



**EEB**

European  
Environmental  
Bureau

The EEB's assessment of the  
environmental impact of the

# MALTESE PRESIDENCY OF THE EU



January - June 2017



# THE EEB'S ASSESSMENT OF THE ENVIRONMENTAL RESULTS OF THE MALTESE PRESIDENCY OF THE EU

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Based on the EEB's Ten Green Tests for the Maltese Presidency released in December 2016

*"Good on biodiversity, bad on energy and climate"*

## Summary of the EEB's verdict on the ten green tests

	Effort	Result
1 - Promote a vision for Europe based on sustainability		
2 - Reform trade policies		
3 - Fight Climate Change		
4 - Reform energy policy		
5 - Restore ecosystems and biodiversity		
6 - Transform agricultural policy		
7 - Support circular economy and waste policy		
8 - Protect the public from hazardous chemicals		
9 - Safeguard fisheries		
10 - Democratic governance		



# SUMMARY

The environmental agenda during the Maltese Presidency was dominated by a relatively small number of issues. Negotiations continued on 2030 climate policies and new waste legislation, and started on 2030 energy policies, in particular the Energy Efficiency and Energy Performance of Buildings Directives, with in each case the level of ambition still hanging in the balance. In addition, political conclusions were drawn in the form of Council Conclusions in response to the Commission's proposal for a Natura 2000 Action Plan, creating an important window of opportunity to move forward with EU conservation policy.

At a more horizontal level, important progress has been made in the debate on the future of the EU27 with the Rome Declaration containing positive elements, which were followed up on with supportive Council Conclusions from the June General Affairs Council on how the EU should implement the 2030 SDG Agenda. A key challenge now is for the December Council Conclusions on the future of the EU27 to make this 2030 Agenda a central element for its vision for the EU.

Finally and amidst continuing uncertainty over the UK's intentions, negotiations over the UK leaving the EU have finally started with the EU27 negotiating positions taking a very clear stance in support of maintaining strong EU environmental standards and insisting that the UK's adherence to these standards will be a key factor in the nature of its future relationship with the EU.

# INTRODUCTION

This is an assessment of the Maltese Presidency of the European Union by the European Environmental Bureau (EEB), the largest federation of environmental citizens' organisations in Europe, prepared in cooperation with BirdLife Europe and Seas at Risk.

Our mandate encompasses all environment-related issues, a broad agenda comprising 'traditional' environmental issues as well as sectoral and horizontal policies with a direct or potential environmental impact, sustainable development and participatory democracy.

We view the six-month EU Presidencies as convenient periods over which progress on the EU's environment-related policies and legislation can be measured. We appreciate that a Presidency cannot make decisions on its own; it needs the cooperation of the European Commission, European Parliament and other Member States. But the Presidency can still have considerable impact and influence, for example through the way in which it chairs discussions, prioritises practical work and gives a profile to specific issues.

The assessment is not an overall political assessment of the Presidency's performance. We are not assessing its role on foreign affairs issues, internal security matters

or migration policies, for example, except insofar as such issues have a bearing on the environment. On the other hand, nor is the assessment limited to the activities and outcomes of the Environment Council; it covers all Council configurations to the extent that they deal with topics that affect the environment. Our assessment is based on the Ten Green Tests we presented to the Maltese Government at the start of its Presidency in December 2016.

At the outset, we would like to acknowledge and express our appreciation for the open and cooperative approach adopted by the Maltese Presidency.

On the Maltese Presidency's performance against the Ten Green Tests, item-by-item, we reached the following conclusions:



# 1. PROMOTE A NEW VISION FOR EUROPE BASED ON SUSTAINABILITY

## The test

- Use the Treaty of Rome celebrations to promote a people-centred agenda of transformational change in the European Union based on the global 2030 Agenda for Sustainable Development;
- Press the Commission to revise its Political Guidelines to reflect this new agenda, and follow up on its Communication on implementing the

*SDGs to carry out an in-depth gap analysis and put in place a solid, transparent, participatory mechanism for implementing the Sustainable Development Goals within the planetary boundaries;*

- *Recognize the limitations of the EU Better Regulation agenda in countering rising Euroscepticism and ensure that national leaders take responsibility for the EU including in sharing credit where credit is due.*

## The verdict

The Rome Declaration of 23 March of the European Council was a step forward in terms of a stronger commitment to a sustainable future for Europe when compared to the September 2016 Bratislava Declaration and roadmap, but also to President Juncker's 2016 State of Union address or his five scenarios on the future of Europe: all these were void of answers to the urgent question of how to make Europe sustainable beyond securing its borders and fighting terrorism. The Rome Declaration did, however, not specifically refer to the global Agenda 2030 for Sustainable Development and did not call for making it the overarching framework for the future of Europe discussion. Therefore, the Rome Declaration also remained too much within the current political priorities focusing on security, borders, terrorism, jobs and growth without yet having a clear vision of how to achieve the transformational change needed to make Europe's future sustainable for all citizens while staying within the planetary boundaries. The environmental pressures created by the EU's current economic model inside Europe and on other parts of the world were not identified as key challenges to be addressed in the next years. Civil society responded to Juncker's five scenarios and acknowledged the commitment of the Rome Declaration to sustainable development when putting forward an alternative 6th scenario for the future of the EU of how to achieve a sustainable Europe.

Under the Maltese Presidency, the Council adopted in June its conclusions in reaction to the Commission's Communication on action for sustainable development. Very much in line with the demands of civil society, the Council has urged the Commission to elaborate, by mid 2018, an implementation strategy for the Agenda 2030 setting out a timeline, objectives and concrete measures, in all relevant internal and external policies and to identify existing gaps by mid-2018 in all relevant policies areas in order to assess what more needs to be done on policy, legislation, governance structure for horizontal coherence and means of implementation. Moreover, the Council

## Positive

conclusions ask the Commission to implement the Agenda 2030 in a full, coherent, comprehensive, integrated and effective manner reflecting civil society's persistent call for policy coherence for sustainable development, and to report about its internal and external implementation of the SDGs at the UN High Level Political Forum in 2019. These elements have been welcomed by the EEB which is asking the Commission to follow the Council's conclusions.

The Council Conclusions remain weak on the question of civil society engagement for the implementation of the SDGs: while they welcome the establishment of an inclusive Multi-Stakeholder platform and stress that the platform should enable all stakeholders to contribute with best practices, policy recommendations, ideas and innovative potential, they do not ask for a clear monitoring and accountability role for the Platform. However, we welcome the fact that the conclusions mention the importance of assessing how the next MFF should support the realisation of the SDGs key issues such as taxation of unsustainable practices and tax justice. Furthermore, while the conclusions do not mention mandatory rules to regulate business and ensure corporate accountability, they do emphasise the responsibility of business to adopt responsible business conduct in line with the OECD Guidelines and UN Guiding Principles on Business and Human Rights, and stress that sustainable development investments must be in line with the desired transition towards a sustainable, environmentally sound and inclusive economy, and not at the expense of our climate, the environment or human rights.

The Maltese Presidency put the issue of the European Semester on the agenda of February meeting of the Environment Council, usefully framing the discussion with a background note criticizing the lack of a prominent role for environmental and sustainability aspects in the 2017 Annual Growth Survey, a criticism which was echoed by Ministers during the discussion.

## 2. REFORM TRADE POLICIES, IN PARTICULAR CETA AND TTIP

### The test

- *Ensure the European Court of Justice will receive a request to rule on the legality of the Investor Court System under CETA;*
- *Press for the suspension of the TTIP negotiations to initiate an in-depth and open-ended review*

*of the state of play, including an assessment of compatibility with the Sustainable Development Goals and the precautionary principle, with a view to addressing the most controversial elements, notably investment protection and regulatory cooperation, in a more appropriate context than a bilateral trade agreement.*

### The verdict

### neutral on effort, negative on outcome

During the Maltese Presidency, ratification of the final CETA deal with Canada started in a number of national parliaments and, with the approval in the European Parliament on 15 February and ratification by Canada on 17 May, all obstacles to its provisional entry into force were removed. A last-minute dispute over the implementation of a cheese quota however has created uncertainty whether the target of 1 July for its provisional entry into force will be met. Provisional entry into force would mean that most of CETA's provisions will apply, the notable exception being the investment protection clause ICS.

A ruling by the ECJ on 16 May on the EU-Singapore Free Trade Agreement confirmed that it was indeed a mixed agreement that requires approval by national parliaments and that this is only so because

of portfolio investments and investor state dispute settlement clauses. This ruling therefore also confirms CETA's uncertain fate which now hinges on all national and, in some cases, regional Parliaments final ratification. This also means that the only way to now avoid the most damaging component of CETA to enter into force, its ICS clause, is for at least one of those parliaments to vote against CETA in the coming years.

Negotiations on TTIP in the meantime continue to be stalled and, although an agreement to set up a working group on a 'joint action plan on trade' has triggered some wishful thinking in some quarters, it seem highly unlikely that it will get started again anytime soon.

## 3. FIGHT CLIMATE CHANGE

### The test

- *Ensure the environmental integrity of the EU climate objective for 2030 having in mind the need to bring the EU's contribution in line with the Paris commitment to pursue efforts to limit global warming to 1.5°C above pre-industrial levels. This requires a push for strengthened targets of at least 60% greenhouse gas emission reductions, 40%*

*energy savings and 45% renewable energy by 2030 at the latest;*

- *Support consistent, transparent and reliable climate action enshrined in the Emissions Trading System, the Effort-Sharing Regulation and a separate pillar for Land Use, Land Use Change and Forestry (LULUCF), which should ensure that efforts required by the agriculture sector are not watered down but rather lead to a strengthening of climate ambition.*

### The verdict

### Negative

While the Maltese Presidency made significant efforts in advancing the negotiations on the Commission's proposals on the Emissions Trading System, the Effort Sharing Regulation and the inclusion of LULUCF into the 2030 framework, they did so mostly by being too accommodating to Member States' requests and efforts to create loopholes and failed to open and adjust the level of ambition to take the objectives of the Paris Agreement into consideration. On both pieces of

legislation, the Presidency's starting point for the Council's position would have secured most of the environmental integrity and climate mitigation efforts of the Commission's proposal but did not fully encompass or actively support the more progressive views of other Council members that have called for robust accounting of all emissions from the land sector or less loopholes in the emission reductions in the Effort Sharing sectors.

## 4. REFORM ENERGY POLICY

### The test

- Put Energy Efficiency first in the revision of the Energy Efficiency Directive and the Energy Performance of Building Directive, taking into consideration the full body of evidence on the multiple benefits of energy efficiency and the position of the European Parliament as co-legislator calling for a binding 40% energy efficiency target with individual national targets;
- Collaborate with the Commission on how to tap the cost-effective potential for energy efficiency in all Member States through the revision of the Energy Efficiency Directive and the Energy Performance of Buildings Directive, in the latter case by enshrining the 'efficiency first' principle and the vision of EU-wide nearly Zero Energy building (nZEB) stock by 2050 in legislation;
- Finalise the energy label reform without watering down the timelines for rescaling obsolete energy labels for televisions, white goods and lamps, and make sure the re-started ecodesign implementing measures effectively help to transform the market and reduce EU dependency with regards energy and natural resources;
- Push for ambitious support schemes that promote the growth of the sustainable renewable energy sector while ensuring full application of environmental safeguards.

### The verdict

The Maltese Presidency scheduled a number of working party meetings to start the discussion of the "Clean Energy for All Europeans" package. The discussion of the Energy Performance of Buildings Directive and the Energy Efficiency Directive was pushed ahead at top speed but in the process departed from key provisions like a binding 30% energy efficiency target or binding requirements for the 2050 building stock of the Commission proposal already at a very early stage.

By doing so, the Presidency missed the opportunity to explore the possibility of increasing ambition for the overall target to the cost-effective level of 40% or consider approaches to establishing national binding targets. Significant effort was put into consideration of the politically very visible aspect of the binding or indicative character of the target at EU level. This aspect was decided by the Energy Council at the end of June by agreeing on a "30% headline target" without any reference to whether it was binding or indicative. There was also a lack of time to analyse and consolidate the positions and proposals on the table and develop appropriate solutions. The Maltese Presidency's attempt to achieve a general approach for the June Energy Council ran into difficulties and would not have succeeded but for the leadership of a progressive group of Member States including France and Germany.

The strategy of the Presidency to put forward proposals that weaken the EED and notably its Article 7 through the introduction of provisions that had not been properly assessed for their impact, like the proposal for double counting of long-term savings, carry-over of savings from the current period, changing the eligibility of existing minimum requirements for buildings, reducing the level of ambition from 2026 onwards or derogations for small island states including Malta and Cyprus, have even raised questions over its neutral role and own national intentions. Comments that meant a weakening of the proposal were systematically included while proposals developed by other

### Negative

Member States that would have improved and strengthened the Commission's proposal were dismissed.

Similarly the discussions of the revision of the Energy Performance of Buildings Directive were done in a very short timeframe and cornerstones of the Commission proposal were weakened or removed quickly. This concerns especially the proposals by the Presidency to weaken the ambition and quality of the 2050 building stock objectives and necessary milestones for 2030 and 2040 as well as to remove the proposed provisions to roll out charging infrastructure as part of the revision. Due to the current lack of stringent definitions for the Primary Energy Factors it is not ensured that the Energy Efficiency First Principle is pursued in the Directive.

The Maltese Presidency ensured the final agreement on the Energy labelling Framework Directive revision amongst the institutions. Unfortunately, the timelines associated with introducing new labels are overall delayed too far in the future, with application of new labels for televisions, white goods and lamps planned for 2020 when rescaling is urgently needed to stop consumers' confusion and enable more differentiation of front runners' products. Furthermore and contrary to the Dutch Presidency the year before, the Maltese Presidency does not appear to have pressed the Commission to release unduly stalled measures, such as commercial refrigeration or to significantly progress ongoing discussions (e.g. on electronic displays, white goods, lamps, motors, fans). The officially announced re-start of Ecodesign policy in November 2016 was a good signal but so far has not been followed up on, which would have made a reminder by the Maltese Presidency appropriate.

## 5. RESTORE ECOSYSTEMS AND BIODIVERSITY

### The test

- Use the outcome of the Nature Directives Fitness Check to push for decisive action to ensure the full and effective implementation of the EU Nature Directives, supported by adequate financing and effective enforcement, as well as a set of additional fast-track measures to address key gaps and failures preventing the achievement of the EU's 2020 biodiversity targets;
- Ensure commitments made by the EU at CBD-COP13 in Mexico, notably in the Cancun Declaration on mainstreaming biodiversity, translate into a renewed effort and concrete action to meet the Aichi biodiversity targets domestically, in particular through further action to mainstream biodiversity in other sectors, and in particular agriculture, and on removing subsidies and incentives harmful to biodiversity by 2020.

### The verdict

Following the publishing of the EU Action Plan for Nature, People and the Economy in late April, the Maltese Presidency moved swiftly to prepare Environment Council Conclusions on the Action Plan which were adopted on 19 June. This and the co-hosting of a Conference in early June at which the Plan was presented and discussed demonstrated a commitment of the Maltese Presidency to facilitate a swift launching of the actions entailed in the Plan. Beyond the generally welcoming tone towards the Action Plan, the explicit recognition of the serious pressure from various sectors, including agriculture, on the species and habitats protected under the Directives and the need for both the Commission and Member States to further integrate nature

### Positive

objectives into other policies, in line with the spirit of the Cancun Declaration on mainstreaming biodiversity, is positive. The accompanying calls for further efforts by the Commission on developing a trans-European network for green infrastructure (TEN-G), the development of schemes under the CAP that are adapted to the needs of Natura 2000 and other high-value nature areas, as well as the underlining of the need to ensure predictable, adequate, regular and targeted EU funding and improve its tracking are particularly welcome. Gaps include more explicit recommendations regarding the next multiannual financial framework (MFF), the future CAP and an explicit request for the EU to put forward an EU pollinators Strategy.

## 6. TRANSFORM AGRICULTURE POLICY

### The test

- Continue the debate on the future of the Common Agriculture Policy (CAP) and EU Food Policy initiated by the Dutch Presidency in a more
- inclusive manner, taking the five Fitness Check questions as a basis;
- Focus the CAP simplification debate on outcome and what the new CAP delivers on the ground rather than its administrative burden.

### The verdict

The Maltese Presidency continued the debate on the future of the Common Agricultural Policy notably by organising an exchange of views on CAP post 2020 during the March Agriculture Council. This was a welcome initiative but the preparatory documents and the format of the meeting remained very much business as usual, did not follow Better Regulation and Fitness Check principles and did not allow for stakeholders outside the usual European Farming unions to present their views ahead of the meeting. Additionally the debate was articulated around the current CAP architecture and did not really leave space for a debate on a more modern forward-looking food policy.

An effort was also made to bring together both Commissioners Hogan (agriculture) and Vella (environment) at the Informal Agriculture Ministers

### neutral on effort, negative on result

Meeting to discuss the issue of water and agriculture. If this initiative may be welcomed as a first step towards better coherence in the CAP decision making process in the future, the fact that no environmental NGO was asked to address the Ministers on this issue and that Environment Ministers were not asked to contribute in some way to that meeting somewhat limits the benefits of such an initiative.

As regards simplification, unfortunately the Presidency did not manage to avoid the debate being solely focused on administrative burdens (without any link to the delivery) and most of the suggestions made by the delegations would actually involve a further watering down of any bits left from the greening of the CAP.

# 7. SUPPORT THE CIRCULAR ECONOMY AND WASTE POLICY

## The test

- *Ensure the setting of high prevention and recycling targets within the revision of EU waste legislation, addressing municipal and commercial waste, levered by product design requirements and incentives and based on common unique EU-wide methodologies;*
- *Promote the mandatory implementation of green public procurement (GPP) targets at the national level and develop a coherent product policy framework based on a set of criteria defined at the EU level to be applied in ecodesign, Extended Producer Responsibility, GPP and Ecolabel policies;*
- *Propose a resource efficiency headline target with an associated EU-wide dashboard of indicators on CO<sub>2</sub>, material, water and land use footprints to measure progress towards a circular economy.*

## The verdict

The Maltese Presidency led the discussion within the Council on the revision of EU waste policy largely through proposals aimed at aligning the Council position with that of the least ambitious Member States and made too little effort towards aligning the ambition with the more progressive Parliament proposal. As a result, prevention and preparation for reuse targets were ignored and recycling targets watered down with no mention at all of targets for food waste or marine litter.

## Negative

Progress in the development of a coherent product policy framework, and the setting of targets and indicators to ensure the EU economy as a whole reduces its resource consumption in absolute terms, was to come from the Commission during this period with the Maltese Presidency making a welcome but limited contribution to this by including the issue of marine litter and the link to the forthcoming Plastics Strategy on the agenda of the Informal Meeting of Environment Ministers in April.

# 8. PROTECT THE PUBLIC FROM HAZARDOUS CHEMICALS INCLUDING MERCURY

## The test

- *Encourage the Commission to step up its work towards achieving the 7th Environmental Action Programme's (7EAP) goals in relation to chemicals by developing new EU tools to achieve a non-toxic environment and non-toxic material cycle goals. This means, for example, closing the knowledge gap on chemicals in products, waste and recycled materials, rejecting toxic recycling in the circular economy package and ensuring the delivery of concrete measures to promote the substitution of hazardous chemicals by safer solutions such as the cooperation between different authorities, capacity building and support to the key actors and the creation of economic incentives;*
- *Ensure that the Commission's criteria to identify EDCs will be protective enough to catch all EDCs to which the public and the environment are exposed. To this end, the Commission should develop scientific and horizontal criteria for the identification of EDCs that is consistent with the EU identification system for CMRs (carcinogenic, mutagenic, or toxic for reproduction);*
- *Call on the Commission, the European Chemicals Agency (ECHA) and Member States to address the obstacles in the implementation of the REACH regulation. In particular to: develop effective measures to ensure the compliance, quality and reliability of the registration information; the proper application, implementation and enforcement of REACH article 33 (the right to know on Substances of Very High Concern - SVHC); the effective restriction and phase out of substances of most concern through restriction and authorisation processes; and the creation of a comprehensive Candidate List;*
- *Encourage the development of a nanomaterials framework regulation to govern human health and environmental protection for all potential uses of nanomaterials in a harmonised way and to call on the European Commission to develop proposals to ensure that all nano-containing products placed on the market (after having undergone assessment procedures) are registered for identification and traceability purposes and included in an EU-wide public inventory.*
- *Urge the European Commission to stop delaying*

action on hazardous chemicals, including its obligations referred to in REACH article 138 and the cosmetics Regulation, the assessment of chemical mixtures, horizontal measures for a non-toxic environment and the REACH annexes on nanomaterials.

- *Maintain EU leadership in relation to the Minamata Convention on Mercury by working towards establishing an effective international operational framework to achieve significant mercury reductions, ensuring swift ratification of the Convention by the EU and its Member States and promoting further actions to address mercury in the EU.*

## The verdict

Unfortunately, during the Maltese Presidency the Commission has stalled the development of the Strategy for a non-toxic environment and has also failed to present Member States with an acceptable proposal on criteria for the identification of endocrine disruptors, despite the helpful efforts of a number of Member States during the Slovak Presidency. These criteria should have been approved by the end of 2013.

Also in other areas of REACH implementation and development of a legislative framework for nano, major problems persist but little initiative was taken by the Maltese Presidency to press the Commission

## neutral

to solve these.

On mercury, a provisional agreement on a revised EU regulation on mercury was agreed in December 2016. Following the co-decision process the text was eventually adopted and signed by the institutions on the 17 May 2017. The Council decision for the EU ratification of the Minamata Convention was also adopted in April. As a result the EU with 7 Member States deposited the ratification instruments to the UN on 18 May, triggering the entry into force of the Treaty. The Presidency led by example, being part of the first 50 countries to ratify.

# 9. SAFEGUARD FISHERIES

## The test

- *Improve the EU data collection regime to make relevant data publicly available for end-users in a harmonised and transparent way, to provide the basis for achieving good environmental status under the Marine Strategy Framework Directive;*
- *Ensure that the North Sea Multi Annual Plan supports the objectives of the reformed Common Fisheries Policy (CFP) and, in particular, that fishing rates are set below the maximum rate of fishing mortality FMSY in order to provide at least a chance to restore and maintain fish stocks above levels capable of producing the maximum sustainable yield;*
- *Ensure that the discussions on the proposal for a revision of the Technical Measures Regulation are: based on a European framework of principles and requirements; support the objectives of the Natura 2000 network and other Marine Protected Areas; do not provide permission to conduct previously prohibited, destructive fisheries; lead to the avoidance or at least the minimisation of unwanted catches including through tactical selectivity measures; and minimise the ecosystem impact of fishing in general, including on seabirds.*

## The verdict

The revised Data Collection Regulation was politically agreed before the start of the Maltese Presidency. It ensures that data on the environmental impact of the fishing sector to the wider environment will be accounted for. However, it lacks the mandatory requirement to collect data for freshwater aquaculture and does not guarantee that data are made publicly available for end-users in a harmonised and transparent way.

With respect to the North Sea Multi Annual Plan (MAP), the Council General Approach agreed in March 2017 falls short on several issues. Most importantly, it does not set fishing rates below the maximum rate of fishing mortality FMSY. Furthermore, it does not foresee recovery targets for the stocks included, and it allows bycatch of fish species to be managed under the much

## Negative

less ambitious “precautionary approach” which aims at avoiding stock collapse, rather than the CFP objective of maximum sustainable yield. Furthermore, the Council's General Approach lacks provisions to reduce unwanted catches that would help implement the Landing Obligation (LO), and furthermore lacks provisions to ensure that management measures deliver for nature protection, in particular the objectives of the Birds and Habitats Directives.

The Council General Approach on the revision of the Technical Measures Regulation that was adopted in April 2017 was also disappointing as it fails to establish an EU framework that enables the implementation of adequate rules to manage EU fisheries. In particular: it fails to set the maximum amount (i.e. quantitative target) that the EU can

harvest of juveniles (i.e. species below minimum reference size); deletes all management baselines for incidental catches of seabirds signifying that management measures at regional level (i.e. the regionalisation process) cannot be applied to manage incidental catches of seabirds; weakens

the requirements that can be set for applying regional measures on previously prohibited fisheries; and fails to establish an independent scientific assessment (i.e. an assessment by STECF) for fisheries management measures that will be regionally proposed (i.e. joint recommendations).

## 10. STRENGTHEN DEMOCRATIC GOVERNANCE

### The test

- *Seek to attempt to restore confidence in Europe's regulatory systems following the 'dieselgate' scandal by calling on the Commission to come forward with new legislative proposals on environmental compliance assurance, aimed at strengthening inspection and enforcement capacities at EU and Member State level;*
- *Push the Commission to come forward with ambitious interpretative guidance followed by a new legislative proposal on access to justice and to respond positively to the draft findings of the Aarhus Convention Compliance Committee issued in June 2016 to the effect that the EU is not in compliance with the Aarhus Convention by starting to prepare proposals to strengthen the Aarhus Regulation.*

### The verdict

The Maltese Presidency put the new mechanism of Environmental Implementation Review (EIR) on the agenda of the February Environment Council, thereby to its credit bringing political attention to the issue of poor implementation. While the background paper prepared by the Presidency gave a good analysis of the problems, it associated the EIR with a paradigm shift "away from infringement proceedings towards a cooperative and collaborative approach", whereas the EEB has insisted that the EIR should not lead to any reduction of infringement actions. The Presidency paper also tended to focus on soft solutions and missed the opportunity to highlight the value of legislative measures such as new directives on access to justice or environmental inspections, which would greatly encourage better

### Neutral

implementation.

On 17 March 2017, the Aarhus Convention Compliance Committee found that the EU was not in compliance with the Aarhus Convention as a result of its failure to provide adequate access to justice at the level of the EU institutions. The Maltese Presidency, with the support of the Netherlands, facilitated discussions between EU Member States and NGOs where the EEB was able to call on Member States to support the endorsement of the Committee's findings and the early adoption of measures to rectify the problem by revising the Aarhus Regulation, but there is little to suggest that the Presidency played an active role in advocating for this outcome.



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