

## **Strengthening EU rules on access to climate justice**

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*This is a summary of EJNI's Access to Justice Observatory Briefing Paper No. 1, available [here](#).*

- 1. The proposed EU Climate Law seeks to commit the EU to achieving climate neutrality & resilience by 2050 at the latest & creates a binding governance framework to ensure the delivery of those objectives.**
- 2. Two major steps towards guaranteeing more effective accountability for climate action at EU & national levels are currently being considered in Brussels, (i) a mechanism proposed by the European Parliament (EP) for inclusion in the EU Climate Law relating to MS accountability before national courts and (ii) revision of the EU Aarhus Regulation which governs access to justice at EU level. This briefing will focus only on considering why the EU Climate Law is the right place for the access to justice rights proposed by the EP.**
- 3. There are compelling reasons for including access to justice provisions in the EU Climate Law.**
  - (a) The EU is a party to the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the 'Aarhus Convention') and is thus obliged to implement access to justice rights under international law.
  - (b) The EP's access to justice provision is consistent with precedents for integrating access to justice rights at national level in other cross-cutting EU environmental measures, e.g. the Environmental Impact Assessment Directive, Environmental Liability Directive and Industrial Emissions Directive.
  - (c) The most appropriate location for the EP's proposed access to justice rights at national level is in the EU Climate Law because the EU Commission's vision for the Aarhus Regulation is that it is exclusively focused on the accountability of EU institutions and access to justice at EU level.
  - (d) The EP's proposed access to justice provisions write into legislation what is already required by EU law under the doctrine of direct effect, the fundamental right to an effective remedy (as required by Art 47 of the Charter of Fundamental Rights and Art 9(3) of the Aarhus Convention) and the case law of the CJEU.
  - (e) The EU Governance Regulation already guarantees the public the right to participation in the development of National Energy and Climate Plans (NECPs) and Long Term Strategies (LTSs). The EP's amendment would enable those rights to be enforced before national courts, underwriting the guarantee of a participative transition.
- 4. Energy policy is inextricably linked to climate policy.** Providing avenues through which citizens can challenge national energy policy as it relates to NECPs and LTSs will enhance public engagement and participation in the transition to a climate neutral economy.
- 5. The EP amendments will safeguard political solidarity and public support for the EU's mandate to lead on the transition towards a climate neutral economy.** Robust accountability measures for MS will ensure a level 'accountability playing field' for all MS at national level by harmonising rights of access to justice on national plan making and thus will play an important part in ensuring that all countries contribute credibly to the shared goal of a participative transition to climate neutrality and resilience.

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