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AMENDMENTS 18-50

Draft report

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Eija-Riitta Korhola

Aarhus Convention on Access to Information and Access to Justice in Environmental Matters

Council common position (6273/REV 2/2005 – C6-0000/2005 – 2003/0242(COD))

Council common position

Amendments by Parliament

Amendment by Urszula Krupa

Amendment 18

Recital 6

(6) As a general principle, the rights guaranteed by the three pillars of the Aarhus Convention are without discrimination as to citizenship, nationality or domicile.

(6) As a general principle, the rights guaranteed by the three pillars of the Aarhus Convention are without discrimination as to citizenship, nationality, **financial status** or domicile.

Or. pl

Justification

Citizens with a low financial or social status are often discriminated against by public authorities. It is difficult for such citizens to gain access to information on the environment owing to a lack of access to the internet or to other telecommunications tools, and it is thus also difficult for them to gain access to justice. Amendment in keeping with the spirit of the Aarhus Convention, particularly Article 9(4) thereof.

Amendment by Urszula Krupa

Amendment 19

Recital 7

(7) The Aarhus Convention defines public authorities in a broad way, the basic concept being that wherever public authority is exercised, there should be rights for individuals and their organisations. It is therefore necessary that the Community institutions and bodies covered by this Regulation be defined in the same broad and functional way. Under the Aarhus Convention, Community institutions and bodies can be excluded from the scope of application of the Convention when acting in a judicial or legislative capacity. However, for reasons of consistency with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, the provisions on access to environmental information should apply to Community institutions and bodies acting in a legislative capacity.

(7) The Aarhus Convention defines public authorities in a broad way, the basic concept being that wherever public authority is exercised, there should be rights for individuals and their organisations ***to take action and have access to the courts in environment-related matters***. It is therefore necessary that the Community institutions and bodies covered by this Regulation be defined in the same broad and functional way. Under the Aarhus Convention, Community institutions and bodies can be excluded from the scope of application of the Convention when acting in a judicial or legislative capacity. However, for reasons of consistency with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, the provisions on access to environmental information should apply to Community institutions and bodies acting in a legislative capacity.

Or. pl

Justification

Amendment seeking further to specify the scope of the legislation. Under the current wording, citizens may have other rights that are not necessarily related to environmental protection. Amendment in keeping with the spirit of the Aarhus Convention, particularly Articles 6, 7, 8 and 9 thereof.

Amendment by Urszula Krupa

Amendment 20

Recital 9

(9) It is appropriate for this Regulation to provide for a definition of 'plans and programmes' taking into account the

(9) It is appropriate for this Regulation to provide for a definition of 'plans and programmes' taking into account the

provisions of the Århus Convention, in parallel with the approach followed in relation to the Member States' obligations under existing EC law. 'Plans and programmes relating to the environment' should be defined in relation to their contribution to the achievement, or to their likely significant effect on the achievement, of the objectives of Community environmental policy. For the 10-year period starting from 22 July 2002, the Sixth Community Environment Action Programme establishes the objectives of Community environmental policy and the actions planned to attain these objectives. At the end of this period, a subsequent environmental action programme should be adopted.

provisions of the Århus Convention, in parallel with the approach followed in relation to the Member States' obligations under existing EC law. 'Plans and programmes relating to the environment' should be defined in relation to their contribution to the achievement, or to their likely significant effect on the achievement, of the objectives *and priorities* of Community environmental policy. For the 10-year period starting from 22 July 2002, the Sixth Community Environment Action Programme establishes the objectives of Community environmental policy and the actions planned to attain these objectives. At the end of this period, a subsequent environmental action programme should be adopted.

Or. pl

Justification

In addition to the objectives of environmental policy the European Union focuses on the performance of priority tasks linked to that policy. For example, the Sixth Framework Programme (2002-2006) promotes, among other things, food quality and safety, sustainable development and global change and ecosystems, and thus sub-programmes with a close link to environmental protection and human health.

The priorities of the current UK Presidency of the EU include climate change and environmental protection and sustainable development in relation to human life and health.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 21

Recital 15

(15) *Where Regulation (EC) No 1049/2001 provides for exceptions, these should apply, mutatis mutandis, to requests for access to environmental information under this Regulation.* The grounds for refusal as regards access to environmental information should be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions in the

(15) *Regarding exceptions to the rules on access to environmental information, the relevant provisions of Directive 2003/4/EC should apply also to Community institutions and bodies.* The grounds for refusal as regards access to environmental information should be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to

environment. ***The term "commercial interests" covers confidentiality agreements concluded by institutions or bodies acting in a banking capacity.***

emissions in the environment.

Or. en

Justification

Directive 2003/4/EC implements the Aarhus Convention as access to environmental information into Member States' law and there is no reason why the Community institutions should not apply the same rules. The addition of "banking" deviates from the Aarhus Convention, which in the meanwhile has been ratified by the Community. The Convention provides that exceptions must be interpreted narrowly, the addition of "banking", however, enlarges the notion of confidentiality and is thus not permitted. Directive 2003/4/EC does not provide for specific rules for banks, although banks similar to EIB exist in many Member States. (EP first reading amendment 56.)

Amendment by Frederika Brepoels

Amendment 22

Recital 15

(15) Where Regulation (EC) No 1049/2001 provides for exceptions, these should apply, mutatis mutandis, to requests for access to environmental information under this Regulation.

The grounds for refusal as regards access to environmental information should be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions in the environment.

The term "commercial interests" covers confidentiality agreements concluded by institutions or bodies acting in a banking capacity.

(15) The grounds for refusal as regards access to environmental information should be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions in the environment.

As regards exceptions applying to access to environmental information, the relevant provisions of Directive 2003/4/EC should also apply to Community institutions and bodies.

Justification

The exception allowing institutions or bodies acting in a banking capacity to refuse access to environmental information was not provided for in the original Commission proposal. Exceptions must be based on Directive 2003/4/EC.

Amendment by Urszula Krupa

Amendment 23

Article 1, paragraph 1, point (b)

(b) ensuring that environmental information is progressively made available and disseminated to the public in order to achieve its widest possible systematic availability and dissemination. To that end, the use, in particular, of computer telecommunication and/or electronic technology, where available, shall be promoted;

(b) ensuring that environmental information is **reliably collected and** progressively made available and disseminated to the public in order to achieve its widest possible systematic availability and dissemination. To that end, the use, in particular, of computer telecommunication and/or electronic technology, where available, shall be promoted;

Justification

Mistakes: unsystematic observation of the state of the environment, inaccurate readings taken with measuring equipment and the use of defective or obsolete technical apparatus and of incorrect research procedures can generate repeated mistakes which can lead to inaccurate assessments of the state of the environment and thus result in the spread of incorrect information. This can lead to public authorities and judicial bodies making mistakes or failing to take appropriate action.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 24

Article 1, paragraph 1, point (c)

(c) providing for public participation concerning plans **and** programmes relating to the environment;

(c) providing for public participation concerning plans, programmes **and policies** relating to the environment;

(This amendment applies throughout the text.)

Justification

The Aarhus Convention requires access to participation into environmental policy-making.

Amendment by Frederika Brepoels

Amendment 25

Article 1, paragraph 1, point (c)

(c) providing for public participation concerning plans **and** programmes relating to the environment;

(c) providing for public participation concerning plans, programmes **and policies** relating to the environment;

Or. nl

Justification

This amendment is being tabled with a view to implementing Article 7 of the Aarhus Convention. It reintroduces amendment 7 from the first reading.

Amendment by Johannes Blokland

Amendment 26

Article 2, paragraph 1, introductory part

1. For the purpose of this Regulation

(Does not affect English version.)

Or. nl

Justification

(Does not affect English version.)

Amendment by Urszula Krupa

Amendment 27

Article 2, paragraph 1, point (a)

(a) ‘applicant’ means any natural or legal person requesting **environmental**

(a) ‘applicant’ means any natural or legal person requesting information **on the state**

information;

of the environment or one of its elements;

Or. pl

Justification

Applicants should submit applications for information on one or more component parts of the environment, rather than the environment as a whole.

Amendment by Urszula Krupa

Amendment 28

Article 2, paragraph 1, point (d) (i)

(i) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;;

(i) the state of the elements of the environment, such as air and atmosphere, water, soil, **surface land forms, bedrock,** land, landscape and natural sites including **forests,** wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

Or. pl

Justification

Point (i) covers elements of the environment: the atmosphere (air), the hydrosphere (water), the pedosphere (soils), surface land forms and bedrock (the lithosphere) and living organisms, including forests and wetlands (the biosphere). The inclusion of bedrock is important owing to the economic activities carried out in connection with it (mining, underground transport, building, storage, military activities) which have extensive effects on the environment (cave-ins in mines, methane explosions, leakages of petroleum products from pipelines, transport disasters in tunnels, building disasters, etc.).

Amendment by Urszula Krupa

Amendment 29

Article 2, paragraph 1, point (d) (vi)

(vi) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures in as much as they are or may be affected by the

(vi) the state of human health and safety, **the demographic and social state of individual communities at local, regional and national level,** including the contamination of the food chain, where relevant, conditions of

state of the elements of the environment referred to in point (i) or, through those elements, by any of the matters referred to in points (ii) and (iii);

human life, cultural sites and built structures in as much as they are or may be affected by the state of the elements of the environment referred to in point (i) or, through those elements, by any of the matters referred to in points (ii) and (iii);

Or. pl

Justification

A knowledge of the gender and age breakdown and other demographic and social features of individual communities at local, regional or national level makes it possible to assess (in the event of, for instance, radioactive contamination or other environmental disasters, such as floods) when, how and where to provide assistance to the most vulnerable groups, particularly the elderly and children.

Amendment by Frederika Brepoels

Amendment 30

Article 2, paragraph 1, point (e)

(e) “Plans **and** programmes relating to the environment” means plans **and** programmes,

(e) “Plans, programmes **and policies** relating to the environment” means plans, programmes **and policies**,

Or. nl

Justification

Point (e) should be consistent with the amendment to Article 1(1)(c) by Frieda Brepoels.

Amendment by Frederika Brepoels

Amendment 31

Article 2, paragraph 1, point (e), (i)

(i) which are subject to preparation **and, as appropriate**, adoption by a Community institution or body;

(i) which are subject to preparation, **funding and/or** adoption by a Community institution or body;

Or. nl

Justification

The second part reintroduces amendment 10 from the first reading.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 32

Article 2, paragraph 1, point (e) (i)

(i) which are subject to preparation and, as appropriate, adoption by a Community institution or body;

(i) which are subject to preparation, **funding** and, as appropriate, adoption by a Community institution or body;

Or. en

Justification

EU funded programmes can have a major impact on the environment. (EP first reading amendment 10).

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 33

Article 2, paragraph 1, point (e), subparagraph 3

This definition shall not include financial, **banking** or budget plans and programmes, namely those laying down how particular projects or activities should be financed or those related to the proposed annual budgets, internal work programmes of a Community institution or body, or emergency plans and programmes designed for the sole purpose of civil protection;

This definition shall not include financial or budget plans and programmes, namely those laying down how particular projects or activities should be financed or those related to the proposed annual budgets, internal work programmes of a Community institution or body, or emergency plans and programmes designed for the sole purpose of civil protection;

Or. en

Justification

The addition of "banking" deviates from the Aarhus Convention, which in the meanwhile has been ratified by the Community. The Convention provides that exceptions must be interpreted narrowly, the addition of "banking", however, enlarges the notion of confidentiality and is thus not permitted. Furthermore Directive 2003/4/EC does not provide for specific rules for banks, although banks similar to EIB exist in many Member States.

Amendment by Urszula Krupa

Amendment 34

Article 2, paragraph 1, point (f)

(f) ‘environmental law’ means Community legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of Community policy on the environment as set out in the Treaty: preserving, protecting and improving the quality of the environment, protecting human health, the prudent and rational utilisation of natural resources, and promoting measures at international level to deal with regional or worldwide environmental problems;

(f) ‘environmental law’ means Community legislation which, irrespective of its legal basis, contributes to the pursuit of the objectives of Community policy on the environment as set out in the Treaty: preserving, protecting and improving the quality of the environment, protecting human health, the prudent and rational utilisation of natural resources, and promoting measures at international level to deal with **local**, regional or worldwide environmental problems;

Or. pl

Justification

The promotion of measures to resolve environmental problems at local level gives rise to further action to protect and improve the quality of the environment, protect human health and ensure prudent and rational use of natural resources. This action is then taken up at higher levels (regional, national and, finally, international). Environmental protection at international level is impossible without all the action taken at local level.

Amendment by Urszula Krupa

Amendment 35

Article 3, paragraph 1, subparagraph 1

Regulation (EC) No 1049/2001 shall apply to any request by an applicant for access to environmental information held by Community institutions and bodies without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Regulation (EC) No 1049/2001 shall apply to any request by an applicant for access to environmental information held by Community institutions and bodies without discrimination as to citizenship, nationality, **social status** or domicile and, in the case of a legal person, without discrimination as to **the type of activities in which it is engaged**, where it has its registered seat or an effective centre of its activities.

Justification

Citizens with a low financial or social status are often discriminated against by public authorities. It is difficult for such citizens to gain access to information on the environment owing to a lack of access to the internet or to other telecommunications tools, and it is thus also difficult for them to gain access to justice. Amendment in keeping with the spirit of the Aarhus Convention, particularly Article 9(4) thereof.

Amendment by Urszula Krupa

Amendment 36

Article 4, paragraph 2, introductory part

2. The environmental information to be made available and disseminated shall be updated as appropriate. In addition to the documents listed in Article 12(2) and (3) and in Article 13(1) and (2) of Regulation (EC) No 1049/2001, the databases or registers shall include the following:

2. The environmental information to be made available and disseminated shall be **reliable and shall be** updated as appropriate. In addition to the documents listed in Article 12(2) and (3) and in Article 13(1) and (2) of Regulation (EC) No 1049/2001, the databases or registers shall include the following:

Justification

Mistakes: unsystematic observation of the state of the environment, inaccurate readings taken with measuring equipment and the use of defective or obsolete technical apparatus and of incorrect research procedures can generate repeated mistakes which can lead to inaccurate assessments of the state of the environment and thus result in the spread of incorrect information. This can lead to public authorities and judicial bodies making mistakes or failing to take appropriate action.

Amendment by Urszula Krupa

Amendment 37

Article 4, paragraph 4

4. The Commission shall ensure that, at regular intervals not exceeding four years, a report on the state of the environment, including information on the quality of, and pressures on, the environment is published

4. The Commission shall ensure that, at regular intervals not exceeding four years, a report on the state of the environment, including information on the quality of, and pressures on, the environment is published

and disseminated.

and disseminated, **and shall put forward guidelines for its development in accordance with Articles 95 and 175(1) of the Treaty.**

Or. pl

Justification

The overriding aim of the regulation is to protect human health and the environment. The laying down of development guidelines will make it possible to formulate measures that will justify enhanced access to information, public participation in decision-making and access to justice in matters relating to health and environmental protection.

Amendment by Frederika Brepoels

Amendment 38
Article 6

Application of exceptions concerning requests for access to environmental information

1. As regards Article 4(2), first indent, of Regulation (EC) No 1049/2001, an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment. As regards the other exceptions set out in Article 4(2) and (3) of Regulation (EC) No 1049/2001, the fact that the information requested relates to emissions into the environment shall be taken into particular account when assessing whether or not there is an overriding public interest in disclosure.

2. In addition to the exceptions set out in Article 4 of Regulation (EC) No 1049/2001, Community institutions and bodies may refuse access to environmental information where disclosure of the information would adversely affect the protection of the environment to which the information relates, such as the breeding sites of rare species.

Refusal of requests for access to environmental information

Where a Community institution or body receives a request for access to environmental information and where this information is not held by or for that 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.

Where the request is formulated in too general a manner, the Community institution or body shall, as soon as possible and at the latest within the time frame laid down in Article 7 of Regulation (EC) No 1049/2001, ask the applicant to clarify the request and shall assist the applicant in doing so, for example by providing information on the use of the public

3. When a Community institution or body holds environmental information originating from a Member State it shall consult with that Member State and shall apply any relevant exceptions under Community law. The institution or body concerned shall release the information if no exception applies.

registers referred to in Article 11 of Regulation (EC) No 1049/2001. Only after having given the applicant this opportunity may the Community institution or body, where it deems it appropriate, refuse the request under this paragraph.

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 not 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 may decide not to disseminate environmental information only by virtue of one of the exceptions provided for in Article 4 of Directive 2003/4/EC or the third paragraph of this Article.

The exceptions laid down in this Regulation shall be interpreted restrictively. In each specific case, the public interest served by disclosure shall be weighed against the interest served by the refusal.

Or. nl

Justification

Exceptions must be based on Directive 2003/4/EC, which provides for access to environmental information at the national level. The exceptions as provided for here are not wholly in accordance with, and are too broad in relation to, the provisions laid down in the Aarhus Convention.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 39
Article 6, paragraph 1

1. As regards Article 4(2), first indent, of Regulation (EC) No 1049/2001, an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment. As regards the other exceptions set out in Article 4(2) and (3) of Regulation (EC) No 1049/2001, the fact that the information requested relates to emissions into the environment shall be taken into particular account when assessing whether or not there is an overriding public interest in disclosure.

1. Community institutions and bodies may deny access to environmental information or decide not to disseminate environmental information only by virtue of one of the exceptions provided for in Article 4 of Directive 2003/4/EC or paragraph 2 of this Article.

Or. en

Justification

Directive 2003/4/EC implements the Aarhus Convention as regards access to environmental information in Member States. The Community institutions should apply the same rules on exceptions to access to information as the Member States. Regulation 1049/2001 does not sufficiently take into account the particular status granted to access to environmental information under the Aarhus Convention.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 40
Article 6, paragraph 3

3. When a Community institution or body holds environmental information originating from a Member State it shall consult with that Member State and shall apply any relevant exceptions under Community law. The institution or body concerned shall release the information if no exception applies.

deleted

Or. en

Justification

Redundant. The exemptions provided for in Directive 2003/4 should apply to both Member States and Community institutions and bodies.

Amendment by Urszula Krupa

Amendment 41
Article 8, paragraph 1

1. In the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, Community institutions and bodies shall, upon request of public authorities within the meaning of Directive 2003/4/EC, collaborate with and assist those public authorities in order to enable the latter to disseminate immediately and without delay to the public that might be affected all environmental information which could enable it to take measures to prevent or **mitigate** harm arising from the threat, to the extent that this information is held by or on behalf of Community institutions and bodies and/or those public authorities.

1. In the event of an imminent threat to human health **and life** or **to** the environment, whether caused by human activities or due to natural causes, Community institutions and bodies shall, upon request of public authorities within the meaning of Directive 2003/4/EC, collaborate with and assist those public authorities in order to enable the latter to disseminate immediately and without delay to the public that might be affected all environmental information which could enable it to take measures to prevent or **minimise** harm arising from the threat, to the extent that this information is held by or on behalf of Community institutions and bodies and/or those public authorities.

Or. pl

Justification

In many cases where threats to human health arise, there is also a threat to human life. The aim of this amendment is to draw attention to the fact that lives may be lost in such situations. The word 'minimise' is used in order to emphasise that the harm arising from the threat should be kept to the absolute minimum.

Amendment by Frederika Brepoels

Amendment 42
Article 9

1. Community institutions and bodies shall provide, through appropriate practical and/or other provisions, early and effective opportunities for the public to participate

1. When preparing, modifying or reviewing a plan, programme or policy relating to the environment, Community institutions and bodies shall inform members of the public

during the preparation, modification or review of plans or programmes relating to the environment when all options are still open. In particular, where the Commission prepares a proposal for such a plan or programme which is submitted to other Community institutions or bodies for decision, it shall provide for public participation at that preparatory stage.

2. Community institutions and bodies shall identify the public affected or likely to be affected by, or having an interest in, a plan or programme of the type referred to in paragraph 1, taking into account the objectives of this Regulation.

3. Community institutions and bodies shall ensure that the public referred to in paragraph 2 is informed, whether by public notices or other appropriate means, such as electronic media where available, of:

a) the draft proposal, where available;

thereof, whether by public notice or other appropriate means such as electronic media. That information shall include, where available, the draft proposal and the environmental information or assessment relevant to the plan, programme or policy under preparation.

2. The Community institution or body preparing, modifying or reviewing the plan, programme or policy relating to the environment shall inform members of the public about the practical arrangements for participation and, in particular, of the administrative entity of the Community institution or body from which the relevant information may be obtained and to which comments or questions may be submitted and of the time schedule for transmission of comments.

3. Community institutions and bodies shall provide for practical arrangements to enable members of the public to express comments and opinions at an early stage before decisions on the plan, programme or policy are made. Depending on the nature of the plan, programme or policy, members of the public shall be given the possibility to comment at different stages of the preparation of the plan, programme or policy.

Such practical arrangements shall include reasonable time-frames for the different phases, allowing sufficient time for members of the public to be informed and to prepare and participate effectively in the environmental decision-making process. As a rule, in written consultations on a plan, programme or policy relating to the environment, a time-limit of eight weeks shall be allowed for receiving comments. Where meetings or hearings are organised, prior notice of at least four weeks shall be given. Those time-limits may be shortened in urgent cases or where members of the public have already had the possibility to comment on the plan, programme or policy

in question.

b) the environmental information or assessment relevant to the plan or programme under preparation, where available; and

c) practical arrangements for participation, including:

i) the administrative entity from which the relevant information may be obtained,

ii) the administrative entity to which comments, opinions or questions may be submitted, and

iii) reasonable time-frames allowing sufficient time for the public to be informed and to prepare and participate effectively in the environmental decision-making process.

4. A time-limit of at least four weeks shall be set for receiving comments. Where meetings or hearings are organised, prior notice of at least four weeks shall be given. Time limits may be shortened in urgent cases or where the public has already had the opportunity to comment on the plan or programme in question.

Or. nl

Justification

Community institutions and bodies must take account of, and report on, the outcome of consultations.

Amendment by Urszula Krupa

Amendment 43

Article 9, paragraph 3, introductory part

3. Community institutions and bodies shall ensure that the public referred to in paragraph 2 is informed, whether by public notices or other appropriate means, such as electronic media where available, of:

3. Community institutions and bodies shall ensure that the public referred to in paragraph 2 is informed, whether by public notices or other appropriate means, such as electronic media **and media operated by telecommunications networks** where available, of:

Justification

Owing to technical progress, all media operators, including teleinformatics operators, are obliged to make important information available to the public in situations such as emergencies. Amendment in keeping with the spirit of the Aarhus Convention, particularly Article 5 thereof, and with Article 4 of Regulation 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.

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies

Amendment 44
Article 9 a (new)

Article 9a

Results of public participation

In taking a decision on the plan, programme or policy relating to the environment, Community institutions and bodies shall take due account of the results of the public-participation process.

Community institutions and bodies shall inform the public about the plan, programme or policy, including its text, and of the reasons and considerations upon which the decision is based, including information about the public-participation process.

Or. en

Justification

Community institutions and bodies should take the results of the public participation process into account and report on it. (EP first reading amendment 23).

Amendment by Margrete Auken, Jonas Sjöstedt, Chris Davies, Rebecca Harms, María Sornosa Martínez, Gyula Hegyi

Amendment 45
Article 10, paragraph 2

2. The Community institution or body referred to in paragraph 1 shall consider any such request, unless it is clearly unsubstantiated. ***The Community institution or body shall state its reasons in a written reply*** as soon as possible, but no later than twelve weeks after receipt of the request.

2. The Community institution or body referred to in paragraph 1 shall consider any such request, unless it is clearly unsubstantiated. ***It shall issue*** as soon as possible, but no later than twelve weeks after receipt of the request, ***a decision in writing on the measure to be taken to ensure compliance with environmental law, or on its refusal with regard to the request. The decision shall be addressed to the qualified entity that has made the request; it shall explain the reasons for the decision.***

Or. en

Justification

Reinstating the text of Commission proposal (art 9 paragraph 2). It is unclear whether a qualified entity would be able to challenge a "written reply" in the European Court of Justice. The EU has ratified the Aarhus Convention and therefore the Convention should be transposed into EU law in its integrity, including the obligations under access to justice.

Amendment by Frederika Brepoels

Amendment 46 Article 10, paragraph 2

2. The Community institution or body referred to in paragraph 1 shall consider any such request, unless it is clearly unsubstantiated. The Community institution or body shall ***state its reasons in a written reply*** as soon as possible, but no later than twelve weeks after receipt of the request.

2. The Community institution or body referred to in paragraph 1 shall consider any such request, unless it is clearly unsubstantiated. The Community institution or body shall ***issue*** as soon as possible, but no later than twelve weeks after receipt of the request, ***a decision in writing on the measures to be taken to ensure compliance with environmental law, or on its refusal with regard to the request. The decision, which shall contain a statement of the reasons therefor, shall be addressed to the non-governmental organisation that made the request.***

Or. nl

Justification

The Commission originally proposed a procedure that would allow certain environmental organisations access to justice, in accordance with the Aarhus Convention. In order to bring this about, it is imperative to use the term 'decision'. In the Council's common position this term is replaced by a reference to a statement of reasons in a 'written reply', which has no meaning under the EU Treaty.

Amendment by Frederika Brepoels

Amendment 47

Article 10, paragraph 3

3. Where the Community institution or body is unable, despite exercising due diligence, to act in accordance with paragraph 2, it shall inform the non-governmental organisation which made the request as soon as possible and at the latest within the period mentioned in that paragraph, of the reasons for its **failure to act** and when it intends to **do so**.

In any event, the Community institution or body shall **act** within eighteen weeks from receipt of the request.

3. Where the Community institution or body is unable, despite exercising due diligence, to act in accordance with paragraph 2, it shall inform the non-governmental organisation which made the request as soon as possible and at the latest within the period mentioned in that paragraph, of the reasons for its **not being able to take that decision** and when it intends to **decide on the request**.

The Community institution or body shall **take a decision on a request for internal review, considering the nature, extent and gravity of the breach of environmental law, within a reasonable time frame, but not exceeding** eighteen weeks from receipt of the request. ***It shall immediately inform the competent non-governmental organisation of its decision on the request.***

Or. nl

Justification

Here, as in Article 10(2), reference must be made to a 'decision' of the Community institution or body in order to safeguard access to justice.

Amendment by Frederika Brepoels

Amendment 48

Article 11, paragraph 1, point (b)

(b) it has the primary stated objective of promoting environmental protection in the

(b) it has the primary stated objective of promoting environmental protection in the

context of environmental law;

context of environmental law *or of promoting sustainable development*;

Or. nl

Justification

Organisations which have sustainable development as their objective, as stated in their statutes, must also be eligible.

Amendment by Frederika Brepoels

Amendment 49
Article 12, paragraph 1

1. The non-governmental organisation which made the request for internal review pursuant to Article 10 may institute proceedings before the Court of Justice in accordance with the relevant provisions of the Treaty.

1. The non-governmental organisation which made the request for internal review pursuant to Article 10 may, ***if it considers that a decision by the Community institution or body in response to that request is insufficient to ensure compliance with environmental law***, institute proceedings before the Court of Justice in accordance with the relevant provisions of the Treaty, ***to review the substantive and procedural legality of the decision referred to in Article 10.***

Or. nl

Justification

The original Commission proposal stated much more clearly to what the proceedings before the Court relate.

Amendment by Frederika Brepoels

Amendment 50
Article 14

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.
It shall apply from ... *.

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.
It shall apply from ... *.

* *pm*

* *three months from the date referred to in the first paragraph.*

Or. nl

Justification

It is important that this Regulation is applied as quickly as possible. Three months is a realistic date.