

## Public consultation - Transparency and participation in EU decision making related to the environment

Public consultation - 07/09/2022

*Environmental decision making of the EU institutions, bodies, offices and agencies (referred to as 'EU institutions' hereafter)*

This consultation is now closed.

The EU Treaties require that all EU decisions are taken as openly and as closely as possible to the citizen. Transparency and participation are considered particularly important when it comes to EU decision-making related to the environment. As a party to the Aarhus Convention, the EU is committed to ensuring a high level of public access to environmental information and public participation in decision-making relating to the environment. To participate in decision-making related to the environment, the public must have access to up-to-date information relating to the environment and the EU's actions in this regard.

To understand better the issues that the public faces when it comes to the transparency of and participation in EU decision-making in this area, the Ombudsman invites contributions based on the following questions:

### Transparency

1. Please describe any difficulties you have faced in searching for and obtaining information or documents related to (decision making on) the environment held by EU institutions.
2. In your view, is the environmental information that the EU makes public up-to-date and accurate? If not, please give examples.
3. The EU Aarhus Regulation obliges the EU institutions to set up public databases for the proactive and systemic dissemination of certain environmental information. [1] What, in your view, should the EU institutions do to make these databases as comprehensive and user-friendly as possible? The kind of information that the EU institutions should include within their scope is set out in Article 4 of the Aarhus Regulation. What specific information needs to be provided to meet this requirement? Should the EU institutions choose to go beyond this legal requirement? In what way?



4. In some inquiries concerning public access to documents, the Ombudsman found that the EU institution concerned did not recognise that 'environmental information' was at stake and, thus, did not apply the higher transparency standards required by the EU Aarhus Regulation. [2] Have you come across this issue? If so, please provide relevant examples.

5. The European Commission has implementing powers (under the so-called 'comitology' procedure) that it also uses to adopt decisions that relate to the environment, such as approving active substances in pesticides. [3] The Commission submitted a proposal to amend the 'comitology' regulation in 2017, including by making public EU Member States representatives' votes in the Appeal Committee. However, the legislative process on this proposal has since stalled. [4] Meanwhile, the Commission said it is reflecting on how to ensure further transparency in comitology procedures. [5] How do you think the Commission can improve the transparency of comitology procedures, specifically concerning environmental decision-making?

6. In your view, are the personal and/or professional interests of external experts that the Commission consults in relation to environmental proposals, legislative or otherwise, sufficiently transparent? Please provide reasons for your view.

7. Please raise any further issues you have observed in the transparency of decision making relating to the environment.

## Participation

8. What could the Commission improve regarding the involvement of civil society in the preparation and implementation of the policies with an impact on the environment, for example in 'Civil Dialogue Groups' in the context of the EU's Common Agricultural Policy, or 'Domestic Advisory Groups' in the context of the implementation of Free Trade Agreements?

9. Under the EU Aarhus Regulation, EU institutions are required to provide early and effective opportunities for the public to participate during the preparation, modification or review of plans or programmes relating to the environment and to take the outcome of the public participation into account. [6] Are you aware of issues in this regard, such as instances where EU institutions did not adequately adhere to this obligation? If so, please provide relevant examples.

10. What should the Commission do to ensure an adequate level of public participation as regards the measures to be adopted in the context of REPowerEU [7] and the Nature Protection Package [8] ?

11. Please raise any further issues you have observed in the way the EU institutions facilitate public participation in decision making relating to the environment.

### How to contribute

The deadline for submitting comments is **15/12/2022** . Contributions may be made **by email** ( [EOPublicConsult@ombudsman.europa.eu](mailto:EOPublicConsult@ombudsman.europa.eu) [Link]) or by post to:



European Ombudsman 1 avenue du Président Robert Schuman CS 30403, F - 67001,  
Strasbourg Cedex France

**Please clearly indicate SI/5/2022/KR at the start of your contribution.**

Contributions may be submitted in any of the 24 official languages of the EU. It is possible to respond to a selection of questions only if wished. Please indicated clearly to which questions your answers relate. If possible, please do not exceed **10 pages** for your contribution, including annexes if any.

The Ombudsman also intends to make these contributions available on her website. Physical persons who consider that, in accordance with Regulation 2018/1725 on the protection of personal data [9] their name should not be published should inform the Ombudsman.

Should you require any further information, please contact the Inquiries Officer responsible, Mr Koen Roovers, at +32 2 284 11 41.

[1] Article 4 of the 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 Union institutions and bodies,  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R1367-20211028> [Link]

[2] See for example case [311/2021/TE](#) [Link]

[3] See Article 79 of the Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC,  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009R1107-20210327> [Link]

[4] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. See:  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2017%3A85%3AFIN> [Link]

[5] See: <https://www.ombudsman.europa.eu/en/doc/correspondence/en/121412> [Link].

[6] See Article 9 of the Aarhus Regulation, see footnote 1.

[7] European Commission Communication of 8 March 2022, "REPowerEU: Joint European Action for more affordable, secure and sustainable energy", COM(2022) 108 final



[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1511](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1511) [Link]

[8] [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3746](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3746) [Link]

[9] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295/39