

**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.**

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submitting the national report:

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Date: 25-05-2021

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:

A public consultation inviting submissions on the draft Aarhus Convention National Implementation Report was launched by the Department of Environment, Climate and Communications (DECC) on 26 November 2020. The submissions received will inform the drafting of Ireland's 3rd National Implementation Report.

To raise public awareness, a press release was issued at the outset of the consultation process and a webpage was maintained on the gov.ie website throughout the process. A range of stakeholders were contacted directly and invited to participate in the consultation process.

Government Consultation:

Letters were issued to all Government Departments and other public bodies on 26 November 2020 informing them of the launch of the consultation, inviting comments and also requesting further dissemination of the public consultation within each Department and bodies under the aegis of the Department to maximise 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.

Public/Stakeholder Consultation:

A number of environmental organisations including the Irish Environmental Network, the Environmental Law Implementation Group and the Irish Environmental Law Association, were directly notified of the consultation process, invited to participate and requested to disseminate details of the public consultation

to their members, constituent bodies and other interested parties.

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, international agreements only have the force of domestic law when they are given effect in national law, thus it was necessary to implement fully all of the obligations that are contained in the Aarhus Convention prior to ratification of the Convention. Furthermore, the EU also ratified the AC and Ireland is therefore subject, where appropriate, to an interpretative obligation to interpret national procedural law to the fullest extent possible in a manner that is consistent with the Aarhus Convention.

The Irish legal system consists of constitutional, statute and common law, the Irish Courts System exists in what is called a ‘common law’ jurisdiction. Irish courts, save for limited exceptions, are bound by their previous decisions and this is known as the principle of stare-decisis. 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.

Prior to ratification, Ireland had fully implemented the provisions of the Aarhus Convention and the related EU Directives - Directive 2003/4/EC on Public Access to Environmental Information and Directive 2003/35/EC on Public Participation in respect of the drawing up of certain plans and programmes relating to the

environment into national law.

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 environmental information, to participate in decision making and obtain 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 2018¹ (see [S.I. No. 133/2007](#), [S.I. No. 662/2011](#), [S.I. 615/2014](#) and [S.I. 309/2018](#) 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, [guidance notes](#) on the Regulations have been published. These are publically available and have been circulated to public authorities.

The Aarhus, Climate Adaptation and Citizen Engagement Division in DECC is available as an information point for staff in public authorities dealing with AIE requests.

The primary agencies responsible for dealing with environmental activities under these pillars, the Environmental Protection Agency (EPA) and local authorities, 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. See “How to make an Environmental Complaint”.

(b) Training Events and Environmental Awareness

In contributing to the overarching objective of raising awareness of the Aarhus Convention in Ireland, the DECC has provided training on the AIE Regulations and their application to public authority staff.

The first training event took place in September 2014 with subsequent events held in November 2015, October 2016, March 2018 and most recently two events were held in November & December 2019.

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

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

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 Assessment Reports](#) (EIAR).

Ireland has long cultivated and provided funding towards initiatives raising environmental awareness. Measures taken include the following ongoing initiatives: The Green Schools/Green Campus/ Green Parks Programmes; the schools National Climate Change Action & Awareness Programme; the Tidy Towns Competition; the Community Environment Action Fund (prior to 2019 known as the Local Environmental Partnership Fund (LA21); the National Spring Clean Initiative; Anti-Litter and Anti-Graffiti Awareness Grants Scheme; Blue Flag and Green Coast Awards; and ENFO (the environmental information service) which is available on the online platform <http://www.askaboutireland.ie/>

In addition a level of core funding is provided to Environmental non-Governmental Organisations (eNGOs) through the Irish Environmental Pillar (this body represents some 30 eNGOs in Ireland).

The National Waste Prevention Programme is a Government of Ireland initiative, led by the EPA, which supports national-level, strategic programmes to prevent waste and drive the circular economy in Ireland. The programme has targeted funding programmes to support the development of novel solutions for the circular economy. It delivers waste prevention programmes through partnerships. Current priority areas are food waste, construction & demolition, plastics, agriculture, resources & raw materials and local waste prevention. Oversight and direction for the National Waste Prevention Programme comes through the National Waste Prevention Committee. The EPA publishes annual reports on the National Waste Prevention Programme.

Through the National Waste Prevention Programme activities, the EPA works

with stakeholders across society in Ireland to reduce wasteful consumption of material, water and energy resources by changing behaviours in businesses, households and the public sector. Programmes include Green Enterprise, Smart Farming, Stop Food Waste and the Local Authority Prevention Network.

The programme leads activities which support innovation and demonstration through targeted funding programmes. These programmes support the development of novel solutions for the circular economy, share learnings and showcase best practice for enterprises and organisations. The National Waste Prevention Programme advocates for waste prevention and the circular economy in Ireland, including working with the public on priority topics such as food waste and plastics. See <http://www.epa.ie/waste/nwpp>

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.

DECC has an Awareness Unit, whose function is, inter alia, to enhance awareness of the importance of protecting our environmental resources through working with communities, eNGOs and private and public sector stakeholders. In addition the Department co-funds, in conjunction with local authorities, the [Community Environment Action Fund \(prior to 2019 known as the Local Agenda 21 Environmental Partnership Fund\)](#). This fund promotes sustainable development by assisting small scale, non-profit environmental projects at local level. In 2019, €453,309 funding was granted by DECC, with matching funding from local authorities, giving a total of € 908,919 of public funding for 880 local environmental projects.

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

<https://www.cso.ie/en/statistics/environmentaccounts/>

<https://www.cso.ie/en/statistics/environmentindicators/>

<https://www.cso.ie/en/statistics/environmentstatistics/>

<https://www.cso.ie/en/statistics/climateandenergy/>

Irish Language

The [Aarhus Convention text is available in Irish](#) - Gaeilge.

[An Coinbhinsiún Maidir le Rochtain ar Fhaisnéis, Rannpháirtíocht an Phobail i gCinnteoireacht agus Rochtain ar Cheartas i gCúrsaí Comhshaoil](#)

Information on planning matters can be found on the relevant planning authority's websites and [An Bord Pleanála's website](#).

- (c) 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 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) 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 the COP21 negotiations that were held in Paris from 30th November to 12th December and at subsequent UNFCCC COPS, through to COP25 in Madrid in December 2019.
- (i)/(iv) Circulars on the Aarhus Convention have issued to all Government Departments and have been disseminated to public bodies. In addition 2015 and at 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 on the Environment (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, DECC provides significant funding to the Irish Environmental Network (IEN), an umbrella group for 34 national eNGOs. 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. Funding provided to the IEN is set out in the table below.

IEN funding allocation	2014	2015	2016	2017
€	€415k	€579k	€825k	€860k
IEN funding allocation	2018	2019	2020	2021

€	€1,060k	€1,060k	€1,060k	€1,764k
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The twenty-fifth Conference of the Parties to the UNFCCC (COP 25) took place from December 2 to 13 2019 in Madrid, Spain.

Ireland negotiates at the UNFCCC through the EU i.e. the EU and its Member States speak with one voice in the negotiations. The Irish delegation, was led by the Minister and the Department of Communications, Climate Action and Environment, and comprised of representation across a number of Government Departments and Agencies and provided input and support to negotiations by the EU.

The Department also facilitated certain external requests to attend COP, mostly from civil society group representatives, by providing Party Overflow badges enabling them to attend negotiation meetings.

DECC supported the participation of two young people as part of Ireland's delegation (for the second week of COP – Monday December 9th to Thursday December 12th 2019). Through the National Youth Council of Ireland, two people were selected through their noted commitment and advocacy work on climate matters.

Facilitating non-State engagement at climate conferences reflects our recognition of the significant role played by observer organisations and civil society, a role which has grown significantly since the adoption of the Paris Agreement in 2015. Non-Party participation adds significant value to discussions on a wide range of issues, including participation, human rights, non-Party action and climate action outside the remit of the UNFCCC. Observer organisations contribute to the strength of this process, both by keeping the issue of climate change high on the agenda and by bringing forward their knowledge to inform decision-making and implementation. By providing Irish NGO representatives with Party accreditation, DECC facilitates wider access and participation at meetings of the UNFCCC.

DECC also provides funding to Eco-Unesco Ireland.

The Department of Agriculture, Food and the Marine (DAFM) continues

to engage with eNGOs with the Environmental Pillar represented on the Monitoring Committee for the Rural Development Programme and the Monitoring Committee for Ireland's European Maritime and Fisheries Fund (EMFF) Seafood Development Programme. DAFM also consults with eNGOs as part of its annual Sustainability Impact Assessment of the European Commission's proposal on fishing opportunities for the following year. As part of the development of the Common Agricultural Policy (CAP) Strategic Plan 2021-2027, the Department set up a CAP Consultative Committee which includes all the main stakeholders including the Environmental Pillar. This Committee has now met on ten occasions since the draft proposals were published by the Commission in June 2018. ENGOS will also be consulted as part of the wider public consultation process for the development of the CAP Strategic Plan.

There are many other examples where the DAFM engages with eNGOs at national level including: Environmental Pillar representation on the 2030 Agri-Food Strategy Stakeholder Committee; consultation on the development of a climate and air roadmap for the agriculture sector and as part of public consultations on the Aquaculture Licensing process, which is mandatory under the applicable legislation and other agri-food and forestry matters including on Strategic Environmental Assessments.

(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 Bunreacht Na hEireann [the Irish 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.
- Article 38 of the Irish Constitution provides that '[n]o person shall be tried on any criminal charge save in due course of law';
- The [Protected Disclosures Act 2014](#), subject to the provisions therein, 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](#) places a 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 this.

- The [Standards in Public Office Commission](#) can consider complaints against public officials under section 4 of the [Standards in Public Office Act 2001](#)
- The Office of the [Ombudsman](#) was set up under the Ombudsman Act 1980 and is empowered to examine complaints from members of the public, who feel that they have been unfairly treated by a public service provider. This includes most organisations that deliver public services, including government departments and local authorities.

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: Submissions received during the public consultation identified the following challenges regarding Article 3:

- Lack of proactive engagement to promote the Aarhus Convention in international fora;
- NIR contains insufficient information on the efficacy of the implementation of Article 3;
- Lack of specific capacity building initiatives / education on the Aarhus Convention.

The public consultation also referred to chronic underfunding of the eNGO sector being a failing in relation to Article 3(4). A significant funding increase has been announced for the Irish Environmental Network for 2021 to €1,764,000 – an increase of 66.4%.

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.

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:

Ireland has given effect to Article 4 of the Convention by way of transposing regulations required to comply with the requirements of Directive 2003/4/EC through the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 ([SI 133/2007](#), [SI 662/2011](#), [S.I. 615/2014](#) and [S.I. 309 of 2018](#)) (AIE Regulations). Further information on access to information on the environment in Ireland can be found on the [Gov.ie website](#).

The definitions in Article 2 have been transposed in the AIE Regulations, Article 3(1) of the AIE Regulations sets out the definitions of “environmental information”, “public authority” and “applicant”.

- (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, 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.

- (b) Article 7(2) requires a public authority to make a decision on a request and, where appropriate, make the information available as soon as possible and not later than one month from the date the request was received. This time frame may be extended once for up to one month if the request is complex or voluminous. A public authority is also required to have regard to any timescale specified by the applicant.

- (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;
- information which could lead to the environment being damaged;
- confidentiality of the proceedings of public authorities where such confidentiality is otherwise protected by law; and
- discussions at meetings of the Government.

Information may be refused where the disclosure of such information would adversely affect:

- international relations, national defence or public security;
- the course of justice;
- commercial or industrial confidentiality;
- intellectual property rights.

Information may also be refused where the request:

- concerns material in the course of completion; the public authority is required to inform the applicant of the name of the authority preparing the material and the estimated time needed for completion;
- concerns internal communications of public authorities, if there are good and substantial reasons for withholding such information; and
- is considered unreasonable due to the volume or range of material sought or if the request remains too general.

(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; Article 7 requires public authorities to assist applicants (for example, to reformulate a request) as appropriate.

- (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 information available. Any such charge must be reasonable. Article 15(2) requires a public authority to make available to the public a list of any fees charged, information on how they are calculated and the circumstances under which they may be waived.

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:

A number of submissions referred to the definition of ‘public authority’ and ‘environmental information’ being too broad leading to appeals to the OCEI / court appeals. The definitions are closely aligned to those in the AIE Directive and Article 3 of the Aarhus Convention. Case law on the scope of the definitions continues to evolve.

Submissions stated that public authority staff are not sufficiently trained / aware of how to deal appropriately with AIE requests and that timelines specified by applicants are not always taken into account. DECC has provided training to public authority staff on AIE regularly since 2014. No training event took place in 2020. The next event is planned for Q2 2021.

Submissions also referred to a low level of awareness of AIE rights amongst the public. However, the number of AIE requests received by public authorities continues to increase: in 2013 374 were received; an average of 636 were received in each of the years 2014 – 2018 and 912 were received in 2019. These figures demonstrate growth in the level of awareness of AIE.

The timeliness of decisions of the CEI / time taken for judicial reviews of decisions of the CEI were referenced as challenges. These were the subject of findings of the ACCC in ACCC/C/2016/141 and Ireland has committed to resolving these issues of non-compliance.

Lack of consolidated AIE legislation was identified as a challenge. An unofficial consolidation is published on the gov.ie website. A formal consolidation will be considered.

Limits on the powers of the Commissioner in relation to powers of enforcement and delegation were referenced as a challenge.

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:

Statistics for AIE requests received by all public authorities from 2013 to 2018 are published on the [DECC section on Gov.ie](#) website. Each public authority has been advised that they should, in turn, publish their own AIE statistics on their websites.

[The Office of the Commissioner for Environmental Information](#) publishes statistics and reports on appeals received by his office.

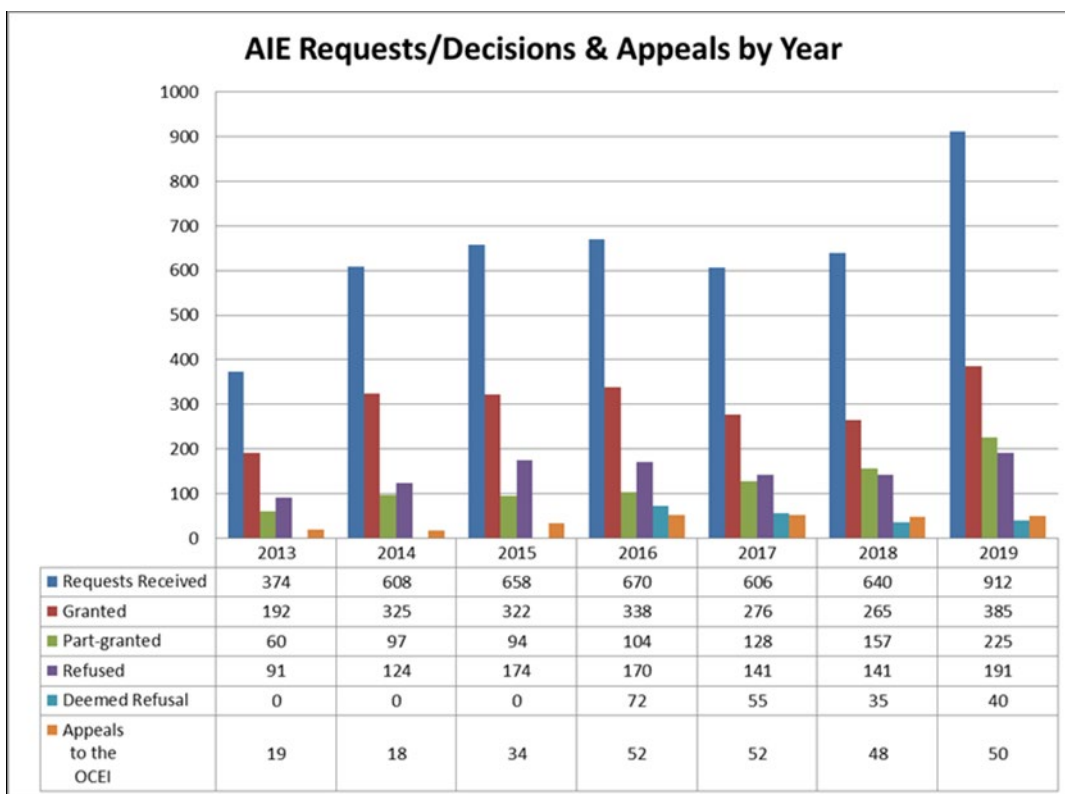
The statistics illustrate that public awareness of the AIE regime has increased in recent years.

The numbers of AIE requests received are set out in the following table:

2013	2014	2015	2016	2017	2018	2019
374	608	658	670	606	640	912

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

2013	2014	2015	2016	2017	2018	2019
19	18	31	52	52	48	64



The definition of environmental information in the AIE Regulations has been the subject of a number of appeals to the Irish courts. The Irish Court of Appeal has delivered two judgments concerning the definition of environmental information in:

- [Minch v Commissioner for Environmental Information & Anor \[2017\] IECA 223](#)
- [Jim Redmond & Mary Redmond -v- Commissioner for Environmental Information & Coillte Teoranta \[2020\] IECA 83.](#)

The High Court also considered the definition of environmental information in [Electricity Supply Board -v- Commissioner for Environmental Information \[2020\] IEHC 190.](#)

The definition of public authority in the AIE Regulations is the subject of a number of on-going High Court appeals in:

- Right to Know CLG -v- Commissioner for Environmental Information & Ors 2019/249 MCA
- Right to Know CLG -v- Commissioner for Environmental Information &

Ors 2019/250 MCA

- Right to Know CLG -v- Commissioner for Environmental Information 2020/48 MCA
- Right to Know CLG -v- Commissioner for Environmental Information 2019/87 MCA

The exception to the definition of public authority for bodies acting in a judicial capacity is the subject of a preliminary reference from the High Court to the Court of Justice of the European Union in *Friends of the Irish Environment -v- Commissioner for Environmental [Information]* 2017/298 MCA.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

Answer: See 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:

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

<https://www.gov.ie/en/organisation-information/1e52cb-access-to-information-on-the-environment-aie/>

- (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)); e.g. Water Framework Directive chemistry monitoring programme for water bodies across Ireland, radiation monitoring programmes (terrestrial and marine) – these are a requirement of Article 35 of the Euratom Treaty and the Ambient Air Monitoring Programme.
 - 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); the EPA operates an Intercalibration Programme which all labs who provide water chemistry data to the EPA must participate in.
 - 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). The EPA's *Licensing and Permitting Decisions* are available to view on the EPA website [here](#); and,
- through the [EPA Environmental Research Programme](#), to co-ordinate (with public authorities), assist (including financial assistance) and deliver programmes of environmental research, and publish the outputs (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 an non-exhaustive list of public bodies that publish extensive information relating to the environment on their websites: (Please note that a number of Departmental websites are in the process of being migrated over to the central Gov.ie website.)

- [Department of the Environment, Climate and Communications](#)
- Department of Housing, Local Government and Heritage
- <https://www.housing.gov.ie/planning/environmental-assessment/environmental-impact-assessment-eia/eia-portal>
- <https://www.catchments.ie/>
- [Environmental Protection Agency](#) (see also [Environmental Protection Agency Geoportal Site](#) and [Ireland's National Pollutant Release and Transfer Register](#))
- [Department of Agriculture, Food and the Marine](#)
- Department of Culture, Heritage and the Gaeltacht [Department of Transport, Tourism and Sport](#)
- [An Bord Pleanála](#)
- 31 local planning authorities
- [Citizens Information](#)
- [Commission for Energy Regulation](#)
- [Health Service Executive](#)
- Gov.ie environmental information - <https://www.gov.ie/en/category/environment/>

A comprehensive list of government websites and links to each website is available at <https://www.gov.ie/en/>

Additionally, DHLGH maintains the [MyPlan website](#). This is a web-based interactive map service which brings together environmental information from across government provided by DHLGH on behalf of each of the 31 planning

authorities (26 County Councils, 3 City Councils (Cork, Dublin and Galway), and 2 City and County Councils (Limerick and Waterford). 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. It includes environmental information on behalf of planning authorities.

[Section 6 of the Urban Regeneration and Housing Act 2015](#) required 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(1)(b) states that a public authority shall make all reasonable efforts to maintain environmental information which is held by or for it in a manner that is readily reproducible and accessible 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 committed to:

“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.”

http://www.epa.ie/pubs/reports/other/corporate/EPA_StrategicPlanWeb_2018.pdf

(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 <http://www.epa.ie/enforcement/how/aer/>

- (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](#) provides access to all domestic legislation enacted since 1922. [The Law Reform Commission](#) website contains consolidated legislation <http://revisedacts.lawreform.ie/revacts/alpha>. 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, or on the relevant Department's section of the <https://www.gov.ie/> website.

- (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 requirement for all operators licensed by the EPA to produce an Annual Environmental Report, which is published on the EPA website: <https://www.epa.ie/enforcement/how/aer/>. Enterprise Ireland provides support to businesses through its [Lean Business Offer](#) and [Green Business Offer](#) programmes which are designed to enhance environmental awareness and improve performance in Irish industry by adopting a lean business model minimizing use of resources and energy. <https://www.leanbusinessireland.ie/> also 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, [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: <http://www.epa.ie/about/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: - <https://www.seai.ie/community-energy/schools/one-good-idea/one-good-idea-topics/>

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.

Energy labelling requirements for suppliers:

https://www.seai.ie/publications/EPREL-Supplier-Guidance_Final-5.pdf

Energy labelling requirements for retailers:

<https://www.seai.ie/publications/A-Retailers-Guide-to-Energy-Labelling-In-Store.pdf>

Retail outlets are regularly inspected for compliance with the energy labelling regulations.

- (i) Ireland established its national Pollutant Release and Transfer Register (PRTR) in 2007 under the European Communities (European Pollutant Release and Transfer Register) Regulations 2007 ([S.I. 123 of 2007](#)). Ireland made the Pollutant Release and Transfer Register Regulations 2011 ([S.I. No. 649 of 2011](#)) in December 2011 in order to give domestic effect to Ireland's obligations under article 3, paragraph 1 of the PRTR Protocol. Regulation 4(1) of the 2011 regulations designate the Environmental Protection Agency as competent authority for the purposes of the Irish PRTR (Regulation 4) and assign functions relating to the design and structure of the register to the EPA (Regulation 6). Reporting obligations are placed on both operators (Regulation 7) and the EPA (Regulation 9). These Regulations provide for quality assurance of data and assessment (Regulation 10), access to information (Regulation 11, 12, 14), public participation (Regulation 13) and awareness raising (Regulation 16).

- 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: The following issues were raised as challenges in the implementation of article 5 during the public consultation.

AIE information can be difficult to find on public authority websites. In response DECC has committed to publishing the links to AIE information on public authority websites which it collects as part of the annual AIE statistics collection.

Insufficient availability of consolidated legislation. The Law Reform Commission (LRC) has prepared over 400 Revised Acts (a Revised Act is an administrative consolidation of that Act) which are updated to within one or two months of being amended and published on the LRC website. The LRC also maintains the Legislation Directory on the electronic Irish Statute Book website. This Legislation Directory notes the effects of all new legislation on existing legislation, in tables belonging to each Act.

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:

Directive 2016/2102 (EU), of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies was transposed into Irish law on 23 September 2020 by the European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020, S.I. No. 358/2020.

The Regulations require that the websites and mobile apps of ‘bodies governed by public law’ must adhere to a high standard of accessibility, including being easily ‘operable’, ‘understandable’, ‘robust’ and ‘perceivable’, including by people with disabilities. The National Disability Authority is designated by the Regulations as the monitoring body for the purposes of the Directive and the Regulations.

Guidelines entitled, [Universal Design Guidance for Online Public Services](#), have been published by the National Disability Authority's Centre for Excellence in Universal Design. These are intended to help public authorities to meet their obligations relating to the accessible dissemination of information, including of environmental information.

Accessibility of environmental information:

The EPA has a statutory obligation to provide environmental information to the public. The EPA website contains a wide range of environmental information ranging from technical documentation relating to license applications, PRTR and AER reports, through to State of the Environment reports richly illustrated with graphs and maps and educational material for schools. Formats include GIS mapping information. Work is ongoing on a new improved EPA website which is due to launch in 2021

An Bord Pleanála's website and those of the 31 local planning authorities provide information on planning related matters.

The new Courts Service website, <https://www.courts.ie/>, provides easy public access to courts information, including an easily searchable database of judgments of every court, from January 2001 to present. The Courts Service has produced some guidance documents and short video introductions to some of the site's features in order to help users to find their way around.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

Answer: See 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.

The response to question XV provides detailed information on planning and EPA licensing consents (IPC and IED) (referred to below as ‘environmental licences’. Due to the nature of transposing legislation in Ireland it is not possible to provide the same level of detail on all consent systems in the word count provided for in the NIR. Other legislation which provides for public participation in accordance with the requirements of the EIA Directive includes:

- 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);
- sections 40, 48 and [49 Forestry Act 1946](#) (as amended) (felling licenses);
- 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)
- [Sections 37 and 42 of the Transport \(Railway Infrastructure\) Act, 2001.](#)
- [Section 50 of the Roads Act, 1993.](#)

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

In terms of Planning consents, the following apply to -

- permissions and consents pursuant to the [Planning and Development Act 2000](#) (as amended);
 - o Schedule 5 to the Planning and Development Regulations 2001 (as amended) (S.I. No. 600 of 2001) contains a list of developments automatically subject to an EIA if the relevant thresholds are reached or exceeded,
 - o Section 172(1) of that Act requires that an EIA be carried out by a planning authority or An Bord Pleanála, as the case may be, in respect of a planning application where the proposed development is of a class set out at Schedule 5 to the 2001 Regulations and either-
 - equals or exceeds the relevant threshold, or
- is sub-threshold but the planning authority or An Bord Pleanála determines that the proposed development is likely to have a significant effect on the environment, having regard to Schedule 7 of these Regulations which lays down the criteria for determining whether such developments are likely to have a significant effect on the environment for proposed activities listed in annex II, in accordance with Annex III of Directive 2011/92/EU as amended by Directive 2014/52/EU).

Environmental licences

- [section 83\(2A\)\(c\) of the Environmental Protection Agency Act 1992](#) (as amended by regulation 5(c) of [S.I. No. 191/2020 - European Union \(Environmental Impact Assessment\) \(Environmental Protection Agency Act 1992\) \(Amendment\) Regulations 2020](#)) (integrated pollution control licenses (IPC));

(ii)

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](#)).

- The [EIA Guidance for Consent Authorities regarding Sub Threshold Development](#) 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.
- In terms of Planning consents, the following applies to permissions and consents pursuant to the Planning and Development Act 2000 (as amended);

Article 103 of the Planning and Development Regulations 2001 requires the planning authority to request an EIAR in the case of sub-threshold development 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. Other similar provisions apply to appeals and applications made direct to An Bord Pleanála.

Environmental licences

Section 83(2A)(c)(ii) of the EPA Act 1992, as amended, requires the Agency to carry out an EIA in respect of an application for a licence relating to an activity of a class specified in Part 2 of Schedule 5 to the Planning and Development

Regulations 2001 that the Agency determines would be likely to have significant effects on the environment.

- (b) Irish legislation pertaining to EIA requires notices to be published in a newspaper that is circulated in the relevant area and/or published on-line and/or in site notices.

Planning:

- With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended), 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.

Such notices include information that an application is being made in respect of the proposed development to the relevant authority, a description of the development, the type of permission being sought, the location of proposed development, where the application itself may be inspected, and that submissions/observations may be made to the relevant authority within the specified period.

- Article 27 requires the local planning authority to publish a weekly list of planning applications received. Article 72 requires An Bord Pleanála to publish the same with respect to appeals and applications for approval made direct to the Board.

In the case of a planning application subject to EIA:

- Article 98 requires that notices advertising the proposed submission of a planning application state that any Environmental Impact Assessment Report (EIAR) prepared will be submitted as part of the application, where relevant, and available for inspection during office hours at the offices of the authority, free of charge. Where an EIAR is not submitted with a planning application but subsequently required by a planning authority to be submitted, a newspaper notice must be published advising of the above in accordance with Article 105. The same requirement to advertise the submission of an EIAR and where the report may be inspected is also

provided for in respect of planning applications made direct to An Bord Pleanála, for example under sections 37E, 175 and 181A in respect of Strategic Infrastructure Development or where the Board require an EIA to be carried out in respect of a planning appeal under Article 112.

[Section 172B](#) of the Planning and Development Act 2000 requires that proposed developments requiring EIA must be notified to the EIA Portal within the 2 weeks before making an application. The Department of Housing, Local Government and Heritage hosts the EIA Portal website established under [section 172A](#) of the Act which provides a central point for notification to the public on relevant applications for development consent that are subject to EIA. The EIA Portal provides brief summary of the development consent application and a link to relevant information and documents associated with the application made available on the website of the relevant authority responsible for approving/refusing the application. The [EIA Portal website](#) facilitates an early and effective opportunity for any person to participate in the decision making procedures where EIA is required.

- Article 130A requires that a planning authority's or An Bord Pleanála's weekly list, as the case may be, indicate that a proposed development may have transboundary environmental effects, where that is the case.

Environmental licences

[Sections 85 and 87 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](#)), as amended by [S.I. 190 of 2020](#), and the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013 ([S.I. No. 283 of 2013](#)), as amended by [S.I. 189 of 2020](#), require an applicant to publish a notice in a local newspaper and erect a site notice (regulation 4) of their intention to apply for a licence and where relevant documentation can be obtained/viewed.

Regulation 4 requires the Agency to publish the information specified in regulation 5 on its website for any license application which is required to be accompanied by an environmental impact assessment report (EIAR) – i.e. to publish on their website, ‘at the latest as soon as practicable’, the following information: the application notification; the EIAR; any further information, including reports and advice, relating to the EIA as may be furnished to the Agency in the course of the Agency’s consideration of the application; any opinion issued by the Agency on

the scope of the EIAR; and a statement that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity.

- (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

- With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended): Article 29 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 30 provides that the planning authority cannot make a decision on the application until after the 5 week public participation period has expired.
- 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(k)).
- The same 5-week period for submissions/observations is provided for in respect of planning applications for approval made direct to An Bord Pleanála or within a 4-week period in respect of a planning appeal.

Environmental licences

Section 82(2A)(bi) of the EPA Act 1992, as inserted by the [European Union \(Environmental Impact Assessment\) \(Environmental Protection Agency Act 1992\) \(Amendment\) Regulations 2020](#) (S.I. No. 191 of 2020) requires the Agency to make an electronic version of any determination as to whether the activity to which a licence or revised licence applied for relates should be subject to environmental

impact assessment.

[The Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) \(Amendment\) Regulations 2020 \(S.I. No. 189 of 2020\)](#) and [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) \(Amendment\) Regulations 2020 \(S.I. No. 190 of 2020\)](#) require the Agency to specify on its website, by reference to the date on which information regarding the application is made available on its website, a period, which shall be not less than 30 days, within which submissions may be made to it in writing in relation to the likely effects on the environment of the proposed activity for any license application which is required to be accompanied by an environmental impact assessment report (EIAR).

Section 87(2) of the EPA Act 1992 requires the Agency to publish its proposed decision and where it is proposed to grant a licence or revised licence to state where a copy of proposed licence or revised licence may be viewed. This notification must be given to any person who made a written submission in relation to the application (amongst others). Section 87(5) provides that any person may, subject to compliance with certain requirements, object to the proposed determination within 28 days from the date the notification under section 87(2) is sent.

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 \(as amended\)](#).

(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.

(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.

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 electronic notification, the erection of site notices at prospective sites and publishing of notices in newspapers stating where the proposed activity may happen. The notifications include the name of the relevant competent authority, whether an EIAR is necessary and where a copy of the application or further information may be obtained.

(f)

(i) - (ii) 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

With regard to permissions and consents pursuant to the Planning and Development Act 2000 (as amended),

- [Section 38](#) of the Planning and Development Act 2000 requires that a copy of the planning application and of any particulars, evidence, environmental impact assessment report (EIAR), other written study or further information received or obtained by the authority from the applicant and a copy of any submissions or observations received in relation to the planning application must be made available for inspection by the planning authority. In accordance with the [Planning and Development Act 2000 \(Section 38\) Regulations 2020 \(S.I. No. 180 of 2020\)](#) and the planning authority must also make documentation available on its website. Any EIAR submitted must be made available online in perpetuity on its website as well as available for inspection at its offices.
- Under [Section 146](#), An Bord Pleanála is required to make relevant information in relation to the application available for inspection at its offices at its offices or online. In the case of an application accompanied by

an EIAR, the documentation associated with the application must be both made available for inspection and placed on its website and the EIA submitted with an application on its website in perpetuity.

Environmental Licences

The Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 ([S.I. No. 189 of 2020](#)) and the [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) \(Amendment\) Regulations 2020](#) ([S.I. No. 190 of 2020](#)) require the Agency – for any license application which is required to be accompanied by an environmental impact assessment report (EIAR) – to publish on its website, ‘at the latest as soon as practicable’ and make publically available at the headquarters of the Agency, the following information: the application notification; the EIAR; any further information, including reports and advice, relating to the environmental impact assessment as may be furnished to the Agency in the course of the Agency’s consideration of the application; any opinion issued by the Agency on the scope of the EIAR; a statement that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity; a notification where it is the case, that it appears to the Agency that the activity the subject of the application would, or is likely to, have significant effects on the environment in another Member State of the European Union; and the proposed determination.

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](#)), amended by the [Environmental Protection Agency \(Integrated Pollution Control\) \(Licensing\) \(Amendment\) Regulations 2020](#) ([S.I. No. 189 of 2020](#)), the [Environmental Protection Agency \(Industrial Emissions\) \(Licensing\) \(Amendment\) Regulations 2020](#) ([S.I. No. 190 of 2020](#)) and the [European Union \(Environmental Impact Assessment\) \(Environmental Protection Agency Act 1992\) \(Amendment\) Regulations 2020](#) ([S.I. No. 191 of 2020](#)), require an EIAR 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](#) and [2014/52/EU](#) (EIA) and [2008/1/EC](#) (IPPC) (recast by the [Industrial Emissions Directive \(2010/75/EU\)](#)).

(g) 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;

Planning

- As highlighted above, 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. The same 5-week period for submissions/observations is provided for in respect of applications for approval made direct to the Board or within 4 weeks in respect of a planning appeal.
- 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

As set out above, the Environmental Protection Agency (Integrated Pollution Control) (Licensing) (Amendment) Regulations 2020 ([S.I. No. 189 of 2020](#)), the Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020 ([S.I. No. 190 of 2020](#)) require the Agency to publish a statement on their website, in the case of every licence application for which an EIAR is required, stating that submissions may be made in writing to the Agency, during a period, which shall be not less than 30 days, in relation to the likely effects on the environment of the proposed activity. 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](#)) provide that notifications of proposed determinations shall specify that an objection can be made against the Agency's proposed determination and how and where this can be made and that a person making an objection may, within the appropriate period and in writing,

request an oral hearing of the objection.

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

Planning

Section 34(3)(b) of the [Planning and Development Act 2000 \(as amended\)](#) provides that the planning authority, and An Bord Pleanála on appeal, must when considering an application for permission, have regard to any written submissions or observations concerning the proposed development made to it in accordance with the permission regulations by persons or bodies other than the applicant, as “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”. An Bord Pleanála must, in the case of applications for permission made directly to it, consider such submissions and observations duly made as part of its decisions (for example, in the case of certain Strategic Infrastructure Development applications under Section [37G\(2\)\(a\)](#), [Section 175\(6\)\(a\)](#) and [Section 181B\(1\)\(a\)](#).

Environmental Licences

Section 83(3)(e)(ii) requires the Agency in considering an application for a licence or revised licence to have regard to “any submissions or observations made to the Agency in relation to the EIAR”.

(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* 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. Planning authorities are also required to make available and display the list for inspection on its website.
- Article 31 of the [Planning and Development Regulations 2001](#) requires the planning authority to notify any body or person involved in the public

participation procedure of the decision taken. Under article 31(k) this notice indicates that anyone who participated in the public participation procedure has 4 weeks to appeal any decision of the planning authority to An Bord Pleanála (in accordance with section 37(1) of the Act).

- 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 8 weeks afterwards, a copy of the list shall be sent to anyone who requests it at a reasonable or no charge.
- [Article 72](#) requires An Bord Pleanála to maintain a register that includes appeals and applications for approval of the Board which have been determined.
- [Article 74](#) requires An Bord Pleanála to notify any person who made submissions or observations regarding its decision.
- [Section 146 of the Act](#) requires An Bord Pleanála within 3 days of its decision make documents relating to the matter available for inspection and may make these available online. In the case of an EIA application, these documents must be made available online by the Board.

Environmental Licences

- Regulations 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](#)) require 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.

(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:

Environmental Licences

- Regulations 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, and EU law including:

Directive 98/81/EC on the contained use of genetically modified micro-organisms which was transposed into Irish law under the Genetically Modified (Contained Use) Regulations 2001 (S.I. No. 73 of 2001).

Directive 2001/18/EC, as amended, on the deliberate release into the environment of genetically modified organisms which was transposed into Irish Law as the GMO (Deliberate Release) Regulations (S.I. No 500 of 2003), as amended.

Regulation 1946/2003 on the transboundary movement of GMOs which is regulated in Ireland under 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: Submissions received raised issues with lack of online facilities for public consultations, particularly in the areas of planning. A number of projects are being developed to assist in this regard:

The ePlanning project which is currently being developed seeks to integrate the IT systems of the 31 planning authorities using a single online portal allowing for the

online submission of planning applications, appeals, submissions and associated fees. Once fully rolled out, ePlanning will provide an online option for the public to engage with the planning system, in addition to the paper based system.

An Bord Pleanála has introduced an online facility to accept public observations and fees relating to Strategic Housing Applications. The Board intends to use its experience with this pilot project to inform the development of similar facilities for other case types over the next two years. The Board is currently in the process of finalising development of a new upgraded website which will be more user-friendly and informative. The new website is currently scheduled to go live before the end of Quarter 1 2021. This will further help to improve communications and interaction between An Bord Pleanála and the public.

Fees for submissions were raised as a matter of concern. However the fees for making submissions or observations on planning applications and appeals are set at levels intended to discourage frivolous or vexatious submissions, without deterring persons with genuine concerns or interest in proposed developments from making submissions. The fees are modest, compared to the cost for planning authorities and the Board in processing applications and appeals.

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 IPC licences and planning consents. 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 EIAR is required and, if it is, a copy of the-EIAR-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](#)
- [Guidelines on the Information to be Contained in an Environmental Impact Assessment Report](#)

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

Answer: See 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. 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 (European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 ([S.I. No. 435 of 2004](#))) 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 economic and spatial strategies 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 plan making 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)).

Planning

In respect of land-use planning,

- Article 13A, 13K , 14A of the [Planning and Development Regulations](#)

[2001 \(S.I. No. 600/2001\)](#) (as amended by [S.I. No. 436 of 2004](#) and [S.I. No. 201 of 2011](#)) provide for the carrying out of Strategic Environmental Assessment (SEA) for development plans, variations to development plans and local area plans and variations of such plans considered by the planning authority likely to have significant effects on the environment having regard to criteria set out in schedule 2A.

- [Article 179A of the 2001 Regulations](#) requires that all planning schemes for strategic development zones undergo SEA.
- [Article 15B](#) requires that all regional spatial and economic strategies to be adopted by Regional Assemblies be subject to SEA.

[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:

- Development plans and variations thereto [\(Sections 11 and 13\)](#);
- local area plans and variations thereto [\(section 20\)](#);
- regional spatial and economic strategies [\(section 24\)](#);
- strategic development zones [\(section 169\)](#)

[Articles 13F, 13O, 14F, 15E of the Planning and Development Regulations 2001](#) applies the above requirements with respect to a trans-boundary SEA in respect of land-use plans.

These provisions provide for public participation at the beginning of the plan making 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 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.

Other sectors (non-land use planning)

In respect of the other sectoral plans, these provisions were set out by the [European Communities \(Environmental Assessment of Certain Plans and Programmes\) Regulations 2004 \(S.I. No. 435 of 2004\)](#) as amended by [the European Communities \(Environmental Assessment of Certain Plans and Programmes\) \(Amendment\) Regulations 2011 \(S.I. No. 200 of 2011\)](#):

- 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).

Other plans, programmes and policies relating to the environment

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 [Gov.ie](#) and the websites of [DECC](#), [DHLGH](#), [EPA](#) and [Department of Agriculture, Food and Marine](#). 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 PPNs 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 [Department of Rural and Community Development](#) 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 environmental groups form one of the three electoral colleges in each PPN (the others being social inclusion groups and community and voluntary groups).

The environmental college consists of member groups whose main aims and activities are environmental (i.e. ecological) protection and / or environmental sustainability. This gives environmental matters a great deal of prominence within PPNs. There are currently over 600 volunteer-led groups across the country registered with the environmental electoral college of their local PPN.

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.

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: Concerns around lack of public awareness of public participation were raised as part of the public consultation. However, figures on recent public consultations demonstrate that many members of the public do participate in public consultations e.g. the public consultation in respect of the Forestry Amendment Bill 2020 received 8,888 submissions.

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.

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 (RIA) 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.

While the Oireachtas (Parliament) is not required to hold public consultations when it considers draft legislation, although it regularly chooses to do so, either by a general call for submissions or by engaging with the most relevant stakeholders. Moreover, before the Government publishes a Bill, there is usually a consultation process. The relevant Department may publish a Green Paper setting out the Government's ideas and inviting opinions from individuals and organisations. Before a Bill is finalised, a general scheme of the Bill may be published. The general scheme of a Government Bill undergoes scrutiny by a parliamentary Committee before the text of the Bill is finalised. The relevant Committee may invite stakeholders to participate by attending meetings to discuss the general scheme of the Bill. At the end of the pre-legislative scrutiny, the Committee produces a report and lays it before the Houses of the Oireachtas. The report makes recommendations on the Bill based on the Committee's scrutiny. Documents laid before the Oireachtas are available to the public online. Private Members' Bills undergo a similar process of scrutiny by a parliamentary Committee only if they pass the second stage in the Lower House. Policy briefings of the research service of the Parliament include an appraisal of the ex-ante impact assessment prepared by the Government. The research service also prepares policy analysis in relation to private Members' bills. Statutory Instruments, made by Ministers under powers granted by Acts of the Oireachtas, are laid before the Houses of the Oireachtas, which have the power to annul them within 21 days.

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.

As noted in response to question XX, the Department of Public Expenditure and Reform issued [Consultation Principles and Guidelines](#) for public sector bodies. This sets out some best practice guidelines in how a public consultation should be run: [See response to XI(g) for more information].

The 2016 Public Consultation Principles and Guidance are referenced with further additional measures designed to improve communications and engagement with the public, under Action 4 of Our Public Service 2020, the Development and Innovation Framework for Ireland's Public Service, published in 2017. These measures include:

- Public service organisations will continue to improve engagement with the public and businesses through mechanisms such as open policy debates, focus groups, seminars, social media and crowd-sourcing solutions from the public, academics, practitioners and experts. The knowledge gained from these platforms will assist the development and application of new approaches to policy design, evaluation, consultation and implementation.

- Public Participation Networks, which are now established in all Local Authority areas, will continue to be developed and strengthened to provide a mechanism for citizen engagement, ensuring that local voices are heard in decision making at local level.
- Public service organisations will continue to improve engagement with individuals on those services where better outcomes can be achieved by designing the service around the specific needs of the individual, building on work already undertaken in the health sector.
- Public servants will follow the 2016 Public Consultation Principles and Guidance. At central level a consultation website in line with Ireland's Open Government Partnership National Action Plan 2016-2018 will be developed to make consultations easier to access.
- Public service organisations will conduct regular customer surveys to identify areas where services could be improved and feed the results back to central government.

XXV. Obstacles encountered in the implementation of article 8

*Describe any **obstacles encountered** in the implementation of article 8.*

Answer: [Any pertinent issues raised during the public consultation will be noted here.]

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:

Details of the programme for Government reform are provided at <http://per.gov.ie/government-reform/>.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

Answer: See 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 fulfilled the obligations of Article 9(1) of the Convention through this legal instrument. 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.

Articles 11, 12 and 13 of the AIE Regulations establish the statutory framework providing access to justice relating to a request for access to environmental information under Article 9(1) of the Convention.

Ireland has provided a three 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 request an 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 to the High Court on a point of law from the decision.

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 €50 to appeal to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €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. An application for judicial review is a remedy available to parties in situations where any body or tribunal in Ireland with legal authority to determine rights or impose liabilities, and with a duty to act judicially, has acted in excess of legal authority or contrary to its duty. Judicial review is generally concerned not with the decision of a body or tribunal but with the decision making process.

(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 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, it is not necessary 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 to appeal the decision to an administrative board – An Bord Pleanála – in the first instance, including on the basis of any alleged breaches of national environmental law in respect of such decisions.
- [Section 50 and 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 by a planning authority or An Bord Pleanála. [Special standing rules](#) are provided for certain eNGOs (see above).
- The availability of complaints procedures in respect of planning authorities, An Bord Pleanála, 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. An internal review decision can be appealed to the CEI under article 12. Article 13 allows a party to an appeal under article 12 to appeal to the High Court on a point of law.

(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:

- [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

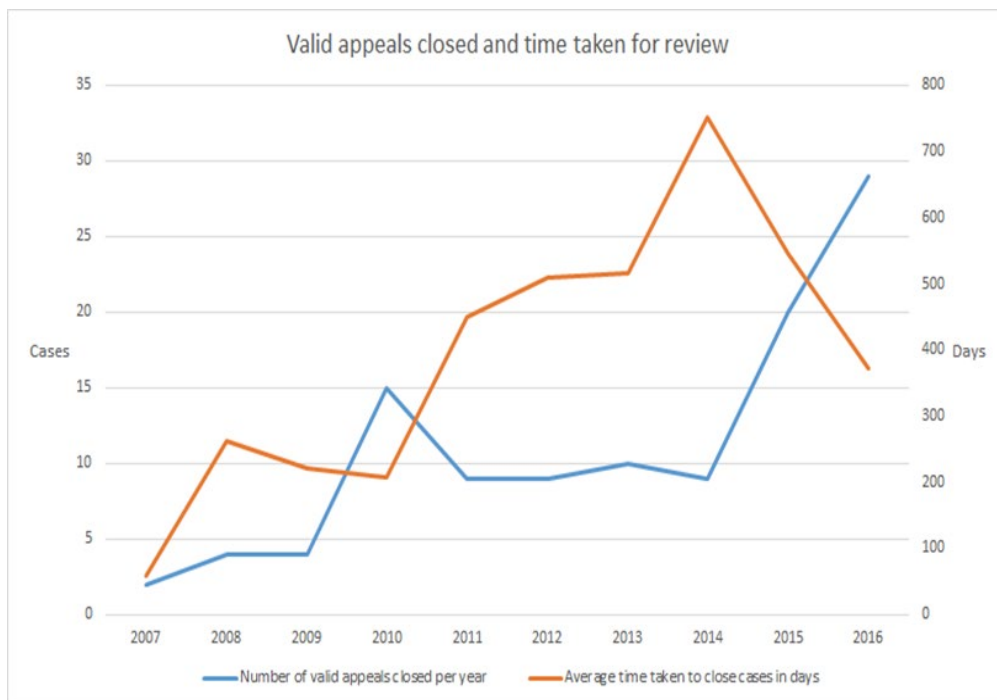
judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.”

Under section 126 of the Planning and Development Act 2000 (as amended) An Bord Pleanála has an objective to ensure that appeals and referrals of planning decisions are disposed of as expeditiously as possible and within a maximum timeframe of 18 weeks.

- 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 “The average number of days for an appeal to be closed in 2019 was 249 days. Although this is down on the figure of 279 days in 2018, it indicates that in 2019 appellants waited, on average, about 8 months for a decision from my Office. I am not satisfied with that level of service and am determined to do everything I can to improve it.”

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 €50 applies to appeals to the CEI. In certain circumstances (e.g. medical card holders), a reduced fee of €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) in proceedings concerning decisions, actions or inaction pursuant to the EIA Directive, SEA Directive, IPC Directive or Habitats Directive, 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, Court of Appeal and the Supreme Court deliver written judgements in many cases. Where a written judgement is given it is

published on the [Courts Service website](#). In cases in which the court does not deliver a 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 OCEI website](#).

- Decisions on licenses and permits issued by the EPA are available www.epa.ie/licensing.
- Decisions of An Bord Pleanála are published on <http://www.pleanala.ie/>.

(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 respect of IED licensing by Section 37 (3) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 ([S.I. 137 of 2013](#))

Implemented in relation to the Commissioner for Environmental Information: <https://www.ocei.ie/making-an-appeal/how-to-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: Issues relating to costs, complexity, duration and obscure and arcane legal rules for running cases plus lack of education for the public on accessing courts were raised as an obstacle during the public consultation process. The Courts Service and the judiciary have been and continue to be proactive in seeking the

modernising and improvement of the courts system, court practices procedures and court forms. The adoption of digital technologies is an integral part of the Courts Service modernisation plan which is set out in its Long Term Strategic Plan to 2030: Supporting Access to Justice in a modern, digital Ireland. The Courts Service is seeking to deliver a single civil case management system to provide a common platform for the civil processes of all jurisdictions to incorporate the facility to make applications and payments online, collect orders and file certain documents electronically. Online services are available in a number of areas and this was accelerated in 2020 due to the measures introduced in response to the Covid 19 restrictions. In excess of 2,250 virtual court sessions have been delivered since March 2020. Remote courts continue to operate across all jurisdictions and it is envisaged that this will become part of the way courts services are delivered in the future.

One of the functions of the Courts Service under the Courts Service Act 1998 is to provide information on the courts system to the public. It does this through the courts.ie website, various publications and tours of the courts for members of the public amongst other activities. The courts.ie website was revised and relaunched in 2020.

The Courts Service lists outstanding court judgments pursuant to the Courts and Court Officers Act 2002 (as amended). While specific statistics are not kept for environmental cases, the average length of judicial review cases in 2019 was 392 days from issue to disposal in the High Court. However, in circumstances where an appeal is lodged or a case awaits the outcome of an appeal on a related issue, the time taken for disposal of a case can be longer. In 2019 civil cases in the Court of Appeal took an average of 20 months from the date they first appeared in the court list to the date of hearing and 9 months for fast-tracked short appeals.

A number of submissions raised concerns at challenges posed by Ireland's special cost rules (SCR) leading to high costs for public authorities, developers and delays in developments.

Submissions also referred to difficulties with the requirement to submit forestry appeals by post and lack of electronic systems. The Forestry Appeal Committee is working with their IT team to develop an online facility to receive appeals and the associated fee electronically.

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 website](#). This website provides comprehensive information on public services and entitlements, presented in an easy-to-understand way to the public.

A dedicated Aarhus Convention web-section which includes information on access to justice under the Convention is available on the [Gov.ie website](#).

[An Bord Pleanála](#) has a guide to making an appeal against a planning decision on its website.

[Making a planning appeal](#)

[Making an observation on a planning appeal](#)

[Requesting an oral hearing](#)

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.

An Bord Pleanála has a guide to making an appeal against a planning decision on its website. http://www.pleanala.ie/appeals/index_general.htm

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 of some relevant rulings since the ratification of the Aarhus Convention by Ireland. The body of case law has continued to grow since the submission of the previous NIR in 2017.

[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](#)

[Conway -v- Ireland, the Attorney General & ors \[2017\] IESC 13](#)

[Friends of the Irish Environment CLG v The Legal Aid Board \[2020\] IEHC 454](#)

[Heather Hill Management Company CLG v ABP \[2019\] IEHC 186](#)

[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](#)

[Redmond v Commissioner for Environmental Information & Anor \[2017\] IEHC](#)

[827Rowan 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](#)

Administration of Civil Justice Review

A Review Group, chaired by the President of the High Court, Mr Justice Peter Kelly, was established in 2017, to assess the administration of civil justice, with a view to *inter alia* improving access to justice and reducing the cost of litigation.

Public submissions were invited as part of this process.

The Review Group is also looking at improving procedures and practices to ensure timely hearings, the removal of obsolete, unnecessary or over-complex rules of procedure, reviewing the law of discovery, encouraging alternative methods of dispute resolution, reviewing the use of electronic methods of communications including e-litigation, examining the extent to which pleadings and submissions and other court documents should be available or accessible on the internet, and identifying steps to achieve more effective outcomes for court users with particular emphasis on vulnerable court users.

It is anticipated that the Administration of Civil Justice Review Group will report and make recommendations to the Minister for Justice and Equality in late 2020.

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 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 [Commission Directive \(EU\) 2018/350](#) 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, \(S.I. 500 of 2003\)](#), as amended, 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. EU regulation 2020/1043 of the European Parliament and of the Council of 15 July 2020 on the conduct of clinical trials with and supply of medicinal products for human use containing or consisting of genetically modified organisms intended to treat or prevent coronavirus disease (COVID-19) provides for further exemptions.

- (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: [Any pertinent issues raised during the public consultation will be noted here.]

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:

[GMO Register No: G0726-01](#) - Gene therapy administration under managed access

programme

[GMO Register No: G0667-01](#) - Clinical Trial to test gene therapy treatment for Haemophilia B

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

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

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

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

Other reports and publications concerning GMOs are available 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. In total there have been nine communications alleging non-compliance by Ireland with the Aarhus Convention. Two of these communications have been deemed 'Not admissible'. The Committee have prepared findings in two of the communications, [ACCC/C/2013/107](#) and [ACCC/C/2016/141](#). There are currently 5 open communications alleging non-compliance by Ireland.

[ACCC/C/2013/107](#)

In August 2019 the Compliance Committee found that Ireland was non-compliant with Article 6(10) of the Convention and recommended that, with regard to section

42(1)(a)(i) and (ii) of the Planning and Development Act 2000, Ireland “take 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”

It is expected section 28(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended by section 57 of the Planning and Development (Amendment) Act 2018 will be commenced in the coming weeks. Proposals are also being finalised for supplementary amendments to section 42(1) to prohibit extensions of duration where a development requires an Environmental Impact Assessment (EIA) and/or Appropriate Assessment (AA) at the point of application for such an extension.

ACCC/C/2016/141

Findings of non-compliance by Ireland with Article 9(4) with respect to timeliness of reviews before the OCEI and the Courts and with respect to the provision of effective and adequate remedies were received in November 2020.

The findings recommend that Ireland “take the necessary legislative or regulatory measures to ensure that:

(a) Appeals under the AIE Regulations to the OCEI 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.

(b) 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 AIE Regulations, the underlying information request is thereafter resolved in an adequate and effective manner.”

Ireland responded to the draft findings on 21 October 2020.