

A background image of several dandelion seed heads against a clear blue sky. The seed heads are in various stages of blowing, with some seeds already dispersed into the air, creating a sense of movement and lightness.

***Effective Enforcement  
of Environmental Law***

# **Access to EU justice**

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Ludwig Krämer

[Kramer.ludwig@skynet.be](mailto:Kramer.ludwig@skynet.be)

## **The law as it stands**

- 1. An act is addressed to a person**
- 2. A person is directly and individually affected by an act addressed to another person**
- 3. A person is directly concerned by a reg. Act which does not entail implementing measures**
- 4. A national court asks for a preliminary ruling**

# **Aarhus Convention**

**(Persons shall) have access to administrative or judicial procedures to challenge acts and omissions by private persons or public authorities which contravene provisions of (environmental law), where they meet the criteria, if any, laid down in national law.**

# **EU Court of Justice(1)**

- 1. Art. 9(3) Aarhus Convention is not directly applicable; reason: „if any“**
- 2. The national judge must do everything possible to give a useful effect to art.9(3)  
(C-240/09)**
- 3. The European judge - ?????**

## EU Court of Justice (2)

- 1. The fact that the protection of the environment is of general interest, not of individual interest, is irrelevant; a person must be individually concerned.**
- 2. The fact that life or health of a person is threatened, does not make that person individually concerned (T-219/95)**

## **EU Court of Justice (3)**

**(3) When the ECJ granted standing to the EP, it did so against the wording of the Treaty („institutional balance“)**

**(4) When the ECJ grants standing to companies in competition matters, it is much more lenient**

**Conclusion: The ECJ applies double standards.**

## **Ways ahead (?)**

- 1. Amend the Treaties**
- 2. Right to a clean environment – Court of Human Rights**
- 3. Right to resist climate change as an individual right**
- 4. Generalise Janecek-judgment (C-237/07)**