Aarhus and the Right to Clean Air

Alan Andrews
Green Week
5 June 2013
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• The role of Aarhus
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“A moderate document designed to achieve marginal changes”

Susan Rose Ackerman
The Right to a Healthy Environment

“...every person has the right to live in an environment adequate to his or her health and well-being, and the duty...to protect and improve the environment...”
The Right to a Healthy Environment

“...to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters”
“...where the exceeding of the limit values could endanger human health, individuals must be in a position to rely on mandatory rules in order to be able to assert their rights.”
<table>
<thead>
<tr>
<th>Year</th>
<th>Directive/Convention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>Air Framework Directive</td>
</tr>
<tr>
<td>1998</td>
<td>Aarhus Convention</td>
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<tr>
<td>1999</td>
<td>First Daughter Directive</td>
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</table>
| 2003 | Access to Information Directive  
      | Public participation Directive  
      | Access to Justice Directive (Blocked) |
| 2008 | Ambient Air Quality Directive  
      | - time extensions  
      | - air quality plans “as short as possible”  
      | - extensive rights to access to information  
      | - failed to implement PPD  
      | - no mention of access to justice |
C-237/07 Janecek

A right to clean air?
National legal action

Austria
Germany
Hungary
Italy
Sweden
UK
17 EU Member States still in breach of limits for PM10

21% of EU urban population
EU Member States breaking nitrogen dioxide limits
Case study: ClientEarth’s case against the UK

Supreme Court Ruling 1 May 2013:

- Declaration of breach of EU law

- Questions referred to CJEU:
  - Article 22 time extensions
  - Article 23 plans: “as short as possible”
  - Article 30: effective and dissuasive penalties
Fixed Costs in Aarhus Cases (Maximum £5k or £10k)
“Cutting back on judicial reviews.
Reducing government consultations.
Streamlining European legislation.
Stopping the gold-plating of legislation at home.

... getting our roads and railways built more quickly”

David Cameron, speech to the CBI, 19 November 2012
“Working in partnership with other Member States, we will also use the European Commission review of air quality legislation, expected in 2013, to seek amendments to the Air Quality Directive which reduce the infraction risk faced by most Member States, especially in relation to nitrogen dioxide provisions.”
1. Access to Justice Directive

2. Year of Air Review
   - NEC Directive
   - AAQ Directive

3. Infringement cases
Thank you!

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