

## CJEU: *Raidió Teilifís Éireann (RTÉ) v. Commissioner for Environmental Information*

**IRIS 2026-9:1/6**

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On 10 September 2026, the Court of Justice of the European Union (CJEU) published its judgment in a case between Ireland's national public broadcaster, *Raidió Teilifís Éireann* (RTÉ), and the Commissioner for Environmental Information concerning a request for access to environmental information made by Right to Know CLG (RTK) to RTÉ.

On 19 July 2021, RTK, a non-profit organisation governed by Irish law, made a request for information to RTÉ under the European Communities (Access to Information on the Environment) Regulations 2007 (AIE Regulations), which transposes Directive 2003/4/EC in Ireland, in respect of three categories of environmental information:

- copies of any guidance, training or other such advice issued to RTÉ journalists on how to communicate or cover climate change to an audience, with this part of the request covering the period from 1 January 2020 to 19 July 2021;
- a record of how many representations RTÉ received regarding its coverage of climate change over the same period; and
- a copy of all representations or correspondence received by RTÉ relating to its coverage of climate change issues in 2021.

Following a search of the two inboxes corresponding to its two main contact email addresses and its telephone log using the search term "climate change", RTÉ stated that it did not have any documents falling within the first two categories. It voluntarily communicated a number of documents falling within the third category, while maintaining that those documents were not "environmental information".

RTK appealed the decision to the Commissioner for Environmental Information. In the course of that procedure, RTÉ submitted, *inter alia*, that it was not a "public authority" within the meaning of Article 3 of the 2007 AIE Regulations. However, by a decision of 30 November 2023, the Commissioner for Environmental Information found that RTÉ had to be classified as a "public authority" and that the information requested constituted "environmental information" within the meaning of the 2007 AIE regulations.

On 30 January 2024, RTÉ brought an appeal before the High Court, seeking the annulment of that decision. In this context, the High Court decided to refer three questions to the CJEU, namely to determine:

- whether RTÉ is to be treated as a public authority in respect of all or certain of its functions, under Article 2(2)(a) of Directive 2003/4/EC;
- whether the definition of “environmental information” in Article 2(1) of Directive 2003/4 and in particular the term “material form” require a public body to count the number of such records and create a record of that number, if the information does not already exist in material form; and
- whether a court must interpret national law to the maximum extent possible, where remittal would cause undue delay.

The CJEU concluded that a public-law legal entity cannot be classified as a “public authority” when it exhibits the following characteristics:

- it is created by State and is only dissolvable by the state;
- its board members are appointed by the government;
- it is funded by both public monies and commercial revenue;
- it mainly carries out broadcasting and journalistic activities, all while remaining independent in the exercise of its functions and benefiting from the protection linked to freedom of expression; but
- it does not organically form part of the public administration or executive of the state.

While RTÉ is established by the state and receives public and commercial funding, its core independent broadcasting, journalistic, and editorial functions do not equate to exercising public administrative authority or conventional public administration.

***CJEU, Raidió Teilifís Éireann (RTÉ) v. Commissioner for Environmental Information, Case C-330/25, 10 September 2026***

<https://juris.curia.europa.eu/juris/document/document.jsf?text=&docid=315051&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1876130>

