

## **Public consultation on transparency and participation in EU decision making related to the environment (SI/5/2022/KR) - Background information**

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

The world is facing unprecedented environmental challenges: a climate emergency, a biodiversity crisis, environmental and ecosystem degradation, and resource exhaustion, the effects of which are already being felt throughout the globe. The consequences of climate change will affect every aspect of society and will threaten life itself, economic stability, and food and water security, while disproportionately affecting the most vulnerable parts of the population.

The EU is committed to preserving, protecting and improving the quality of the environment [1] and has been increasing its efforts to this end. The European Green Deal [2] , presented by the European Commission in 2019, sets out the overall framework for EU action on climate change and environmental protection.

As part of its efforts to address the climate emergency, the EU recently enacted binding emission reduction targets through the European Climate Law [3] and the Commission proposed several initiatives as part of the 'Fit for 55' legislative package [4] , which are currently being considered by the European Parliament and Council. The EU also set up funding programmes to stimulate innovation and development in the area of sustainable technologies and a just transition to a carbon-neutral economy. [5]

The Commission also presented the EU Biodiversity Strategy for 2030 [6] , setting out its proposals for protecting nature and reversing ecosystem degradation, and the Farm to Fork Strategy [7] , which includes proposals to make food systems more sustainable and environmentally-friendly. The Commission has also started to propose legislation under these strategies, such as the draft EU Nature Restoration Law and proposals to reduce the use of chemical pesticides. [8]

The EU Treaties require that all EU decisions are taken as openly and as closely as possible to the citizen. [9] This is crucial to enhance the legitimacy of, and public trust in, the EU's decision-making process. 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. [10] 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.

Following complaints on these issues, the Ombudsman has found instances in which environmental information is made public too late, if at all, resulting in a lack of public awareness and scrutiny. [11] The Ombudsman has also emphasised that the exceptions to granting public access have to be interpreted in a restrictive way as regards environmental information. [12] The Ombudsman furthermore worked to ensure that the Commission explains clearly its reasons for important decisions related to the environment, for example, when it approves the active substances used in pesticides. [13]

The Ombudsman also proposed that the Commission creates clear rules to ensure that experts it consults in the context of environmental policymaking are not subject to conflicts of interest, [14] and that experts declare any professional or personal interests. [15] Moreover, the Ombudsman found maladministration where the Commission failed to consider properly the environmental impact of a trade agreement before concluding negotiations. [16]

The Ombudsman has now prioritised the assessment of the transparency of EU environmental decision making. [17]

[1] Article 11 and 191(2) of the Treaty on the Functioning of the European Union, Article 37 of the EU Charter of Fundamental Rights.

[2] For information on the European Green Deal, see: [https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en) [Link].

[3] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), see: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1119> [Link]

[4] For more information, see: [https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal\\_en](https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal_en) [Link]

[5] For more information, see: [https://ec.europa.eu/clima/eu-action/funding-climate-action\\_en](https://ec.europa.eu/clima/eu-action/funding-climate-action_en) [Link]

[6] [https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030\\_en](https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030_en) [Link]



[7] [https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy\\_en](https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy_en) [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] Article 10(3) of the Treaty on European Union

[10] Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), 1998, Preamble. See: <https://ec.europa.eu/environment/aarhus/legislation.htm> [Link].

[11] See for example cases [1065/2020/PB](#), [1251/2020/PB](#) and [1252/2020/PB](#) [Link]

[12] See for example case [2142/2018/EWM](#) [Link].

[13] See joint cases [1570/2018/JF-JN](#) and [1973/2018/JF-JN](#) [Link]

[14] See cases [853/2020/KR](#) [Link],

[15] See: [560/2019/KR](#) [Link] and [1402/2020/TE](#) [Link].

[16] See case [1026/2020/MAS](#) [Link]

[17] European Ombudsman, Annual Management Plan 2022, available here: <https://www.ombudsman.europa.eu/en/doc/amp/en/152860> [Link]