

# An Garda Síochána

Oifig Saorála Fáisnéise,  
An Garda Síochána, Teach áth Luimnigh,  
Lárionad Gnó Udáras Forbartha Tionscail,  
Baile Sheáin, An Uaimh,  
Contae na Mí.  
C15 DR90



Freedom of Information Office,  
An Garda Síochána, Athlumney House,  
IDA Business Park,  
Johnstown, Navan,  
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## Re: Access to Information on the Environment (AIE) Regulations Request AIE-006-2022 Request Part-Granted

*Dear*

I refer to your request, dated and received on 23<sup>rd</sup> August, 2022 which you have made under the Access to Information on the Environment (AIE) Regulations for records held by An Garda Síochána.

Your request sought:

*Under the AIE Regulations, I am seeking the following information on the fleet of cars in use for officeholders, including the Taoiseach, Tánaiste, Ministers etc:*

- *A full list of all cars in the fleet including make, year, mileage and fuel type/electric hybrid etc and which politician the vehicle is assigned to.*
- *Details of all purchases and disposals of vehicles in 2021 and to date in 2022 including the purchase price of vehicles or sale price/scrappage costs of vehicles that have been disposed of;*

The AIE Regulations are based on Directive 2003/4/EC. The Regulations provide for the right of access to environmental information held by or for public authorities and set out the basic terms and conditions of, and practical arrangements for, the exercise of this right of access. In line with Article 2(1) of the Directive, Article 3(1) of the AIE Regulations defines "environmental information" as "*any information in written, visual, aural, electronic or any other material form on –*

- (a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites... and the interaction among these elements,*

- (b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment,
- (c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements,
- (d) Reports on the implementation of environmental legislation,
- (e) Cost benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in paragraph (c), and
- (f) The state of human health and safety... conditions of human life, cultural sites and built structures... affected by the state of the elements of the environment... or through those elements, by any of the matters referred to in paragraph (b) and (c)".

I wish to inform you that I have decided to part-grant your request on 23<sup>rd</sup> September 2022.

The purpose of this letter is to explain my decision.

### 1. Findings, particulars and reasons for decision

Upon receipt, your request was forwarded to Fleet Management Section and Security & Intelligence Section and a number of records have been forwarded to this Office.

In Part 1 of your request you seek "A full list of all cars in the fleet including make, year, mileage and fuel type/electric hybrid etc. and which politician the vehicle is assigned to". The information you requested in relation to the make, year, number of vehicles, odometer readings and fuel type of ministerial vehicles is detailed in the table below.

Make	Year	Number	Odo Reading	Fuel Type
Audi A6	2013	4	307,179 285,577 318,400 327,406	Diesel
Audi A6	2014	1	379,022	Diesel
BMW 730	2014	1	244,323	Diesel
BMW	2016	4	236,000 235,800 165,800 204,947	Diesel
Ford Transit	2017	1	80,040	Diesel
BMW 740	2017	1	241,503	Diesel
BMW 530D	2019	1	232,400	Diesel
Audi A6	2019	1	182,930	Diesel
Lexus	2019	1	128,350	Hybrid/Unleaded
Audi A6	2021	2	66,050 51,800	PHEV
Hyundai Ioniq 5	2022	1	3,363	Electric



I am refusing the part of your request that states “*which politician the vehicle is assigned to*” as this information does not constitute “environmental information” as defined by the AIE Regulations. The requested information does not satisfy any of the 6 criteria above, which for the purposes of the Regulations define “environmental information”.

The European Court of Justice has found that while the AIE Regulations provide a broad definition of the term “environmental information”, they are not intended to give a general and unlimited right of access to all information held by public authorities which has a connection, however minimal, with one of the environmental factors mentioned. This view has been affirmed by the Commissioner for Environmental Information in decision CEI/15/0007 where the Commissioner held that “*in order for the AIE Regulations to apply, information must have more than a minimal connection to the state of the elements of the environment*”.

In reaching this decision, I am mindful of a previous decision of the Commissioner for Environmental Information (Gavin Sheridan & the Central Bank of Ireland, CEI/11/001) wherein the Commissioner determined that in order for information to fall within the definition of environmental information, it must be “*indicative of the environmental impact of the activity to which it relates*”. I am of the view that the connection between the requested information, namely the identity of the office holder, and any impact on the environment is too remote to qualify as environmental information.

Having examined your request, I am satisfied that the records of which politician the vehicle was assigned to does not constitute “*environmental information*” as defined by Article 3(1) of the AIE Regulations. Therefore, these records cannot be released under the Regulations.

In refusing to release details of the office holder each vehicle is assigned to, I must also consider the mandatory requirements contained in Article 8. Article 8 states that:

*8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information –*

*(a) would adversely affect –*

*(iv) without prejudice to paragraph (b), the confidentiality of proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts)*

Article 8 is a mandatory provision within the Regulations, whereby “*a public **shall not** make available environmental information*” where the provisions of this Article apply. The Regulations provide that where the confidentiality of the proceedings of public authorities is otherwise protected by law, information relating to such proceedings may not be made available under the AIE Regulations. This includes information exempt from disclosure under the Freedom of Information Act. In effect, this means that if information about the proceedings of a public body, would were an FOI request to be made seeking discovery of it, be capable of being protected under the FOI Act, a public body must not release this information under the AIE Regulations.

The Freedom of Information Act provides significant protections against the release of records held by An Garda Síochána relating to Security & Intelligence Section. Security & Intelligence



Section is responsible for the operation of the ministerial fleet. As such, records held or created by An Garda Síochána relating to Security & Intelligence Section are specifically exempt from release into the public domain and therefore fall within the grounds set out at Article 8 of the Regulations which mandate refusal

Article 10(1) of the Regulations requires that a request shall not be refused pursuant to Article 8, where the request relates to information on emissions into the environment. The information redacted in accordance with Article (8)(a)(iv) does not relate to emissions into the environment and as such the provisions of Article 10(1) do not apply.

Articles 10(3) and 10(4) of the Regulations require that, prior to applying Article 8(a)(iv), I weigh the public interest served by disclosure against the interest served by refusal. I am mindful of the protections given by the Regulations to information specifically protected by law particularly in the context of the protections provided by the Oireachtas against the release of records relating to the proceedings of Security & Intelligence matters and to the consequences of the release of such information into the public domain. I am especially conscious of the need for An Garda Síochána to be able to maintain confidentiality in respect of its procedures in respect of sensitive security matters. In particular, I am concerned that the release of the information sought could provide the opportunity for nefarious actors to utilise such information to engage in criminal activities which would endanger both the safety of life and property. In addition, I am concerned that the use of the AIE Regulations to release records in respect of operational security procedures in this instance, would create a precedent in respect of future requests.

I have considered a number of factors in favour of the release of the records sought. I am particularly conscious of the intention of the Regulations to favour release of environmental information in the broadest possible manner. I have also considered the right of the public to access information on the environment and in exercising their rights under the AIE Regulations, ensuring openness and transparency of An Garda Síochána's functions, the ability of the public to hold the decisions of public bodies to scrutiny, and the need for the public to be better informed on environmental affairs.

However having considered the factors both in favour and against release, I am satisfied that the public interest served by the release of the records sought does not outweigh the substantial public interest served by the ability of An Garda Síochána to carry out its functions in respect of providing security to office holders effectively. In providing the information above in relation to the make, age, mileage and fuel type of the Garda Ministerial fleet, I am satisfied that I have fulfilled the obligations contained with the Regulations to provide access to environmental information while also meeting An Garda Síochána's obligations regarding the security procedures in respect of public office holders. Therefore, I am also applying the provisions of Article 8(a)(iv) to your request for details of the individual office holder to whom each vehicle is assigned.

In Part 2 of your request seeks *“Details of all purchases and disposals of vehicles in 2021 and to date in 2022 including the purchase price of vehicles or sale price/scrappage costs of vehicles that have been disposed of;”*

The table below outlines the number of vehicles purchased and disposed of in 2021 and to date in 2022.

Date	Allocated	Removed
2021	2	2
As at 31 <sup>st</sup> August 2022	1	0

The 3 Ministerial vehicles purchased in 2021/2022 were purchased at a total cost of €182,975.21.

The 2 Ministerial vehicles that reached end of life in 2021 and disposed of under the current vehicle end of life contract resulted in €3,455 (scrap value) being returned to the Exchequer.

I have not included the individual price of the purchase of vehicles or the scrap value as this is commercially confidential information. This is in accordance with the provisions of Article 9(1)(c) of the AIE Regulations wherein

*9. (1) A public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect—*

*(c) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest, or*

I am satisfied that the release of the unit cost charged by a supplier for individual goods or services amounts to the release of commercially or industrially confidential information and that the release of such information would adversely affect the supplier by prejudicing their competitive position.

I am cognisant of the fact that the release of information under the AIE Regulations is, in essence, a release to the public at large. The pricing structure of a supplier with regard to goods or services provided to An Garda Síochána is not known to competitors or the public in general. If this information were made publically available it is reasonable to expect that it would prejudice the ability of a supplier to compete in other contracts or negotiations in the future as competitors would be aware of their pricing structure.

In addition, I consider that there is a public interest in allowing An Garda Síochána conduct its business with external contractors in a confidential manner and having the ability to hold commercial information in respect of suppliers without undue access by members of the public. Furthermore there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.

Article 10(1) of the Regulations requires that a request for environmental information shall not be refused, pursuant to Article 9(1)(c), where the request relates to information on emissions into the environment. I am satisfied that the refused information in this part of your request does not constitute information on emissions into the environment.



In accordance with Articles 10(3) and (4) of the AIE Regulations, I have considered the above factors as supporting the public interest in refusing the release of commercially confidential information, i.e. the individual cost of purchase and end of life for ministerial vehicles.

I have also considered a number of public interest issues which favour the release of the sections of the records in question, namely the requirement to provide to the greatest extent possible for access by the public to information on the environment, ensuring openness and transparency of An Garda Síochána's functions, the public interest in members of the public exercising their rights under the AIE Regulations, the need for the public to be better informed on environmental affairs and the importance of scrutiny in respect of the expenditure of public funds.

However, I am not satisfied that the release of this particular financial information enhances the degree of environmental information available to the public to such an extent as to override the right of suppliers of goods and services to An Garda Síochána to confidentiality in their commercial dealings. Having balanced the public interest factors both for and against the release, I have decided that the public interest in preserving the information and the reasonable expectation that information can be maintained by An Garda Síochána without prejudicing future financial endeavors by external service providers outweighs the public interest which would be served were the records released to you

## **2. Right of Appeal**

Under Article 11 of the AIE Regulations you have a right to seek an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of the staff of this Organisation, of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision made. The decision of this review will be communicated to you within one month of receipt of your application for an internal review.

In the event that you wish to make such an appeal, you can do so by writing to, *Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, Johnstown, Navan, Co. Meath C15 DR90* referring to this decision and quoting your AIE reference number. You must make this request within one month of the date of this notification, (the making of a late appeal may be permitted in appropriate circumstances).

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,



**ASSISTANT PRINCIPAL**

**PAUL BASSETT**

**FREEDOM OF INFORMATION OFFICER**

23 **SEPTEMBER 2022**