

SECTION 1 - Article 9(1)

Question 1	Does Ireland’s legislation implementing Article 9(1) fully comply with the requirements of the Convention? If not, why not?
Answer	

Question 2	Does the implementation of the existing legislation fully comply with the Convention in practice? If not, how do you think implementation fails to comply?
Answer	

Question 3	If the answer to either of the above questions is “No”, what changes would you suggest to the existing legislation to improve Ireland’s compliance?
Answer	

SECTION 2 - Article 9(2)

Question 1	In Ireland, Judicial Review is the review procedure required by Article 9(2). Are there alternative review procedures that could be used to implement this Aarhus review requirement? For example, is it appropriate that the review procedure be before a court or should it be before an independent and impartial body established by law such as a tribunal? Please give reasons for your preference.
Answer	

Question 2	If before a court, should it be before the High Court or before the Circuit Court or a newly established specialist Environmental Court or a Regulatory appeal/review Court at either High Court level or Circuit Court level? Please give reasons for your preference.
Answer	

Question 3	Should the legislation be amended to provide expressly that the judicial review system is the review system required by the Aarhus Convention? If not, why not?
Answer	

--	--

Question 4	Are there other legislative amendments that the Irish authorities should consider to improve clarity for members of the public on the appropriate methods of review of environmental decision-making?
Answer	

Question 5	Is the requirement for exhaustion of administrative review procedures prior to recourse to judicial review procedures appropriate? If so, please outline your reasons and identify the advantages of the existing or proposed approach.
Answer	

SECTION 3 - Article 9(3)

Question 1	Is it appropriate / useful to define and / or list what is covered by the term “national law relating to the environment”?
Answer	

Question 2	Should a list of specified legislation be set down in law or is it preferable to leave it to the judiciary to decide in individual cases whether the law in question falls under Article 9(3)?
Answer	

Question 3	Or should it be a combination of a list of environmental legislation with a fall back mechanism of judicial decision should the need arise?
Answer	

Question 4	Why do you favour one or other approach?
Answer	

SECTION 4 - Article 9(4)

Question 1	Are the remedies provided under Irish legislation sufficient to meet the requirements of the Aarhus Convention? If not, how do the remedies fail to meet the requirements?
Answer	

Question 2	Are the Irish court procedures fair, timely and effective? If your view is that they are not, what are your reasons for that opinion?
Answer	

Question 3	Are there specific legislative or procedural changes that could be made to improve these elements with respect to environmental cases? If yes, please specify.
Answer	

SECTION 5 - Timely

Question 1	Are there any issues with regard to timeliness of access to justice in Ireland?
Answer	

Question 2	Could these be addressed through legislative amendments and/or changes to the rules of procedure?
Answer	

SECTION 6 - Not prohibitively expensive

Question 1	Is it appropriate to make further changes to the cost rules in respect of challenges to environmental proceedings? If so, why?
Answer	

Question 2	Could changes be made to the list of legislation to which the cost rules apply? If so, what kind of changes would be beneficial?
Answer	

Question 3	Could changes be made to the procedural rules of court in respect of the cost rules set out in the legislation? If so what kind of changes would be beneficial?
Answer	

Question 4	Could changes be made to how the cost rules are set out?
Answer	

Question 5	Are changes to how it is determined that cost rules apply appropriate e.g. should the parties to proceedings determine this in advance? In writing? In court proceedings? What effect would such changes have?
Answer	

Question 6	It has been suggested that the cost rules in section 50B should be repealed and that there should be one set of general cost rules re-drafted to include both those currently provided for in section 50B (i.e. those relevant to the EIA, IPPC and SEA directives) and the Environment (Miscellaneous Provisions) Act 2011. Others have suggested that 50B be retained, but limited to planning decisions with other EIA, IPPC and SEA cases covered under another general cost rule. Which approach would you support? Why?
Answer	

--	--

Question 7	What guidance should be made available to the court to ensure that the cost rules only apply to Aarhus cases? How best can it be ensured that only Aarhus cases are so protected?
Answer	

Question 8	Should developers be excluded from the protection provided by the cost rules? Should State bodies continued to be excluded from this protection? If so, why? If not, why not?
Answer	

SECTION 7 - Publicly accessible decisions

Question 1	Are there problems in practice with public access to court decisions? If yes, please specify. How could access to court decisions be improved?
Answer	

SECTION 8 - Article 9(5)

Question 1	What other barriers to access to justice in relation to environmental decision-making do you consider might exist in Ireland?
Answer	

Question 2	How can these be addressed?
Answer	

General Comments	Please provide any additional comments on this Consultation