

Our Reference: FPL/113/
Your Reference:

29 March 2023

By Email

Mr Ger Deering
Commissioner for Environmental Information
info@ocei.ie

Our client: Right to Know CLG

RE: The appeal fee for appeals to the Commissioner for Environmental Information

Dear Commissioner

You will have received a copy of correspondence sent today to Minister Ryan concerning the costs of appeals to your office and how they are not in compliance with the Aarhus Convention. We are instructed to write to you by way of follow up to ask you to defer charging appeal fees while the Minister considers the issues raised and/or our client brings a communication to the Aarhus Convention Compliance Committee.

It is our client's experience and indeed this firm's experience that the €50 appeal fee to your office is prohibiting effective access to justice under Article 9(1) contrary to Article 9(4) of the Aarhus Convention.

As we indicated in our letter to the Minister, Right to Know has spent €1,000's on appeal fees representing a huge drain on its resources.

Over the last two years, this firm has lodged over 50 appeals to your office at a cost of more than €2,500. Around 23 of these appeals were lodged by the firm in its own name in order to access information that is needed by us to provide our services. Much of the information sought should be actively disseminated on the internet. The costs of these appeals are crippling and unaffordable for a small law firm such as ourselves.

While we appreciate that Regulation 15(4) of the European Union (Access to Information on the Environment) Regulations 2007 to 2018 requires a fee to be paid, it is silent on when it should be paid, and it does not expressly prevent an appeal from being handled or require an appeal to be rejected while the fee is outstanding.

We therefore see no legal barrier to your office progressing appeals with the fee deferred.

We respectfully ask you, as Commissioner, to instruct your office to defer charging the appeal fee and to continue to handle all appeals filed from today onwards while the Minister considers his

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response to Right to Know's letter and/or while the communication to the Aarhus Convention Compliance Committee proposed by our client is pending.

We look forward to hearing from you.

Yours faithfully

[REDACTED]

FP LOGUE LLP

Cc: [REDACTED]