



## The 2014 Annual Work Plan of Justice and Environment J&E

### *What we do since 2004...*

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.

Objectives of J&E are to guarantee that the public has appropriate access – as ensured by international as well as European Union law – to environmental information, participation in decision-making and environmental justice. J&E aims at **strengthening the participation of NGOs and the public** at large in environmental policy-making and implementation.

J&E is also willing to contribute to the fight against **climate change** and promote both mitigation and adaptation activities in the legal field. J&E does this by focusing more and more on **energy issues** and the use of clean and renewable energy sources. J&E also wants to ensure that private and public projects entailing significant **environmental impacts are properly assessed** beforehand, with the participation of the public. J&E aims at preserving the **biodiversity** within the EU and contribute to halting its loss. Additionally, J&E aims at reducing the use of resources and the generation of **waste**, at enhancing the environmental **liability** regime of the European Union any beyond, and at the promotion of the protection **human health** from environmental impacts. Ultimately, J&E has an internal objective of building its own **capacities**, in order to be able to meet the aforementioned challenges with an effective organizational structure and a competent staff.

The actions of J&E are predefined by our nature of being an association of legal organizations, having an environmental activist approach. They are:

- **legal research** (this includes both national legal research and research of EU level regulatory framework as well as respective case law of courts and tribunals on both levels)
- **monitoring** (monitoring of Member State performance in transposing and implementing EU environmental law, as well as the development of EU environmental *acquis*)
- **comparative analysis** (this covers analysis of EU Member State situations both in terms of regulation and implementation)
- **preparation of reports** (findings of researches are compiled into comprehensive reports)
- **position papers** (reports are complemented by short and easy-to-capture legal position papers that are equally to inform the public and to influence the decision-makers)
- **amicus briefs** (where applicable the aforementioned position papers are formulated in a manner that suppose to influence dispute resolution procedures in the pipeline)
- **strategic complaints** (in certain cases, J&E is submitting on its own behalf requests and submissions that are supposed to uncover legal uncertainties and promote the cause of environmental protection and public participation on the EU level)

- **legal advice and representation** in actual administrative and court cases on the national level (consultations with clients, preparation of files for clients, submission of briefs on behalf of clients, participation at meetings and hearings, appearance before administrative bodies, litigation at courts, etc.)
- **conferences** (these include events organized or co-organized by J&E as well as externally organized events, mostly held in Brussels)
- **consultations** (these can be either public consultations, stakeholder consultations or NGO activist consultations, over a certain matter)
- **meetings** (these are mostly organized with decision-makers, primarily with the respective units of the Commission in Brussels)
- **trainings** (both external trainings held for the public or decision-makers and judges, and internal trainings to raise the awareness of J&E staff)
- **networking** (J&E heavily relies on NGO networking, including internet-based networking and use of social media tools)
- **internet presence** (all our outputs and positions are open and accessible for the public at large, on the internet page of J&E, mostly in English, however, the development of national language content is on the agenda)
- **social media** (we have our Facebook page and we also use Twitter for sharing information about our activities as well as other news and events in the world)

All these actions and means are supposed to achieve a better enforcement of EU and national environmental laws and secure the public's right to a clean and safe environment.

The usual outputs (as physical manifestations of the actions taken) and the results (as more long-lasting, sometimes intangible achievements) of J&E logically follow the course of actions, as follows:

Outputs:	Results:
<ul style="list-style-type: none"> <li>- legal analyses</li> <li>- position papers</li> <li>- meeting memos</li> <li>- reports</li> <li>- MOUs</li> <li>- submissions in cases (national and EU)</li> <li>- consultations with clients</li> <li>- files for clients</li> <li>- briefs on behalf of clients</li> <li>- participation at meetings and hearings</li> <li>- appearance before administrative bodies</li> <li>- litigation materials at courts</li> <li>- letters</li> <li>- arguments presented in procedures</li> <li>- personal presence at meetings, conferences, etc.</li> <li>- training sessions</li> <li>- guidance and toolkits</li> <li>- web presence</li> <li>- publications</li> </ul>	<ul style="list-style-type: none"> <li>- input into decision-making processes</li> <li>- influence exercised on decision-makers</li> <li>- views expressed, discussion sparked</li> <li>- cooperation with partners and stakeholders</li> <li>- allies and alliances within the civil sector</li> <li>- more aware clients on environmental issues</li> <li>- cases taken to the superior level</li> <li>- cases taken to the court</li> <li>- more solid rights implementation in cases</li> <li>- better state of environmental reached via cases</li> <li>- changed attitude of administrative bodies and court in environmental issues</li> <li>- case decisions (national and EU)</li> <li>- issues raised</li> <li>- opinions and standpoints expressed</li> <li>- trained public, decision-makers and judges</li> <li>- more informed civil society</li> <li>- public awareness raised</li> <li>- web information spread</li> <li>- publications read and used</li> <li>- J&amp;E capacities raised</li> <li>- more communicated, connected and acknowledged J&amp;E</li> </ul>

## ***What we do in 2014...***

In 2014, we are active in a number of topic areas such as public participation, climate change in connection with energy, and environmental liability.

### ***1. Aarhus Convention***

J&E has always considered the implementation of the Aarhus Convention (AC) as one - if not the number one - of its priorities. Involvement in the national level implementation has always been an activity frequented by J&E. This took various forms ranging from operating national public interest environmental law offices giving free legal advice to citizens and CSOs to participating at relevant meetings of the Aarhus Convention Secretariat.

The reason behind this is that all staff members and member organizations of J&E consider the Aarhus Convention – and certainly the EU legal regime making the AC operational on the level of Member States as well as of the Union – the cornerstone of environmental access rights. Those access rights, in addition to having an intrinsic value, are also powerful tools for the enforcement of environmental laws in practice because – as especially the European Commission wrote in its reasoning to the draft of the long-passive Access to Justice Directive (which was later withdrawn by the Commission) – without the participation of the public the implementation of the EU environmental law would not function properly. This is reflected in our 2014 working programme as well, in which we tried to carefully select those areas where the work of J&E can have the most impact, can support the respective work of the European Commission to the largest extent possible and can reflect to real public needs in the Member States.

### ***2. Climate change and energy***

Concluding from its past researches, J&E criticized a number of issues in the field of climate change regulation and practice, e.g. that EIA and SEA do not keep pace with the development of certain real processes and they do not incorporate the assessment of climate related impacts to the necessary extent.

This year J&E is venturing onto new areas in order to keep working with law and keep contributing to the fight against climate change. Our two target areas in 2014 are state aid and Trans-European Energy Infrastructure.

We will prepare a summary guidance document on the new Environmental Protection and Energy State Aid Guidelines of the EU.

We will analyze the regulatory framework on the Trans-European Energy Infrastructure with special emphasis on how and what projects are selected as Projects of Common Interest (PCI). We will also inform NGOs and stakeholders working on energy transition at the EU and Member State levels about our findings.

### ***3. Environmental liability***

It is almost a commonplace that the Environmental Liability Directive 2004/35/EC has not brought those results that were originally expected. Reports reveal that implementation is still weak and there is limited experience with ELD cases. J&E however believes that such a legal instrument should meaningfully contribute to a better state of the environment.

For this reason, in 2014 we will set our joint position on the deficiencies of the EU environmental liability regime thus helping EU legislation in preparing a new and better ELD regulation.

### J&E 2014 Work Plan Activities Overview

Theme	Objective	Activity	Output
Public Participation and Access to Justice	1. To put the Access to Documents Regulation 1049/2006 on the legislative (or legislative preparatory) agenda of the EU.	<ul style="list-style-type: none"> <li>discover how other large Green 10 organizations or other Brussels-based international environmental NGOs deal with the issue and discover overlaps, cooperation potential, coalition building opportunities in order to be of assistance and service for them</li> <li>set agendas, strategy with partners, harmonize needs of partners for a successful campaign</li> <li>prepare inputs to partners in this topic in order to substantiate their legal positions as well as lobby on our own for achieving the objectives</li> </ul>	<ul style="list-style-type: none"> <li>joint actions with Green 10 and other Brussels based environmental NGOs</li> <li>outputs (position papers, manifestos, letters, etc.) sent by this ad hoc coalition to the Commission</li> </ul>
	2. To achieve a good CJEU verdict on public participation in a case of J&E pending currently at the Luxembourg Court against the Commission, and create awareness on the impacts of the verdict.	<ul style="list-style-type: none"> <li>participation in the name of J&amp;E at the CJEU court session in Luxembourg and prepare all related activities (preparation of briefs, preparation for oral arguments, travel, pleading, etc.)</li> <li>outreach on the court verdict (media, newsletter, PR, articles e.g. to ELNI, ENDS, EurActiv, etc.)</li> <li>after the Court of Justice releases its verdict in a long-awaited case of Dutch environmental NGOs for better access to justice under the Aarhus Regulation, lobby at EC to open the Aarhus Regulation for revision (advocacy activities)</li> </ul>	<ul style="list-style-type: none"> <li>case materials, submissions, oral pleading, etc.</li> <li>articles, Facebook blog entries, media news, newsletters, press releases, etc. on the cases</li> <li>lobbying materials, input into the EC decision-making process</li> </ul>
	3. To have in the short term a good Access to Justice Directive adopted and also to have broader access to CJEU for NGOs.	<ul style="list-style-type: none"> <li>participation in the name of J&amp;E at the CJEU court session in Luxembourg and prepare all related activities (preparation of briefs, preparation for oral arguments, travel, pleading, etc.)</li> <li>find out the roadmap of the EC and discover at EC the A2J Directive decision-making process</li> <li>coordinate with other NGOs on how to cooperate in this issue</li> <li>read and comment the Impact Assessment document prepared by the EC to the A2J Directive</li> <li>reach out to EC together with other NGOs</li> <li>follow-up the process of the preparation of the A2J Directive in the EU with expert inputs, communication coverage and actions as seen fit and necessary to advocate for a better access to justice in the EU MS</li> </ul>	<ul style="list-style-type: none"> <li>case materials, submissions, oral pleading, etc.</li> <li>brief on the EC roadmap and on the EC decision-making process regarding the A2J Directive</li> <li>comments to the Impact Assessment of the A2J Directive</li> <li>inputs to the EC on the legislative preparatory process</li> <li>expert inputs to the EC while monitoring the preparation of the A2J Directive</li> </ul>
	4. To make UNECE exercise pressure on EU in order to achieve full compliance of the EU with the Aarhus Convention.	<ul style="list-style-type: none"> <li>follow-up of UNECE processes regarding the EU's compliance with Aarhus Convention, including Aarhus Convention Compliance Committee recommendations, critical remarks and</li> </ul>	<ul style="list-style-type: none"> <li>participation at the MOP5 of the Aarhus Convention</li> <li>side event presentations by J&amp;E</li> </ul>

		<ul style="list-style-type: none"> <li>manifestos re developments, etc.</li> <li>participation at the MOP5 of the Aarhus Convention and hold a side event on a topic of importance, e.g. on any of the above topics that contribute to the development of access rights in the EU and the UNECE region but also globally</li> </ul>	experts on a topic of relevance
Climate Change and Energy	1. To strengthen knowledge base and raise awareness on the new Environment and Energy State Aid Guidelines of the EU.	<ul style="list-style-type: none"> <li>analyze the new Environmental and Energy State Aid Guidelines of the EU</li> <li>publish an analysis on the new Environmental and Energy State Aid Guidelines of the EU in English</li> </ul>	<ul style="list-style-type: none"> <li>analysis on the new Environmental and Energy State Aid Guidelines of the EU in English</li> </ul>
	2. To make sure harmful projects not fulfilling PCI designation criteria or contravening EU law are removed from the PCI list.	<ul style="list-style-type: none"> <li>assess the revision process of the PCI lists in theory (procedure and scope set out in the Grids Regulation) and practice (communication with the EC, other NGO partners and the relevant national stakeholders)</li> <li>identify projects not fulfilling EU criteria and standards in 6 J&amp;E countries</li> <li>identify procedural means to challenge the projects and establish fact base for arguing these to be excluded</li> <li>identify applicability of the 'Aarhus Regulation' (Regulation (EC) 1367/2006) on the first PCI designation decision as well as on the 2 yearly revision process</li> <li>monitor national application of Grids Regulation by streamlining national PCI activities and litigation</li> <li>set up a communication platform on PCI processes</li> <li>build a coalition among the Green 10 to support demands for exclusion of projects not fulfilling the PCI criteria</li> </ul>	<ul style="list-style-type: none"> <li>analysis of PCI designation processes and meeting minutes</li> <li>list of harmful projects</li> <li>legal analysis of projects and argumentation</li> <li>short analysis on application of Aarhus regulation to PCI decisions</li> <li>national monitoring reports</li> <li>meeting minutes</li> <li>report on lobbying activities</li> </ul>
Environmental Liability	1. set a joint position on ELD deficiencies within J&E and together with partner NGO(s) and EU decision-makers take J&E position into account in the revision process and thereby contribute to a better known and applied European ELD regime	<ul style="list-style-type: none"> <li>elaborate and define J&amp;E position on ELD deficiencies and claims for revision based on</li> <li>set up ELD communication platform big Green NGOs to exchange views, results and activities</li> <li>provide ELD views in a working group meeting on with NGO community (discussion and reach common understanding)</li> <li>monitor practical ELD application providing further evidence to J&amp;E position</li> <li>analyze and react to outcomes of the ELD impact assessments</li> <li>participate in at least two stakeholder and experts group meetings promoting criticisms and joint position on ELD</li> <li>Inform other stakeholder groups on recent developments</li> </ul>	<ul style="list-style-type: none"> <li>ELD Position (Lobbying-) paper</li> <li>case reports, environmental information requests, meeting minutes</li> <li>analysis and comments, lobbying materials, input into the EC impact assessment process</li> <li>meeting reports, suggestions and criticisms as regards ELD revision</li> <li>report/Minutes, newsletters to ELD stakeholder groups</li> </ul>