



## Green law group says NGOs deserve better access to justice

**[Brussels, Sept 13<sup>th</sup> 2012]** - The Court of Justice of the European Union (CJEU) recently passed two landmark judgments, responding to procedures initiated by four environmental NGOs<sup>1</sup>. In the run-up to its hearing due in the next weeks in Luxembourg, green law group Justice and Environment (J&E) welcomes these decisions likely to widen NGOs access to justice in the EU but says there is still much room for improvement.

In the first case, the applicant NGOs claimed that the definition of maximum residue levels for specific food products in a European Directive<sup>2</sup> was unlawful. In the second case, the same green NGOs denounced that the Netherlands unlawfully received temporary exemption from their obligations on air quality<sup>3</sup>.

Although the two cases deal with different issues, they share the common feature of being based on the Aarhus Regulation, which allows NGOs to ask EU institutions – most notably the Commission – to reconsider its decisions, through the legal instrument called “Request for Internal Review”.

The fact that in both cases the Commission rejected the requests on the basis that they were not addressing “measures of individual scope” raises concerns on how the Aarhus Regulation is being applied. The CJEU agreed with the environmental NGOs that such practice is unlawful under the Aarhus Convention.

*“This sort of interpretation by the Commission limits the freedom of European NGOs”,* said Thomas Alge, J&E’s Chairman. *“While the Aarhus Regulation aims at granting NGOs a better access to justice, it is clear that today it is not the case. The Court has made a progressive step in this regard, but we are not fully satisfied yet”,* Alge continued.

J&E is affected by the Court’s decisions because of its similar pending case<sup>4</sup> before the CJEU, in which the law group contests the lawfulness of some Commission Decisions allowing the marketing of GMO products<sup>5</sup>.

The environmental law group is expecting a hearing in Luxemburg to be held in the coming weeks. J&E will fight for NGOs to be granted legal standing at the CJEU against acts of the Commission – a decision that has not been made yet – and for their right to challenge the decisions of the EU institutions.

Although there is still a long way to go, J&E will do the utmost to speed up the process towards better justice for NGOs.

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### **Notes to editors**

1. Cases T-338/08 and T-396/09, on June 14<sup>th</sup> 2012. The NGOs include Stichting Natuur en Milieu, Pesticide Action Network Europe, Vereniging Milieudefensie and Stichting Stop Luchtverontreiniging Utrecht.
2. These products are those covered by Regulation (EC) 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, via a Regulation (EC) 149/2008 by the Commission.
3. These obligations are laid down in the Directive 2008/50/EC on ambient air quality and cleaner air for Europe by a Decision C (2009) 6121 of the Commission.
4. Case T-405/10
5. These are Commission Decisions 2010/135/EU and 2010/136/EU permitting the marketing of the so-called Amflora potato.

If you want to learn more about this story: <http://justiceandenvironment.org/news/57>

*Justice and Environment (J&E) is an **association of public interest environmental law organizations**. The objective of J&E is to contribute to a better status of environment and human health in Europe where J&E is active through the use of law (European and national environmental laws) and the improvement of access to information, public participation and access to justice in environmental matters by legal means.*

### **Contacts:**

Csaba Kiss, Coordinator, Justice and Environment, [info@justiceandenvironment.org](mailto:info@justiceandenvironment.org),  
+36 1 3228462

Pauline Constant, Communications Consultant, Justice and Environment,  
[communications@justiceandenvironment.org](mailto:communications@justiceandenvironment.org)