

Directive 2003/35/EC of the European Parliament and of the Council of 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

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PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾, in the light of the joint text approved by the Conciliation Committee on 15 January 2003,

Whereas:

- (1) Community legislation in the field of the environment aims to contribute to preserving, protecting and improving the quality of the environment and protecting human health.
- (2) Community environmental legislation includes provisions for public authorities and other bodies to take decisions which may have a significant effect on the environment as well as on personal health and well-being.
- (3) Effective public participation in the taking of decisions enables the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken.
- (4) Participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should accordingly be fostered, including *inter alia* by promoting environmental education of the public.
- (5) On 25 June 1998 the Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in

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Environmental Matters (the Århus Convention). Community law should be properly aligned with that Convention with a view to its ratification by the Community.

- (6) Among the objectives of the Århus Convention is the desire to guarantee rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.
- (7) Article 6 of the Århus Convention provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not so listed which may have a significant effect on the environment.
- (8) Article 7 of the Århus Convention provides for public participation concerning plans and programmes relating to the environment.
- (9) Article 9(2) and (4) of the Århus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of Article 6 of the Convention.
- (10) Provision should be made in respect of certain Directives in the environmental area which require Member States to produce plans and programmes relating to the environment but which do not contain sufficient provisions on public participation, so as to ensure public participation consistent with the provisions of the Århus Convention, in particular Article 7 thereof. Other relevant Community legislation already provides for public participation in the preparation of plans and programmes and, for the future, public participation requirements in line with the Århus Convention will be incorporated into the relevant legislation from the outset.
- (11) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽⁵⁾, and Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁽⁶⁾ should be amended to ensure that they are fully compatible with the provisions of the Århus Convention, in particular Article 6 and Article 9(2) and (4) thereof.
- (12) Since the objective of the proposed action, namely to contribute to the implementation of the obligations arising under the Århus Convention, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 154 E, 29.5.2001, p. 123.](#)
- (2) [OJ C 221, 7.8.2001, p. 65.](#)
- (3) [OJ C 357, 14.12.2001, p. 58.](#)
- (4) Opinion of the European Parliament of 23 October 2001 ([OJ C 112, 9.5.2002, p. 125 \(E\)](#)), Council Common Position of 25 April 2002 ([OJ C 170 E, 16.7.2002, p. 22](#)) and Decision of the European Parliament of 5 September 2002 (not yet published in the Official Journal). Decision of the European Parliament of 30 January 2003 and Decision of the Council of 4 March 2003.
- (5) [OJ L 175, 5.7.1985, p. 40.](#) Directive as amended by Directive 97/11/EC ([OJ L 73, 14.3.1997, p. 5](#)).
- (6) [OJ L 257, 10.10.1996, p. 26.](#)