

Roinn Cumarsáide, Gníomhaíochtaí ar son na hAeráide & Comhshaoil
Department of Communications,
Climate Action & Environment


Access to Information on the Environment

Training for Public Authority Officials
October 19th 2016


Roinn Cumarsáide, Gníomhaíochtaí ar son na hAeráide & Comhshaoil
Department of Communications,
Climate Action & Environment


Agenda

9.30am	Introduction to Aarhus Convention
10.00am	Catherine Allen – MHC
11.00am	Coffee Break
11.30am	Catherine Allen continued
12.45pm	Questions and Answers
1.15pm	Lunch


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Agenda

2.15pm	Questions and Answers
2.45pm	Diarmuid Goulding - Investigator OCEI
3.30pm	Karen Vaughey - EPA
4.00pm	Questions and Answers
4.30pm	Close




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Ar son na hAeráide & Comhshaoil
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Objectives for the day

1. Increased awareness
2. Increased capacity
3. Networking and discussion


Introduction to the Aarhus Convention

- Aoife Joyce
- DCCAE 19th October 2016





INFORMATION PARTICIPATION
JUSTICE AARHUS CONVENTION
for our environment



Background

- The fundamental objective of the Aarhus Convention is *“to contribute 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.”*
- The Aarhus Convention was adopted on 25th June 1998 in the Danish city of Aarhus and signed by Ireland on that day.
- The Convention is legally binding on States that have become Parties to it. As the European Union is a Party, the Convention also applies to the EU institutions.



Background to Convention in Ireland

- Ireland **ratified** the Aarhus Convention on 20th June 2012
- Came into effect 90 days later, on September 18th 2012
- Ireland became subject to the Aarhus Convention Compliance Committee one year later - September 18th 2013



Pillars of the Aarhus Convention

- Pillar I** **Access to Information**
- Pillar II** **Public Participation in Environmental Decision Making**
- Pillar III** **Access to Justice**



Pillar 1 Access to Information

- Article 4 sets out how a public authority should deal with a request for environmental information
- Article 5 refers to the collection and dissemination of information



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Pillar 1 Access to Information

- Complaints under either Article 4 or 5 can be made to the Aarhus Convention Compliance Committee
- Onus is on each public authority to ensure that they meet the requirements of both articles on AIE



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Pillar 1 Access to Information

- Article 9(1) of the Aarhus Convention sets out the access to justice provisions relating to AIE requests
- In Ireland the review procedures provided are
 - Internal review
 - Appeal to the OCEI
 - Appeal to the High Court on a point of law



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Aarhus Convention Compliance Committee

The Compliance Committee was formed under Article 15 of the Aarhus Convention.

It is "of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of the Convention"



Aarhus Convention Compliance Committee

- The majority of communications to the compliance committee are from members of the public
- Ireland currently has 7 open communications – all at various stages of development
- Most recent case deemed admissible relates to AIE; AIE forms a significant part of other communications
- All papers relating to communications are available on the website of the UNECE; this includes all material submitted by Ireland



ACCC Requirements on Public Authority

- The public authority has a key role in the defence of a communication; they will be required to provide instructions to Counsel and may be required to attend an oral hearing in the UNECE
- DCCAE has a co-ordination role and all responses are cleared by Attorney General's Office
- Prevention of communications through good practice regarding the Aarhus Convention is best course of action





EU law

- The first AIE Directive was Council Directive 90/313/EEC of 7 June 1990 – predating the Aarhus Convention
- The current AIE Directive was adopted by the EU to give effect to the Access to Information pillar of the 1998 Aarhus Convention. It replaced the 1990 Directive.
- Directive 2003/4/EC of the European Parliament and of the Council on Public Access to Environmental Information (the AIE Directive).

The AIE Directive

- The Directive implements Articles 4 (Access to Environmental Information) and 5 (Collection & Dissemination of Environmental Information) of the Aarhus Convention.
- The **purpose** of the Directive is to guarantee the right of access to environmental information held by or for public authorities.
- At EU level, it is possible for a member of the public to complain about Ireland's compliance with the AIE Directive to the EU Commission.

The AIE Directive in Ireland

- European Communities (Access to Information on the Environment) Regulations 2007, came into force on 1 May 2007.
- It was amended in 2011 and again in 2014.
- All pieces of legislation are to be read together and to be construed as one and can be referred to as the European Communities (Access to Information on the Environment) Regulations 2007 to 2014.



Recognition of Request

- Often the AIE Regulations are not cited, or the Directive is quoted
- Duty to assist
- Possible to establish contact and often narrow/simplify the request
- Timeliness - essential



Why the need for training and awareness?

- Response to demand from public authority staff
- Response to demand from eNGOs
- Response to queries from the EU Commission
- Feedback from the public in relation to accessing information
- Focus from ACCC
- High volume of "deemed refusals"



Resources Available

- AIE Advisory Group
- **Guidance Notes** – substantial overhaul planned; goal for delivery early 2017
- Environlink – discontinued
- AIE officer network?



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Training Pack Contents

- Presentations
- Training notes
- Updated flowchart



Recent Developments

- Recent OCEI jurisprudence – 18 decisions published to date in 2016; 14 in 2015
- Minch case on definition of environmental information – appeal to Supreme Court
- C71/14 East Sussex County Council v ICO & Property Search Group – search and retrieval charges



Introduction to the Aarhus Convention and AIE

- Aoife Joyce
- Aoife.Joyce@dcae.gov.ie

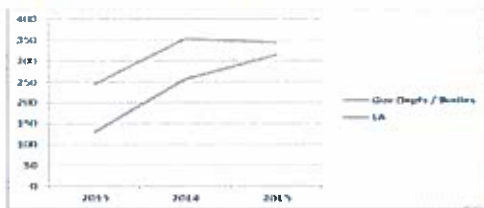


Conclusion: why is this important?

- To promote transparency and open Government
- To reduce the workload on public authorities
- Public awareness is increasing



Conclusion: why is this important?



• AIE requests 2013 - 2015



Conclusion: why is this important?

- International reputation - fulfil our duties under EU law
- To ensure full compliance with the Aarhus Convention and minimise communications to the ACCC