

## Potential impacts of the adoption of the Access to Justice Directive in 5 selected Member States

### Art. 2.2.c "qualified entity"

<b>Austria</b>	
<b>Czech Rep.</b>	
<b>Estonia</b>	
<b>Hungary</b>	
<b>Slovenia</b>	The introduction of the definition "qualified entity" would narrow the scope of activities of the NGOs in cases of access to justice. There will also probably be a lack of "qualified entities" in the country as concerns meeting the criteria of the Draft Directive.

### Art. 2.2.g "environmental law"

<b>Austria</b>	There is no such definition in the legal system as "environmental law". The EIA Act uses the word "environmental law" with regard to NGOs' rights without defining what environmental law means. However, courts (Austrian Federal Administrative Court, decision VwGH 18.10.2001, 2000/07/0199) interpret it widely. Environmental laws are all acts that provide for environmental protections directly or indirectly (including waste management, forestry law, performance targets). Thus the definition in the Draft Directive might limit the national definition.
<b>Czech Rep.</b>	The definition of "environmental law" covers fields that currently do not fall under the competence of the Ministry of Environment according to domestic law. Thus these areas are not considered part of environmental law and are not covered by public participation and access to justice provisions. The wording of the Draft Directive could help assert the "Aarhus Principles" in such areas and the current restrictive construction of legal standing in certain administrative procedures (e.g. relating to noise abatement processes) could be abolished.
<b>Estonia</b>	
<b>Hungary</b>	
<b>Slovenia</b>	

### Art. 6 Request for internal review

<b>Austria</b>	
<b>Czech Rep.</b>	
<b>Estonia</b>	The "request for internal review" is a novelty, because of the ability to challenge an act or omission if it is in breach of environmental law. Currently the ability to challenge procedures exists in the legal system when a person finds that his/her rights have been violated or freedoms restricted with the administrative act or during the proceedings. The basis of challenge procedures at present can not be only "the breach of law".
<b>Hungary</b>	The regulation of internal review procedures will be a novelty and will probably contribute to environmental procedures getting longer, but considering public opinion to a greater extent.
<b>Slovenia</b>	

## Art. 8 Criteria for recognition

<b>Austria</b>	There is no such definition with regard to access to justice in environmental matters within the meaning of Article 9.3 of the Aarhus Convention. The EIA Act regulates the procedure of NGO standing and access to justice. The procedure is quite similar to the Draft Directive, but there is an additional limitation: NGOs have to show that they work in a specific region (Land) in order to get standing in that region. Until now, most of the federal and regional legislation refers to NGOs that are recognized by the EIA Act if NGOs are allowed to participate in proceedings (implementation of IPPC-directive, planned provisions of the environmental liability directive transposition). Thus the recognition criteria that exist in the EIA Act are currently more limited than the Draft Directive.
<b>Czech Rep.</b>	Criteria to be introduced by the Draft Directive here would make access to justice more burdensome for NGOs; e.g. the requirement to function 3 years prior to an environmental proceeding or to have the annual financial statement of the NGO audited. The same is true for the criteria set up by Art. 5.1 “covered specially by statutory goals” and “specific geographical area of activities”.
<b>Estonia</b>	Requirements embedded in the Draft Directive such as the mandatory status of a legal entity, the internal organizational structure, the necessary 3-year prior activity and the presence of an audited annual financial report create significant restraints to access to justice for NGOs in comparison with the present situation. Currently there are no criteria established for environmental NGOs to have standing in environmental matters; therefore, practically all environmental NGOs (even NGOs without legal personality such as fellowships) can gain access to justice. In case restrictions are enforced, the burden of protection of environmental interests would lie only on the largest and most active NGOs, who are already struggling in conditions of restricted capacity.
<b>Hungary</b>	Criteria to be introduced by the Draft Directive here would make access to justice more burdensome for NGOs; e.g. the requirements to function 3 years prior to an environmental proceeding or to have the annual financial statement of the NGO audited.
<b>Slovenia</b>	

## Art. 10 Environmental proceedings

<b>Austria</b>	
<b>Czech Rep.</b>	
<b>Estonia</b>	
<b>Hungary</b>	
<b>Slovenia</b>	A possible improvement of the status of NGOs in eventual environmental court proceedings is expected, due to this provision of the Draft Directive.

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