

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

2020/0289(COD) - 20/05/2021 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 553 votes to 62, with 78 abstentions, amendments to the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1367/2006 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.

The matter was referred back to the competent committee for inter-institutional negotiations.

The Commission's proposal to revise the Aarhus Regulation aims to improve the implementation of the Aarhus Convention. The EU and its 27 Member States are parties to the 1998 Aarhus Convention, which gives members of the public the right of access to information and participation in environmental decision-making, as well as the right to seek redress if these rights are not respected.

The main amendments adopted by the plenary are as follows

Clarification of the definition of ‘administrative acts’

The revision of Regulation (EC) No 1367/2006 is intended to improve access to administrative and judicial review at EU level for citizens and environmental non-governmental organisations who have specific doubts about the compatibility with environmental law of administrative acts with an impact on the environment.

Members clarified that the concept of ‘administrative act’ should include **any non-legislative act adopted by a Union institution or body**, having legal and external effect and containing provisions which may contravene environmental law. Acts adopted by public authorities of the Member States would not be included in administrative acts.

No later than 18 months after the date of adoption of this Regulation, the Commission should adopt guidelines to facilitate the assessment of the compatibility of state aid with relevant provisions of Union law relating to the environment, including on the information to be submitted by Member States when they notify the Commission of state aid.

Collection and dissemination of environmental information

Members consider that documents relating to the positions of Member States expressed in decision-making procedures leading to the adoption of EU legislation and administrative acts relating to the environment should be included in databases or registers as soon as they are made available.

Request for internal review of administrative acts

Members proposed that the Aarhus Regulation should allow members of the public other than NGOs to request an internal review.

Criteria for entitlement at Community level

No later than 18 months after the adoption of the regulation, the Commission should adopt a delegated act specifying the criteria that members of the public must meet. These criteria would be reviewed at least every three years.

The criteria established by the delegated act should:

- ensure effective access to justice, in line with the overall objectives of the Aarhus Convention;
- require that a request be submitted by members of the public from different Member States when it concerns an act or omission of the Union affecting the public in more than one Member State
- avoid legal actions in defence of the common interest, in particular by ensuring that members of the public who have a sufficient interest in a right or who can demonstrate a breach of a right are required to prove that they are directly affected in contrast to the rest of the public;
- minimise the administrative burden on the Union institutions and bodies.

Public register of requests for internal review

The EU institutions and bodies should establish, by 31 December 2021 at the latest, a regularly updated register of all requests that meet the admissibility criteria, as well as of the applicants who meet these requirements and have submitted the requests.

Proceedings before the Court of Justice

Without prejudice to the Court's prerogative to apportion costs, Members believe that it should be ensured that court proceedings brought by NGOs applying for internal review are not prohibitively expensive.