

**To:** Ursula Von der Leyen, President of the European Commission  
Charles Michel, President of the Council of the European Union  
David Maria Sassoli, President of the European Parliament

**Cc:** Frans Timmermans, Executive Vice-President of the European Commission  
Christian Doleschal, Member of the European Parliament  
Milan Brglez, Member of the European Parliament  
Martin Hojsík, Member of the European Parliament  
Marie Toussaint, Member of the European Parliament  
Anna Zalewska, Member of the European Parliament  
Mick Wallace, Member of the European Parliament

**From:** Professor Alberto Alemanno, Director at The Good Lobby, on behalf of a group of academics and legal professionals from across Europe

**Re:** A call to the EU to comply with the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

**Legal basis:** Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 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

Brussels, 13 April 2021

**Dear President Von der Leyen, President Michel, President Sassoli,**

We, the undersigned legal academics and professionals, call on the EU to comply with the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ([the Aarhus Convention](#)), ratified by the EU on 17 February 2005.

In 2017 the Aarhus Convention Compliance Committee (ACCC) – the [body responsible for compliance](#) – found [the EU to be in breach](#) of its Articles 9(3) insofar as it failed to provide access for members of the public to administrative or judicial review procedures to challenge EU administrative acts and omissions that contravene EU law relating to the environment.

The fulfilment of international law obligations is the hallmark of a State's commitment to the rule of law. This is no different for the EU, which has ratified the Aarhus Convention in its own right. Additionally, public access to administrative or judicial review procedures is key to ensuring the accountability of EU institutions and observance of EU environmental law in administrative decision-making.

The ACCC found the EU to be in breach of Article 9(3) of the Convention on the basis that:

1. NGOs and individuals do not have legal standing to bring environmental cases directly before the Court of Justice of the EU under Article 263 TFEU;

2. While the preliminary reference procedure in Article 267 TFEU is an indispensable means of ensuring the consistent application and proper implementation of EU law, it is insufficient to guarantee access to justice at EU level due to structural and practical barriers inherent in the mechanism;
3. The Aarhus Regulation ([Regulation 1367/2006](#)) allows certain NGOs to request internal review of a very restricted category of administrative acts that contravene EU environmental law, leaving the vast majority unchallengeable.

Following a [request](#) from the Council of the EU, the Commission published on 15 October 2020 a [legislative proposal](#) to amend the Aarhus Regulation with the explicit aim of bringing the EU into compliance with international law. However, the Commission's proposal would not achieve that objective. This was made clear by the ACCC in its advice to [the EU issued on 12th February 2021](#).

**We therefore urge the European Parliament, the Council of the EU and the European Commission to fully implement the ACCC's findings and recent advice.** Specifically, the definition of "administrative acts" that can be subject to internal review must include all EU non-legislative acts and omissions that are capable of contravening EU law relating to the environment, including the provisions of acts for which EU law explicitly requires national implementing measures and the Commission's State aid decisions. The EU must also take steps to allow certain individuals to access the internal review mechanism.

Article 27 of the Vienna Convention on the Law of Treaties states that a party to a treaty may not invoke the provisions of its internal law as justification for its failure to comply with that treaty. In coming to its conclusion, the ACCC took the special features of the EU legal order into account, in particular the importance of the preliminary reference procedure, and recognised [the declaration by the EU](#) upon accession to the Convention. The recommendations in the ACCC

advice respect the allocation of competences between the EU and Member State courts as laid down in the EU Treaties.

As academics and legal professionals, we represent varied interests in our daily work of scholars and practitioners, but we are united in believing that the EU cannot unilaterally disregard its international law obligations and that the EU institutions must be accountable to the public for the lawfulness of their decisions. Members of the public must have the right to challenge EU administrative acts and omissions that contravene environmental law, in accordance with the Aarhus Convention. **The best way of achieving this is by implementing the ACCC advice in the current legislative process.**

We look forward to hearing from you.

Yours sincerely,

- Professor Alberto Alemanno HEC Paris and founder of The Good Lobby
- Dr Vigjilence Abazi Maastricht University
- Dr Carolyn Abbot University of Manchester
- Dr Laure Abramowitch Lawyer, Legiplanet Avocats
- Robert GS Aitkin Solicitor, England & Wales
- Gill Aitkin Solicitor, England & Wales
- Assistant Professor Laurens Ankersmit University of Amsterdam
- Estellia Araez President of the French Lawyers' Union

- Professor Alexandra Aragão  
Chair of EU environmental law at the Faculty of Law of the University of Coimbra
- Dr Chiara Armeni  
Free University of Brussels
- Marcin Bachman  
Radca Prawny (attorney-at-law), LL.M., Poland
- Professor Ch.W. Backes  
Utrecht Centre for Water, Oceans and Sustainability Law at Utrecht University
- Dr Antoine Bailleux  
Director, Institut d'Etudes européennes, University of Saint-Louis
- Professor rAslı Ü. Bâli  
UCLA School of Law
- Arnab Banerjee  
Advocate, India
- Magdalena Bar  
Radca prawny (Attorney-at-law), Poland
- Mariusz Baran  
Radca prawny (Attorney-at-law), Poland
- Professor Petra Bárd  
Eötvös Loránd University and CEU
- Professor Samo Bardutzky  
University of Ljubljana
- Professor Gavin Barrett  
University College Dublin
- Louise Beirne  
Barrister at Law, Ireland
- Dr Uladzislau Belavusau  
T.M.C. Asser Institute
- Allan Bell  
J.D., Consultant - Anti-corruption, Compliance, Risk & Governance, USA
- Associate Professor Julien Bétaille  
University of Toulouse 1 Capitole
- Professor Paul Blokker  
University of Bologna
- Sven Boullart  
Teaching Assistant Faculty of Law, University of Ghent, attorney at the Bar of West-Flanders and Ghent

- Dr Carrie Bradshaw Lecturer in Law, Leeds University
- Eoin Brady Senior Planning Lawyer, Ireland
- Maria Christina Breida Senior Lawyer, Legance, Italy
- Dr Ciara Brennan Lecturer in Environmental Law, Newcastle University
- Estelle Brosset University of Marseille
- Professor Bojan Bugaric University of Sheffield
- Dr Matthieu Burnay Queen Mary University of London
- Dr Graham Butler Aarhus University
- Professor Antoine Buyse Utrecht University
- Professor Başak Çalı Hertie School, Berlin
- Giovanni Carotenuto Lawyer and Chairman of the Board of Pro Bono Italia
- Dr Eadaoin Ni Chaoimh University of Saint-Louis, Brussels
- Professor Ramona Coman Université Libre de Bruxelles
- Dr Joseph Corkin Senior Lecturer in Law, Middlesex University
- Dr Francisco Costa-Cabral Tilburg Law and Economics Center
- Dr John Cotter Keele University
- Professor Joana Covelo de Abreu University of Minho
- Dr Kati Cseres University of Amsterdam
- Professor Deirdre Curtin European Law, European University Institute
- Dr Eglé Dagilytė, Anglia Ruskin University

- Dr Tom Gerald Daly Melbourne School of Government
- Nicolas de Sadeleer Jean Monnet Chair, Professor of EU Law, University of Saint-Louis, Brussels
- Daniela Deteseanu University Lector at Faculty of Law, University of Bucharest
- Professor Giacomo Di Federico University of Bologna
- Alan Doyle Barrister at Law, Ireland
- Millicent Ele Attorney, PhD Candidate in Law, Nigeria
- Professor Mariolina Eliantonio Maastricht University
- Dr Cassandra Emmons Harvard University
- Associate Professor Elena Fasoli University of Trento
- Deirdre Ní Fhloinn Barrister at Law, Ireland
- Dr Pawel Filipek Krakow University of Economics
- Sir Nicholas Forwood QC Barrister at law, judge, General Court of EU 1999 - 2015
- Professor Thierry Fossier Former adviser to court of Cassation
- Thomas Francis Barrister, England & Wales
- Margarete von Galen CCBE President
- Professor Lech Garlicki Washington University in St. Louis
- Professor Antoine Gatet Limoges University of Law
- PhD Researcher Miranda Geelhoed University of Strathclyde
- Mary Gilmore-Maurer Lawyer, PhD Candidate, University of Aberdeen
- Professor Iris Goldner Lang University of Zagreb

- Dr Barbara Grabowska-Moroz University of Groningen
- Jérôme Graefe Jurist in environment, Titulaire du CAPA
- Dr Joelle Grogan Middlesex University London
- Professor Xavier Grousot Lund University
- Lecturer Ioanna Hadjiyianni University of Cyprus
- Professor Michaela Hailbronner University of Gießen
- Professor Gabor Halmai European University Institute
- Olivia Hamlyn Faculty member, School of Law, Birkbeck College, University of London
- Professor Leigh Hancher Lawyer, Tillburg University at Florence School of Regulation
- Liz Hattan Solicitor, England & Wales
- Dr Daniel Hegedüs The German Marshall Fund of the United States
- Philipp Heinz Rechtsanwalt (attorney-at-law), Germany
- Professor Christophe Hillion University of Oslo
- Professor Herwig C. H. Hofmann University of Luxembourg
- Gunilla Högberg Björck Environmental lawyer at GBH Miljörätt, LL.M, Sweden
- Professor Simon Holmes Oxford University and Member of the UK Competition Appeal Tribunal
- Alison Hough Legal Academic, Athlone Institute of Technology  
Barrister
- Professor Hristo Hristev Sofia University
- Paul Jose-Booz Lawyer, Port-au-Prince, France



- Ana Kantzelis Barrister, England & Wales
- Professor R. Daniel Kelemen Rutgers University
- Dr Rónán Kennedy National University of Ireland Galway
- John Kenny Barrister, Ireland
- Clíona Kimber Senior Counsel, Ireland
- Professor Jeff King University College London
- Pierre Kirch Lawyer, Brussels and Paris Bar
- Professor Jan Klabbers University of Helsinki
- Professor Dimitry Kochenov CEU Democracy Institute
- Dr Constantinos Kombos University of Cyprus
- Professor Tomasz Tadeusz Koncewicz University of Gdańsk
- Associate Professor Emilia Korkea-aho University of Eastern Finland
- Dr Kriszta Kovács WZB Berlin Social Science Center
- Professor Dr. Ludwig Kramer Former judge at the Landgericht Kiel (1969- 2004); former official of the European Commission.
- Peter Kremer Attorney-at-law (Rechtsanwalt), Germany
- Jaka Kukavica European University Institute
- Professor Kati Kulovesi University of Eastern Finland
- Dr Dilek Kurban Hertie School, Berlin
- Professor Maria Lee UCL Centre for Law and the Environment
- Professor Paivi Leino-Sandberg University of Helsinki

- San-Chia Lin Attorney-at-Law, Chairman of Environmental Rights Foundation Taiwan
- Fred Logue Solicitor, Ireland
- Dulce Lopes Lecturer in Law, University of Coimbra
- Professor Juan Jorge Piernas López University of Murcia
- Dr Sébastien Mabile Lawyer Paris, France, vice-president of UICN French Committee
- Paulo Magalhães Researcher CIJE-University of Porto  
President Common Home of Humanity
- Christiana Maria Mauro Independent legal advocate, Hungary
- Marilyn Mc Nicholas Solicitor, Ireland
- Professor Ronan McCrea University College London
- Alistair McGlone CBE, Former members of the Aarhus Convention Compliance Committee
- Professor Owen McIntyre School of Law, University College Cork, National University of Ireland
- Garth Mentjes Managing Director, Pilnet
- Ketino Minashvili Lawyer, doctoral candidate in human rights law, University of Helsinki
- Dr Delphine Misonne Saint-Louis
- Professor Christoph Möllers Humboldt University
- Mary Moran-Long Barrister, Ireland
- Thomas L Muinzer Co-Director, Aberdeen University Centre for Energy Law
- Professor Jan-Werner Müller Princeton University

- Tiina Paloniitty Postdoctoral Fellow, University of Helsinki
- Professor Tommaso Pavone University of Oslo
- Professor Laurent Pech Middlesex University London
- Professor Vlad Perju Boston College Law School
- Professor Thomas Perroud Panthéon-Assas University (Paris II)
- Professor Roman Petrov National University Kyiv-Mohyla Academy
- Professor Sébastien Platon University of Bordeaux
- Sophie Pochard Lawyer, Lyon, France
- Bastien Poix Trainee lawyer, France
- Professor Jiří Přibáň Cardiff University
- Ilona Przybojewska Radca Prawny (attorney-at-law), Poland
- Coline Robert Lawyer, Geo Avocats, Paris
- Bartosz Rogala Attorney-at-law (radca prawny), Poland
- Dr Seita Romppanen Senior Researcher, Finnish Environment Institute
- Professor Wojciech Sadurski University of Sydney and University of Warsaw
- Fe Sanchis-Moreno Lawyer, Spain
- Dr Julian Schenten Darmstadt University of Applied Sciences
- Professor Kim Lane Scheppele Princeton University
- Julian Scholtes European University Institute
- Philipp Schulte Rechtsanwalt (attorney-at-law), Germany

- Professor Alessandra Silveira University of Minho
- Jelle Snauwaert Attorney at the Bar of West-Flanders and Ghent, Belgium
- Milka Sormunen Postdoctoral researcher, Erik Castrén Institute, University of Helsinki
- Hannes Speeckaert Attorney at the Bar of Ghent, Belgium
- Stephen Stec Senior Research Associate, Democracy Institute  
Lecturer, Central European University
- Janet Stevenson Retired Magistrate
- Didier Supplisson Lawyer, Dijon, France, Legiplanet Avocats
- Professor Maciej Taborowski University of Warsaw
- Dr Rui Tavares New York University
- Veronika Tomoszková Assistant Professor of Environmental Law  
Palacký University Olomouc
- Louise Tschanz Lawyer, France
- Professor Sharon Turner University of Sussex
- Professor Harro van Asselt University of Eastern Finland
- Professor Geert van Calster University of Leuven, Member of the Belgian bar
- Professor Peter Van Elsuwege, Ghent University
- Dr Arnaud Van Waeyenberge Professor of EU law – HEC Paris
- Dr Radosveta Vassileva University College London
- Dr. Roda Verheyen Rechtsanwältin, Germany
- Rose Wall CEO, Centre for Environmental Justice, Community Law & Mediation, Ireland

- Professor Marlene Wind University of Copenhagen
- Emmanuel Wormser Lawyer, Lyon, France
- Professor Jan Wouters KU Leuven
- Professor Mirosław Wyrzykowski University of Warsaw
- Artur Zalewski Adwokat (attorney), Poland
- François Zind Lawyer, Strasbourg, France; President of Commission Environnement Santé, SAF
- Professor Lorenzo Zucca King's College London