

To: EU Environment Ministers

Brussels, 25 October 2019

Dear Minister,

Re: Access to justice and the EU's non-compliance with the Aarhus Convention

We are writing to seek your support for urgent measures to improve access to justice at the EU level in relation to environmental matters and thereby bring the EU into compliance with international law.

In March 2017, the EU was found by the Aarhus Convention Compliance Committee to be in violation of the Convention due to the very limited possibilities for access to justice at the level of the EU institutions.

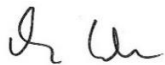
In June 2018, the reluctance of the Commission to address this problem in a timely and effective manner led Member States to take the highly unusual step of adopting a Council Decision invoking Article 241 of the Treaty on the Functioning of the European Union in order to put pressure on the Commission to act.¹ Specifically, the Decision called on the Commission to submit by 30 September 2019 a study on options for addressing the findings of the Compliance Committee and, if appropriate in view of the outcomes of the study, to submit by 30 September 2020 a proposal for revision of the EU legislation applying the provisions of the Convention to the EU institutions, known as the Aarhus Regulation.

The Commission published the study earlier this month. The study confirms what was already evident to most experts and independent observers, namely that the most effective way to address the problem and bring the EU into compliance with the Convention is through revising the Aarhus Regulation. The Commission should therefore move swiftly to prepare a legislative proposal to revise the Aarhus Regulation.

In these circumstances, we believe that the Council should now, recalling its earlier Decision under Article 241, insist that the incoming Commission makes it a top priority to deliver the legislative proposal as soon as possible and in no circumstances later than the deadline stipulated. Given the uncertainty concerning the starting date for the new Commission, it would also be important that the Commission services already start the preparatory work, with appropriate stakeholder engagement, to avoid any further delays in addressing this democratic deficit that undermines the credibility of the EU as a proponent of the rule of law.

Please do not hesitate to contact us if you require further information.

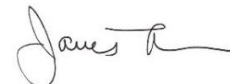
Yours sincerely,



Jeremy Wates
Secretary General
EEB



Siim Vahtrus
Chairman
Justice & Environment



James Thornton
CEO
ClientEarth

¹ Council Decision (EU) 2018/881 of 18 June 2018.