

WRITTEN QUESTION E-3342/09

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to the Commission

Subject: Italian bill amending Article 18 of Law No 349 of 8.7.1986 concerning environmental damage and the implementation of Community environmental legislation

In COM(2008)0773 of 18 November 2008, the Commission underlined the problems in the Member States relating to the lack of attention being paid to the adoption of EU laws and the lack of responsibility, the shortcomings of the implementation procedures of decentralised authorities and the repeated breaches of Community law owing to failure to transpose directives correctly or to enforce judgments of the Court of Justice.

The Aarhus Convention, as referred to in Directives 2003/4/EC<sup>1</sup> and 2003/35/EC<sup>2</sup>, makes broad provision for access to justice: in 2003 the Commission proposed a directive that was adopted at first reading by Parliament, concerning an implementing directive on access to justice in environmental matters, in order to make the implementation of Community environmental law more consistent; it was to be made easier to bring cases before a national judge so that problems could be resolved closer to the citizens, who were the first to report serious breaches of Community law.

The European Parliament has an obvious interest in ensuring that implementation is effective: 10% of all questions to the Commission concern the environment, as do 35% of the petitions received by Parliament's Committee on Petitions.

Law No 349 stipulated that the associations under Article 13 could take action before the administrative courts to check or request the annulment of acts that were not consistent with environmental law.

The amendments which the Italian Government is proposing to Article 18, on the basis of Law No 2 of 28.1.2009, to speed up public works, would prevent administrative courts from suspending illegal work, either by granting the plaintiffs financial compensation should their appeal be justified, or by ordering them to pay criminal compensation for damages to the commissioners of the work should their appeal be lost: this deterrent will have an adverse effect on the freedom of citizens.

In the light of the above, could the Commission clarify whether it does not consider, in the spirit of the existing directives (which facilitate full, effective access to justice and information regarding matters of environmental protection) and of its recommendations of 18 November 2008 (which highlight the numerous infringements of the Member States and the vital contribution of citizens' associations which are in the front line when it comes to monitoring compliance with EU rules), that the government's proposals are in breach of public participation requirements as endorsed by the Commission and the European Parliament?

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<sup>1</sup> OJ L 41, 14.2.2003, p. 26.

<sup>2</sup> OJ L 156, 25.6.2003, p. 17.