



Brussels, January 13, 2006



Concerning : Second Reading Vote on report Korhola

Dear Member of the European Parliament:



In a few days you will vote in plenary on the proposed Regulation to apply the Aarhus Convention to the EU institutions.



Last week you received a letter from us, the ten largest European environmental organisations, expressing our support for the amendments proposed by the EP's Environment Committee through the Korhola report.

We feel compelled to write to you again to correct any misunderstandings that may have been created by a letter from CEFIC of 10 January 2006 on the same subject. CEFIC warned in particular against granting access to justice at EU level in environmental matters.



Access to Justice in environmental matters is a key part of the Aarhus Convention, ratified by the EU just one year ago, and was part of the original Commission proposal. It was unfortunately essentially removed in the Council Common Position. The EP Environment Committee wants to reinstate it.



Friends of the Earth Europe

CEFIC complained that NGOs would have more rights than companies. CEFIC has turned the situation upside down.

Currently, companies do have access to the European Court of Justice in environmental matters but citizens and environmental organisations do not.



CEFIC writes that 'it is discriminatory and endangers the proper functioning of administration and justice ... where only one group can review the substantive and procedural legality of a decision, whereas the others are not granted this possibility.' We couldn't agree more. This statement describes today's situation that needs to change. Currently, only companies can meet the Treaty's requirement of 'direct and individual concern'; the European Court of Justice has repeatedly ruled that environmental organisations do not. So, currently, indeed, 'only one group [companies] can review the ... legality of a decision'.

GREENPEACE



The amendments supported by the Environment Committee would not create 'one-sided treatment for environmental NGOs'; the amendments would (partly) eliminate a long-standing disadvantage for environmental NGOs and the citizens whose opinions they seek to reflect. At long last, not only private interests can be defended in the Court, but also common interests, such as public health and nature.



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The amendments proposed by the EP Environment Committee (and included in the original Commission proposal), will make access to the European Court of Justice more equal. This is not discriminatory. This is anti-discriminatory!

Nor would the amendments approved by the Environment Committee 'circumvent the EC Treaty', as CEFIC claims. They are consistent with the first part of Article 230(4) of the EC Treaty.

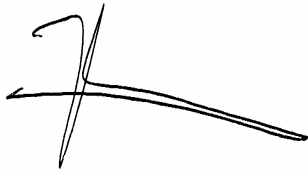
CEFIC sees 'dangers' in allowing access to justice for environmental NGOs. We argue that decision-making by European institutions will benefit and be more balanced if it is known that the final outcome can be challenged by **both** sides (industry and NGOs).

The purpose of the proposed Regulation is to implement the Aarhus Convention for the EU institutions. Aarhus requires access to justice in environmental matters for environmental groups. The Environment Committee's amendments would deliver full and proper implementation of the Convention.

We urge you to vote in favor of the current version of the Korhola's report

Yours sincerely,

John Hontelez, Secretary General European Environmental Bureau

A handwritten signature in black ink, appearing to be 'JH', with a long horizontal stroke extending to the right.

Also on behalf of:

Clairie Papazoglou, Head of EU Policy, **BirdLife International**

Magda Stoczkiewicz, Policy Coordinator, **CEE Bankwatch Network**

Matthias Duwe, Acting Director, **Climate Action Network Europe**

Genon Jensen, Director, **European Public Health Alliance – Environment Network**

Paul de Clerk, Acting Director, **Friends of the Earth Europe**

Jorgo Riss, Director, **Greenpeace European Unit**

Christian Baumgartner, Secretary General, **International Friends of Nature**

Jos Dings, Director, **European Federation for Transport & Environment**

Tony Long, Director, **WWF European Policy Office**



To the Members of the European Parliament

Concerning: *Plenary Vote, Second Reading on Report-KORHOLA on Aarhus Convention and EU Institutions, EP January session*



Dear Madam/Sir,



In its January session, the EP is to vote on the Korhola Report on the “*Council Common Position of the Council for adopting a regulation of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (6273/2005 – C6-0297/2005 – 2003/0242(COD))*”



We call upon you to take part in the vote and fully support the amendments the EP’s Environment Committee is proposing in the Korhola Report. These amendments are very much in line with the EP first reading report of April 2004, and they ensure that the Regulation would respect and apply the spirit and requirements of the Aarhus Convention.



The Aarhus Convention is the most important international legal instrument ever adopted to guarantee citizens rights to live in an environment adequate to their health and well-being. In addition to the European Community, all EU member states have signed and, by now, most have ratified the Convention. At a time when the EU is trying to close the gap with its citizens, it is all the more important to be able to demonstrate that the rules that apply at home also apply in Brussels.



More-over, the Convention is concretely contributing to more environmental accountability of public authorities in other parts of Europe, which is particularly important in countries where democracy as such is still an uncertainty.



The Common Position of the Council has important weaknesses, which would put the European Union in an embarrassing situation: being a Party to the Convention, but exempting systematically certain fields of work of the EU Institutions and bodies as well as refusing to increase access to justice for environmental organisations.



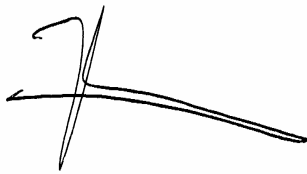
We highlight here the most important issues for the upcoming vote.



- The exceptions to access to environmental information that apply in the Member States should apply as well to the EU institutions and bodies. Directive 2003/4 on access to environmental

- information fully and accurately implements the Aarhus Convention requirements on this point. Regulation 1049/2001, unfortunately, does not. Accordingly, the Directive and not the Regulation should be used as a basis for this Regulation. (Amendments 4 and 14)
- The Council's common position introduces a systematic exclusion for 'financial, banking or budget plans and programmes' which is not found in the Aarhus Convention. The banking plans and programmes may have a strong adverse impact on the environment and should therefore not be excluded (Amendments 4, 8 and 9).
- The Aarhus Convention seeks public participation for policy development as well. The Common Position excludes this. Amendment 5 is therefore important.
- Transparency should also be provided with regards to infringement proceedings, as, in the environmental field, the public and environmental NGOs are the main complainants (= allies) in the efforts of the Commission to ensure compliance (Amendments 7 and 12)
- It sends the wrong message when public participation is permitted but no account need be taken of its results. The Aarhus Convention expressly requires due account to be taken of public participation and this requirement should be expressed in the Regulation, too. (Amendments 19, 21).
- The Council's common position changed the concept of 'decision' to 'written reply' in the provision on internal review. This removes the right of qualified NGOs to for access to justice, which is an essential element of the Aarhus Convention, and considerably weakens the potential the Regulation could have in facilitating public involvement in ensuring respect for adopted EU environmental legislation (See Amendments 23, 25 and 26).
- Finally, amendments 16, 20, 22 and 25 also provide for good improvements regarding deadlines for actions.

Yours sincerely,



John Hontelez, Secretary General European Environmental Bureau

Also on behalf of:

Clairie Papazoglou, Head of EU Policy, **BirdLife International**

Magda Stoczkiewicz, Policy Coordinator, **CEE Bankwatch Network**

Matthias Duwe, Acting Director, **Climate Action Network Europe**

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