

**From:** Peter McNamee <[mcnamee@ccbe.eu](mailto:mcnamee@ccbe.eu)>  
**Sent:** Monday, October 26, 2020 10:06 AM  
**To:** ECE-Aarhus-Compliance <[aarhus.compliance@un.org](mailto:aarhus.compliance@un.org)>  
**Cc:** BROUWER, Onno (OWB) <[onno.brouwer@freshfields.com](mailto:onno.brouwer@freshfields.com)>  
**Subject:** ACCC/M/2017/3 (European Union) - additional information from the Party concerned

Dear Mrs Marshall,

I am writing to inform you that in March 2019 the Council of Bars and Law Societies of Europe (the CCBE) has submitted a [response to the Commission consultation on the EU implementation of the Aarhus Convention in the area of access of justice in environmental matters](#).

In its response, the CCBE sets out why the EU Aarhus Regulation needs to be amended, and which considerations are crucial when considering compliance with the Aarhus Convention.

The CCBE response highlights:

- the inadequacy of direct access to the EU Courts (Article 263(4) TFEU) and how Article 263(4) TFEU – as currently read and applied by the Court of Justice of the EU - provides insufficient access to justice for private parties, both generally, and more specifically in environmental matters.
- the inadequacy of indirect access to the EU Courts (Article 267 TFEU).
- the reluctance of national courts to refer a question for a preliminary ruling.
- the inadequacy of the internal review process as an alternative to access to the EU Courts.

The CCBE response also emphasises the importance for the EU to respect its international obligations, and notes that the role of locus standi rules should never “shield” authorities from appeals.

The CCBE response, while recognising that the issue of standing is wider than discussed in the present consultation on environmental matters, also proposes a number of changes which would be required in order for the EU to comply with the obligations arising out of the Aarhus Convention.

I hope the CCBE paper is of Interest and assistance with regard to your mail below, and we are happy to elaborate on any aspect of our paper or any related aspect.

Kind regards,

Peter Mc Namee

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