i) Ireland has taken measures to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures, through the following legislation:

Planning Decisions/EIA

- Section 7 of the [Planning and Development Act \(as amended\)](#) requires each local authority to maintain a planning register of their final decisions and accompanying documents which is to be available for viewing at their principal office.
- Article 31 of the [Planning and Development Regulations 2001](#) requires the planning authority to notify anybody involved in the public participation procedure of the decision taken.
- Article 32 of the [Planning and Development Regulations 2001](#) requires the planning authority to make available its planning decision at its offices and at local libraries, for public inspection, or by electronic means. It can also be published in a relevant newspaper and any other place the planning authority considers appropriate. For two months afterwards, a copy of the list shall be sent to anyone who requests it at a reasonable or no charge.

Environmental Licences

- Regulation 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)) requires the EPA to publish its final decision and the reasons for its decision.
- Section 91 of the [Environmental Protection Agency Act 1992](#) (as amended) requires the EPA to keep a register of licences at the Agency's headquarters. This register is also available from the Agency's website at www.epa.ie.
- Section 19 of the [Waste Management Act 1996 \(as amended\)](#) requires the Environmental Protection Agency and local authorities to maintain a register for the purpose of the Act. This register is available at the principal offices of each local authority.

(j) Where a consent or decision is reconsidered by the relevant competent authority Ireland has applied the provisions of Article 6(2) to (9) in the following manner:

Planning Decisions/EIA

- Articles 34 and 35 of the [Planning and Development Regulations 2001](#) apply the same public participation procedures as apply generally, to revised development plans.
- Section 7 of [Planning and Development Acts](#) and Article 31 and 32 of the [Planning and Development Regulations 2001](#) apply to all planning decisions, including revised plans.

Environmental Licences

- Regulation 37(2) and (3) of the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013 ([S.I. No. 137 of 2013](#)) and the Environmental Protection Agency (Integrated Pollution Control)(Licensing) Regulations ([S.I. No. 283 of 2013](#)) require the Environmental Protection Agency to publish its final decision and the reasons for its decision in respect of review of licences.

(k) Ireland is a Party to the Cartagena Protocol on Biosafety, which is implemented through a range of legislative measures, including:

- [the Genetically Modified Organisms \(Deliberate Release\) Regulations 2003, S.I. No. 500 of 2003;](#)
- [the Genetically Modified Organisms \(Contained Use\) Regulations 2001, S.I. No.](#)

[73 of 2001](#);

- [EU Regulation 1946/2003 on the transboundary movement of GMOs](#) and
- [the Genetically Modified Organisms \(Transboundary Movement\) Regulations 2004 \(S.I. No. 54 of 2004\)](#).

XVI. Obstacles encountered in the implementation of article 6

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.*

Answer: No obstacles encountered.

XVII. Further information on the practical application of the provisions of article 6

*Provide further information on the **practical application of the provisions on public participation in decisions on specific activities in article 6**, e.g., are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.*

Answer:

The response to Question XV (b) to (j) lists in detail the legislative provisions which underpin the Article 6 requirements with respect to IPPC and planning consent systems. Similar requirements are provided for in other EIA consent systems.

The requirements introduced into the above legislation include: notification requirements including transboundary notifications; notification of public participation; providing information on the final decision to the public; and provisions in relation to the alteration or replacement of an existing EIA project. These requirements have been introduced by the [European Communities \(Environmental Impact Assessment\) Regulations 1989](#), and in amending regulations.

As discussed above any proposed determinations of licence applications and final licences granted by the EPA for Annex I activities are required to be published by the Agency on its website to ensure that any member of the public can comment on the licence application.

The information to be contained in the advertisement includes:

- the name and address of the applicant or the licensee;
- a description of the proposed activity;
- the location of the premises to which the application or review relates, the date of the giving of the notification;
- the manner in which the Agency proposes to determine, and when they have determined the final determination, the application or review;
- where a copy of the proposed licence or revised licence or the proposed reasons for refusal, as the case may be, may be obtained;
- that an objection which shall include the grounds for the objection may be made to the Agency within the appropriate period and
- that a person making an objection may, within the appropriate period and in writing, request an oral hearing of the objection.

The information to be included in the licence application includes, inter alia:

- whether an EIS is required and, if it is, a copy of the EIS submitted or, if it is not

- required, evidence, by way of a letter from the relevant planning authority or An Bord Pleanála that it is not needed, as required under section 87(1B)(b) of the Environmental Protection Agency Act 1992 (as amended) ([S.I. No. 282/2012](#)),
- the plant, methods, processes, ancillary processes, abatement, recovery and treatment systems, and operating procedures for the activity,
 - the raw and ancillary materials, substances, preparations, fuels and energy which will be produced by or utilised in the activity,
 - particulars of the source, nature, composition, temperature, volume, level, rate, method of treatment and location of emissions, and the period or periods during which the emissions are made or are to be made,
 - monitoring and sampling points and an outline of proposals for monitoring emissions and the environmental consequences of any such emissions, details, and an assessment, of the impacts of any existing or proposed emissions on the environment as a whole, including on an environmental medium other than that or those into which the emissions are, or are to be, made,
 - the measures to be taken under abnormal operating conditions, including start-up, shutdown, leaks, malfunctions, breakdowns and momentary stoppages,
 - details of the proposed measures to prevent or eliminate, or where that is not practicable, to limit, reduce or abate emissions,
 - an outline description of the main alternatives to the proposed technology, techniques and measures which were studied by the applicant,
 - a description of the measures to be taken for minimising pollution over long distances or in the territory of other states, and
 - a non-technical summary of information provided.

The EPA has produced guidelines/flowcharts to assist the public in understanding the licensing process, including when and how to get involved in the public participation process. An example of these guidelines/flowcharts can be seen at:

- [Industrial emissions / integrated pollution and prevention control flowchart](#)
- [Waste licence flowchart](#)
- [Waste water discharge flowchart](#)
- [Review of Waste Certificate of Registration Process - Local Authority](#)
- [Private Sector - Do I need a Waste Licence, Permit or Certificate of Registration](#)
- [Certificate of Registration Application Process - Local Authority](#)

~~The establishment of a new Office of the Planning Regulator (OPR), which will be an independent corporate identity, was approved by Government in May 2013. Its functions will include:~~

- ~~• independent appraisal of regional and local level statutory plans prepared and adopted under the Planning and Development Act 2000, as amended, namely, development plans, local area plans, regional planning guidelines etc.~~
- ~~• research, training and education~~
- ~~• provision of advice to the Minister on the content of the plans, including, where appropriate, that all or part of a plan should be amended or rejected (through a Ministerial Direction);~~
- ~~• investigative powers to examine, inter alia, possible systemic failings in the planning system.~~

In January 2016 the General Scheme of the Planning and Development (No. 2) Bill 2014 was published. The establishment of the Office of the Planning Regulator, which will be an independent corporate identity, is one of the main provisions. Its primary functions will include:

- the assessment and evaluation of local area plans,

- [local development plans and regional spatial and economic strategies,](#)
- [the provision of education and research on planning related matters, as well as](#)
- [investigative powers to review the organisation, systems & procedures applied by planning authorities and An Bord Pleanála in the performance of their planning functions.](#)

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

[Answer: See relevant sections above.](#)~~Please see the relevant sections above.~~

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

The provisions of Article 7 of the Convention fall within the competence of the European Union, ~~Directive 2003/35/EC providing for public participation in respect of the drawing up of plans and programmes relating to the environment~~ [Directive 2003/35/EC providing for public participation in respect of the drawing up of plans and programmes relating to the environment](#). The provisions made by Ireland to ensure that the public have an opportunity to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7, have been enacted in accordance with European legislation in this area. Ireland has thus fulfilled its obligation under Article 7 through its implementation of [Directive 2003/35/EC](#).

Strategic Environmental Assessment (SEA) legislation provides for strategic environmental consideration at an early stage in the decision making process and is designed to complement project based EIA. Irish legislation implementing the SEA Directive ([2001/42/EC](#)) provides for public consultation in relation to plans and programmes across 11 specific sectors, in development and local area plans, as well as regional planning guidelines and strategic development zones. Provisions regarding public participation are laid down in set time frames (as required by Article 6(3)), at the beginning of the planning process (as required by Article 6(4)) and submissions or observations shall be taken into account in the final decision (as required by Article 6(8)).

These provisions were amended by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 ([S.I. No. 435 of 2004](#)):

- Article 9(1) requires an assessment to be carried out for plans and programmes in the following areas: agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use.
- Article 13 requires the competent authority to publish notice of the preparation/proposed amendment to the plan/programme in at least one newspaper with a sufficiently large circulation in the area the plan covers, stating where a copy is available for a minimum of 4 weeks and that the competent authorities are required to take submissions and opinions expressed during the consultation phase into account before a final decision is made.
- Article 15 requires the competent authorities to take into account submissions and opinions expressed in the consultation procedures under articles 13 and 14 (Article 14 provides for transboundary consultations).

Articles 7, 8, 10 and 11 of the Planning and Development (SEA) Regulations 2004 ([S.I. No. 436/2004](#)) provide for public participation procedures in relation to development plans (article 7), local area plans (article 8), regional planning guidelines (article 10) and strategic development zones (article 11). These provide for public participation at the beginning of

the planning process (it is required to publish a notification of the proposals in one or more newspapers relevant to the area covered by the plan; this notice is required to state that it is proposed to make, amend or revoke a plan, where a copy of the proposal and the plan (where appropriate) may be inspected (for a minimum of six weeks) and that submissions or observations received during this time will be taken into consideration and also for public participation during the drafting of the environmental report, with further public notification requirements, and that an opportunity be afforded to the public to make submissions or observations on the draft reports before final decisions are made. Submissions or observations must be taken into account in the final decision.

Furthermore, in practice, public consultations are held in relation to plans, programmes and policies relating to the environment. For example, see the public consultation pages on the [websites of DCCA, DHPECLG, EPA](#) and [Department of Agriculture, Food and Marine](#) websites. Local authorities carry out public consultations on plans (e.g. local development plans) and strategies that may have an effect on the environment, see for example the consultation page of [Cork County Council](#).

In addition, Public Participation Networks (PPNs) were introduced following the enactment of the Local Government Act, 2014, resulting from the report of the Working Group on Citizen Engagement with Local Government. This report made recommendations on more extensive and diverse input by citizens into decision making at local government level. It recommended that Public Participation Networks be established in each local authority area to enable the public to take an active formal role in relevant policy making and oversight committees of the local authority. PPNs are now established in all local authority areas, supported by funding from the DHPCLG and from local authorities.

PPNs are empowering local communities by enabling them to take an active formal role in relevant policy making across a range of areas of responsibility in each local authority area. This allows the diversity of voices and interests within a community to be facilitated and involved in decision making. All members of communities may access local government through these new arrangements. While PPNs have been established to accommodate public participation on policy making generally this may encompass environmental matters.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

[See previous answer regarding public participation with respect to policies.](#)

The [Cabinet Handbook](#) states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also a requirement to conduct a Regulatory Impact Analysis (RIA) before any policies (both regulatory and non-regulatory) are officially adopted.

Ireland has adopted a two stage approach to RIAs where an initial preliminary RIA identifies which regulations should be subject to a detailed RIA. Both the screening RIA and the full RIA require the effects of any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders. The full RIA provides for broader access by the public to the consultation procedure.

The introduction of the RIA process in June 2005 provided that a RIA must be conducted by all Policy Review Groups proposing primary legislation or a significant regulatory change.

[RIA Revised Guidelines – How to Conduct a Regulatory Impact Analysis](#) state that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

The RIA guidelines explicitly state that consultation with the public should commence as soon as possible and the RIA should develop in response to the consultation.

~~[Reaching Out – Guidelines on Consultation for Public Sector Bodies](#) sets out the different aspects that public bodies should consider when engaging in consultation. The different components of a consultation process are considered chronologically, highlighting three distinct stages of a consultation: (a) planning, (b) execution and (c) analysis and evaluation.~~

~~[In November 2016, DPER published Consultation Principles and Guidelines replacing the previous guidelines on consultation for public sector bodies \[see XXIV for further information\].](#)~~

XXI. Obstacles encountered in the implementation of article 7

*Describe any **obstacles encountered** in the implementation of article 7.*

~~*Answer:* [It was alleged during the consultation process that the findings of the ACCC in ACCC/C/2010/54 constituted evidence of an obstacle in the implementation of Article 7 in Ireland. As this case is before the Irish courts at time of writing, it is not appropriate to comment further.](#) [It was submitted during the public consultation process that it can be difficult to be aware of public consultations due to the practice of different organisations publishing information on consultations on individual websites. Ireland is working, through the Open Government Partnership process, to build capacity within public bodies to improve public consultations. The Consultation Portal that will be developed as part of this commitment will be used to promote best practice in how public consultations are organised, including how they are publicised and how key stakeholders are identified and notified. In addition, renewed guidelines on the public consultation process for public authorities by DPER are available here.](#)~~

XXII. Further information on the practical application of the provisions of article 7

*Provide further information on the **practical application of the provisions on public participation in decisions on specific activities in article 7.***

Answer: See response to question XIX.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

~~Answer: See relevant sections above. Please see the relevant sections above.~~

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

Ireland has developed the following national policy to ensure that efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8.

Regulatory Impact Analysis is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves a detailed analysis to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.

The [Cabinet Handbook](#) states that Government approval is required for significant new or revised policies or strategies and that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration. There is also an official requirement to conduct a RIA before any policies (both regulatory and non-regulatory) are officially adopted.

Regulatory Impact Analysis

As noted above, both stages in the Irish RIA process require any proposed measures to take into account any negative impacts on the environment and provide for consultation with relevant stakeholders.

Guidelines and further details on the RIA process are included in the following:

- [Regulating Better](#) - the Government White Paper which sets out 6 principles of better regulation: necessity, effectiveness, proportionality, transparency, accountability and consistency. Transparency involves empowering citizens by giving access to information which enhances their decision making abilities as consumers and as participants in the community and aims to provide maximum clarity and openness in the operation of government and public administration.
- The introduction of RIA in June 2005 provided that all Government Departments and Offices must conduct a RIA on all proposals for primary legislation involving changes to the regulatory framework; on significant statutory instruments and on proposals for EU Directives and significant EU regulations published by the European Commission.

The [RIA Revised Guidelines](#) – How to Conduct a Regulatory Impact Analysis state

that a RIA should be carried out as early as possible and, in so far as possible, before the actual decision to regulate is made.

Consultation with the public is specifically provided for at both stages in the RIA procedure. The guidelines state that consultation should commence as soon as possible and the RIA should develop in response to the consultation.

As noted in the response to question XI (g) the RIA guidelines provide that RIAs prepared in line with the Government decision on RIA be published and that the published RIA contains the information which has been considered in the process of policy making.

- ~~Buttressing the guidelines published on RIAs are comprehensive guidelines on consultation for public sector bodies Reaching Out – Guidelines on Consultation for Public Sector Bodies which set out the different aspects that public bodies should consider when engaging in consultation.~~

~~The guidelines provide detailed information on the different components of a consultation process and are considered chronologically. They highlight three distinct stages of a consultation: (1) planning a consultation, (2) the execution of the consultation process and (3) analysing and evaluating the results of the consultation. In addition they contain detailed examples of good practice consultations.~~

Ireland participates in the Open Government Partnership (OGP), an international initiative of over 70 countries that aims to make governments more open, transparent and responsive to the citizen. The Government recently submitted to the OGP, it's second National Action Plan, which covers the period to June 2018. The fourth Commitment in the National Action Plan, 'Enhance Citizen Engagement in Policy Making' will build capacity within public bodies to improve public consultations. The Consultation Portal that will be developed as part of this commitment will be used to promote best practice in how public consultations are organised, including how they are publicised and how key stakeholders are identified and notified.

In August 2016, the Department of Public Expenditure and Reform (DPER) launched a process to consult the public and civil society groups in preparing Ireland's second Open Government Partnership National Action Plan 2016-2018. The Open Government Partnership National Action Plan 2016-2018, with more details of the commitment to enhance citizen engagement, can be downloaded at <http://www.per.gov.ie/wp-content/uploads/Final-National-Action-Plan-2016-2018.pdf>.

As noted in response to question XX, the Department of Public Expenditure and Reform recently issued Consultation Principles and Guidelines replacing the previous guidelines on consultation for public sector bodies. This sets out some best practice guidelines in how a public consultation should be run. It also sets out the creation of a legislative "footprint" to increase the transparency of the legislative process by providing more information to the public on the evolution and development of legislative proposals. [See respond to XI(g) for more information].

Building upon existing transparency requirements, the current Programme for Government sets out an ambitious programme for reform of Government. This will result in a more open, transparent, responsible and responsive public governance. Key proposals include the amendment of the Freedom of Information legislation, the Ombudsman (Amendment) Act 2012 which extended the powers of the Ombudsman and brought a wide range of public bodies within the Ombudsman's remit and aims to improve the quality of, and to increase accountability in, administrative decision making.; Ireland is taking part in the Open Government Partnership (OGP) and Ireland's commitment to participating in the Open Government Partnership (OGP) initiative, the aims of which include, inter alia, the promotion of transparency and empowerment of citizens. Ireland's first National Action Plan was published in July 2014. The plan was drafted in consultation with citizens and civil society activists. Since February 2014, civil society members and government officials

~~held regular meetings to finalise the Action Plan, which contains 26 commitments towards more open government.~~

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer: No obstacles encountered.

XXVI. Further information on the practical application of the provisions of article 8

Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

Answer: The RIA process has been subject to a number of reviews, both nationally and internationally.

[Review of the Regulatory Environment in Ireland – Economist Intelligence Unit](#)

[Report of the High Level Group on Business Regulation](#)

[Progress Report to Government by the Better Regulation Group on Regulating Better](#)

[Review of the Operation of Regulatory Impact Analysis -](#)

[Revised RIA Guidelines were published in 2009.](#)

Details of the programme for Government reform are provided at <http://per.gov.ie/government-reform/>. [Material on the Open Government Partnership is available at http://www.ogpireland.ie/](http://www.ogpireland.ie/).

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

~~Answer: See relevant sections above. Please see the relevant sections above.~~

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

(a) With respect to **paragraph 1**, measures taken to ensure that:

(i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;

(ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;

(iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

(b) Measures taken to ensure that, within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;

(c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;

(d) With respect to **paragraph 4**, measures taken to ensure that:

(i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;

(ii) Such procedures otherwise meet the requirements of this paragraph;

(e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

(a) (i) to (iii) As with Articles 4 and 5 of the Convention, the provisions of Article 9(1) of the Convention fall within the competence of the European Union, specifically [Directive 2003/4/EC](#) on public access to environmental information.

The European Union has therefore fulfilled the obligations of Article 9(1) of the Convention through this legislation. Ireland has accordingly transposed the provisions of Article 9(1) of the Convention in accordance with the requirements of [Directive 2003/4/EC](#) through the AIE Regulations.

In particular, articles 11, 12 and 13 of the AIE Regulations establish the statutory obligations on public authorities with respect to access to justice relating to a request for access to environmental information under Article 9(1) of the Convention.

Ireland has provided a two tier system of review under the AIE Regulations.

Article 11 of the [AIE Regulations](#) establishes the right to an internal review, free of charge, and sets out the procedures under which this right may be exercised.

- Article 11(1) establishes a right to a free internal review by the public authority, in the first instance.
- Under article 11(3), a reviewer is required to make a decision within one month of the date of receipt of the request.
- Under article 11(2) a reviewer can affirm, vary or annul the decision.

Article 12 sets out the appeals mechanism, which is an appeal to the [Commissioner for](#)

[Environmental Information](#) (CEI), an independent office.

- Article 12(5) sets out that following receipt of an appeal, the CEI shall —
 - (a) review the decision of the public authority,
 - (b) affirm, vary or annul the decision concerned, specifying the reasons for the decision, and
 - (c) where appropriate, require the public authority to make available environmental information to the applicant.

Article 13 provides that a party to an appeal to the CEI or any other person affected by a decision of the CEI may appeal the decision to the High Court on a point of law.

Section 5 of the [Environment \(Miscellaneous Provisions\) Act 2011](#) provides for special cost rules under which each party to judicial proceedings bears their own costs in proceedings relating to a request for information under the AIE Regulations, with discretion for the court to award costs against a party in certain cases (e.g. frivolous, vexatious or in contempt of court etc.).

Article 15(3) provides for a fee of €~~150~~50 to appeal to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €~~50~~15 applies. The fee may also be waived in certain circumstances, at the discretion of the Commissioner.

In accordance with article 12(7), public authorities must comply with decisions of the CEI within 3 weeks of receipt of the decision. Under article 12(8), the CEI may apply to the High Court for an order directing a public authority to comply with a decision should it fail to do so.

[In addition, there is a right to a review in respect of access to environmental information matters before a court in the form of Judicial Review before the High Court. Please see the following paragraph where Judicial Review is explained in more detail.](#)

(b) The following legislation ensures that members of the public concerned, having a sufficient interest, have access to a review procedure before a court of law and/or other independent and impartial review bodies established by statute, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6.

Ireland's system of judicial review is the independent procedure by which the substantive and procedural legality of decisions of public bodies can be challenged.

- [Order 84 of the Rules of the Superior Courts](#) sets out the rules governing judicial review and requires, in rule 20(4), that applicants have a sufficient interest in the matter.
- [Section 50A3\(b\)\(i\) of the Planning and Development Act 2000](#), as amended by section 20 of the Environment (Miscellaneous Provisions) Act 2011, requires that in planning judicial review cases, applicants have a sufficient interest in the matter. Subsection 4 further states that a sufficient interest is not limited to an interest in land or other financial interest.
- [Section 37 of the Planning and Development Act 2000](#) provides for an appeal of planning authority decisions to An Bord Pleanála.
- Under [Section 50A\(3\) of the Planning and Development Act 2000](#), as amended, eNGOs whose aims and objectives relate to the promotion of the protection of the environment and who have pursued those aims and objectives for twelve months, are not required to demonstrate a sufficient interest in judicial review cases pursuant to planning matters. [Special standing rules are provided for certain eNGOs in certain litigation relating to the IPPC and EIA Directives— S.I. No. 352/2014 - European Union \(Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection\) Regulations 2014.](#)

In Irish law, there is no requirement to demonstrate an impairment of a right in order to seek leave for judicial review.

(c) Irish environmental law ensures that members of the public who have a sufficient interest can challenge alleged breaches of national environmental law by both private persons and public authorities before both administrative and judicial bodies.

- Judicial review is the principal method available to members of the public demonstrating a sufficient interest to challenge acts and omissions which contravene provisions of national law relating to the environment. The judicial review procedure is governed by [Order 84 of the Rules of the Superior Courts](#) as supplemented by specific procedural rules provided for in certain statutory codes, e.g. [section 50 of the Planning and Development Act 2000 \(as amended\)](#).

Judicial review is a two-stage process. An application for leave to bring judicial review proceedings must first be made. If leave is granted, the applicant may proceed to bring judicial review proceedings. The leave stage acts as a filtering process to identify, at an early stage, frivolous and unmeritorious claims.

- [Members of the public may also institute separate legal proceedings seeking to enforce provisions of national law, including e.g., pleading breaches of statutory duties and provisions, and seeking declarations and injunctions in order to ensure compliance with national law.](#)
- The cost rules introduced in the [Environment \(Miscellaneous Provisions\) Act 2011](#) are applied to the enforcement of environmental consents, permissions, leases, permits and licences as outlined in Section 4 of this Act. These relate solely to general environmental rights as these special cost rules are not applicable to proceedings seeking to redress personal harm (which can be pursued under traditional legal routes).
- [Section 37 of the Planning and Development Act 2000](#) (as amended) allows members of the public who believe their public participation rights have been violated by a planning authority to appeal the decision to an administrative board – An Bord Pleanála – in the first instance.
- [Section 50A of the Planning and Development Act 2000](#) (as amended) provides that a member of the public with sufficient interest may seek leave to apply for judicial review to challenge a decision or act relating to a decision which is subject to an EIA. Special ~~standing~~ [standing rules](#) are provided for certain eNGOs (see above).
- The availability of complaints procedures in respect of local authorities, planning authorities, the EPA and other regulatory bodies also enable the public to challenge breaches of environmental law.
- Where a member of the public believes that a request for information on the environment is not dealt with according to the AIE Regulations, they can seek an internal review under article 11 of the AIE Regulations. This decision can be appealed to the CEI under article 12. Article 13 allows a party to an appeal under article 12 to challenge that decision before the High Court.

(d)(i) and (ii) Ireland ensures that the procedures of administrative and judicial review referred to above provide adequate and effective remedies.

Decisions of the procedures listed in Article 9(1), (2), (3) are binding and can be appealed to superior courts. The requirement for a review procedure, where an applicant can challenge the substantive or procedural legality of a decision, act or omission, is met by way of judicial review.

Section 8 of the [Environment \(Miscellaneous Provisions\) Act 2011](#) provides that judicial

notice shall be taken of the Aarhus Convention.

Remedies

The reliefs available in judicial review proceedings include both private and public law remedies. The traditional public law remedies of certiorari, prohibition, mandamus and quo warranto are available.

- An order of certiorari quashes a decision of a public body which has been made in excess of or abuse of its jurisdiction. The purpose of this remedy is to supervise the exercise of jurisdiction by bodies or tribunals which possess legal authority which may affect a person's legal rights.
- An order of prohibition lies to restrain a public body which has power to impose liability or affect the rights of individuals from acting in a manner which would be in excess of jurisdiction.
- An order of mandamus lies to compel the performance of a legal duty of a public nature, which has been demanded and refused.
- Private law remedies are also available, such as a declaration, injunction and damages. The public and private law reliefs are interchangeable and the court is free to grant whatever remedy it considers appropriate, regardless of whether it was sought.
- Further examples of statutory remedies available include:
 - Section 99H(2) of the [Environmental Protection Agency Act 1992](#) (as amended) allows the court to make interim/interlocutory relief with respect to acts in contravention of the Act.
 - Section 58(2) of the [Waste Management Act 1996](#) (as amended) gives the judiciary power to make interim/interlocutory relief with respect to acts in contravention of the Act.
 - Section 160(3)(a) of the [Planning and Development Acts](#) grants the judiciary power to make interim/interlocutory relief with respect to unauthorised developments.
 - Article 12(7) of the [AIE Regulations](#) requires public authorities to comply with decisions of the CEI within 3 weeks.

Timely:

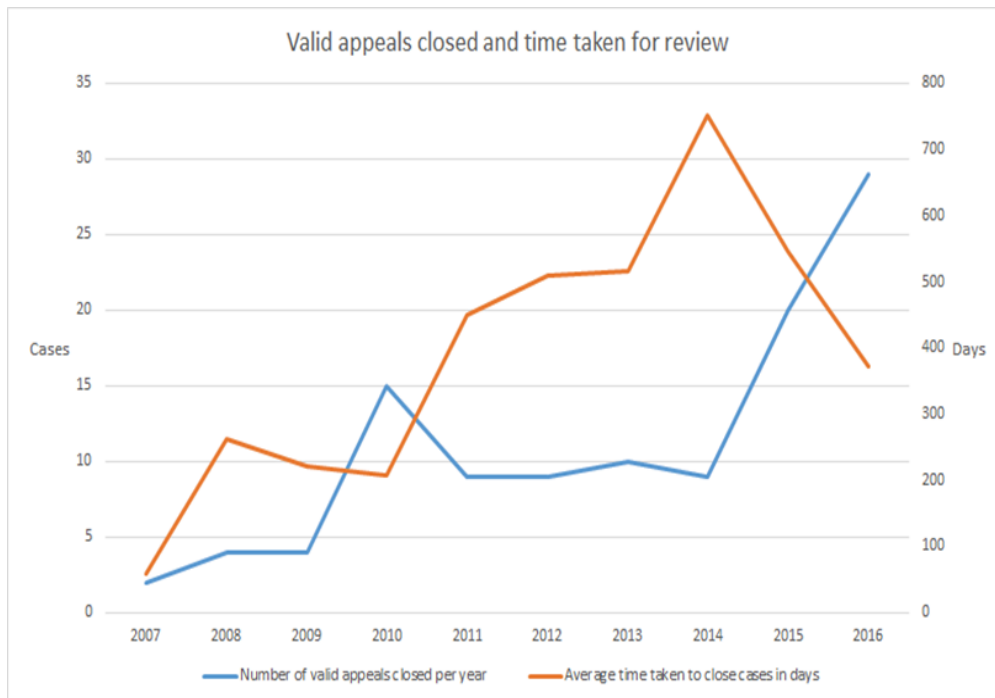
- Under section 126 of the [Planning and Development Act 2000](#) (as amended) an Bord Pleanála is required to ensure that appeals and referrals are disposed of as expeditiously as possible and within a maximum timeframe of 18 weeks.
- [S.I. No. 352/2014 - European Union \(Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection\) Regulations 2014](#) introduced a clause in relation to certain proceedings that: "The Court shall, in determining either an application for leave for judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice."
- Under Section 43(4) of the [Waste Management Acts](#) it is the duty of the EPA to ensure that decisions under this act are given as expeditiously as possible.
- Article 12(7) of the [AIE Regulations](#) requires public authorities to comply with decisions of the CEI within 3 weeks.
- Internal reviews of AIE applications must be carried out within 4 weeks. ~~There is no statutory timeline for appeals to be decided by the CEI. Analysis of recent appeals to the CEI shows that they have taken between 3 and 34 months. Longer timeframes are indicative of the complex and detailed investigations carried out by the OCEI which may require liaison with a number of different actors and~~

illustrate the thorough work carried out by the staff of the OCEI.

- Concerns have been raised at the length of time taken for appeals to be decided upon by the CEI. The CEI reports progress in this area in its recently published annual report:

“2015 saw positive developments in the work of the Office of the Commissioner for Environmental Information (OCEI), with the allocation of additional resources and improved turnaround times for appeals.”

The following graph illustrates the trend in the time taken for appeals to be closed, clearly indicating a downward trend since 2014:



- The rules on judicial review (as amended by S.I. No. 691/2011) require that a judicial review be dealt with in an expeditious manner. This includes time limits for applications; time limits for return of written documentation and following the return date, the matter is then assigned a hearing date.

Not prohibitively expensive:

- Article 15(3) of the AIE Regulations provides that a fee of €150-50 applies to appeals to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €50-15 applies. The CEI also has discretion to waive the appeal fee (Article 15(6)).
- Special costs rules were introduced in section 3 of the Environment (Miscellaneous Provisions) Act 2011 for environmental civil proceedings. Section 6 of this Act applies these cost rules for judicial review for proceedings relating to environmental licences (section 4) and AIE Regulations (section 5) and for interim or interlocutory relief in said proceedings. Section 7 of the Environment (Miscellaneous Provisions) Act 2011 provides that a party to such environmental proceedings can apply to the Court at any time before or during the proceedings for a determination that the cost rules apply to those proceedings.
- Section 50B of the Planning and Development Act 2000 (as amended) provides each party shall bear its own costs or the court may award costs in favour of the

applicant to be borne by the respondent and/or the notice party where their actions contributed to the applicant obtaining relief.

- The cost rules introduced in the [Environment \(Miscellaneous Provisions\) Act 2011](#) and [Planning and Development \(Amendment\) Act 2010](#) mean that an applicant will very rarely be obliged to pay the costs of a respondent, even if they are unsuccessful (except in cases where the litigation is, for example, vexatious) and that they may still be awarded costs if their case is a matter of exceptional public importance (section 3(4)).

Publicly accessible decisions:

- The High Court and the Supreme Court deliver a considered, written judgement in many cases. Where a considered, written judgement is given it is published on the [Courts Service website](#). In cases in which the court does not deliver a considered, written judgement the decision of the court is recorded in a court order which is available only to the parties to the case. [Decisions of the CEI are published on the official website](#).
- Decisions of An Bord Pleanála are published on [www.pleanala.ie/http://www.pleanala.ie/](http://www.pleanala.ie/).
- Decisions on licenses and permits issued by the EPA are available www.epa.ie/licensing.

(e) Information is provided to the public on access to administrative and judicial review under a number of statutory obligations (see response to question XXX below for practical examples).

- The [Comhairle Act 2000](#) and the [Citizens Information Act 2007](#).
- Implemented in relation to consent systems subject to EIA by the European Communities (Public Participation) Regulations 2010 ([S.I. 352/2010](#)).
- Implemented in respect of Waste Licensing by the Waste Licensing (Amendment) Regulations 2010 ([S.I. 350/2010](#)).
- Implemented in respect of IPPC licensing by the Environmental Protection Agency (Licensing) (Amendment) Regulations 2010 ([S.I. 351/2010](#)).
- Implemented in relation to the Commissioner for Environmental Information: www.ocei.gov.ie/en/AppealtotheCommissioner/HowtoAppealtotheCommissioner/
<https://www.ocei.ie/en/make-an-appeal/how-to-make-an-appeal/>
<http://www.ocei.gov.ie/en/make-an-appeal/how-to-make-an-appeal/>.

XXIX. Obstacles encountered in the implementation of article 9

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.*

Answer:

~~Prior to ratification of the Convention, obstacles were encountered in the transposition of the costs elements of the access to justice provisions in Directive 2003/35/EC. These issues were dealt with through amendments to the Planning and Development Act 2000 (as amended) and the Environmental (Miscellaneous Provisions) Act 2011.~~

~~It is not possible to provide details of case law in all scenarios due to the relative recent~~

~~passing of the legislation in question some elements have not been tested in case law to date.~~

~~The body of case law examining the above laws has continued to grow since the submission of the previous NIR in 2013. This has increased the understanding of the application of the cost rules.~~

~~The issue of standing for eNGOs was raised in the public consultation. Ireland introduced legislation to provide explicit recognition for environmental NGOs in certain litigation relating to the IPPC and EIA Directives. The statutory instrument in question, S.I. No 352 of 2014, was signed into law on 23rd July 2014. This legislation was enacted to fulfil the requirements of the EIA and IPPC Directives and by use of powers under these Directives. It does not therefore cover other environmental litigation. However, DCCAE is not aware of any case in which standing for eNGOs has been denied. Ireland has broad standing rules. This is set out in response to questions XXVIII (b) and (c).~~

XXX. Further information on the practical application of the provisions of article 9

Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g., are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Answer:

Information on judicial review in planning and environmental matters is provided on the [Citizens Information](http://www.citizensinformation.ie/en/environment/environmental_law/judicial_review_in_planning_and_environmental_matters.html) website (see www.citizensinformation.ie/en/environment/environmental_law/judicial_review_in_planning_and_environmental_matters.html and www.citizensinformation.ie/en/government_in_ireland/national_government/standards_and_accountability/judicial_review_public_decisions.html). This website provides comprehensive information on public services and entitlements, presented in an easy-to-understand way [to the public](#).

~~DECLG has a~~ dedicated [Aarhus Convention](#) web-section which includes information on access to justice under the Convention [is available on the DCCAE website](#).

[An Bord Pleanála](#) has a guide to making an appeal against a planning decision on its website. ~~This website also contains practical information on relevant review procedures~~ www.pleanala.ie/publications/2011/notice_301111.pdf.

The [Aquaculture Licensing Appeals Board](#) provides information on its website describing how customers, the public or environmental organisations aggrieved by a decision of the Minister for Agriculture, Food and the Marine on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation / amendment).

The EPA provides information on how to [make an environmental complaint](#).

It is possible to make environmental complaints to the EU Ombudsman. A number of Irish decision making bodies are subject to the Irish Ombudsman e.g. ALAB.

As Ireland has a common law system, case law is relevant to the implementation of the

access to justice provisions of the Convention. The ~~following is a list below outlines of some a number of~~ relevant rulings since the ratification of the Aarhus Convention by Ireland.

~~[Shillelagh Quarries Ltd. v. An Bord Pleanála \(No.2\) \[2012\] IEHC 402](#) where no order to costs was made and each party was obliged to bear its own costs.~~

~~[Indaver NV t/a Indaver Ireland v. An Bord Pleanála \[2013\] 1 JIC 2101](#) where it was contended that the applicant had allowed the costs of the respondent to escalate by not withdrawing proceedings at an earlier stage “The Court may award costs against a party due to manner in which it conducted the proceedings. This section encompasses the unnecessary prolonging of proceedings when the party no longer has a bona fide belief in its case”~~

~~[Sandymount & Merrion Residents Association v An Bord Pleanála & Ors Neutral Citation: \[2013\] IEHC 291](#) illustrates the broad access provided for eNGOs in environmental cases; this was upheld by the Supreme Court on 10th October~~

~~[NAMA v. CEI \[2013\] IEHC 86](#) and [\[2013\] IEHC 166](#) definition of public authority for the purposes of the AIE Regulations.~~

~~[Kimpton Vale Developments v An Bord Pleanála \[2013\] IEHC 442](#) application of cost rules~~

~~[Hunter v Nurendale Limited t/a Panda Waste \[2013\] IEHC 430](#) application of cost rules.~~

~~[Browne v Fingal County Council \[2013\] IEHC 630](#)~~

~~[Bullen v O’Sullivan & Ors \[2015\] IEHC 72](#)~~

~~[Callaghan v ABP & ors \[2015\] IEHC 618](#)~~

~~[Callaghan v An Bord Pleanála \[2015\] IEHC 235](#)~~

~~[Callaghan v An Bord Pleanála \[2015\] IEHC 357](#)~~

~~[CLM Properties v Greenstar & ors \[2014\] IEHC 288](#)~~

~~[Coffey and others v Environment Protection Agency \[2013\] IESC 31](#)~~

~~[Delaney v. AIB Bank PLC \[2016\] IECA 5](#)~~

~~[Hunter v. Nurendale Ltd t/a Panda Waste \[2013\] IEHC 430.](#)~~

~~[Indaver NV Ltd t/a Indaver Ireland v An Bord Pleanála & Ors \[2013\] IEHC 11](#)~~

~~[JC Savage Supermarket Ltd & anor -v- An Bord Pleanála & ors \[2011\] IEHC 488](#)~~

~~[Kimpton Vale Ltd v An Bord Pleanála \[2013\] IEHC 442](#)~~

~~[McCallig v An Bord Pleanála \[2014\] IEHC 353](#)~~

~~[McCoy v Shillelagh Quarries \[2015\] IECA 28.](#)~~

~~[Minch v the Commissioner for Environmental Information \[2016\] IEHC 91](#)~~

~~[NAMA v. CEI \[2013\] IEHC 86](#) and [\[2013\] IEHC 166](#)~~

~~[Nowak v Data Protection Commissioner \[2016\] IESC 18](#)~~

[O'Byrne v O Conbhui \[2016\] IEHC 219](#)

[O'Driscoll & Dunne v McDonald & Ors \[2015\] IEHC 100](#)

[Pringle v Government of Ireland \[2014\] IEHC 174](#)

[Rowan v Kerry County Council and anor \[2015\] IESC 99](#)

[Sandymount & Merrion Residents Association -v- An Bord Pleanála & Ors \[2013\] IESC 51](#)

[Shillelagh Quarries Ltd v. An Bord Pleanála \[2012\] IEHC 257](#)

[Sweetman -v- Shell E & P Ireland Ltd \[2016\] IESC 58](#)

[Swords -v- Minister for Communications, Energy and Natural Resources & ors \[2016\] IEHC 503](#)

[Tesco Ireland v. Cork County Council \[2013\] IEHC 580](#)

[Waterville Fisheries Ltd v Aquaculture Appeals Licensing Board & ors \[2014\] IEHC 522](#)

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

Please see the relevant sections above.

[Both ~~the~~ Annual Reports and decisions](#) of the ~~Office of the~~ Commissioner for Environmental Information are available [online](#).

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

The Aarhus Convention adopts a rights-based approach and refers to the goal of protecting the right of every person of present and future generations to live in an environment adequate to health and well-being. Ireland is fully committed to protecting these rights and has illustrated this through its ratification of the Convention and its continued commitment to participative environmental governance and decision-making.

The interplay between public health and the environment are monitored by the Irish Health Service Executive. Publications published by the Health Service Executive are available on [environmental health](#).

XXXIII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6 bis and Annex I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1 of article 6 bis** and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market of such genetically modified organisms, as well as the assessment report where available;
 - (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;
 - (v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:
 - a. The nature of possible decisions;
 - b. The public authority responsible for making the decision;
 - c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
 - d. An indication of the public authority from which relevant information can be obtained;
 - e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;
 - (vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;
 - (vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;
 - (viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

(b) With respect to **paragraph 2 of article 6 bis**, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer:

The requirements of the GMO Amendment, Article 6bis and Annex I bis, were regulated within the EU by [Directive 2001/18/EC and amending Directive 2015/412](#) and [Regulation \(EC\) 1829/2003](#) on the Deliberate Release of GMOs and no substantive amendment to the Directive arose as a result of the Aarhus GMO amendment. Therefore existing national legislation, the [Genetically Modified Organisms \(Deliberate Release\) Regulations 2003, \(S.I. 500 of 2003\)](#), transposes the requirements of the genetically modified organisms' provision of the Aarhus Convention.

Paragraph 1 of Annex I bis is transposed in Article 16 of the Regulations (which sets out the right of people to make written representations to the Environmental Protection Agency about notifications of intent to make a deliberate release and the timeframes involved);

- (i) Article 29(4)(n) states that advertisements of notifications of placing a GMO on the market must inform people of their right to make written representations to the European Commission and Article 9 sets out the format of a public register of notifications of intent to deliberately release a GMO or place one on the market.
- (ii) Article 14(1), (2) and (5)(a) and (b) of the Regulations outline the cases where exceptions may be made to the public participation procedures. These refer to situations where deliberate releases have already been granted where the site of the test is an issue. The exceptions created in Paragraph 2(b) are transposed in articles 27(1)(c); 29(5); 30(1) and 30(5) of the Regulations. These articles of the regulations allow for exceptions to granting the placing of a GMO on the market where consents have already been granted or where they are requested for research purposes or for culture collections.
- (iii) Article 9(4) and (5)(a) and (e). These Articles allow for the publication by the Environmental Protection Agency of a summary of the notifications of intent to place on the market or to deliberately release a GMO as well as the relevant environmental risk assessments associated with each.
- (iv) Articles 9(1), (2) and 10(4) of the Regulations set out certain information that must be made available to the public including the name and address of the person applying to deliberately release or place the GMO on the market; a description of the GMO and intended uses; the location of the release; the related environmental risk assessment; methods and plans for monitoring the GMO and emergency plans.
- (v) Articles 15(1) and 29(3) and (4) of the Regulations provide that public advertisements of intentions to deliberately release or place a GMO on the market must be published by anyone using GMO material. Article 9(1)(q) provides that the Environmental Protection Agency must make its decisions on notifications accessible to the public to allow them to participate in decision making.
- (vi) This is specifically provided for in Article 16 which outlines the format of and fees for making representations. Article 15(1)(g) of the Regulations provides that notifiers must highlight that written representations can be made to the Environmental Protection Agency within 28 days of the publication of an advertisement of notification relating to deliberate release. Article 29(4)(n) of the Regulations provides that advertisements for notifications of placing a GMO on the market must inform the public that written representations can be made to the European Commission within 30 days of the publication of notification summaries. This allows the public to participate in decision making on this issue.
- (vii) Articles 16(4) and 23 oblige the Environmental Protection Agency, as the Irish competent authority, to take public representations into account when deciding on

notifications of deliberate release and inform the submitters of their decision. As regards the notification to place a GMO on the market, the taking into consideration of public representations on this issue is a matter for the European Commission and the Environmental Protection Agency under Articles 32(3) (4) ('any other information') and 33 and 39 (taking of decisions on notification and renewal and informing notifier).

- (viii) Article 9(1)(o) and (q) and (5) outline the format of the public register of information concerning notifications to release or place GMOs on the market and the publication of decisions on those notifications reached by the Environmental Protection Agency or European Commission.

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I bis

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.*

Answer: No obstacles encountered.

XXXV. Further information on the practical application of the provisions of article 6 bis and annex I bis

*Provide further information on the **practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis**, e.g., are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?*

Answer:

In accordance with Article 15 of the Genetically Modified Organisms (Deliberate Release) Regulations 2003 ([S.I. No 500 of 2003](#)), an applicant proposing to release a GMO into the environment (for example a GM crop field trial or certain categories of medical trials) is required to place an advertisement in a newspaper 'circulating in the area of the proposed deliberate release' informing the public of the proposed release. This advertisement must invite members of the public to make representations to the EPA in relation to the proposed release.

www.epa.ie/pubs/advice/gmo/Public%20Representations.pdf

The EPA has a policy of publishing details of such licensing applications, including applications details, the advertisement, the consultation process responses, extracts from the deliberations concerned and the decision itself on the Agency website. Recent examples include:

<http://www.epa.ie/licensing/gmo/release/hepatitis/>

<http://www.epa.ie/licensing/gmo/release/fieldtrial/> www.epa.ie/licensing/gmo/fieldtrial/

<http://www.epa.ie/licensing/gmo/release/vettrial/> www.epa.ie/licensing/gmo/vettrial/

<http://www.epa.ie/licensing/gmo/release/haeb/> www.epa.ie/licensing/gmo/haeb/

Other reports and publications concerning GMOs are publically available free of charge on the Environmental Protection Agency's [website](#).

XXXVI. Website addresses relevant to the implementation of article 6 bis

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Answer: Please [see](#) relevant sections above.

XXXVII. Follow-up on issues of compliance

If, upon consideration of a report and any recommendations of the Compliance Committee, the Meeting of the Parties at its last session has decided upon measures concerning compliance by your country, please indicate (a) what were the measures; and (b) what specific actions your country has undertaken to implement the measures in order to achieve compliance with the Convention.

Please include cross-references to the respective sections, as appropriate.

Answer: Not applicable. [There have been no findings of non-compliance by Ireland by the ACCC to date. Since Ireland became subject to the ACCC in 2013, 7 communications by members of the public have been made to the ACCC regarding Ireland's compliance. These have all been deemed as preliminarily admissible by the ACCC and are at different stages of review.](#)