

Environment: access to information and justice, public participation, application of the Aarhus Convention

2020/0289(COD) - 14/10/2020 - Legislative proposal

PURPOSE: to lay down detailed provisions to apply 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.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Union and its Member States are Parties to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention). [Regulation \(EC\) No 1367/2006](#) of the European Parliament and of the Council (the Aarhus Regulation) established provisions to apply the provisions of the Convention to EU institutions and bodies.

For the European Green Deal to be successful and bring about lasting change, the public - individuals but also civil society - should remain a driving force in the transition and be given the means to participate actively in the development and implementation of new policies.

In its Communication on the [European Green Deal](#), the Commission committed itself to revise the 'Aarhus Regulation' to improve access to administrative and judicial review at EU level for citizens and NGOs who have concerns about the legality of decisions affecting the environment and to take measures to improve their access to justice before the national courts in all Member States.

In its [resolution](#) of 15 January 2020, the European Parliament reaffirmed that it is essential to ensure that EU citizens have genuine access to justice and documents as enshrined in the Aarhus Convention.

CONTENT: the proposal aims to revise the administrative review created established in 2006 by the 'Aarhus Regulation' for the benefit of NGOs with regard to acts and omissions of an administrative nature by EU institutions and bodies.

In concrete terms, the amending proposal:

- extends the current possibilities for NGOs to request administrative review: whereas administrative review can currently only be requested for acts of 'individual scope' (which directly concern a person), in future NGOs may also request review of any non-legislative administrative act of 'general scope'; however, the proposal excludes provisions of such acts for which EU law explicitly requires implementing measures at EU or national level;
- amends the references to environmental law by providing that, in future, any administrative act which contravenes EU environmental law may be subject to review, irrespective of its policy objectives; however, the proposal does not envisage granting standing for individuals;

- extends the deadlines for the internal review procedure to allow for an appropriate quality of submissions, including a two-week extension for NGOs and a four-week extension for EU institutions.

Budgetary implications

The report and the external study on the functioning of access to justice in environmental matters accompanying the proposal assessed the impact of the different options on the internal resources of the EU institutions, in particular the Commission and the Court of Justice of the European Union (CJEU). They concluded that this impact shall be limited if the options introduced by the proposal are followed.

The proposed amendments shall not create a new system and shall not lead to an increase in the number of potential applicants for review. Although the expanding of the eligibility requirements may lead to an increase in the current workload, this could be partially compensated by clearer eligibility criteria.