

For our Environment

9th meeting of the Task Force on Access to Justice under the Aarhus
Convention

Preliminary outcomes of the study “The NGO lawsuit in the legal debate“

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Content

1 CONTENT OF THE COMPARATIVE STUDY

2 MAIN ISSUES

2.1 Implementation of art. 9 par. 3 AC

2.2 Scope of judicial review

2.3 Intensity of judicial review

Content of the Study

- Three focal points in the project: the content and implementation of art. 9 par. 3 AC, the scope of review of administrative decisions and the intensity of judicial review
- Comparative study covers France, Italy, Sweden, Great Britain and Poland
- What happened so far?
- What happens next?



Implementation of art. 9 par. 3 AC

- What’s so interesting about art. 9 par. 3 AC?
The German legal situation:
 - The “subjective rights” doctrine and its relevance for the implementation of the AC
 - Restricted A2J for NGOs outside EIA procedures and nature conservation law
- Preliminary outcomes of the comparative study



Scope of judicial review

- “Scope of review” vs. “Intensity of review”
- The German situation – material preclusion of objections
- Preliminary outcomes of the comparative study
- CJEU’s judgment C-137/14



Intensity of judicial review

- Legal foundation of the intensity of review in the AC
- Our assumption: The wider the door, the smaller the room...
- ... (so far) did not prove valid
- Preliminary outcomes show a wide spectrum of different levels regarding the intensity of judicial review with
 - Great Britain and Sweden being on different ends of the spectrum (low and high level of judicial control)
 - Italy and France in the middle (medium level of judicial control)



Thank you for your Attention !

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