

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

2003/0242(COD) - 31/03/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Eija-Riitta Anneli KORHOLA (EPP-ED, FIN). Many of the amendments sought to align the text with various provisions in the Aarhus Convention and related EU directives, especially as regards refusing requests for access to environmental information and laying down binding rules on public participation. More specifically, the Parliament includes the following amendments: - the Aarhus Convention grants nongovernmental organisations promoting environmental protection the right to participate in the drawing-up of certain plans and programmes relating to the environment and access to justice in environmental matters whereas other members of the public have to be affected by or have an interest in the decisions or omissions. In order to protect this right from any form of abuse, the Community law should set basic criteria for recognising such qualified organisations; - Community institutions and bodies, with particular reference to the Commission, should make greater efforts to streamline the current procedures for obtaining information and access to justice, such as those relating to complaints and to petitions to the European Parliament; - where they have a sufficient interest or maintain the impairment of a right, members of the public, where they are directly and individually concerned, should be able to bring environmental proceedings concerning the procedural and substantive legality of administrative acts or omissions which infringe environmental law; - Community institutions and bodies shall endeavour to assist the public by providing the best possible guidance in seeking access to information, in facilitating participation in decision making and in seeking access to justice in environmental matters; - Community institution or body, it shall, as promptly as possible, or, at the latest, within 15 working days, inform the applicant of the Community institution or body or the public authority within the meaning of Directive 2003/4/EC to which it believes it is possible to apply for the information requested or transfer the request to the relevant Community institution or body or the public authority and inform the applicant accordingly; - Community institutions and bodies shall refuse access to and shall decide not to actively disseminate environmental information, where disclosure of the information would adversely affect the protection of the environment to which such information relates, such as the location of rare species; - Community institutions and bodies may not refuse a request nor may they decide to actively disseminate the information, where the information relates to emissions into the environment, by virtue of the exceptions relating to the protection of commercial or industrial information, the protection of personal data, or the protection of the environment to which the information relates; - Community institutions and bodies may deny access to environmental information or decide not to disseminate environmental information only by virtue of certain exceptions; - on the issue of charges, the Parliament states that Community institutions and bodies not covered by Regulation 1049/2001/EC may, where Article 10 of that Regulation is not applicable, make a reasonable charge for supplying information. They shall publicise and make available to applicants a schedule of charges which may be levied, indicating the circumstances in which they may be levied or waived and when the supply of information is conditional on the advance payment of such a charge; - as regards consultations, when preparing, modifying or reviewing a plan, programme or policy relating to the environment, Community institutions and bodies shall inform the public thereof, whether by public notice or other appropriate means such as electronic media; - request for internal review of administrative acts by qualified entities within a time limit not exceeding twelve weeks after the administrative act was published in the Official Journal of the European Union or otherwise made public, or, in the case of an alleged omission, twelve weeks after the date when the administrative act was required by law. It shall specify the alleged breach of environmental law as well as the content of the review decision sought. Request for internal review of administrative acts by members of the public - Members of the public who have legal standing and who consider that an administrative act or an omission, where they are directly and individually concerned, is in breach of

environmental law, is entitled to make a request for internal review to the Community institution or body that adopted the act or, in case of an alleged omission, should have acted. Such a request must be made in writing and within a time limit not exceeding twelve weeks after the administrative act was published in the Official Journal of the European Union or otherwise made public, or, in the case of an alleged omission, twelve weeks after the date when the administrative act was required by law. It shall specify the alleged breach of environmental law as well as the content of the review decision sought.