

## **SET 4**

# **Participation in EU policy - A guide for NGOs and citizens**

## **Legal and political options to participate in antinuclear energy policy**

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## Introduction

This paper is written for NGOs and citizens who want to engage themselves in antinuclear and energy policy on a EU level.

Surveys like the Eurobarometer show in regular intervals that European citizens do not know much about the EU and do not believe that they can influence EU policy: "Close to six out of ten European citizens have the feeling that their voice does not count in the European Union (59 %)." (Eurobarometer 64 2005: p. 33). So the European Commission is planning to widen opportunities for citizens and stakeholders (including NGOs) to participate in EU policy by launching the European Transparency Initiative ([http://ec.europa.eu/comm/eti/index\\_en.htm](http://ec.europa.eu/comm/eti/index_en.htm)).

Friends of the Earth Europe (FOEE) point out some of the problems of the present situation: Nowadays more than 15000 professional lobbyists operate in EU institutions, most of them are from trade federations, consultants, companies etc, and only 11% are NGO representatives. There are no transparency rules, it is not known who is paying whom. Right now, FOEE characterizes the EU as an organisation that keeps its decisions secret (see [www.foeeurope.org](http://www.foeeurope.org)). So NGOs and citizens have difficulties to get information about and to take part in decision-making processes.

Lobbying is not the only option for getting active, there exist some legal and political options for participating in EU policy. The aim of this paper is to inform NGOs and citizens about their possibilities on a EU level.

The following table gives you an overview of these possibilities:

<b>What if</b>	<b>You can</b>
your rights under the Aarhus Convention are violated?	seek redress from your Member State
a Member State infringes EU law?	file a complaint with the European Commission
an EU institution infringes EU law?	file a complaint with the European Ombudsman
you want to participate in EU-policy?	file a petition to the European Parliament take part in consultations of EU institutions take part in debates and chats lobby at EU institutions get in contact with European environmental NGOs
you are not satisfied with the policy of a Member State (maladministration of non-EU law)?	take national legal action. In this paper we deal only with EU policies and legal action in the EU.

If you need more information about the structure of the European Union and environmental legislation take a look at the link list at the end of this paper.

This information is part of a series called "PLEX – Information around Plant Lifetime Extension in the Nuclear Industry" which can be downloaded at [www.nuclear-waste-watch.org](http://www.nuclear-waste-watch.org). under "news", "plex".

Nuclear-waste-watch exists since 2003. It is a coalition of Central European organisations to support each other in their activities to achieve more transparency and influence of NGOs and the people in the regions during the selection process of sites for nuclear waste repositories and other nuclear issues. The Austrian Institute of Ecology is coordinating this coalition.

The Vienna Ombuds-Office for Environmental Protection provides an independent service to citizens, to the Viennese city administration and to other stakeholders with the aim of improving the environmental situation in Vienna. The Ombuds-Office also supports the Viennese antinuclear policy.

## The Aarhus Convention becomes EU law

What can you do if your rights are infringed?	Seek redress from your Member State File a complaint with the European Commission – see chapter Treaty Infringement Proceedings
Who is granted this right?	Any citizen of a EU Member State or resident in a EU Member State Any NGO resident in a EU Member State
Legal base	Directive 2003/4/EC Directive 2003/35/EC Regulation (EC) 1367/2006

The Aarhus Convention opens new possibilities for participation in environmental matters by establishing a number of rights of the public, including the right of access to environmental information, the right of public participation in environmental decision-making, and the right of access to justice.

The **Aarhus Convention** is an international legal Convention. The United Nations Economic Commission for Europe (UNECE) "Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters" was adopted on 25 June 1998 in the Danish city of Aarhus and entered into force on 30 October 2001. At the end of 2006 40 parties have signed the Convention, including all Member States of the European Union. Also the European Community is a party to the Convention (more information see <http://www.unece.org/env/pp/ctreaty.htm>).

In 2003 the European Commission adopted two Directives concerning the first and second pillars of the Aarhus Convention, the right of access to environmental information and the right of public participation. The Directives were to be implemented into national law of the EU Member States by 14 February and 25 June 2005 respectively. For new Member States (Bulgaria, Romania) these Directives are also to be implemented (additionally, both countries have signed and ratified the Aarhus Convention).

In 2006 the European Parliament and the European Commission adopted a Regulation on the application of the Aarhus Convention to European Community institutions and bodies. This Regulation shall apply from 28 June 2007. As a regulation it has not to be implemented into national law like a directive has to be.

What rights do these laws guarantee?

1. **Directive 2003/4/EC** of the European Parliament and of the Council of 28 January 2003 on **public access to environmental information** and repealing Council Directive 90/313/EEC:

The central elements of the directive are:

- To grant a right of access to environmental information and to ensure that environmental information is made available and disseminated actively to the public;
- A broad definition of environmental information as well as a more detailed definition of public authorities;
- A deadline of one month for public authorities to supply the information requested;
- Clarification of the circumstances under which authorities may refuse to provide information. Access to information shall be granted if the public interest served by the disclosure outweighs the interest served by a refusal;
- Two types of review procedures have been laid down for the public to challenge acts or omissions of public authorities relating to requests for environmental information. First Member States shall ensure that any applicant who considers that his/her request for information has been ignored, wrongfully refused or inadequately answered, has access to a procedure in which the acts or omissions of the public authority concerned can be reconsidered by that or another public authority or reviewed administratively by an independent and impartial body established by law. In addition Member States shall ensure that an applicant has access to a review procedure before a court of law, in which the acts or omissions of the public authority concerned can be reviewed and whose decisions may become final.

2. **Directive 2003/35/EC** of the European Parliament and of the Council of the 26 May 2003 providing for **public participation** in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

- Stronger rules enabling citizens in Europe to have their say before public authorities take decisions affecting the environment. The directive lays down rules giving individuals and NGOs the right to express their opinion to national, regional or local public authorities before they decide on, for example, waste management plans or the siting of a new industrial plant.

**3. Regulation (EC) 1367/2006** of the European Parliament and of the Council on the **application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies** ("Aarhus Regulation"):

- The Regulation covers all three pillars of the Aarhus Convention (access to information, public participation, access to justice).
- NGOs which are independent, which have a primary objective of promoting environmental protection and which existed for more than two years have the right to make a request for internal review before the Court of Justice of the European Communities.
- All institutions, bodies, offices or agencies established by, or on the basis of the EC Treaty will have to adapt their internal procedures and practice to the provisions of the Regulation until 28 June 2007.

More information: <http://ec.europa.eu/environment/aarhus/index.htm>

If a Member State disobeys central elements of the Directives 2003/4/EC and 2003/35/EC, any natural or legal person will be allowed to lodge a complaint with the Commission against this Member State under the following procedure.

## Treaty Infringement Proceedings

What is the problem?	A Member State infringes EU law
What can you do?	File a complaint with the European Commission
Who is granted this right?	Any natural and legal person
Legal base	Art. 226 Treaty on European Union

If a Member State breaks EU law you can file a complaint with the European Commission. It does not matter if a national, regional or local authority of the Member State has fulfilled the infringement.

Infringement means that the institution or body fails to fulfil its obligations under Community law, whether by action or by omission. Community law includes primary and secondary legislation.

- Primary legislation includes the Treaty on European Union, the Euratom-Treaty and the Accession Treaties.
- Secondary legislation includes regulations, directives and decisions of the Commission, and Judgements and Opinions of the Court of Justice.

Under the Treaties, the European Commission is responsible for ensuring that Community law is correctly applied. Consequently, if a Member State fails to comply with Community law, the European Commission has powers of its own (action for non-

compliance) to try to bring the infringement to an end and, if necessary, may refer the case to the Court of Justice of the European Communities. The European Commission takes whatever action it deems appropriate in response to either a complaint or indications of infringements which it detects itself.

Any natural and legal person (for example Non Governmental Organisations) may file a complaint with the European Commission against a Member State about any measure (law, regulation or administrative action) or practice which they consider incompatible with a provision or a principle of Community law. *Complainants do not have to prove that they are principally and directly concerned by the infringement complained about.*

The European Commission may decide whether or not it will take further action on a complaint in the light of the rules and priorities laid down by the European Commission for opening and pursuing infringement procedures.

If the European Commission refers the case to the Court, the Court investigates the allegations and gives its judgment. The accused Member State, if it is indeed found to be at fault, must set things right at once. If the Court finds that the Member State has not complied with its judgement, it may impose a fine on that country.

Anyone who considers a measure (law, regulation or administrative action) or administrative practice to be incompatible with Community law is invited, before or at the same time as lodging a complaint with the European Commission, to seek redress from the national administrative or judicial authorities (including the national or regional ombudsman and/or arbitration and conciliation procedures available). The European Commission advises the prior use of such national means of redress, whether administrative, judicial or other, before lodging a complaint with the Commission, because of the advantages they may offer for complainants.

For those who decide on a complaint against a Member State the European Commission has published a form at  
[http://ec.europa.eu/community\\_law/complaints/form/index\\_en.htm](http://ec.europa.eu/community_law/complaints/form/index_en.htm)

There is no obligation to use the form, but it helps to include as much relevant information as possible.

**Contact:**

Commission of the European Communities (Attn: Secretary-General)

Rue de la Loi 200,

B-1049 Brussels

Email: [sg-plaintes@ec.europa.eu](mailto:sg-plaintes@ec.europa.eu)

The form can also be handed in at the Commission's representative office in your Member State.

## The European Ombudsman

What is the problem?	An EU institution or body infringes EU law
What can you do?	File a complaint with the European Ombudsman
Who is granted this right?	Any citizen of a EU Member State or resident in a EU Member State Any NGO resident in a EU Member State
Legal base	Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties. Adopted by Parliament on 9 March 1994 (OJ L 113, 4.5.1994, p. 15) and amended by its decision of 14 March 2002 deleting Articles 12 and 16 (OJ L 92, 9.4.2002, p. 13).

The European Ombudsman investigates complaints about maladministration of institutions and bodies of the European Community. Maladministration means that a EU institution does not fulfil EU regulations that are binding to its work.

You can complain about every EU institution, except about the Court of Justice and the Court of First Instance acting in their judicial role. That means that the Ombudsman cannot look into matters that are before a court or that have been settled by a court. Please note that the European Council is not a body of the EU, but the Council of the European Union (Council of Ministers) is. The Ombudsman also does not investigate national, regional or local authorities, even if they infringe against EU regulations.

*If you want to file a complaint you do not have to prove that you are directly concerned by this maladministration.* Before complaining at the Ombudsman you first have to directly contact the EU institution concerned. Also you have to make your complaint within two years of the date when you got to know about the maladministration.

All citizens of EU Member States and all companies, associations and other bodies (including NGOs) with a registered office in the EU can file a complaint with the Ombudsman. *If citizens or organisations from Non-member States complain, the Ombudsman can start an investigation on his own initiative.*

A form for complaints can be found on the homepage of the Ombudsman.

The Ombudsman exists since 1995 and has since dealt with more than 20.000 complaints, over 300 complaints are now sent per month. Most complaints concern unnecessary delays, refusal of information, failure to reply, unfairness, administrative irregularities, discrimination and abuse of power. Until 2005 no complaint has been rejected solely because the complainant was not an authorised person or organisation.



The procedure for the complaints is as follows:

- Within one week the complaint is registered and acknowledged.
- Then the complaint is forwarded to the institution or body concerned with the request of sending an opinion to the Ombudsman within two to three calendar months. This opinion is sent to the complainant who has the possibility to reply, and vice-versa.
- If maladministration is found the Ombudsman first tries to achieve a friendly solution.
- If this is not possible the Ombudsman either closes the case with a critical remark to the institution or body concerned or makes a draft recommendation. A critical remark confirms to the complainant that his or her complaint is justified and indicates to the institution or body concerned what it has done wrong. This is the normal case if it is no longer possible for the EU institution to eliminate the maladministration, if the maladministration appears to have no general implications and no follow-up action by the Ombudsman seems necessary.
- In all other cases the Ombudsman makes a draft recommendation to the institution or body concerned. The institution or body must send a detailed opinion within three months. If a Community institution or body fails to respond satisfactorily to a draft recommendation, the Ombudsman may send a special report to the European Parliament including recommendations.

The Ombudsman's decisions are not legally binding and do not create legally enforceable rights or obligations for the complainant, or for the institution or body concerned.

Some decisions of the Ombudsman deal with environmental matters, for example a decision concerning a complaint from Friends of the Earth Europe with the European Commission about concealed documents dealing with dangers of genetically modified organisms (<http://www.ombudsman.europa.eu/decision/en/050582.htm>).

**Contact:**

The European Ombudsman

1 Avenue du Président Robert Schuman B.P. 403

FR-67001 Strasbourg Cedex

Tel: +33 (0) 3 88 17 23 13

Fax: +33 (0) 3 88 17 90 62

Email: [euro-ombudsman@europarl.eu.int](mailto:euro-ombudsman@europarl.eu.int)

<http://www.ombudsman.europa.eu/home/en/default.htm>

## Petitions to the European Parliament

A petition to the European Parliament may take the form of a complaint or a request. The subject of the petition must be concerned with issues of European Union interest or responsibility such as your rights as a European citizen, environmental matters, consumer protection, etc.

Every citizen or resident in a Member State, and every member of an association, company or organisation with its headquarters in a Member State can submit a petition to the European Parliament. This right is granted under Article 194 of the EC Treaty.

It is also possible for persons or organisations not included in the above listing to submit a petition. In this case the responsible committee can choose to consider it or not (rule 191 of the European Parliament).

Your petition must bear your name, nationality and permanent address (in the case of a group petition, it must bear the name, nationality and permanent address of the presenter or, at least, the first signatory). The petition has to be signed. Petitions must be written in one of the official languages of the European Union.

The procedure for the petitions is as follows:

- If the subject of your petition concerns an area of activity of the European Union it will be declared admissible by the Committee on Petitions.

Depending on the circumstances, the Committee on Petitions may:

- ask the European Commission to conduct a preliminary investigation and provide information regarding compliance with relevant Community legislation,
- refer the petition to other European Parliament committees for information or further action (a committee might, for example, take account of a petition in its legislative activities),
- in some exceptional cases submit a report to Parliament to be voted upon in plenary or conduct a fact-finding visit,
- or take any other action considered appropriate to try to resolve an issue.

Meetings of the **Committee on Petitions** take place every month except during the month of August when Parliament is in recess.

The European Parliament cannot override decisions taken by competent authorities within Member States. As the European Parliament is not a judicial authority, it can neither pass judgement on, nor revoke decisions taken by, the Courts of Law in Member States.

### Contact:

European Parliament

The President of the European Parliament

Rue Wiertz

B-1047 Brussels

<http://www.europarl.europa.eu/parliament/public/staticDisplay.do?language=EN&id=49>

## Consultations

Consultations are a possibility to bring your comments about EU policies into the European debate. At the homepage of Your Voice in Europe (link see below) all open and closed consultations can be found. You can take part by filling out an online-questionnaire. Sometimes also public hearings are held. At each topic it is listed who is addressed and who can take part in the discussion.

For example the last consultation concerning energy questions was about the Green Book on Energy in September 2006. You can find a comment from the NGO coalition nuclear-waste-watch at [http://www.nuclear-waste-watch.org/green\\_paper.htm](http://www.nuclear-waste-watch.org/green_paper.htm).

### **Your Voice in Europe, Consultations:**

[http://ec.europa.eu/yourvoice/consultations/index\\_en.htm](http://ec.europa.eu/yourvoice/consultations/index_en.htm)

## Debates and Chats

Online discussions are another possibility to make public statements about EU policies, to discuss them with other participants and to make ones opinion heard by the EU Commission.

A debate started in 2006 about Europe's Future: It is conducted about given topics like Europe's economic and social development. Summaries of the discussions are made and sometimes commented by members of the Commission. In a press release the Commission stated that contributions on the forum feed into the Commission's analysis in the ongoing reflection on the future of Europe (IP/06/989, 13.7.2006).

Taking part in online debates is time consuming because the structure of the threads is a bit complicated, and there are contributions in different languages. Analyses show that participants are mainly male and aged 18-44. So the topics discussed represent mainly the interests of this population group.

Ongoing debates are about European Union in general, but nuclear issues and energy policy are also brought into discussion and therefore can be found in the summaries.

Online chats with members of the EU Commission are held one to four times a year, transcripts are made. In 2006 until November there has been no chat at all.

[http://ec.europa.eu/yourvoice/discussions/index\\_en.htm](http://ec.europa.eu/yourvoice/discussions/index_en.htm)

[http://europa.eu/debateurope/index\\_en.htm](http://europa.eu/debateurope/index_en.htm)

[http://ec.europa.eu/chat/index\\_en.htm](http://ec.europa.eu/chat/index_en.htm)

## Lobbying

Lobbying means to influence the actions of the EU legislation and executive through direct contacts, media, mailings etc.

Professional lobbying in the EU started at the end of the 1970ies and became more important as the EU covered more policy areas. Most lobbyists are professionals who are paid for their work. Therefore big environmental NGOs have their own bureaus in Brussels. For single citizens on the other hand it is quite difficult to lobby effectively on a European level. It helps to get in contact with an environmental NGO (see Links and Literature).

## Lobbying at the European Commission

In the database CONECCS organisations of the civil society can register if they want to be consulted in a formal or structured way, meaning in committees and other frameworks of the EU Commission. Only non-profit organisations, which have members in three or more EU or candidate countries, can take part. The Green 10 (see Links and Literature) are registered and take part in consultations relating to their field of work.

### **CONECCS:**

[http://ec.europa.eu/civil\\_society/coneccs/index\\_en.htm](http://ec.europa.eu/civil_society/coneccs/index_en.htm)

## Lobbying at the European Parliament (EP)

A list of all members of the European Parliament (MEP) can be found on the homepage of the EP, sorted by country, name or political party.

<http://www.europarl.europa.eu/members/public.do?language=EN>.

For each member his/her functions in the Parliamentary Committees and Delegations are listed. You can also find his/her parliamentary activities in plenary (questions, speeches etc.) so you know about the working fields.

The European Parliament offers a contact possibility for citizens, the "Correspondence with Citizens Unit". At this Unit, which is an electronic mailbox, citizens can ask questions, request information and make proposals to the EP. The EP will only deal with issues that relate to matters within the European Parliament's sphere of activities.

<http://www.europarl.europa.eu/parliament/public/staticDisplay.do?language=EN&id=48>

Parliament has set up 20 standing committees to prepare work for plenary sittings. Committees meet in public, once or twice a month, generally during the weeks that follow plenary sittings in Strasbourg. Meeting documents are available to the public.

### **Committee for Environment, Public Health and Food Safety**

<http://www.europarl.europa.eu/activities/expert/committees/presentation.do?committee=1239&language=EN>

## Links and Literature

### European NGOs

The following NGOs are concerned with energy policy and nuclear issues and lobby on a European level.

#### **Friends of the Earth Europe (FoEE)**

Rue Blanche 15,  
B-1050 Brussels  
Phone: +32.2.542 0180  
Fax: +32.2.537 5596  
Email: [info@foeeurope.org](mailto:info@foeeurope.org)  
Web: [www.foeeurope.org](http://www.foeeurope.org)

#### **Greenpeace European Unit**

Rue Belliard 199  
B-1040 Brussels  
Phone: +32 2 274 1900  
Fax: +32 2 274 1910  
Email:  
[european.unit@diala.greenpeace.org](mailto:european.unit@diala.greenpeace.org)  
Web: [www.greenpeace.eu](http://www.greenpeace.eu)

#### **European Environmental Bureau**

Federation of Environmental Citizens  
Organisations  
34, Bd. de Waterloo  
B-1000 Brussels  
Phone: +32 2 289 10 90  
Fax: +32 2 289 10 99  
Email: [eeb@eeb.org](mailto:eeb@eeb.org)  
Web: [www.eeb.org](http://www.eeb.org)

#### **CEE Bankwatch Network**

Central Office  
Jicinska 8  
Praha 3  
130 00 Czech Republic  
Phone: +420 274 816 571  
Fax: +420 274 816 571  
Email: [main@bankwatch.org](mailto:main@bankwatch.org)  
[www.bankwatch.org](http://www.bankwatch.org)

### Read more

EU Environmental Policy Handbook of the European Environmental Bureau:  
[http://www.eeb.org/publication/policy\\_handbook.htm](http://www.eeb.org/publication/policy_handbook.htm)

Information of the EU Coordination of the DNR (Deutscher Naturschutzring, German League for Nature and Environment), about EU institutions and legislation, in German:  
<http://www.eu-koordination.de/index.php>

Citizen's Guide to European Complaint Mechanisms (CEE Bankwatch):  
<http://www.bankwatch.org>