



# Access to Justice in Environmental Matters: Impacts, Obstacles, Way Forward

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ClientEarth

## Virtual conference

15th & 16th October 2020

Despite the fact that the body of EU environmental law is one of the most advanced and comprehensive in the world, Europe's environment is rapidly deteriorating. Strong legislative and regulatory frameworks are not providing the results they should because they are not properly implemented and enforced.

This lack of implementation and enforcement of existing EU environmental law is due, in part, to access to justice issues. Despite being guaranteed by the Aarhus Convention, access to justice unfortunately remains unattainable for many individuals and environmental organisations across Europe.

As environmental legal organisations, we – ClientEarth and Justice&Environment – are tackling this issue with our European LIFE funded project "Education and Awareness Raising of Legal Professionals on Access to Justice" (EARL A2J). Organised over nine EU Member States, our project focuses on raising awareness among legal professionals about access to justice rights and their implementation in EU law, in order to make sure the public can challenge environmental law breaking in court.

This conference is the closing event of this 3 years project and will provide an opportunity to share our experience regarding the state of play in the different countries of the project, and to engage in discussion with representatives from EU institutions and Member State authorities, legal professionals, judges and NGO representatives from all over Europe.

Conference Chair

**Dr. Áine Ryall**, Co-Director, Centre for Law & the Environment, University College Cork & Vice-Chair of the Aarhus Convention Compliance Committee.

15th October

9:00 to 11:00 am

1ST SESSION

Keynote speech

Representative from the European Commission

### Strategic litigation to make the green transition happen

Access to the EU courts for non-privileged applicants including individuals and environmental organisations is still a very live issue that stirs discussions at both international and EU level. Society has evolved since the adoption of the *Plaumann* test six decades ago and the demand for greater public participation and accountability of decision-makers is resonating across Europe. However, members of the public are still not granted the same access to the EU courts as industry representatives, governments and EU institutions. The impressive bulk of case law of the EU courts in relation to access to documents adopted in response to challenges by members of the public demonstrates the need and value there is in providing access to justice to individuals and environmental organisations. Following the decision of the Aarhus Convention Compliance Committee finding the EU to be in violation of the Aarhus Convention for not providing legal standing to members of the public before the EU courts, the European Commission has committed to adopt a legislative proposal to revise the Aarhus Regulation. What opportunities will the revised regulation provide to members of the public? Will it bring the EU into compliance with the Aarhus Convention and finally address part of the democratic deficit that exists at EU level?

Speakers:

**Onno W. Brouwer**, Partner & Joint head of Global Antitrust Litigation Group, Freshfields Bruckhaus Deringer LLP; **Aurel Ciobanu-Dordea**, Representative from the European Commission's Directorate-General for the Environment; **Anais Berthier**, Head of EU Affairs, ClientEarth; A judge perspective – TBC.

15th October

12:30 to 2:00 pm

2ND SESSION

### Overview of access to justice in four national jurisdictions

This session will provide the opportunity to present the access to justice hurdles in Spain, Estonia, Germany and France, as well as to share national best practices and possible recommendations. Thanks to our European LIFE funded project, and especially our seminars, we gathered experiences of various legal professionals and thus gained a comprehensive understanding of the access to justice state of play in these jurisdictions..

Speakers:

**Ana Barreira**, Senior Environmental Lawyer, Director and founding member of the International Institute for Law and the Environment (IIDMA, Spain); **Kadi-Kaisa Kaljuveer**, Environmental lawyer, Estonian Environmental Law Center (EELC); **Kathleen Pauleweit**, Environmental lawyer, Independent Institute for Environmental Issues (UfU, Germany); Lawyer France Nature Environnement network (FNE) – TBC.

16th October

9:30 to 11:00 am

3RD SESSION

### How to promote access rights?

Access to justice rights have been embedded in the Aarhus Convention for the last twenty years but there are still no EU directive implementing them at EU level in a satisfactory way. Expertise in environmental law is lacking throughout most of national jurisdictions and lack of awareness about access to justice rights and the relevant case-law of the Court of Justice of the EU often results in depriving members of the public of access to courts. How is it possible to promote these rights and ensure members of the public have access to effective administrative and judicial remedies that are fair, adequate, and not prohibitively expensive? What role should judges play and to what extent should they compensate for the failure of public authorities to take action without encroaching on the powers of the legislative and executive branches of government? Is the European Parliament playing its role in integrating access to justice provisions into relevant pieces of legislation?

Speakers:

**Prof. Dr. Luc Lavrysen**, judge of the Constitutional Court of Belgium and President of the EU Forum of Judges for the Environment; **Jerzy Jendroska Ph.D**, Environmental lawyer, Managing Partner at Jendroska Jermanski Bar and Partner, and member of the Aarhus Convention Compliance Committee; **Dr. Csaba Kiss**, Environmental Attorney, Environmental Management and Law Association (EMLA) and Coordinator of the Justice & Environment network; **Marie Toussaint**, Member of the European Parliament and foundress of "Notre affaire à tous".

16th October

12:30 to 2:00 pm

4TH SESSION

### Strategic litigation in practice

EU environmental legislation is relatively very advanced and new laws are still being adopted under the Green Deal agenda. There is however still a significant implementation and enforcement gap that must be closed. Environmental organisations and individuals have become an increasingly important player in resorting more and more to strategic litigation to address the lack of enforcement of these laws by public authorities. Are NGOs doing enough? Does strategic litigation actually have the intended impact on the ground? Are judges bold enough, knowing the legal and institutional boundaries they must respect, including the principle of separation of powers? Are the Courts the most impactful forum to bring cases?

Speakers:

**Dr. Caroline Douhaire**, Environmental lawyer in the Dieselgate case, Geulen & Klinger Rechtsanwälte; **Agata Szafraniuk**, Wildlife Lead lawyer in the Białowieża case, ClientEarth; A judge perspective of the Slovak Bear case – TBC; A lawyer perspective of the Urgenda Climate case –TBC.

Register here to join us!

This virtual conference is part of the project EARL-A2J, funded by the European commission LIFE programme. To know more about the activities carried out within this European project on access to justice, feel free to visit our [website](#).

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