



## Plan of Action for Decision VII/8i (Ireland)

Through paragraph 5 (a) of decision VII/8i concerning the compliance of Ireland, the Meeting of the Parties to the Aarhus Convention has requested the Party concerned to submit a plan of action, including a time schedule, to the Committee by 1 July 2022 regarding the implementation of the recommendations contained in that decision.

The text of decision VII/8i is available at: <https://unece.org/env/pp/cc/decision-vii8i-concerning-ireland>

In preparing its plan of action, the Party concerned was invited by the Compliance Committee to take into account the Committee's information note for Parties on preparing their plan of action. The Committee's information note, which contains step-by-step guidance for Parties on how to complete their plan of action, is available at: <https://unece.org/env/pp/cc/implementation-decisions-meeting-parties-compliance-individual-parties>

### A. Description of the process by which the plan of action has been prepared

- Template Action Plan published on DECC website on 23February 2022; E-mail sent to various stakeholders advising of publication.
- Public Consultation launched 22 March 2022, closed 5pm 10 May 2022; E-mail sent to various stakeholders advising of launch and deadline.
- Draft Action Plan revised taking all submissions into consideration after Public Consultation closed.
- Action Plan Submitted to ACCC, on 30 June 2022.

### B. General character of the measures that will be needed to implement the recommendations in the MOP decision

1. Legislative measure
2. Training to Public Authority officials

## C. Detailed plan of action

<b>Recommendation: Para. 4 (a) (i) of decision VII/8i</b>	In paragraph 4 (a) (i) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:  (a) With regard to section 42 (1) (a) (i) and (ii) of the Planning and Development Act 2000:  (i) The necessary legislative measures to ensure that permits for activities subject to article 6 of the Convention cannot be extended, except for a minimal duration, without ensuring opportunities for the public to participate in the decision to grant that extension in accordance with article 6 (2)–(9) of the Convention;
Proposed measures to fulfil recommendation	The following legislative measures have been undertaken to ensure that recommendation 4(a)(i) of decision VII/8i is fulfilled:  <ul style="list-style-type: none"><li>• Section 28(1) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended by section 57(1) of the Planning &amp; Development (Amendment) Act 2018, was commenced, alongside additional amendments to section 42 of the Planning &amp; Development Act 2000 and the Planning and Development Regulations 2001.</li></ul> The key changes introduced by section 28(1) of the 2016 Act, include: <ul style="list-style-type: none"><li>• The deletion of section 42(1)(a)(ii) of the Planning and Development Act 2000. This change removes the possibility of a developer obtaining an extension of the duration of a planning permission for a development which has not been commenced or, in respect of which, substantial works have not been carried out. This provision is to encourage the commencement of development such as housing development.</li><li>• The amendment of section 42(4) of the Planning and Development Act 2000 to provide that up to two extensions of the appropriate period of a planning permission can be made (provided the combined duration of the extension does not exceed five years). This will facilitate planning authorities to interrogate applications for extension of duration in order to establish the likely 'build out time' for completion of the developments and therefore consider granting extensions to planning permissions of less than five years.</li></ul>

- The European Union (Planning)(Habitats, Birds & Environmental Impact) Regulations 2021 has further amended section 42 of the Planning and Development Act 2000 by deleting section 42(1)(a)(i)(II) (as inserted by the commenced section 28(1) of the 2016 Act) and replaces this requirement with the insertion of a new subsection (8) into section 42 of the Planning and Development Act 2000. Section 42(8) provides that a planning authority shall not extend the appropriate period under section 42 in relation to a permission if an Environmental Impact Assessment (EIA) or Appropriate Assessment (AA) would be required in relation to the proposed extension.
- The European Union (Planning) (Habitats, Birds & Environmental Impact) (No.2) Regulations 2021 amended Chapter 3 and 3A of the Planning and Development Regulations 2001 to introduce EIA and AA screening procedures in respect of all extension of duration applications, including further extension applications, and to set out additional publication requirements of screening determinations made to facilitate transparency in this process.
- In particular, AA screening and EIA screening (for extension applications that do not equal/exceed the EIA thresholds) shall now be required for all applications for extension of duration, including applications for further extensions under section 42(1B). In the case of EIA screening this will require applicants for extension of duration to provide environmental information, as set out in Schedule 7A of the Planning and Development Regulations 2001, to the planning authority. These Regulations have been introduced to align the Planning and Development Regulations with the EIA and Habitats Directives.
- Where an EIA or AA would be required in relation to the proposed extension at the point of application for extension (i.e. under EIA/AA obligations at that time), the extension application must be refused. In order to continue the development, the developer would need to apply for planning permission, including necessary EIA and/or AA procedures, which is subject to public participation.

	Ireland submits that these measures collectively ensure that permits for activities subject to Article 6 of the Convention cannot be extended by way of Section 42 of the Planning and Development Act 2000.
Outline of the steps necessary to implement the proposed measures	<p>The legislative measures outlined above came into effect on the 09 September 2021.</p> <p>A Circular advising of the amendments was issued to the relevant bodies on the 10 September 2021 i.e.</p> <ul style="list-style-type: none"> <li>• Directors of Planning Services, City and County Councils</li> <li>• Chief Executives, City and County Councils</li> <li>• Senior Planners, City and County Councils</li> <li>• An Bord Pleanála</li> <li>• Directors of Regional Assemblies</li> <li>• Office of the Planning Regulator</li> </ul>
Actors involved	Department of Housing, Local Government and Heritage
Final date by when implementation of recommendation will be completed	The legislative amendments were commenced on 09 September 2021.
<b>Recommendation: Para. 4 (a) (ii) of decision VII/8i</b>	<p>In paragraph 4 (a) (ii) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:</p> <p style="padding-left: 40px;">(a) With regard to section 42 (1) (a) (i) and (ii) of the Planning and Development Act 2000:</p> <p style="padding-left: 80px;">(ii) The necessary steps to ensure the prompt enactment of the measures to fulfil the recommendation in subparagraph (i) above;</p>
Proposed measures to fulfil recommendation	As above

Outline of the steps necessary to implement the proposed measures	As above
Actors involved	Department of Housing, Local Government and Heritage
Final date by when implementation of recommendation will be completed	The legislative amendments were commenced on 09 September 2021.
<b>Recommendation: Para. 4 (b) (i) of decision VII/8i</b>	In paragraph 4 (b) (i) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:  (b) The necessary legislative or regulatory measures to ensure that:  (i) Appeals under the Access to Information on the Environment Regulations to the Office of the Commissioner for Environmental Information or the courts, whether commenced by the applicant or any other person, are required to be decided in a timely manner, for instance by setting a specified deadline;
Proposed measures to fulfil recommendation	Revise the current existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018 to include a specified deadline within which the Office of the Commissioner for Environmental Information must issue a decision.
Outline of the steps necessary to implement the proposed measures	<ul style="list-style-type: none"> <li>• Ireland held a public consultation on the review of the AIE Regulations which was launched on 8th March 2021.</li> <li>• The closing date for submissions was 16th April 2021. 33 submissions were received which are being reviewed by the Department of the Environment, Climate and Communications.</li> <li>• The Department of the Environment, Climate and Communications is currently preparing Regulations which will amend the existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018. The amending Regulations will address the findings and recommendations in ACCC/C/2016/141 referred to above.</li> </ul>

Actors involved	Department of the Environment, Climate & Communications.
Final date by when implementation of recommendation will be completed	It is anticipated that the revised Regulations will be finalised during Q3 2022.
<b>Recommendation: Para. 4 (b) (ii) of decision VII/8i</b>	In paragraph 4 (b) (ii) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:  (b) The necessary legislative or regulatory measures to ensure that:  (ii) There are mandatory directions in place to ensure that, should a court rule that a public authority or an information request falls within the scope of the Access to Information on the Environment Regulations, the underlying information request is thereafter resolved in an adequate and effective manner;
Proposed measures to fulfil recommendation	<ul style="list-style-type: none"> <li>• Revise the current existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018 to include a requirement that pursuant to Article 13 of the AIE Regulations public authorities shall comply with any order of the court requiring the requested information to be issued to the person making the request.</li> </ul>
Outline of the steps necessary to implement the proposed measures	<ul style="list-style-type: none"> <li>• Ireland held a public consultation on the review of the AIE Regulations which was launched on 8th March 2021.</li> <li>• The closing date for submissions was 16th April 2021. 33 submissions were received which are being reviewed by the Department of the Environment, Climate and Communications.</li> <li>• The Department of the Environment, Climate and Communications is currently preparing Regulations which will amend the existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018. The amending Regulations will address the findings and recommendations in ACCC/C/2016/141 referred to above.</li> </ul>
Actors involved	Department of the Environment, Climate & Communications.

<p>Final date by when implementation of recommendation will be completed</p>	<p>It is anticipated that the revised Regulations will be finalised during Q3 2022.</p>
<p><b>Recommendation: Para. 4 (c) (i) of decision VII/8i</b></p>	<p>In paragraph 4 (c) (i) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:</p> <p>(c) The necessary legislative, regulatory, administrative and practical measures to ensure that:</p> <p>(i) Access to cost-benefit studies used in environmental decision-making is not refused on the basis that it is not “environmental information” within the meaning of article 2 (3) (b) of the Convention;</p>
<p>Proposed measures to fulfil recommendation</p>	<p>The definition of ‘environmental information’ has been the subject of consideration by the Superior Courts in Ireland since the communicant and Ireland appeared before the Committee in respect of this issue at the fifty third meeting of the Committee.</p> <p>In particular, the definition has been considered by the Superior Courts in the following decisions:</p> <ul style="list-style-type: none"> <li>• Minch v the Commissioner for Environmental Information [2017] IECA 233</li> <li>• Redmond v the Commissioner for Environmental Information [2020] IECA 83</li> <li>• Electricity Supply Board v the Commissioner for Environmental Information [2020] IEHC 190</li> <li>• Right to Know CLG v the Commissioner for Environmental Information and Radio Teilifís Éireann [2021] IEHC 353</li> </ul> <p>These decisions have brought much welcome guidance on the scope and interpretation of the definition of ‘environmental information’. In particular, the question of how the release of documents which comprise a cost benefit analysis was addressed by the Court of Appeal in Minch v the Commissioner for Environmental Information [2017] IECA 233.</p>

	The Office of the Commissioner for Environmental Information has adapted its approach to the application of the definition of environmental information in the context of these decisions. As such, the rationale which formed the basis of the decision in CEI/13/0005 has been revised and adapted in light of clearer guidance from the Courts.
Outline of the steps necessary to implement the proposed measures	<p>The Party Concerned hosts training events for public authorities with regards to Access to Environmental Information. The most recent of these was held in April 2021 and was attended by over 300 officials from public authorities. That training event addressed the definition of 'environmental information' including the most recent case law of the Superior Courts in Ireland. The Party Concerned will be holding further training days on Access to Environmental Information in the future and will draw the attention of the participants to the findings of the Committee on the definition of 'environmental information'.</p> <p>Once the amendments to the AIE Regulations are finalised the Department intends to revise the current AIE Ministerial Guidelines to reflect the amended Regulations, recent case law, the definition of environmental information and, in particular, access to cost benefit studies.</p>
Actors involved	Department of the Environment, Climate & Communications.
Final date by when implementation of recommendation will be completed	Completed / It is anticipated that the revised AIE Ministerial Guidelines, which will include information on this issue, will be finalised during Q4 2022.
<b>Recommendation: Para. 4 (c) (ii) of decision VII/8i</b>	<p>In paragraph 4 (c) (ii) of decision VII/8i, the Meeting of the Parties recommends that the Party concerned take:</p> <p style="padding-left: 40px;">(c) The necessary legislative, regulatory, administrative and practical measures to ensure that:</p> <p style="padding-left: 80px;">(ii) Appeals under the Access to Information on the Environment Regulations to the Office of the Commissioner for Environmental Information are required to be decided in a timely manner, for instance by setting a specified deadline;</p>
Proposed measures to fulfil recommendation	Revise the current existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018 to include a specified deadline for which the Office of the Commissioner for Environmental Information must respond within.



<p>Outline of the steps necessary to implement the proposed measures</p>	<ul style="list-style-type: none"> <li>• Ireland held a public consultation on the review of the AIE Regulations which was launched on 8th March 2021.</li> <li>• The closing date for submissions was 16th April 2021. 33 submissions were received which are being reviewed by the Department of the Environment, Climate and Communications.</li> <li>• The Department of the Environment, Climate and Communications is currently preparing Regulations which will amend the existing European Communities (Access to Information on the Environment) Regulations 2007 – 2018. The purpose of the amending Regulations is, inter alia, intended to address the findings and recommendations in ACCC/C/2016/141 referred to above.</li> </ul>
<p>Actors involved</p>	<p>Department of the Environment, Climate &amp; Communications.</p>
<p>Final date by when implementation of recommendation will be completed</p>	<p>It is anticipated that the revised Regulations will be finalised during Q3 2022.</p>