

Euro 7 Regulation

Why an explicit access to justice provision is needed

The European Commission's initial proposal for the "Euro 7" Regulation does not contain any express provision requiring Member States to ensure access to justice. However, there are provisions within the "Euro 7" Regulation which impose concrete duties on designated public authorities (namely, national type approval authorities and market surveillance authorities) and private actors (manufacturers and distributors of vehicles), which would benefit from an open avenue for the public to enforce compliance at Member State level.

The inclusion of an access to justice clause is an absolutely essential step in ensuring the implementation and enforcement of the Regulation at national level and should be introduced in the text without delay. Below are some of the many reasons why:

1. Codifying relevant case law

The inclusion of an explicit access to justice provision would codify the general conclusions of the ruling in C-873/19 *Deutsche Umwelthilfe*, where the Court of Justice of the European Union interpreted Article 9(3) of the Aarhus Convention so as to provide access to justice for members of the public to challenge emission type-approval decisions at the national level for Euro 5 and Euro 6 standards. The ruling relates specifically to the access to justice rights associated with a prohibition of the use of defeat devices set out in Article 5(2) of Regulation 715/2007, which is set to be repealed and replaced by equivalent specific provisions in Article 4(5) of the draft "Euro 7" Regulation from 1 July 2025. Including an access to justice provision within the "Euro 7" Regulation would codify the access to justice rights on emission-type approval decisions secured by the ruling. The most significant benefit in doing so would be securing enforcement of Euro 7 standard across Member States.

2. Harmonisation

Access to justice will support a level-playing field on meeting the Regulation's targets and overcoming inconsistent and uneven compliance across the EU. Given the nature of the vehicle market there is scope

for manufacturers to “forum shop”, by securing vehicle approvals valid across the whole EU in Member States where enforcement is weaker and access to justice lacking. A vehicle approval granted in breach of the requirements set out within the “Euro 7” Regulation in any one Member State could have impacts across the Union. Harmonisation of enforcement rules would also contribute to better enforcement and meet the Regulation’s objective to reduce air pollution from new motor vehicles sold in the EU.

3. Nothing new

The ability to challenge the incorrect implementation of EU legislation is key to ensuring its effectiveness, and is also a fundamental right of EU citizens, as recognized by the Court of Justice of the European Union. In its 2020 Communication on access to justice in Member States, the European Commission committed to include access to justice provisions in all sectoral EU legislation concerning environmental matters and called on the European Parliament and the Council to approve them in the final text.

The introduction of an access to justice provision in the "Euro 7" Regulation would put it in line with other EU legislation and legislative proposals within the European Green Deal, such as the Deforestation Regulation and the proposals for the Green Claims Directive and the Regulation on preventing pellet losses. It would also mirror the European Parliament’s position on access to justice in other legislative initiatives, notably in the Classification, Labelling and Packaging Regulation and the Water Framework Directive, where it inserted an access to justice provision in its first reading position when the Commission failed to do so in the proposal.

The introduction by the Parliament of an access to justice provision in the "Euro 7" Regulation would therefore be aligned with the current trends and commitments of the European Commission, as well as would be a significant step forward for the implementation of Article 9(3) of the Aarhus Convention at the national level and the harmonised enforcement of the emissions requirements for the type-approval of motor vehicles and engines across Member States.

Proposed text

Article 16A Natural or legal persons’ substantiated complaints

1. Any natural or legal person, individually or in association, shall be entitled to submit substantiated complaints to national market surveillance authorities when they have reasons to believe that one or more manufacturers, economic operators or independent operators are not complying with this Regulation.
2. Where persons submitting substantiated complaints so request, market surveillance authorities shall take the necessary measures for the appropriate protection of the identity of that person and their personal information, which, if disclosed, would be harmful to that person.
3. National market surveillance authorities shall, without undue delay, diligently and impartially assess the substantiated complaints, including whether the claims are well-founded, and take the necessary steps, including carrying out checks and evaluations pursuant to Article 8 and Article 51 of Regulation (EC) 2018/858, with a view to detecting potential non-compliance with this Regulation and, where appropriate, requiring corrective measures or taking appropriate restrictive measures under Article 52 of Regulation (EC) 2018/858.
4. The national market surveillance authority shall, within 3 months, inform the natural or legal persons referred to in paragraph 1 of its decision to accede to or refuse the request for action and of any steps it

plans to take to address the concerns raised in the substantiated complaint, providing the reasons for both the decision taken and the steps proposed.

Justification

- *This enables access to a formal complaints procedure for people/organisations relating to non-compliance with emissions rules. Together with the following provision, it ensures that rights of members of the public to access to justice are secured in accordance with Article 9(3) of the Aarhus Convention.*
- *This would fit in and bolster existing provisions relating to vehicle market surveillance within Regulation 2018/858, and provide for a formal avenue by which people and organisations can inform Member State's enforcement activity.*

Article 16B Access to Justice

1. Any natural or legal person that has a sufficient interest or that alleges the impairment of a right, as determined in accordance with the existing national systems of legal remedies, including persons who have submitted a substantiated concern in accordance with Article [x], shall have access to a review procedure before a court of law, or another independent and impartial body established by law, to challenge the substantive or procedural legality of all decisions, acts or omissions by competent authorities relating to the approval or market surveillance of vehicles', systems', components' or separate technical units' compliance with the requirements set out within this Regulation.

2. For the purposes of paragraph 1, any non-governmental organisation promoting human health, environmental or consumer protection and meeting the relevant requirements under national law shall be deemed to have rights capable of being impaired and their interest shall be deemed sufficient.

3. The review procedures referred to in paragraph 1 shall be fair, equitable, and completed in a timely manner, and shall not be prohibitively expensive. Those procedures shall also involve the provision of adequate and effective redress, including injunctive relief where appropriate.

Justification

- *This provision would be consistent with principles of administrative justice and allow parties who submit a valid substantiated concern to have the handling of their substantiated concern reviewed where they claim the requirements of the Regulation have not been met.*
- *This codifies the general conclusions of the European Court of Justice's ruling in C-873/19 Deutsche Umwelthilfe – which related specifically to provisions of Regulation 715/2007 prohibiting the use of defeat devices, which the Euro 7 Regulation will be repealing and replacing.*

For any additional information, clarifications or further suggestions, do not hesitate to contact:

- Gaia Lisi, Environmental Democracy lawyer, glisi@clientearth.org
- Katie Nield, Lead lawyer, European Transport Systems, knield@clientearth.org



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ClientEarth is an environmental law charity, a company limited by guarantee, registered in England and Wales, company number 02863827, registered charity number 1053988, registered office 10 Queen Street Place, London EC4R 1BE, a registered international non-profit organisation in Belgium, ClientEarth AISBL, enterprise number 0714.925.038, a non-profit limited liability company in Germany, ClientEarth gGmbH, HRB 202487 B, a registered foundation in Poland, Fundacja "ClientEarth Prawnicy dla Ziemi", KRS 0000364218, NIP 7010254208, a registered delegation in Spain, Fundación ClientEarth Delegación en España, NIF W0170741C, a registered 501(c)(3) organisation in the US, ClientEarth US, EIN 81-0722756, a registered subsidiary in China, ClientEarth Beijing Representative Office, Registration No. G1110000MA0095H836, a registered subsidiary in Japan, Ippan Shadan Hojin ClientEarth, corporate number 6010405022079, a registered subsidiary and company limited by guarantee in Australia, ClientEarth Oceania Limited, company number 664010655.