



Comhshaol, Oidhreacht agus Rialtas Áitiúil  
Environment, Heritage and Local Government



**Request Reference Number: AIE 2011/006**

12 April 2011

Mr. Pat Swords,  
10 Hillcourt Road,  
Glenageary,  
Co. Dublin.

Dear Mr Swords.

I refer to your request for a review of the decision made by this Department on 1 March 2011 in relation to your request under the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007) regarding the taking account of public participation in the context of the preparation of climate change legislation.

**Result of the internal review of this decision**

As you will be aware from the acknowledgement of your review request, I am the internal reviewer dealing with your request and I have made a decision on your review request on 12 April 2011.

I must inform you that I have not found any grounds to reverse the decision made by the initial decision-maker and accordingly, I affirm her decision regarding access to records, under the provisions of article 11(2)(a) of the European Communities (Access to Information on the Environment) Regulations 2007.

I also wish to advise you that it is open to you to avail of the facility to request that copies of the individual submissions received in the context of the public consultation process in relation to the climate change legislation be made available to you, subject to personal contact details of the respondents being withheld.

A summary of my decision is set out in the attached statement of reasons.

**Rights of appeal**

Under Regulation 12 of the AIE Regulations you may appeal this decision, by writing to the Commissioner at the address given below:

Commissioner for Environmental Information  
18 Lower Leeson Street  
Dublin 2



Páipéar 100% Athchúrsáilte  
Printed on 100% recycled paper

If you wish to appeal, you should do so within **1 month** of this notification. A standard fee of €150 - €50 if you are covered by a medical card – must accompany such your appeal.

The Department (Mr Paul Bonnington) can be contacted by telephone at 053 9117327 to answer any questions you may have, and to assist you generally in this matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'D Conlan', is written above the printed name.

Denis Conlan  
Principal,  
Local Government Development Section.

## **Summary of decision-making for internal reviewer**

### **STATEMENT OF REASONS FOR THE DECISION MADE ON REQUEST FOR ACCESS TO INFORMATION ON THE ENVIRONMENT UNDER REGULATIONS 2007 (S.I. No. 133 of 2007)**

**AIE REQUEST NUMBER:** AIE 2011/006

**REQUESTER NAME:** Mr. Pat Swords

#### **SUMMARY OF REQUEST FOR INTERNAL REVIEW:**

The requests in the original application were repeated, which involved requesting, under the Access to Information on the Environment) Regulations:

- "The procedures and details related to exactly how the Irish Administration will comply with Pillar II of the Aarhus Convention" in the preparation of this climate change legislation, i.e. "appropriate taking account of the public participation".
- The dissemination of the submissions received on the website [www.environ.ie](http://www.environ.ie) in accordance with Article 7 of Directive 2003/4/EC, i.e. active and systematic dissemination of environmental information to the widest possible availability, in particular through the use of computer telecommunication.

In addition, the application for review stated that points 1 to 3 in the response dated 1 March to the original application did not address the issue raised in the first question in that request and as regards the second question in that request, the position of the UNECE on electronic communication was attached and highlighted.

#### **SUMMARY OF DECISION:**

In accordance with the provisions of article 11(2)(a) of the European Communities (Access to Information on the Environment) Regulations 2007, I affirm the decision made by the initial decision-maker on 1 March 2011.

NUMBER OF RECORDS COVERED BY THE REQUEST	1
NUMBER OF RECORDS WHICH WILL BE RELEASED IN FULL (R)	1
NUMBER OF RECORDS FOR WHICH RELEASE IS BEING DEFERRED (DR)	0
NUMBER OF RECORDS WHICH WILL BE RELEASED WITH IN PART/WITH DELETIONS (RWD)	0
NUMBER OF RECORDS WHICH WILL NOT BE RELEASED (NR)	0

The record referred to in the table above is that released with the decision of 1 March 2011. Further information on the main factors taken into account in

reaching this decision is outlined in the summary of the findings. If you have any further queries on this matter please contact the undersigned:

**Name of Reviewer:** Denis Conlan

**Phone:** 01 8882186

**Date of Decision by Reviewer:** 12 April 2011

## Summary of Findings

### 1. Findings on material issues taken into account in reaching this decision

Ireland has not ratified the Aarhus Convention and it is understood that the Convention does not have direct effect in Ireland. It is understood that the access to information elements dealt with in the Convention are implemented in Ireland by the Access to Information on the Environment Regulations 2007. Therefore, while this was not specified in the original decision, references to the provisions of the Convention *per se* in the original application and the review request would not appear relevant in deciding the case which must, accordingly, be decided purely in the context of the specific provisions of the AIE Regulations.

A fundamental element of the AIE Regulations is the interpretation in article 3(1) of the term "environmental information". The matters sought in the original application and the review request, information relating to taking account of public participation in the preparation of legislation and a request that submissions be published on the internet, would not appear to come within any of the categories of matters set out at paragraphs (a) to (f) of the definition of "environmental information" in article 3(1) of the European Communities (Access to Information on the Environment) Regulations 2007. For example, with regard to paragraph (c) of the definition, it would not appear that procedures or details regarding public consultation could be validly construed as specifically "affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b)" or being "measures or activities designed to protect those elements".

Accordingly, while this was not specified in the decision on the original application, it would appear that the application in this case would not constitute a request for "environmental information" within the specific interpretation of that term in the Regulations.

It would appear, furthermore, with regard to the first element of the application, that the decision of 1 March 2011 did not involve refusal of access to records. As was indicated in the Summary of Findings provided with the decision letter of 1 March 2011, the application did not specifically request records but requested procedures and details regarding the taking account of public participation in the context of the preparation of climate change legislation, referring to Pillar II of the Aarhus Convention. Similarly, the application for review did not request access to specific records. The decision of 1 March did not convey refusal of access to any records but provided a response to the query in the application regarding the means of taking account of public participation in the context of the preparation of climate change legislation.

Regarding the second element of the application, the request for dissemination of the submissions received on the internet, article 7 (1) of the European Communities (Access to Information on the Environment) Regulations 2007 provides for relevant information to be made available specifically to the

applicant. A request that information be published on the internet would not appear to constitute a request for access to information in accordance with the Regulations. It is noted, however, that, notwithstanding this, the letter of 1 March 2011 conveying the decision on the request indicated that copies of individual responses to the consultation process were available, free of charge, on request from the Department and explained the reason why the actual submissions were not being made available on the internet. A summary note of the submissions received, which is also available on the internet, was also provided with the decision letter.

In view of the foregoing matters, I consider that the decision in relation to the application was appropriate in this case and that it did not involve restrictive interpretation of grounds for refusal of a request for environmental information and that the requirements of article 10(4) of the Regulations would appear to have been satisfied. Accordingly, in accordance with the provisions of article 11(2)(a) of the European Communities (Access to Information on the Environment) Regulations 2007, I affirm the decision made by the initial decision-maker on 1 March 2011.

**2. Public Interest factors taken into account in this decision.**

I do not consider that there are any public interest factors in this case that would warrant the original decision being annulled or varied.