



EEB 2007 ANNUAL CONFERENCE REPORT

**The role of the European Parliament in
environmental policy making and control**

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The European Environmental Bureau (EEB)

The EEB is a federation of over 145 environmental citizens' organisations based in EU Member States and most candidate and potential candidate countries, as well as in a few neighbouring countries. These organisations range from local and national, to European and international.

EEB's aim is to protect and improve Europe's environment and to enable its citizens to play their part in achieving that goal by promoting environmental policy integration and sustainable policies, particularly at EU level. Our office in Brussels was established in 1974 to provide a focal point for our members to monitor and respond to emerging EU environmental policy.

We have an information service, run working groups of EEB Members, produce position papers on topics that are, or should be, on the EU agenda and represent our members in discussions with the Commission, the European Parliament and the Council. We closely co-ordinate EU-oriented activities with our members nationally and also track the EU enlargement process and some pan-European issues, such as follow-up to the Aarhus Convention.

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EEB ANNUAL CONFERENCE: FRIDAY, 14 SEPTEMBER 2007

INTRODUCTION

Each year, EEB organises a major conference to give its members an opportunity to discuss general trends in EU environmental policy-making and implementation with European Institution representatives. For 2007, the theme of the role of the European Parliament in environmental policy making and control was chosen. Under this very broad heading, we looked at the history of the EP and its increased power in the legislative process under different Treaty revisions and what might change with the Treaty Reform and the new comitology provisions. The conference was held on 14 September 2007 at the European Parliament. It was co-hosted by Green/EFA Group and co-sponsored by the European Commission and the Ministries of the Environment of Estonia, the Czech Republic, Finland and France.

One specific issue was the relationship between European Parliament and National Parliaments, which has grown in importance with increasing pressures to limit the EU's role and place more emphasis on subsidiarity.

Another key element in the conference programme was the critical overview of the "Better Regulation" Initiative and the role of Parliament.

This year's Keynote speech, "Better enforcement, better monitoring – a stronger role for the EP and national Parliaments" was given by Ludwig Krämer, judge, former head of the Legal Department of DG Environment and now an independent lawyer, acting occasionally as advisor to the EEB.

There was also a lively debate on the role and tasks of the EP Committee on the Environment, Public Health and Food Safety for better enforcement and monitoring with presentations from committee members, followed by a panel discussion with MEPs and representatives from ENGOs. Finally the meeting wrapped up with a discussion on the role of the EP's Petitions Committee and citizens' rights to access.

John Hontelez
Secretary General EEB



PROGRAMME

EEB's ANNUAL CONFERENCE 2007

Brussels, 14 September 2007

The role of the European Parliament in environmental policy making and control

PLACE: European Parliament

*Morning chair. **Mikael Karlsson**, EEB President*

First Session

9.30 Welcome and introduction by **Monica Frassoni, MEP**, Legal Affairs Committee

9.40 An introduction to the history of the EP and its increased power in the legislative process (different Treaty revisions) with possible outlook what would change with the Treaty Reform (in particular co-decision for agriculture); the new comitology provisions

Richard Corbett, MEP, Committee on Constitutional Affairs (PSE-UK)

10.10 European Parliament and national Parliaments - between policy making and control

Andreas Maurer, Stiftung Wissenschaft und Politik (SWP)

10.55 Coffee Break

Second Session

11.20 The "Better Regulation" initiative, opportunities and risks.

Panel discussion with MEPs

Moderator **Marc Pallemmaerts**, IEEP

Monica Frassoni MEP (Greens/EFA, IT) Committee on Legal Affairs

Gyula Hegyi MEP (PSE-HU) Environment Committee

Nicolas de Sadeleer MEP, Facultés universitaires Saint-Louis

Julio Garcia-Burgues, Head of Enforcement Unit A2, DG Environment

Closing remarks of the morning session by **Mikael Karlsson**

13.00 Lunch Break

*Afternoon chair. **John Hontelez**, Secretary General EEB*

Third Session

14.30 Keynote speech: Better enforcement, better monitoring – a stronger role for the EP and national Parliaments

Ludwig Krämer, Lawyer and Environment Consultant

14.50 The role and tasks of the EP Committee on the Environment, Public Health and Food Safety for better enforcement and monitoring

Introductions by:

Andreas Huber, Head of Secretariat, Parliamentary Environment Committee

Karin Dubsky, *Coastwatch, IRL*
Response: **Pia Bucella**, *Director, Direction A, DG Environment*

16.10 Coffee Break

Fourth Session

16.30 The role and tasks of the Petitions Committee

Introduction by **David Lowe**, *Director of the Petitions Committee*: the machinery that analyses and follows up a petition

Presentation of cases by ENGOs

Sakari Niemela, *lawyer, Finnish Association for Nature Conservation*,
presenting a case in Vuosaari, FIN

Frank Corcoran, *An Taisce*, presenting case on waste incineration, IRL

17.15 Closing remarks from **John Hontelez**

Followed by a reception

REPORT OF THE CONFERENCE

Conference Chair, EEB President Mikael Karlsson introduced the panel. He said the European Parliament plays a crucial role in policy-making. The panellists would discuss that role, looking at policy trends and how they influence things. One trend is 'better regulation'. The panel would also look at implementation and enforcement, and the shortcomings in enforcing EU environmental laws at a national level. European Parliament has a duty to communicate with people and watch over implementation. These roles are important because we are far from achieving key environmental objectives laid down in EU law and policies.

First Session

Introduction

Monica Frassoni MEP (Green Group) of the Legal Affairs Committee kicked off by saying that in her view the European Parliament (EP) is shifting to become more and more a political body. The question of political majorities in Parliament, the European Commission and Council have a great impact on how we make laws and implement "better regulation". There is a huge gulf between what NGOs are expecting from Parliament and what Parliament delivers, which means the mobilisation of citizens at elections and outside electoral campaigns is very important. The environment is mostly a political question, not just a technical one, which needs public activity and pressure at election time. The reinforcement of Parliament's powers could give it more means to promote useful EU plans/tools being put in place. Ludwig Krämer will doubtlessly tackle the gap between decisions and implementation.

The two case studies that were chosen to analyse Parliament's role are good ones. EU-level politics are not as far in the forefront as they were when the environmental issue was less fashionable. Parliament needs NGOs' help lobbying for change.

Next Topic: An introduction to the history of the EP and its increased power in the legislative process (different Treaty revisions) with a possible outlook on what would change with the Treaty Reform (in particular co-decision for agriculture); new comitology provisions

This topic was introduced by **Richard Corbett MEP (Socialist Group)** of the Constitutional Affairs Committee. He started by thanking the EEB for having given him the longest title for a speech ever. He said that the European Parliament once had virtually no powers. The Commission proposed and the Council disposed. Then Parliament enjoyed some limited powers (budgetary and the power to sack all the Commissioners), but it mainly issued advice. It had to battle to increase its powers. We have just celebrated the centenary of the birth of Altiero Spinelli, who played an important role in increasing Parliament's powers. In many areas, Parliament now has co-decision powers with the Council of Ministers. The real revolution occurred with the passage of the Treaties of Maastricht and Amsterdam. But there are many areas where the Council of Ministers still has the final say, for example on agriculture and competition policy. It's not good advertising for the EU that there are no democratic controls on agriculture policy.

The media focus on the Council and treat its meetings as a sort of gladiatorial nationalistic contest between ministers with very nationalistic reporting. In Parliament, it is actually very

rare to see all MEPs from a given country voting one way. Instead, MEPs divide along political lines, e.g., the Working Time Directive and protecting against industrial pollution, not along national lines. Parliament is composed of parties both in and out of power in their home countries.

Since the Amsterdam Treaty, not all European law has required co-decision. If the Reform Treaty is passed in 2009, virtually everything will require co-decision, including, for the first time, agricultural policy. Parliamentary procedure requires up to three readings of a law. In principle this is how it should be. The legislative powers give direction, the details are managed by the executive and the Commission executes them with the assistance of committees of national officials (comitology).

A major criticism of these committees, however, has been that they lack transparency - if the Commission's decision is questionable, only a committee of national civil servants can block it, not Parliament, and after the decision we often do not even know who sat on these committees. Finally, if a decision was blocked, it is only referred to the Council and not to Parliament. Parliament felt this system was fundamentally undemocratic.

Last year there was a major breakthrough. A new system of comitology was adopted which applies to all laws defined by the co-decision system where they affect or complement basic legislation. Under the new system, Parliament has the right to object to a Commission decision within three months if the decision is quasi-legislative or normative, but not for management decisions. If it objects, the decision cannot pass and the Commission must come up with a new proposal, redraft it or drop the decision altogether. If the Council objects, the same approach applies. Parliament and the Council are treated equally if they object. This is very important in the environmental field. If you adopt strict controls on, for example chemicals, you don't want to undergo a new procedure every time the issue arises. The Reform Treaty also allows the right to delegate powers to the Commission to be revoked if the Commission fouls up.

QUESTIONS AND ANSWERS

Eero Yrjö-Koskinen said he would like to know Mr Corbett's position on the Reform Treaty and the role of National Parliaments (NPs).

Answer: The role of national parliaments was one of the ideas we retained from the Constitutional Treaty. A national parliament can express objections that would oblige the Commission to review its proposal. That would give national MPs the opportunity to discuss with MEPs of their country. The new article aims to stimulate national MPs to get involved earlier in the process. It's appropriate to see how that operates in Sweden, Denmark and Finland where MPs go to Parliament before and after decisions.

John Hontelez posed four questions:

1. My impression, and that of Mrs. Frassoni apparently, is that MEPs vote more and more along national lines than party lines. Is there indeed increased pressure from national governments on you?
2. It seems the trend is that the more power Parliament gets, the less precise legislation becomes (eg framework legislation). Is that correct?
3. Three months is not long to respond to comitology conclusions. Is Parliament institutionally prepared?
4. How do you value the role of the EP in non-legislative processes, such as the Lisbon and the Sustainable Development Strategies?

Answer:

- Yes, there is more pressure from national governments and also from lobbyists. MEPs must listen to everybody's arguments. We get briefings from the government and phone-calls from Ministers, but for example, I am part of a Socialist group and we will make up our own minds. 98% of times we vote with the group, even if the government does not wish for it. Simon Higgs analysed all votes since 1979 and concluded that there is no trend towards further nationalisation.

- I am now less worried about framework legislation, since we have more powers to control comitology. In general, compared with national legislation, we are not delegating too many decisions to the executive levels.

- Three months for controlling comitology is not very long. It is a challenge. But this means three months to *decide* to object, not to formulate any amendments.

- Soft policy is a challenge for any parliament. Parliaments are specialized in legislative matters. We are indeed in a weaker position.

Next Topic: European Parliament and national parliaments - between policy making and control

Andreas Maurer from the Institut Stiftung Wissenschaft und Politik introduced the next topic, saying that for ten years (since Maastricht) they have noted there are two different trends. One is very positive. There has been a proliferation of platforms which ensure inter-Parliamentary cooperation, including:

- COSAC (Conference of Committees for Community Affairs), which brings together European Affairs Committees from national parliaments, 6 per country. But there is little attention paid to environmental issues and it seldom has environmental experts in the delegation.
- the Conference of Presidents of Parliaments; and
- NOPEC (an organ which unites sub-national parliaments).

Having more powers, attention is increasingly focusing on Parliament's work, which brings up the second trend: the European Parliament is becoming politicised (a negative trend). There's a kind of attempt to 'renationalise' the European Parliament. It's not just a question of democracy, but also effectiveness. The processes must be transparent, but they must also get somewhere.

According to Mr Maurer, another thing is clear: exchanges are possible because Parliament is open and national MPs are warmly welcomed. The French are asking for the formalisation of exchanges between the European Parliament and national parliaments- perhaps a Congress? This may have been proposed to compensate for the lack of power French Parliament is experiencing at a national level. Many NPs are worried about their loss of power, though Scandinavian countries are less worried. But most NPs do not have a rapporteur system, and there are many differences in the manner of legislating within Member States (MS) so it would be hard to harmonise.

Maurer was pessimistic about the impact of the Reform Treaty on the image of the EU: in most cases interventions by national parliaments invoking subsidiarity, usually more or less manipulated by their governments, will be rejected by the Commission. If they invoke subsidiarity (environment), it's because they want to block a European initiative and maintain the national status quo. So there will be either silence or negative feedback, not supportive feedback. And if the feedback is negative, often frustration with the response from the Commission follows.

There'll be an EU President who should theoretically be neutral to orchestrate the work on the request of the governments. The same goes for the person responsible for foreign affairs.

So MS need completely new methods for influence. It's unclear how the Presidency of the Council in general will be organized (related to the other Councils). Maurer concluded that one has to think of new work methods, to harmonise and popularise the priorities.

QUESTIONS AND ANSWERS:

Mikael Karlsson: What are your recommendations on the Reform Treaty? Parliaments of the bigger countries will make a lot of noise claiming they have the capacity to do things on their own. It will become the citizens' responsibility to make their demands known for EU coordination and harmonization.

Answer: At the moment he hardly knows of a government that is ready to make European legislation visible to its public. Countries transpose (willingly or not) European laws, but they don't show whether or not it's European law. So they pretend to have more independence than they really do. It would suffice to recall that national laws are derived from EU ones.

John Hontelez said he hoped for more positive effects from the increased role of the national parliaments. First of all, the Commission will have to better defend from the start why the EU needs to act. Secondly, national parliaments will set up a routine of discussing EU-initiatives, thereby building up more understanding and hopefully more ownership. The Danish Parliament, which has the right to scrutinise its Ministers before and after each EU-decision on their position and strategy, is therefore very well informed, and I believe this also leads to much more constructive media attention. On the other hand, Dutch MPs aren't very honest - they blame Brussels and glorify things at the national level. I hope that will improve with this procedure. It also provides the ability for smaller countries to be heard.

Answer: Mr Mauer is worried about the degradation of the Commission's right for initiative. Now the Commission just phones the most important countries to see whether a proposal might fly. In the future the hurdle is bigger. In the Dutch Parliament there is now a joint committee set up on subsidiarity by both chambers. The Finnish Parliament has set up a system of classification for Commission proposals in order to identify what level of response is needed from the Parliament, which is a good idea and has been copied already by the Estonians. He emphasized once more that the Commission's right to initiative is really at risk.

Richard Corbett expressed his disagreement with Mr Maurer. The fact that a national parliament refuses a Commission proposal in the name of subsidiarity isn't very important. Most proposals nowadays are about changing or updating existing EU legislation anyway. The debate on EU competence is closed. If governments want to stop something it's much easier to form a blocking minority at Council level.

Answer: Mr Maurer repeated his concern that governments would abuse the national parliaments' right to intervene.

Second Session

Next Topic: the "Better Regulation" initiative: opportunities and risks

The Better Regulation topic was introduced and moderated by **Marc Pallemmaerts**, IEEP. He presented the opening questions for the panel:

- Does "Better Regulation" lead to tangible changes?
- Does it lead to more easily enforceable laws?
- Impact Assessments – a requirement considered a burden or an improvement?

- Does the EP keep “Better Regulation” objectives in mind when amending and adopting new laws?

Monica Frassoni MEP, member of the EP Committee on Legal Affairs started by announcing that the Commission just had appointed Mr Stoiber (Prime-Minister of Bavaria). Ms Frassoni said that Mr Scheubel was named as ‘Mr. Better Regulation’. She commented that those who know him know that the goal of this initiative is to go for less EU regulation. Aiming for better laws is good, but since the initiative started, we have not seen it going in that direction. DG Enterprise, which is not resisted well enough by DG Environment, takes initiatives that create confused decision-making. The emergence of High Level Groups (HLGs) is a clear example. The EP is resisting and boycotting these HLGs. Business representatives are playing an excessive role there, and we do not have a good enough idea about what is going on. Ms Frassoni agrees that business needs to be heard, but they mustn’t influence final decisions.

Ms Frassoni called upon the participants to read the Commission’s Communication on Better Enforcement. She will be the EP rapporteur on this Communication. She thinks the idea to devolve part of the work on public complaints to the MS is not reassuring since the complaints are usually about failing performances of Member States! The Commission should not shy away from its responsibilities.

Impact Assessment (IA) is now required for all EU legislation and policies. Also the EP is required to make IAs on its amendments. Ms Frassoni thinks IA is a slogan. It creates an illusion of a scientific, completely neutral view. There cannot be a scientific approach to consider feasibility. There cannot be legislation based on impact assessments (IAs). REACH has shown us the limits, a proposal that came with maybe the most IAs ever. The CO2-cars debate proves that IAs are subjective. Or take the Thematic Strategy on Air pollution, where the IA was good, but UNICE (nowadays BusinessEurope) lobbied successfully for following a more modest scenario, even though the most ambitious scenario had a positive cost-benefit balance.

Ms Frassoni concluded by saying the EP should not let itself be forced to deliver IAs or become impressed by those from the Commission. She also noted that the Council does not prepare IAs on its own positions, and it is difficult to see how they would with 27 MS. So IA is a confusing tool, making it difficult to assess quality and difficult to implement. The complexity it creates combined with a more conservative EP is bad combination.

Gyula Hegyi MEP (Socialist Group) from Hungary quoted Lao Zi, who said: ‘The more order, the more disorder’. Too much simplification isn’t necessarily a good thing. There are 34 initiatives for simplification. We’ll end up having simplification laws rather than regular legislation. Simplification also means the withdrawal of proposals. The Commission has withdrawn a proposal to ban heavy vehicle traffic on Sundays. It should not have done so. REACH was intended replace 42 existing laws, but in practice it has become the 43rd piece on chemicals.

Regarding IAs, he agreed with Ms Frassoni- he does not think neutral expertise exists. In principle it is good that IAs are required because we have to sell our decisions.

Mr Hegyi said he was rapporteur for the EP’s Environment Committee on Better Regulation. The report, reflecting the opinion of most parties in the EP, has some very important elements:

- The need for full involvement of the EP. MEPs are elected through a transparent process, and we work in a transparent manner. Everything is posted on the Internet. This cannot be said for the Commission. MEPs often get information through NGOs

earlier than from the Commission. NGOs are very good at that. *“They sometimes know I will be rapporteur on a certain subject before I know it myself.”*

- There needs to be transparency around consultation of all interested parties, and more transparency in Council proceedings.
- There is a need to focus more on economic policies. Simplification is more targetting social, environmental and health policies now.
- New MS have had to implement thousands of new directives. Sometimes it's better to have a Regulation than a Directive. *[editor's note: A Regulation applies directly, word for word, to all Member States, whereas a Directive has to be transposed into national law first]*

Professor Nicolas de Sadeleer MEP from the Facultés universitaires de Saint-Louis started by saying that EU legislation has been essential for shaping the single market, which required a very technical, sophisticated system. But European laws will not be applied in the same way in each country, and at the decision-making end, we have three law-makers (Commission, EP, Council) so the result is always a compromise. The goal of simplification is not fixed in the draft Treaty. There are no strict guidelines. We might complicate things further while trying to simplify. There is always tension between rationalising existing regimes and risking watering down the high level of protection already awarded.

Julio Garcia-Burgues, Head of Enforcement Unit A2, DG ENV, presented the Commission's point of view. He started with referring a speech by John Hontelez at a March 19th conference organised by the Commission on better regulation, where John said we should not be defensive about better regulation. We are not interested in legislation that does not work, we want effective laws with effective measures. But John emphasized a bit too much that Lisbon is the parent for better regulation. There is also the other parent: the demand for good governance. It's not just a means to reduce burdens but also to make environmental rules more implementable. Many things were in place before Lisbon. We aren't being confronted by an enormous deregulation process. Some legislative proposals have been downscaled, but you shouldn't blame better regulation for that – it happens inevitably. There are still REACH-type projects and other new proposals, including a whole arsenal of new instruments in the field of climate change. The EU is developing specific processes for crimes against the environment and soil, for example. The key to success will be the response to Member States. DG ENVIRONMENT is following John's advice. We are not defensive about better regulation, we are in fact frontrunners. Our work covers four areas: IA, codification, checking and reporting and reduction of administrative burden.

- With regards to IA, it is indeed sometimes a formal exercise and abused for economic reasons. There are many completed IAs that are useful. It's a vital tool for identifying effects and impacts, as well as obstacles. IA was used to convince people that REACH was beneficial.

- On reducing the administrative burden, we have completed a study and drafted five Directives. They hope to produce a plan to reduce administrative burden by 25% through streamlining of requirements. This is in the Better Regulation Action Plan being prepared for 2008. There will be a link with better enforcement. Details of the new system must still be put in place. A pilot project will be proposed and Parliament and Council will have to draw results from this pilot exercise.

Mr Garcia-Burgues ended by saying that we should not be worried about the future. The environmental *acquis* has been fully consolidated, and it benefits from strong support of European citizens, see the Eurobarometers done time and again.

QUESTIONS AND ANSWERS

In response to a question, Mr. **Garcia-Burgues** explained which environmental legislation is up for an administrative burden assessment: Waste Shipment, Seveso, WEEE (Waste from Electric and Electronic Equipment) IPPC and End-of-Life Vehicles.

Mecki Naschke of EEB asked if the Commission takes special care regarding implementability. She did not have that impression when it launched the new pesticides legislation. The law is very ambitious, with a particularly vast field to cover, so there'll always be problems with poor application on the ground. No MS can put in place a control system which can check every farmer. The Integrated Pollution Prevention and Control (IPPC) Directive tries to maintain the same degree of ambition, but IPPC should lead to continuous improvement. Will that be safeguarded?

Frank Corcoran of An Taisce (Ireland) said that IAs are problematic indeed, but we can use them to our advantage for cross-examining at a project level. Recently, for the first time, the Commission took an interim measure to stop a project that would have violated EU-law, the construction of a road in the Polish Rospoda Valley. This is very important because the process was so slow that after years the authorities were punished.

Mr Garcia Burgues answered regarding implementability that they have very ambitious legislation with a broad scope, so they have to be realistic and recognise that there will inevitably be problems on the ground. No MS can have a perfect control system with a 100% success rate. Millions of farmers are using pesticides in the EU. On the IPPC Directive, we will not reduce our level of ambition. Other institutions also have a role to play to ensure it is not watered down. Regarding Rospoda, it is not the first case of an interim measure, but yes, it is not used very often.

Monica Frassoni asserted that IAs are not panaceas and with cuts to administrative burdens, the worry is that it will shift attention away from enforcement and new policies. She reminded everyone that there were too few people to follow local situations in new MS.

Marc Pallemmaerts said a checklist to test practicability and enforceability of environmental legislation had been recently published by the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL).

Alla Lytvynenko from Youth Environment Europe asked if they really think that reducing the administrative burden will have a positive impact on the environment.

Ludwig Krämer, lawyer and environmental consultant, said that an outside study was done that showed that 80% of DG staff do not believe in IAs and think they are just a tool to promote a political message.

Catherine Ganzleben of EEB returned to the IPPC Directive. If the most important objective is to reduce administrative burden by 25%, how can such a directive with the ambition of permanent improvement be effectively applied?

Gyula Hegyi MEP said we're always demanding stricter rules. Environmental ministries, city councils and environmentally conscious persons are asking EP for more stringent legislation, which would give them support for better policies at home. But the Commission's proposals lack ambition. It would be easier to ensure European work is appreciated if the display of green policies was clear. This demand is really more important than this feeble idea of simplification.

Mr Garcia-Burgues declined to comment on Mr Kramer's claims. He wanted to take away the impression that better regulation has been repealing existing directives, except for the one on waste oil. The other better regulation directives are consolidated instruments of new legislation, eg, the Water Framework Directive (WFD).

Monica Frassoni said that as an MEP, the important thing is to understand trends. The proposals on waste and atmospheric pollution were not minor changes. They are a precise demonstration of what can go wrong with the better regulation exercise. Industry in Italy is eagerly awaiting the new waste legislation to legalise a lot of illegal situations. On an environmental level, the autonomy of Member States isn't automatically a good thing. When we only look at burden (costs to business) and we name Stoiber, we can only worry. Ms Frassoni would like to see the Environment Commissioner clearly fight such a tendency. We've seen the way in which the soil proposal is opposed by the EPP group and we are concerned about the way REACH will be applied, creating more not less bureaucracy. The administrative burden on IPPC is an important question - when you define administrative burden as the cost for industry in the short term, what are the costs of not having this burden?

Marc Pallemarts the evolution of legislation must preoccupy environmentalists. Even if the laws are complicated as a result of the weight of history, if the Commission uses its right of initiative and opens the debate, we create a situation which allows the other institutions and lobbies to attack the law. The quality of framework legislation is weak and fluid; we can only doubt their effectiveness because of the difficulties of interpretation. "Better regulation" risks becoming a cover for deregulation. Simplification has become an aim in itself. It's not an issue if legislation has been repealed, but rather whether the overall level of protection of human health and environment has been affected and lowered. There are a few recent developments that environmentalists should be worried about.

Gyula Hegyi, MEP confirmed his fears. He mentioned that the Commission has cut red tape on forms for trucks but 60% of waste transport is illegal. How can we fight that without proper monitoring?

Colette Maillet, Vice-President of FRAPEL (France), said she has been involved with the EEB for many years. She stated that EU environmental law has been important, even if we make slow progress. She said we must maintain good laws- the problem is certainly applying them. We must help the new Member States integrate.

Melissa Shinn of Quercus (Portugal) asked if it was true that the Commission has stopped sponsoring IMPEL (the European Union Network for the Implementation and Enforcement of Environmental Law).

Klara Hajdu of the Central & Eastern Europe Working Group for the Enhancement of Biodiversity (CEEWEB) expressed her concern that environmental goals are in danger of being abandoned.

Ingeborg Niestroy of the European Environmental and Sustainable Development Advisory Councils (EEAC) said we should clarify the difference between IAs (in her view a Commission invention to evaluate environmental, social and economic factors) and impact studies (evaluating a project's consequences). IAs need to be approached with caution.

Doreen Fedrigo of EEB said that there is vagueness and confusion in the better regulation directives, such as the fragmentation in the new Waste Framework Directive. Are we really improving?

Monica Frassoni MEP said the political atmosphere now is such that legislation is not a good idea and a burden, so we need to strongly defend what we have! Her Committee can only look at the procedural elements of IAs, not the content, which is a pity. Lets not be fooled, there are politics behind this. The degree of harmonisation needed is an endless debate: we can clearly see that the new MS are not demanding. She thinks good implementation must go along with harmonisation. Even if everyone talks about the environment (soil, waste) the Commission's ambition level is low, and this is not for technical reasons! There are a lot of politics involved, so we must mobilise to guarantee that the environment will always be a major concern.

Julio Garcia-Burgues said the Commission has no intention of cutting off IMPEL funding. He defended the latest approach, speaking about the Water Framework Directive, which set ambitious goals and fixed methods to attain them and is stronger than the old legislation. On waste legislation he refrained from making specific comments. The real big problem is the big gap between legislation and reality. He also mentioned that the EP does not have a special procedure to deal with simplification proposals, which is a problem that leads to a risk of them putting everything to discussion, including things the Commission intended to keep from existing law. There is an inter-institutional commitment to change working methods, but he is uncertain about the follow up.

Mikael Karlsson, as chair of the morning, made some final comments. He said that **Ms Frassoni** rightfully pointed to the importance of recognising the political dimension of seemingly technical issues. With regards to the discussions on the future role of the national parliaments he noted that **Mr Corbett** was optimistic, while he warned about comitology, even in the improved format. It is clear that NGOs need to address national parliaments. In Sweden EU matters were always discussed in a special EU Committee, which is not the right approach. This is now being changed gradually. **Mr Maurer**, on the contrary, was more concerned about the impact of an increased role for such national parliaments. **Professor de Sadeleer** emphasised that simplification leads to more complicated legislation and that there is too much attention on this process, at the expense of "normal" legislation. **Mr Hegyi** seemed to share the opinion that we are in fact seeing a process of deregulation and lack of coherence.

IAs can improve the quality of decision-making, but can be abused as well. Strong actors are necessary, acting with the support of the public.

[lunch break]

Third Session: Keynote Speech

John Hontelez, EEB Secretary General and chair of the afternoon session, introduced the topic for the afternoon: the role of the European Parliament in controlling enforcement of EU environmental law.

Keynote speech: The European Parliament and the implementation of EC environmental law
By Ludwig Kramer

Ludwig Krämer, Lawyer and Environmental Consultant, gave an analysis of environmental legislation implementation from a legal standpoint with a Power Point presentation.

What the European Community Treaty says about enforcement.

Obligations of Member States:

- Article 10 of the EC Treaty says “Member States shall take all appropriate measures... to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community.”
- Article 175(4) of the EC Treaty says “Without prejudice to certain measures of a Community nature, the member States shall finance and implement the environment policy.”

Obligations of the Commission:

- Article 211 of the EC Treaty says “The Commission shall ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied.” Therefore, the Commission has an obligation to ensure that the EC directives, regulations and other measures are not only *transposed* into national law, but also actually *applied*. This applies to the whole territory in all details, which sometimes causes local problems.
- The Commission cannot delegate this obligation to any other EC institution or body (Agency) or a Member State.

He emphasised that the environment is not protected just by legislation. It is one thing to have the legislation in place and another to apply it. Mr Krämer accused the Commission of not starting enquiries on environmental cases after being warned by the media, which is different in other fields of interest. The Commission does not consider the media a reliable source with regards to the environment. Another problem is that the Commission is also obliged to monitor the implementation of international conventions that are ratified by the European Community, as they are part of EU law, but this is not happening. A similar problem exists with Regulations since Member States don't have to send their data to the Commission. What the Commission learns, it learns from citizens or NGOs which are seen as reliable sources of information. Until 2002, the Commission accepted complaints without selection. Commission has no environmental inspectors, police, auditors or other body to examine practical application of laws.

Mr Krämer then clarified the rules about complaints, quoting from Commission Communications:

COM (2002)725 “All complaints received by the Commission are registered, without any selection”. DG Environment does not register all complaints. The responsible head of unit decides himself whether to register the complaint or not. If there is no follow up of the complaint, there is no answer. It is worse if the complaint has not been registered. This is in violation of the Aarhus convention and leads to placebo legislation at the EU level. Up to 40 percent of all Spanish complaints were not registered, sometimes concerning multi-million Euro projects with EC funds. This practice is unacceptable, unfair and arbitrary. It is a clear case of mal-administration.

- COM (2007)502 “As is the case now, enquiries and complaints sent to the Commission would continue to be registered and acknowledged.” How credible is this, in view of the current practice?

“Priorities should be attached to those infringements which present the greatest risks, widespread impact for citizens and businesses and the most persistent infringements confirmed by the Court. These categories cover: non-communication of national measures, breaches of community law and respect for court judgments.” There are cases of non-communication, and cases of non-application of the European court of Justice's (ECJ) judgments. This has nothing to do with complaints: when there's an ECJ ruling, one has to do everything to apply the ruling. If the “breaches of community law” clause is applied, it renders 95% of all environmental complaints uncovered.

Most environmental directives require reports on implementation, but the Commission does not regularly deliver. For example, no report on drinking water in the EC (in 27 years) - Parliament has swallowed the report without any follow-up, so there are 53 judicial instruments accepted which have no purpose. There has also only been one report on environment impact assessment (22 years) and one report on the Habitats Directive (15 years). At best the reports cover measures taken, not measures recommended. The European Parliament is not informed about the efficiency of the legislation which it has co-decided, and it accepts this non-transparent situation. Ms Jackson, when she was Chairperson of the Environment Committee tried to improve this, but her initiative faded away. Parliament has the task of seeing if the adopted legislation has been effective, but Member States don't pass anything on and the Commission doesn't follow up.

The same is true for obligatory cleanup plans and programmes, which are hardly ever passed on to the Commission. The Commission doesn't publish comparative reports, and when they do, almost never share these with Parliament.

Year 2010 marks the EU's self-imposed deadline for halting the decline of biodiversity. But with current working methods we'll never reach this goal. It's estimated that it will take €6billion per year to halt the decline, but structural funds are going to aerial surveillance instead. Parliament has struggled for the LIFE+ programme, but that only represents 1% of what is needed.

Access to information is still an issue. Documents are available to civil servants and often to companies, but not to citizens. If a study is paid for by taxpayers, they must have access to it. Article 232 of the EC Treaty says that the Commission is obliged to ensure that all laws are followed, which includes the Aarhus Convention, including the right to go to court against violation of environmental law..

When the Petitions Committee of the European Parliament receives a petition, it is passed to the Commission. I know of no other parliament in the world that works like this and does not investigate itself. Parliament ought to be able to handle these complaints directly instead of having to be satisfied with a report from the Commission.

He also spoke about the Ombudsman, established with Article 195 of the EC Treaty: "The Ombudsman shall conduct inquiries on instances of maladministration in the activities of the Community institutions." Right now the wait is too long for complaints submitted to the Ombudsman's office.

In conclusion, the Treaty doesn't say that the Commission has a choice about whether or not to deal with complaints. The Commission passes Framework Directives, but without effect. Parliament ought to see how it can meet citizens' needs. If EC environmental law really becomes more and more just placebo legislation and citizens have no way to influence its actual application by petitions, complaints and requests for effective intervention by public authorities, why then should an environmentally conscious citizen participate in European elections?

John Hontelez, chair: Ludwig said that he would be harsh and he did not disappoint us. Ludwig Krämer thinks the situation is unsatisfactory; some people here certainly agree.

Panel Discussion: The role and tasks of the EP Committee on the Environment, Public Health and Food Safety for better enforcement and monitoring

John Hontelez introduced the panellists and the key points for this discussion:

- Effective implementation discussions in the Environment Committee;

- Can the EP keep better track of adopted legal texts or could it improve implementation if it followed more closely how legal decisions are being respected (eg 6th Environmental Action Programme)?
- Should the EP play a stronger role, for instance by requesting Commission reports on the transposition, application and functioning of environmental directives?
- The EP's new competencies resulting from new comitology provisions, ie., the "regulatory procedure with scrutiny" - what it means and when it applies. The Commission should have already made some progress in preparing the list of legal acts adopted in co-decision, which should be adapted to these new rules.

Andreas Huber, Head of Secretariat, Parliamentary Environment Committee (ENVI) said that a parliament is a parliament, not a panacea. ENVI comprises 68 MEPs, it has 46 meeting days, works in 21 languages and has a tiny budget to spend on experts (€360,000 per year). It examines everything from tobacco to pesticides and CO₂ emissions. The EP is a discussion forum and its various tasks have to be prioritised.

Regarding implementation, the Committee continues to have special sessions, for which it is praised as it is the only EP Committee doing so. There have been three this year already.

In the supervision of implementation, the EP has 5 tools:

- 1) Implementation sessions, which are unique to ENVI, based on input from Member States, citizens, NGOs, etc. We are sometimes disappointed. Member States should be named and shamed.
- 2) Question-time in the committee (procedure 187).
- 3) Study, e.g., End of Life Vehicles, which showed severe implementation problems.
- 4) Reports on implementation. These have become rare now because the Committee has a quota of six non-legislative reports (of different kinds) per year
- 5) Delegation visits, ie, official visits to Member States, e.g., waste treatment plants in Naples.

His conclusion was that MEPs do care about implementation.

Karen Dubsy, ENGO panellist from Coastwatch Ireland said that people are enthusiastic when things work, but get very upset when the system throws up a problem. The system doesn't work because EU laws aren't understood at local levels, as in Ireland. She questioned whether the influence of ENVI was big enough to make a difference in implementation issues.

You have to be creative. When the Bathing Water Directive was introduced, NGOs invited the Blue Flag for beaches that were respecting the requirements. That created interest, with the public, with politicians. It is no longer an abstract issue. We need simple and understandable systems.

She commented on the Communication the Commission had just published on better enforcement. She asked where the citizens came into the story. She also called for programmes to train judges, as they now often do not really understand EU environmental law and the rights of citizens. Finally, she highlighted a need for a strong EU environmental inspectorate and systematic environmental education, including about the role of the EU.

Pia Bucella, Director, Direction A, DG ENV, said it was the first time she'd heard such a negative view of the Commission. She wanted to put things into perspective: There are two co-legislators- the EP and the Council. Implementation is a matter for Member States, including regional and national authorities and even for municipalities who are the final

implementing bodies. Local authorities have no say in the legislative process. The public and NGOs can tell the Commission when a problem arises. The EC has the role of checking that community law is implemented by Member States. The Commission has no intention of handing this power over to Member States. The general communication which has just been issued (better application of legislation) will be followed by a more specific communication on environmental legislation.

The Commission is very often criticised for hiding behind the fact that certain types of information cannot be made public. Whenever the European Commission “hides”, this is not a struggle for power. The Commission wants to assure itself that it preserves the best possible atmosphere for future negotiations.

When we need to act strong, we do. People have asked for interim measures in Italy; the Commission has then demanded the repeal of a regional law. The same was true of Rospuda motorway project in Poland. But we cannot do that all the time or the system would lose its effectiveness.

Due to the Aarhus Convention, there are now special rules for environmental information (as opposed to information of other kinds). Once the system comes into place, access to documents will be as wide as possible. But some information has to remain confidential, for example in infringement procedures. It is in the interest of citizens that it remains so.

With regards to access to justice on the national level, a final report on a survey of practices in the 25 Member States to see whether these apply with Aarhus will be published soon, followed by a meeting with all stakeholders.¹

QUESTIONS AND ANSWERS

John Hontelez asked Mr Huber to give examples of where ENVI has made a difference on the work of the EP on implementation.

Answer: It's very rare that Parliament alone makes a difference. Its impact is usually part of a process.

John Hontelez asked Ms Bucella to respond Mr Krämer's view that once the Commission is advanced on a procedure, the document sent to Member States should be made public.

Answer: This is neither in her power nor in the power of the Commission. Such a decision needs to be part of the general system. If Member States knew that letters could be made public, they might act more quickly.

Karin Dubsy said that NGOs from different countries asked for open public procedures and proper public participation. Has ENVI taken the initiative to tackle the inadequacies denounced by Mr Krämer?

Ludwig Krämer stressed that there are two decisions. Nobody is asking to see the earlier exchange of letters. But they see how a Member State can invoke the need for confidentiality regarding letters of formal notice and court decisions. In both cases, these are European Commission decisions. But when the Commission makes a formal decision, why should it be kept confidential? Once sent, letters of formal notice will be in court so in the end, the public will know anyway. The European Parliament is passive, because it accepts this lack of implementation.

¹ Report available on EEB's website: <http://www.eeb.org/activities/transparency/AARHUS-FINAL-VERSION-WEBSITE-12-07.pdf>

John Hontelez asked Mr Huber whether ENVI had taken initiatives to correct the deficiencies Mr Krämer mentioned?

Answer: The main key to that is staffing and financing.

Pia Bucella said that they have started holding meetings with NGOs side by side with the “package meetings” with national governments where infringement issues are being discussed. DG ENV intends to try to meet NGOs in every country for at least half a day during these visits, especially since not all NGOs manage to come to Brussels

A participant said he followed the Petitions Committee and was ashamed when he heard Ludwig Krämer speak: he is right, but most MEPs cannot change this. The MEP is like a butterfly: he/she comes to the European Parliament, acts there for a certain period of time and then leaves. What are MEPs’ priorities? Very few MEPs have any insight into what Ludwig Krämer described and the EP does not have the right to go to the European Court of Justice to insist on action by the Commission.

Sacha Cleminson from the Royal Society for the Protection of Birds (RSPB) in the UK said there are some particular cases where ENVI and the Petitions Committee made the difference, but that was in the past. It seems that recently the wind has been taken out of their sails.

Samuel Martín Sosa-Rodríguez from Ecologistas en Accion in Spain wondered why the EU ratified Aarhus. Why are there such exemptions? When the Commission came to explain their priorities in Spain, NGOs could not discuss clear cases. In the case of its decision about the Granadilla harbour in Teneriffe, the books remained closed all the time.

John Hontelez: What can the EP do to bring the procedure back to where it should be? Why is ENVI not insisting when talking to the European Commission?

Answer: Members of ENVI are far away from the situation and they feel less concerned and interested. If people have a good idea on how to solve that, he would be glad to take it forward. There was an agreement in 2003. The European Parliament should insist on high ranking officials answering their questions.

Pia Bucella noted that she did say that Aarhus was transferred to the EU institutions. It entered into force on June 26 this year. It is open for use.

Ludwig Krämer said that individual cases might not be interesting for other MEPs, but you can collect cases and outline the common denominator to motivate them. ENVI should adopt a more active way of operating, a more active policy.

Karin Dubsy had the same experience as Martín Sosa-Rodríguez. During a recent meeting with the Commission on infringements in Ireland, it was not possible to talk about concrete issues.

Colette Maillet: Regarding the negative image of the European Commission, this topic is a little bit forced. Of course we need transparency. The question is how to achieve it. The reactions from NGOs will not always be identical. There is no panacea.

Pieter de Pous of EEB explained how EEB has started working towards making strategic complaints in order to give the Commission a better picture of systemic problems. How does the European Commission deal with such issues of strategic importance?

Zoltan Hajdu of the Focus Eco Centre in Romania said that sometimes there is a long distance between the law and its application. With EU law, farmers are stopping from selling rural products in local markets. This is not in the interest of the environment.

Philip Mulligan of Environmental Protection UK said we need to keep sight of the bigger picture. Environmental protection is the end result. Issues must be investigated without causing other fields to suffer.

Andreas Huber said he had received some stimulating ideas. It is only fair to submit them to the ENVI chairman. The concerns about the timidity / efficiency of ENVI have been heard.

Pia Bucella responded that the issue of strategic complaints is a matter of grouping issues. DG Env is now dealing with the strategic complaint on failure to apply the Water Framework Directive that the EEB filed together with other NGOs. It is a good approach because it can collectively take care of problems concerning a maximum of citizens. For example, on the issue of landfills, there is a discrete amount of work to be done to follow up on one specific case and one specific landfill. It is a different kind of work to ensure that all regions in one Member State are applying the legislation. These types of issues need to be tackled in a systemic way. DG ENV is now talking to the ENVI Secretariat regarding the discussions in the ENVI meetings on enforcement, which often have the number of participants counted on one hand. One has to group similar problems together. Regarding the Romanian case, when you become part of a bigger system, you have to give up certain things.

Karin Dubsy, addressing her Romanian colleagues, said that they had the same problem but the Irish farmers have organised themselves and local markets are flourishing again. With regards to the role of environmental organisations it is important to keep in mind the end goal any time they're trying to influence MEPs. The issue has to mean something for the MEPs.

Ludwig Krämer asserted that with priority complaints, the devil is in the detail. Greece was condemned on unauthorised landfills. But how do you enforce this decision now?_ ENVI has little legislation on the table now because the Commission is avoiding legislation. The European Parliament must set its own priorities. If implementation is a priority, then it must adapt to that.

John Hontelez thanked the panellists.

Fourth Session: Role and objectives of the Petitions Committee

Presentation of cases by ENGOs (Vuosaari, FIN and Waste Incineration, IRL)

Discussion points:

- Parliament's wish to play a more important role: EP resolution of 11 February 2005, on the deliberations of the Committee of Petitions during 2003-2004 (A6-0040-2005) makes this clear, when it states: "*Considers that it would be legitimate for Parliament to make use of its powers under Article 230 of the EC Treaty, if this is necessary in order to bring an end to a serious infringement of Community law which has been revealed in the course of the examination of a petition, and where a significant difference of interpretation persists, despite efforts to resolve it, between Parliament and the Commission as regards the action required by Community law for the protection of citizens' rights in the case concerned.*"

- At European level citizens organisations still don't have access to justice in environmental matters. Therefore citizens and their organisations are restricted to calling for interventions by the Commission, Parliament and the Ombudsman. We believe that Parliament, as the direct representative of Europe's citizens, has an important responsibility to ensure that citizens' interests and opinions are considered seriously. This can make an important contribution to strengthening or regaining citizens' trust and confidence in the EU. Where and when can the Legal Affairs Committee provide help, eg when the Commission does not seem to fulfil its role as guardian of the Treaty in a satisfactory way?

David Lowe, Director of the Petitions Committee (PETI), gave an introduction on the machinery which analyses and follows up a petition. Until 5 years ago, PETI had serious problems. Now, the Committee is very active with 45 members. Last year, there were 1,000 petitions, 70% were accepted, half of which related to environmental issues. A petition can be sent to the European Parliament by any citizen or NGO, as long as it focuses on an EU area of activity. What we cannot do is deal with issues in court. The solutions we are looking to provide are non-judicial.

There are various ways of submitting a petition. The environmental field is a vast area of the EU. Not every petition succeeds when it is submitted, but it will be investigated. When it has been declared "admissible", then an assessment is made by the Committee. We're concerned about a solution, not about the politics in the country. We do the job on the basis of the substance of the petition, which takes a while because it must be summarised for the committee and because of EU's multilingualism. But every PETI member can check the progress of each petition. We only have political power and public relations power (ie., media pressure on a Member State).

Mr Lowe then gave examples of petitions under discussion. The first example concerned construction of a road through the Rospuda Valley in Poland. Even the Environment Minister came to the hearing to draw the Member States' attention.

The legislation on infringement has not changed in many years. The PETI Committee is a tool for the application of community law. It is not the task of the ENVI committee, whose main task is legislative. The legal affairs committee is also a key player. PETI's tasks are bottom up while legal affairs tasks are the reverse.

Sakari Niemela, lawyer, Finnish Association for Nature Conservation, gave a detailed explanation of the Finnish part of Vuosaari's case history. The case is summarised here. See Annex 1 for a complete explanation.

This case involves the question whether the Vuosaari Port project had a significant negative effect on the conservation values of the Natura 2000 site located next to it, and whether the derogation procedure (Article 6(4)) was needed. The original assessment of the impacts of the port project on the conservation values of the Natura site concluded that there was a risk of significant adverse affect. Three out of four experts subsequently came to the same conclusion.

The Finnish Association for Nature Conservation did precisely what the Court of Justice – and the European Commission – recommends by turning to the national judicial system and ultimately bringing the case before the Supreme Administrative Court of Finland (SAC). However, the SAC refused to accept, as sufficient evidence, the opinion of the best available scientific expertise, thus acting in clear contravention of the jurisprudence of the ECJ.

The Finnish Association for Nature Conservation filed a complaint to the Commission and a petition to the EP. Three years later the Commission decided to close the case without detailed justifications. The Committee sent a fact-finding mission to Helsinki on 24 - 26 March 2004. The report from the mission found that "by minimising the impact of the project and ignoring the precautionary principle and by failing to proceed along the path set out by Article 6 of the Habitats Directive the Finnish authorities may have placed themselves in infringement with EU law. The report called on the Commission "to conduct an urgent review of the Vuosaari project with the Finnish authorities in order to ensure that the provisions of the Habitats Directive (92/43/EEC) and the Birds Directive (79/409/EC) have been properly complied with and to report back to the Committee on Petitions no later than July 1st 2004."

The delays in the procedures have already resulted in the death of the patient. The environmental changes have largely been implemented. It is essential for the future that interpretation questions of the petition will be assessed carefully and thoroughly, as European environmental organisations hardly have the resources to go through these interpretation questions a second time.

From the point of view of individual citizen and NGOs, the open question is what can be done in order to improve Access to Justice under the conditions discussed above.

The petition in EP is still pending.

Frank Corcoran, An Taisce, presented the waste problem in Ireland. We are told we can't use the provisions of Aarhus because Ireland has not ratified the Convention. But Aarhus has to be transposed also in Ireland because the European Community has already ratified.. It is vital to have access to information. Before using the European Parliament's PETI, we should get the European Commission to become more active and use an instrument of interim measures, which was very powerful in Poland. Maybe the work of PETI has helped the Commission to become more active.

The EU complaints procedure should be used before any environmental harm is caused. The European Parliament's role is to provide oversight of how well the European Commission is functioning.

Samuel Martín-Sosa Rodríguez agreed that PETI has improved its functioning but questioned Mr Lowe saying they act regardless of political pressure. In the case of the Granadilla port (Canary Islands) there were negative effects on protected sites. We had the opportunity to present our arguments as part of a petition. Two months later, because of political pressure, there was a meeting without the petitioners and the petition was closed. Then there was a lot pressure again, and they reopened it.

Gerassimos Arapis from Elliniki Ettairia in Greece said that his organisation went to the Commission 5.5 years ago over a tramway project in Athens. We first complained in 2002, but the Commission is very slow. Now the tram has been built. We turned to the ombudsman because of maladministration. How would this have been handled by PETI, even though now it is too late?

Axel Singhofen (advisor for Greens on PETI Committee) disagreed with the statement that the European Parliament cannot turn against the Commission if it fails to act. The European Parliament has the same rights as Member States to bring an action on European Commission mishandling.

Andras Lukacs of the Clean Air Action Group (CAAG) in Hungary asked how much time there was between the arrival of the petition and the final decision?

David Lowe responded that timing is important. To petition is an EU right in order to make the EU more transparent. The Commission has its own ways of dealing with complaints, internally, not transparently. PETI is much more open. About the tramway in Athens, it was difficult for the Commission. We are in a much better position now. If it is a simple petition, it takes 5 to 6 months. If it is more complex, it takes 3 to 4 years. This is due to administrative constraints (translations, etc.). There are many procedures to follow that take time.

With the Vuosaari case, we worked hard with a situation that was already set. The main concern of petitioners was that after that case, everybody would be able to get away with it and that Article 6 would never be applied. Given the *fait accompli*, we tried to find some solution after the fact, such as a financial compensation.

On the Granadilla case, we analysed it seriously. We met many authorities to debate the case. Politically, it was very difficult. We did reopen the case with important guarantees: they would only get community funds if they respect certain criteria. This is not enough for petitioners, but they probably would not have managed this result on their own.

Marie-Claude Blin of DG Environment said there is no magic solution. Implementation has to be improved through initiatives and test phases. Four actions can be taken for development: preventive action; information; training; and enhancing dialogue and transparency in the institutions. Don't play one institution against another. For instance, in the European Commission, we are quite innovative and open to the public, in particular to NGOs. We debrief NGOs after each Habitat Committee meeting. Good things are on the way. We have had 2 good success stories in the last month.

Closing Remarks

John Hontelez hopes that the system might swiftly improve and that in the future EU citizens and their organisations will have direct access to the European Court of Justice. In the meantime, EEB and its members urge Parliament to play a more active role in handling the more difficult situations.

We focused this year on the role of the European Parliament and how it has been evolving. How will the reform treaty challenge national parliaments?

We had an interesting discussion on better regulation. In the end, this is not a purely technical process: it depends on political trends. Enforcement is an important part of better regulation. We first have to challenge Member States. The European Commission is not doing that perfectly. We have to find ways to push it to act better. We do it as ENGOS because the EU institutions are not doing it. I think ENVI should thoroughly investigate the implementation and enforcement of 2 or 3 directives a year.

The last session was quite revealing. PETI and ENVI cannot always force the European Commission's hand. In all these cases, timing is essential: we are looking for prevention of damage, not for perfect procedures.