Justice and Environment
Triennial Report 
2010-2012
1. LETTER FROM THE CHAIR

2010 was a challenging year for J&E because our main donor had denied our request for funding. But we managed this situation, re-committed ourselves to bring J&E further and invested hundreds of unpaid hours to re-organize the organization. At the end it worked out and we achieved a lot, not only in 2010, but also in 2011 and 2012.

J&E is a unique environmental organization that brings experience and expertise from grassroots people and cases directly to decision-makers on the European level, in a useful manner. In addition, our member organizations are the leading environmental lawyers in the NGO community in their respective countries and deeply involved in domestic legal and political processes.

Our main means of work is analyzing problems that occur in our daily domestic legal work and bring them up to a strategic level. This can be European laws that do not work well or laws that are missing at all. After analyzing the problems we propose solutions.

J&E uses the developed arguments to inform and influence decision-makers, experts and civil society. The ultimate aim is to improve laws in order to better protect the environment and people.

Regarding the Aarhus Convention on public participation, J&E had a clear focus on access to justice since 2010. We analyzed different aspects and proposed solutions. We hosted workshops and trainings and attended many meetings and conferences.

Another constant J&E focus has been Environmental Impact Assessment. Currently the revision of the EU Directive is on the table. Many of the problems detected by us in the last years are discussed and included in the legislative process. This confirms our approach to thoroughly analyze problems in an early stage in order to give indications for legal improvements in the future. A similar approach we have taken as to the Environmental Liability Directive which we aim to be amended soon.

Whereas the main J&E focus is on “horizontal” legal matters such as public participation and environmental impact assessment that are relevant for more than one policy field, J&E has consistently developed expertise in the most challenging environmental problem of this time since 2010: climate change! We will continue to do that and strengthen our efforts to establish effective legal instruments in this crucial matter.
I want to thank our donors and J&E member organizations that enabled us to do this important work for almost 10 years. And I thank our motivated and excellent lawyers that bring up great ideas and high quality studies in an effective and efficient manner. Finally, I want to thank the “management” team that is the stable backbone of the association: Csaba Kiss as coordinator and Lubica Mockova as financial manager (and Lucie Bresova until 2011).

Thomas Alge
Opatija, 17 September 2013

2. PROFILE, AIMS

Justice & Environment (J&E) is a European Network of Environmental Law Organizations working in Europe and consisting of NGOs from different countries dealing with environmental law solely or as one of their core activities.

J&E aims for better legislation and implementation of environmental law on the national and European Union (EU) levels to protect the environment, people and nature.

J&E does this by enhancing the enforcement of EU legislation through analysing and applying European law and exchange of information on the national, cross-border and wider European levels.

All J&E activities are based on the expertise, knowledge and experience of its member organizations and staff.

The members contribute with their legal know-how and are instrumental in the initiation, design and implementation of J&E’s annual work programmes.
3. HISTORY

J&E was established in Brno, Czech Republic, in January 2003 as an informal association and with the provisional name Network of Central European Environmental Law Organizations (ELOnetCE), mentored by the Dutch NGO Milieukontakt Oost-Europa. The informal network was subsequently incorporated in September 2004 with the name Justice & Environment at the Chamber of Commerce of Amsterdam. Having started in 2003 with four members, J&E today has thirteen members – ten full members and three associate members – in twelve European countries. In addition to the regular membership groups, in 2011 J&E established a new category for partners and has already entered into a Partnership Agreement with an Irish environmental activist group.

4. WHAT DO WE DO?

J&E lawyers are experts in environmental law, experienced within their national legal systems and the challenges faced by their respective communities. J&E members often serve as environmental law ‘service points’ in their countries, handling cases in practice, but also participating in legislative processes and, in some cases, working closely together with their governments and providing legal analyses or advice for them.

At the European level, J&E uses its national experience and knowledge to identify common and/or systematic problems in the implementation of EU and international law. Once problems have been identified, J&E uses legal tools to research them in depth and offer solutions. These tools include, among others:

- legal analyses on the implementation of certain directives or regulations in different EU countries;
- case studies to illustrate the ‘real’ application practice on the national or cross-border levels;
• position papers that provide clear information about problems or developments in certain areas of law, as well as J&E opinion on how to improve the situation to decisionmakers and other stakeholders.

In order to affect change in environmental legislation and its application, J&E informs national and EU authorities about its findings, starting discussions or legislative initiatives. To make its voice heard better, J&E co-operates with several stakeholder groups, such as the European Environmental Bureau (EEB), the Friends of the Earth Europe and the CEE Bankwatch Network.

5. HOW DO WE WORK?

All legal work is done by J&E lawyers, who at the same time work in J&E member organizations in their respective countries. J&E is managed by its seven-member Executive Committee, consisting of representatives of its full members and being led by the Chair of J&E, assisted by a Coordinator responsible for day-to-day management of the organization. The latter is assisted by a Financial Manager and Accountant in financial issues. J&E currently has a contracted Communications Consultant from Brussels and a Fundraising Assistant.

Being an association, J&E meets one or two times a year at the (Bi) Annual General Meeting (AGM) of its members, where strategic choices as well as choices regarding work topics are made. Key personnel issues, fundraising and advocacy matters are also decided at the AGMs. These meetings also always incorporate team building elements.
6. MEMBERS AND STAFF

Current full members of J&E are:

- Association for Environmental Justice (AJA, Spain)
- Bankwatch Association Romania (BWA, Romania)
- Frank Bold Society (FBS, Czech Republic)
- Estonian Environmental Law Center (EELC, Estonia)
- Environmental Management and Law Association (EMLA, Hungary)
- ÖKOBÜRO (ÖB, Austria)
- Legal Information Centre (PIC, Slovenia)
- VIA IURIS (VI, Slovakia)
- Zelena Akcija (ZA, Croatia)
- Front 21/42 (FYR Macedonia)
- Independent Institute for Environmental Issues (UFU, Germany)

Current associate members of J&E are:

- International Institute for Law and the Environment (IIDMA, Spain)
Members of the Executive Committee are (with dates):

Mr Thomas Alge (Ökobüro, Austria) – Chairman since 2011
Ms Ágnes Gajdics (EMLA, Hungary) – Treasurer since 2012
Ms Ana Barreiro (IIDMA, Spain) – member since 2013
Ms Zeljka Lejak-Gracin (ZA, Croatia) – member since 2013
Ms Catalina Radulescu (BWA, Romania) – member since 2012
Mr Jan Srytr (EPS, Czech Republic) – member since 2013
Mr Siim Vahtrus (EELC, Estonia) – member since 2011

Members of the Advisory Board are:

Mr Tanweer Ali (University of New York in Prague)
Mr Ludwig Krämer (Professor of Environmental Law)
Mr Fritz Kroiss (Umweltbundesamt Austria)
Ms Lana Ofak (University of Zagreb Faculty of Law)

Ms Vida Ogorelec Wagner (22 March 2012) and Mr Jerzy Jendroska (30 March 2012) resigned from their membership of the Advisory Board.

Coordinator: Csaba Kiss, LL.M.
Communications Consultant: Pauline Constant
8. HIGHLIGHTS OF THE YEAR

2011 - Aarhus Convention MOP4

J&E was always particularly active enforcing access rights. In this context, the 4th Meeting of the Parties of the Aarhus Convention in June/July 2011 in Chisinau (Moldova) was a highlight event, also as an opportunity to express the work of J&E to the public and decision-makers. J&E held a side event titled “Real Access to Justice: Overcoming barriers on real and effective access to environmental justice in the EU MS”. The event was attended by 30+ participants out of the total 150 attendees of the MOP4 including key stakeholders like the European Union, the UNECE Aarhus Convention Secretariat, UNEP and national Ministries of Environment throughout the UNECE region. During the entire MOP4, J&E played an active role and expressed its views regarding issues of importance at the plenary.

J&E also had a permanent booth at the exhibition space in the entrance hall of the venue of the MOP4, thus providing a continuous availability to the stakeholders.
2012 - Brussels EIA/SEA/ELD workshop

A joint meeting of J&E and EEB on the revision of the EIA Directive of the EU was held on 21 November 2012 in Brussels, Belgium in the premises of the Social Platform (Square de Meeus). The event was a highlight in three respects: first, it was co-organized by J&E and the largest environmental umbrella organization of Europe, EEB (the event was opened by J&E Chairman Thomas Alge and EEB Secretary General Jeremy Wates). Second, the Commission was represented at this meeting, adding valuable input to the discussion. Third, it tapped on to a very vivid point of interest, the current and ongoing amendment (revision) of the EIA Directive that concern the largest development projects with the most significant environmental impacts for at least a decade. J&E could successfully present its standpoint on the directive revision and was a constructive partner of both EEB and EC in the debate over the draft text.
9. LEGAL WORK

J&E has been active in a number of policy areas of environmental protection in the last three years. Major activities and accomplishments are:

**Aarhus Convention**

J&E has always paid particular attention to the development of access rights in environmental matters. By access rights, we mean access to information, participation in decision-making and access to justice. J&E has a long list of analyses, studies, position papers relating to the implementation of access rights, and we even had initiated actual cases in this matter.

In 2010, J&E produced an Aarhus Convention toolkit for the public to facilitate the implementation of the Aarhus Regulation that applies the principles of transparency and inclusiveness to European Union institutions.

We also prepared an Access to justice report and an Access to justice position paper (addressed to the Commission) on the major problems of access to environmental justice in selected EU Member States. The report and position paper have already proven to be valuable input for the European Commission in the process of creating pan-European rules on access to justice. The report and the position paper will be used by J&E also in the future in its continuing efforts to lobby for harmonized rules across EU, guaranteeing its citizens fair, timely, equitable and not prohibitively expensive access to justice. We also prepared a critical analysis on the compatibility of the Seveso II Directive (on installations using dangerous chemicals) with the Aarhus Convention that the Commission has used in its legislative process.

In 2011, J&E has done a multi-country analysis on the costs of access to environmental justice, analyzed the case law of the Aarhus Convention Compliance Committee and the environmental case law of the European Convention on Human Rights and wrote reports on the aftermath of two cases judged by the Court of Justice of the EU. All such reports were widely communicated to the European Commission and the expert public. We also prepared a Public Guide on the Request for Internal Review (a legal instrument to ask reconsideration of environmental decisions by EU institutions) and a critical analysis on compatibility of the Seveso III Directive Draft with the Aarhus Convention.
The first one will be useful in the amendment process of the Aarhus Regulation of the EU foreseen for the near future.

In 2012, J&E has updated its surveys in Member States on the impacts of the possible adoption of the Access to Justice Directive, prepared an aggregate study based on the national surveys and submitted a position paper to the Commission to inspire the legislative process in the foregoing matter.

Climate Change

In 2010, J&E had received a grant from the European Climate Foundation to analyze the climate legislation of the European Union and some of its Member States. We have named our project Climate Change Legal Hub and provided legal analyses as well as training to Friends of the Earth climate campaigners. A spin-off product of this project is the Climate Law Database available on the topic online. The regularly updated Climate Law Database collects majority of available legal texts and analyses on the topic of designing and effectively implementing legislation focused on reduction of a country’s carbon footprint and it has been widely used mostly by climate change campaigners and academics.

In 2011, J&E prepared analyses on the EU Carbon Capture and Storage legislation and the Aarhus Convention, wrote country studies on the existing climate change legislation and energy efficiency legislation and compared the UNFCC with the requirements of the Aarhus Convention in order to facilitate better public access to climate change related decision-making.

In 2012, J&E has researched the role of climate change aspects in EIAs and criticized when climate change is applied as a justification of environmentally harmful projects. Our focus was specifically on power plants while we also prepared a position paper on the role of forests in the mitigation of climate change. This proved to be helpful in the recast process of the EIA Directive.

Environmental Impact Assessment/Strategic Environmental Assessment

While in 2011 we only focused on particular issues (e.g. prepared a summary on the EIA related case law of the ECJ), in 2012 we have started to focus on the upcoming recast process of the EIA Directive. In this regard, J&E has compared the current and the upcoming EIA regimes with the Aarhus Convention and illustrated via displaying lessons of practical implementations of EIAs, also outside the EU, that changes are needed in
the respective European legislative framework. We have held a joint even with EEB on the EIA Directive Draft (see under the Meetings section) that was attended by the EU as well, thus transmitting civil society messages to legislators.

Regarding SEAs, in 2012 J&E has analyzed the SEA Directive and the Aarhus Convention and has even submitted a complaint to the European Commission regarding the implementation of the Directive in a Member State in order to start an infringement procedure against one of the Member States.

Environmental Liability

In 2011, J&E prepared a comparison of different liability regimes (EU Directive, UN Lugano Convention) and uncovered differences between such systems. In order to gather audience, we started an ELD Newsletter service that is still ongoing in 2013. Finally, our colleagues gave an in-depth account of the 2010 Hungarian disaster, the so-called Red Mud Case. Via this, the practical functioning of the EU’s ELD regime could be tested. In 2012, J&E – with a view of preparing for the hopefully upcoming revision of the ELD (Environmental Liability Directive) – prepared a thorough analysis of the directive while continuing its ELD Newsletter service.

Environmental Health (Air and Noise)

In 2011, J&E has allied with Brussels environmental NGOs and started a campaign on banning cyanide in mining while at the same time prepared an opinion on the revision of the END (Environmental Noise Directive). In 2012, J&E continued this latter topic with submitting its standpoint to the Commission, as well as analyzing the air quality legislation of the EU, quasi as a preparation for the Cleaner Air for All year declared by the Commission (2013).

Waste

In 2011, J&E did an overall survey of the waste legislation in the EU and within this, we analyzed Waste Management Planning (its regulation as well as implementation in some Member States) as well as collected waste related case law of the ECJ. In order to facilitate public participation in this topic, we have made a Waste Management Public Participation Toolkit with special focus on planning. In 2012, this was complemented by an analysis and position paper on the Waste Framework Directive that was communicated to the Commission.
10. MEETINGS

J&E has been active both in organizing and attending relevant meetings where present and future of the European environmental protection were discussed and analyzed. We added our special experience and could in a number of instances exercise progressive impact on the outcome of the meetings or the course of actions following the meetings. Such meetings encompassed, inter alia, the following:

2010

- EEB Law Group Meeting and Seminar in Dublin, Ireland (26 February)
- ANCLI Implementation of the Aarhus Convention in the radioactive waste management field roundtable in Luxembourg, Luxembourg (8-9 April)
- Friends of the Earth The Big Ask Climate Campaigners Meeting and Training in Monor, Hungary (4-5 October); at this occasion we trained FOE activists to use legal tools in their fight against climate change

2011

- ANCLI Implementation of the Aarhus Convention in the nuclear decision-making roundtable in Luxembourg, Luxembourg (20-21 January)
- Aarhus Convention Access to Justice Task Force meeting (7-8 February), Aarhus Convention Working Group of the Parties (9-11 February), Aarhus Convention Public Participation in International Forums Task Force meeting (23-24 February) in Geneva, Switzerland; we advocated for a more open approach towards the accession of non-UNECE countries to the Convention
- Sava River Basin Management Training in Bihac, Bosnia and Herzegovina (17-18 May); we trained local NGOs and water management experts for access rights
- Meeting of state secretaries of environment of the SEE region in Zagreb, Croatia (9 June); we moderated a panel discussion of six state secretaries of the environment from six countries of the Western Balkan
- Aarhus Convention MOP4 in Chisinau, Moldavia (28 June-1 July); see above under the Highlights of the Year
- SEA training in Opatija, Croatia (6-8 October); J&E trained Croatian NGOs on strategic environmental assessment
- European Commission ELD workshop in Brussels, Belgium (8 November); we gave suggestions to the Commission in the recast process of the Environmental Liability Directive
- EEB Law Group meeting in Brussels, Belgium (9 November)
2012

- Anti-Coal Lawyers Meeting in Prague, Czech Republic (30 May-1 June)
- Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (24-26 April), Joint meeting of the Parties to the Aarhus Convention with the Meeting of the Parties to the Protocol on Water and Health (6-8 June), Aarhus Convention Access to Justice Task Force meeting (13-14 June), Aarhus Convention Working Group of the Parties (3-5 September), Joint meeting on public participation in environmental decision-making: focus on strategic environmental assessment (29-30 October) in Geneva, Switzerland; J&E gave expert input into these meetings
- Stakeholder Meeting on the Role of Agriculture and Forestry in EU Climate Change Policy (30 August), 4th Aarhus and Nuclear Roundtable (4-5 December), European Commission’s Expert Group (E00390) on Aarhus Implementation Meeting on Access to Justice (12 November) in Brussels, Belgium; J&E presented its projects and outcomes at these meetings, especially at the Commission Expert Group meeting

11. PUBLICATIONS

All our publications are available online, at our website under the following link:

http://www.justiceandenvironment.org/publications/
12. FINANCES

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* Financial year covers the period from 1st January to 31st December
13. ACKNOWLEDGEMENTS

J&E would like to express its sincere gratitude to the following donors for making possible that we defend the environment, nature and human health by means of national, EU and international law enforcement.

- European Union LIFE+ NGO Operating Grants
- European Climate Foundation
- Central European Initiative