

Aarhus Convention: Council decision to strengthen access to justice in environmental matters

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The Council today asked the Commission to submit a study on the Aarhus Convention. The aim of the Aarhus Convention is to guarantee access to information, public participation in decision-making and access to justice in environmental matters. The EU and its member states are fully committed to the Convention and its objectives.

The study requested today is a result of the outcome of findings of the Aarhus Convention Compliance Committee following an alleged failure by the EU to comply with the Convention's provisions on access to justice. It will set out options for improving access to justice for the public and NGOs in environmental matters, including a possible review of the relevant EU legislation.

The Aarhus Convention is an emblematic instrument for environmental democracy. The convention and its protocol on pollutant release and transfer registers are the only legally binding international instruments that put principle 10 of the Rio Declaration on Environment and Development in practice. The EU implemented the Aarhus Convention through regulation (EC) No 1367/2006. This regulation allows non-governmental organizations to institute proceedings before the European Courts against EC institutions and bodies' decisions.

On 1 December 2008, the NGO ClientEarth contacted the Aarhus Convention Compliance Committee alleging a failure by the EU to comply with its obligations under the Aarhus Convention. The NGO claimed that the EU legislation and the jurisprudence of the European Courts had hindered access to justice for individuals and NGOs in environmental matters.

The Aarhus Convention Compliance Committee reached the conclusion that the EU failed to comply with the Convention, because neither the Aarhus Regulation nor the jurisprudence of the Court of Justice of the EU implements or complies with the access to justice provisions of the Convention. Therefore, the Committee recommended that all relevant EU institutions take steps to overcome these shortcomings in order to ensure full compliance by the EU with its obligations under the Convention.

Today's Council decision is based on Article 241 TFEU. It shall enter into force on the day of its publication in the Official Journal of the European Union, which is expected on 19 June 2018. In line with the 2016 inter-institutional agreement on better law making, the Commission must reply to the Council within three months.

The Council asks the Commission to complete the study by 30 September 2019 and, if changes to regulation (EC) No 1367/2006 are considered appropriate in view of the outcomes of the study, to prepare a proposal for an amendment of the regulation by 30 September 2020.

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