



Coimisinéir um Fhaisnéis Comhshaoil
Commissioner for Environmental Information

**Decision of the Commissioner for Environmental Information
on an appeal made under article 12(5) of the European Communities
(Access to Information on the Environment) Regulations 2007 to 2018
(the AIE Regulations)**

**Case: OCE-93404-W1P1L7
(Legacy reference: CEI/19/0062)**

Date of decision: 16 April 2021

Appellant: Mr X

Public Authority: Teagasc

Issue: Whether Teagasc was justified in refusing access to certain additional environmental information relating to Teagasc's membership of Sustainable Forest Management Ireland (SFMI) other than the information already released on the basis that no further relevant environmental information was held by or for it.

Summary of Commissioner's Decision: The Commissioner found that it was reasonable to conclude that no further relevant environmental information was held by or for Teagasc following its carrying out of adequate searches and thus, article 7(5) of the AIE regulations applied.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision, as set out in article 13 of the AIE Regulations. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Background

1. Teagasc is a member of SFMI, which is a non-profit voluntary organisation, whose membership also includes organisations, as well as individual members. SFMI aims to promote sustainable management of Ireland's forests through information, advocacy, and education on independent forest management certification schemes. According to Teagasc, SFMI was established in 2015, when Forest Stewardship Council Ireland (FSC Ireland), the company established to develop an agreed FSC-approved forest standard for Ireland, ceased to exist.
2. This case has its background in a previous similar request submitted by the appellant to Teagasc on 11 June 2019. In that request he sought access to all records relating to Teagasc's role in the process of establishing SFMI, including the conversion from FSC Ireland, and the process of establishing a related Irish FSC Standard Development Group. He provided examples of the types of records sought. He also sought access to all records relating to Teagasc's funding and administration of the SFMI conference held in June 2016. On 20 August 2019, Teagasc informed the appellant that the request could be considered to be manifestly unreasonable having regard to the volume or range of the information sought and, as such, may be refused under article 9(2)(a) of the AIE Regulations. It invited the appellant to make a more specific request in accordance with Article 7(8) of the AIE Regulations.
3. On 15 October 2019, the appellant made a new request to Teagasc for access to all records relating to Teagasc's membership of SFMI, including of FSC Ireland, in the process of establishing a related Irish FSC Standard Development Group. Again, he provided examples of the types of records sought, comprising internal and external correspondence, including records in connection with his previous request dated 11 June 2019, minutes of meetings, and funding proposals and offers.
4. Teagasc did not issue a decision on the request within the required timeframe, so the appellant sought an internal review of the deemed refusal of his request on 15 November 2019. As Teagasc also failed to issue an internal review decision within the statutory timeframe, the appellant appealed to my Office on 16 December 2019.
5. In subsequent correspondence between Teagasc and the appellant, the appellant refined his request dated 15 October 2019, as follows:

“... [t]he records that I am looking for are from when FSC Ireland changed to SFMI (including records relating to the decision to change from [one] trading name to the other[]). It would be from (and including) the point at which FSC International terminated its recognition of FSC Ireland. I understand that this would have been around 2015 so this should narrow down the record base.”

6. On 31 March 2020, following correspondence with my Office, Teagasc released 104 pages of records to the appellant.
7. On 1 April 2020, the appellant informed my Office that he was not satisfied that Teagasc had provided him with a complete response to his request, indicating that he wished his appeal to proceed.
8. I have now completed my review under article 12(5) of the Regulations. In carrying out my review, I have had regard to the submissions made by the appellant and Teagasc. In addition, I have had regard to:
 - the Guidance document provided by the Minister for the Environment, Community and Local Government on the implementation of the AIE Regulations (the Minister’s Guidance);
 - Directive 2003/4/EC (the AIE Directive), upon which the AIE Regulations are based;
 - the 1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention); and
 - The Aarhus Convention—An Implementation Guide (Second edition, June 2014) (‘the Aarhus Guide’).

Scope of Review

9. The scope of this review is concerned solely with whether Teagasc was justified in refusing access to additional information coming within the scope of the appellant’s refined request for information relating to Teagasc’s membership of SFMI, other than the records already released, on the basis that no further relevant environmental information is held by or for it.

Analysis and Findings

10. As a preliminary matter, I would like to express my disappointment that this matter came to my office on the basis of deemed refusals at both original decision and internal review stages of the process. I understand that the request at issue here was almost identical to a previous request to Teagasc; however, it is unsatisfactory that an appellant should require the intervention of my Office in order to receive a substantive response to a request made under the AIE Regulations. I urge Teagasc to ensure that adequate resources are in place so that it adheres to the statutory timeframes provided in the AIE Regulations.
11. Article 7(1) of the AIE Regulations requires public authorities to make available environmental information that is held by or for them on request. Article 7(5) of the AIE Regulations is the relevant provision to consider where the question arises as to

whether the requested environmental information is held by or for the public authority concerned. My approach to dealing with cases where a public authority has effectively refused a request under article 7(5) is that I must be satisfied that adequate steps have been taken to identify and locate relevant environmental information, having regard to the particular circumstances. In determining whether the steps taken are adequate in the circumstances, I consider that a standard of reasonableness must necessarily apply. It is not normally my function to search for environmental information.

12. In its submissions to my Office, Teagasc provided details of its record management practices and the searches conducted in response to the appellant's request. As my Office has already provided the appellant with those details, I do not propose to repeat them in full here.
13. In summary, Teagasc explained that the documentation held in relation to FSC Ireland and SFMI is limited to interactions between the standing committees of those organisations and Teagasc's two representatives, in addition to minimal interactions with the Forestry Development Department's manager and administration officer. It stated that relevant information would only be held in the personal files and emails of those identified individuals.
14. Teagasc stated that its representative on the steering committee of FSC Ireland from 2008 to 2015 and the steering committee of SFMI from 2015 to 2018 carried out searches of his emails using keywords such as surnames, topics, acronyms, and dates. It explained that he deletes most of his emails that are over three years old. It also stated that he individually reviewed all hard copy records held in a relevant filing cabinet and all digital files held in relevant computer folders. Furthermore, Teagasc outlined that its representative on the steering committee of SFMI since 2018 and the relevant manager and administration officer were consulted and that they also carried out searches of their records.
15. In his correspondence to my Office, the appellant contended that, in light of records he had received from a third party, Teagasc should hold further post-2015 records relating to its membership of the SFMI and the process of establishing a Standard Development Group. He also contended that, as Teagasc's logo appeared on the registration form (flyer) for the SFMI conference in June 2016, this indicated that Teagasc provided some form of sponsorship for the conference and that records of funding proposals and offers should exist. In support of this contention, he provided a copy of meeting minutes, which outlined that only organisations that sponsored the conference would be included on the flyer.
16. My investigating officer wrote to Teagasc to seek clarification in respect of the appellant's contentions. She also sought clarification on the basis that, notwithstanding that page 103 of the records released outlined that the SFMI's focus

for 2017 was “the establishment and registration of a Standard Development Group”, no further records relating to 2017 had been provided.

17. In response, Teagasc explained that its representative on the SFMI steering group from 2015 to 2018 was not the chair of the organisation and while further relevant information may be held by other parties, he was not in a role which required full records to be retained. In respect of the SFMI conference, Teagasc explained that although it provided organisational assistance, administrative support, and a presentation, it provided no sponsorship in terms of funding. It stated that the logos included on the flyer referred to the parties who had co-organised the conference.
18. The general thrust of Teagasc’s position is that it holds no further relevant environmental information. I wish to emphasise that it is outside my remit as Commissioner to adjudicate on how public authorities carry out their functions generally, including with respect to their environmental information management practices. I have no role in assessing how public authorities collect, maintain and disseminate environmental information. My role concerns reviewing appeals of requests for access to environmental information, which is held by or for the relevant public authority and no more than that.
19. Having considered the details of the searches undertaken by Teagasc and of its description of its interactions with both FSC Ireland and SFMI, I am satisfied that Teagasc has taken adequate steps to identify and locate all relevant environmental information held by it. As such, I find that article 7(5) of the AIE Regulations applies.

Decision

20. Having carried out a review under article 12(5) of the AIE Regulations, I hereby affirm the Teagasc’s decision to refuse access to additional relevant environmental information relating to Teagasc’s membership of SFMI under article 7(5) of the AIE Regulations.

Appeal to the High Court

21. A party to the appeal or any other person affected by this decision may appeal to the High Court on a point of law from the decision. Such an appeal must be initiated not later than two months after notice of the decision was given to the person bringing the appeal.

Peter Tyndall
Commissioner for Environmental Information
16 April 2021