

Request for a preliminary ruling from the Rechtbank Limburg (Netherlands) lodged on 28 December 2018 — LB, Stichting Varkens in Nood, Stichting Dierenrecht, Stichting Leefbaar Buitengebied v College van burgemeester en wethouders van de gemeente Echt-Susteren, other party: Sebava BV

(Case C-826/18)

(2019/C 122/12)

Language of the case: Dutch

Referring court

Rechtbank Limburg

Parties to the main proceedings

Applicants: LB, Stichting Varkens in Nood, Stichting Dierenrecht, Stichting Leefbaar Buitengebied

Defendant: College van burgemeester en wethouders van de gemeente Echt-Susteren

Other party: Sebava B.V.

Questions referred

1. Must European law and, in particular, Article 9(2) of the Aarhus Convention ⁽¹⁾ be interpreted as precluding a total exclusion of the right of access to justice for the public (any person), in so far as the latter is not the public concerned (interested parties)?

If Question 1 is answered in the affirmative:

2. Must European law and, in particular, Article 9(2) of the Aarhus Convention be interpreted as meaning that it follows therefrom that the public (any person) should, in the event of an alleged infringement of the procedural requirements and public-participation rights applicable to that public, as contained in Article 6 of that Convention, have access to justice?

Is it important in that regard that the public concerned (interested parties) should have access to justice in that respect and can also raise substantive complaints before the courts?

3. Must European law and, in particular, Article 9(2) of the Aarhus Convention be interpreted as precluding a situation in which access to justice for the public concerned (interested parties) is made dependent on the exercise of public-participation rights within the meaning of Article 6 of that Convention?

If Question 3 is answered in the negative:

4. Must European law and, in particular, Article 9(2) of the Aarhus Convention be interpreted as precluding a provision of national law which excludes access to justice in respect of a decision on the part of the public concerned (interested parties) if that public can reasonably be criticised for not having set out any views against (parts of) the draft decision?

If Question 4 is answered in the negative:

5. Is it entirely up to the national court to provide an opinion, on the basis of the circumstances of the case, as to what should be understood by the term 'who can reasonably be criticised' or is the court obliged to take certain European legal safeguards into account in that regard?
6. To what extent are the answers to Questions 3, 4 and 5 different in relation to the public (any person), in so far as that is not the public concerned (interested parties)?

⁽¹⁾ Convention on access to information, public participation in decision-making and access to justice in environmental matters, concluded in Aarhus on 25 June 1998 and approved, on behalf of the European Community, by Council Decision 2005/370/EC of 17 February 2005 (OJ 2005 L 124, p. 1).