



LITIGATION IN ENVIRONMENTAL MATTERS

LAW AT THE SERVICE OF THE
ENVIRONMENT

CLIENTEARTH
JUSTICE FOR THE PLANET

CLIENTEARTH

- Founded by James Thornton
 - founded the NRDC Los Angeles' office
 - Lawyer specialized in environmental law
- Offices in London and in Brussels
- The use of law as the tool to enhance the protection of the environment

Brussels' office activities

- Litigation at EU level
- Litigation in France
- Legal counsel to NGOs

Litigation at EU level: Enforcement of the Aarhus convention

- Better access to justice – to the ECJ – for NGOs
- Better access to information
- Better consultation of the public in decision-making process



ACCESS TO JUSTICE

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Litigation at EU level: access to justice

- Public interest actions : appropriate means supporting the enforcement of European environmental legislation.
- They make public authorities more respectful of environmental law; improve the quality of their decisions
- Effective access to justice needed to fill the legislative and procedural gaps in system of remedies provided by EC Treaty
- Ensure that scope of judicial protection is extended correspondingly to increasing powers of Community institutions.
- Every interest of individuals is affected by Community law. There is therefore a correspondingly greater need for effective judicial protection against unlawful action

Litigation at EU level: Access to justice

- Third pillar of the Aarhus convention not transposed by the EU: Need for harmonization within Member States
- Commission's proposal of 2003 stalled in Council
- Regulation 1367/2006 on the application of the convention to European institutions and bodies not enough
- No access to the European court of justice for NGOs

Litigation at EU level: Access to justice

- Regulation 1367/2006 does not provide any remedy to individuals and refers to the criteria of the EC Treaty
- Article 230(4) : to be directly and individually concerned
- Interpreted too restrictively by the court
- Not clear enough on remedy in case of no public consultation
- Complaint before the Compliance committee of the convention



Access to information

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Access to information

- Some information are still not accessible to the public
- E.g: Letters of formal notice and reasoned opinions of the Commission
- Confirmatory request to the Secretary general, if refusal
- Complaint to the ombudsman or ECJ



Public consultation

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Litigation at EU level: EIB's activities

- Consultation on the bank's new environmental and social statement
- Compliance of projects funded by the EIB with EU environmental law and human rights
- Actions before the Compliance Committee for non compliance with Aarhus convention

Litigation in France

- Bring cases before the French courts with local NGOs
- NGOs have standing to sue before courts
- Case of the “thonaille”
- Steps taken by the Commission
- Possible action before the Conseil d’Etat

Legal counsel to NGOs

- Lack of lawyers in NGOs
- NGOs need legal counsel
- Counsel to CAN Climate action network on the climate and energy package
- Other NGOs: Bankwatch