

Aarhus Convention – 26th Working Group of the Parties, 22 June 2022

Agenda item 3(c) – European ECO Forum opening statement

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Thank you for the floor, honourable chair, distinguished delegates,

I would like to make a brief statement on the situation of access to justice at the level of the EU and its Member States.

In October 2020 the European Commission published a Communication on access to justice in environmental matters in the Member States. This Communication details the needs to implement and strengthen the obligations and rights under the Aarhus Convention Article 9(3) and 9(4) in the Member States. Rather than proposing new EU legislation which could harmonise the situation in the Member States, the Communication urges Member States to implement their obligations under the Aarhus Convention and commits the EU institutions to include access to justice provisions in all new legislative proposals in EU sectoral laws.

Nearly two years on, we now see some of the fruits of this Communication, and we see mixed results. Especially in the climate proposals, which form a bulk of major legislative work the EU is now doing under the so-called “Fit for 55 Package”, the Commission did not include access to justice in its proposals. We now have the European Parliament’s position in 2 files where they have, nonetheless, succeeded to introduce provisions on A2J, which is welcome.

Having said this, in other more ‘classically environmental files’, we also very much welcome the Commission proposal to amend the Industrial Emissions Directive, which includes access to justice and introduces new provisions on liability, damages for affected communities, and the reversal of the burden of proof.

But as an Aarhus Convention Party, the EU and all its institutions should ensure that there is proper access to justice in environmental matters, which includes climate of course, and therefore we urge the Commission to stay true to its commitment and always ensure that access to justice provisions are included in its proposals, and for the EP and Council to support these and strengthen the Commission proposals when necessary.

While NGOs are seeing a mixed picture of how access to justice features in EU legislation and its new proposals, a Directive on Access to Justice, which would harmonise at least the basic needs and elements of this right in the Member States, will still be necessary to ensure that we do not end up with a fragmented and unequal picture of how the third pillar of the Aarhus Convention is implemented across the EU.



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