Each year the European Commission organises a major communication event focusing on environment policy, known as "Green Week". This year, the 11th edition of Green Week, the biggest annual conference on European environment policy, will take place from 24 to 27 May 2011 in Brussels. This year's theme is "Resource Efficiency - Using less, living better".

Green Week offers a unique opportunity for debate and exchanges of experience and best practice. Over the past decade, the conference has established itself as an unmissable event for anyone involved with protecting the environment. The 2010 edition attracted some 3 400 participants from government, business and industry, non-governmental organisations, academia and the media.

Over some 40 sessions, the conference will address the problem of resource depletion and scarcities, the challenges and opportunities in becoming more discerning and resource efficient, and showcase public and private strategies contributing to the shift towards a resource-efficient and low-carbon economy. For further details, the Green Week programme is available at <http://ec.europa.eu/greenweek/).

We would like to invite you to the Green Week 2011 conference in a session entitled "Can Ombudsmen better oversee administrative actions - and inactions - that impact on the environment of present and future generations?" planned to take place on Wednesday 25 May in the afternoon.

In the context of the wider theme of Green Week, environmental protection - and resource efficiency - in part depends on due administrative process and Ombudsman offices can help ensure due process through their oversight functions.

While Ombudsman offices are now an established part of the European governance landscape, the attached extract from a recent study prepared by the Access to Justice Task Force of the Aarhus Convention refers to significant differences in the structure and capabilities of Ombudsman offices.

As for the idea of representing future generations, the following are noteworthy:
- the parliamentary Committee for Future in Finland (http://web.eduskunta.fi/Resource.phx/parliament/committees/future.htx)
- the Hungarian Parliamentary Commissioner for Future Generations (http://jno.hu/en/)

In addition, interest has been expressed in the creation of an international ombudsman in the context of the upcoming United Nations Conference on Sustainable Development ("Rio+20") set for 2012.

The following are suggested topics of interest:

**Definition of roles.** Are the roles of Ombudsman offices sufficiently well defined for them to play a useful role in environmental protection? What is the experience of Ombudsman offices with broader and more ambitious remits, including the right to institute legal proceedings? Are Ombudsman offices well placed to exercise expanded roles, for example representing the interests of future generations? Are there other related mechanisms such as arbitration and mediation that can be developed? Do you
have information of experience in Member States in relation to non-judicial environmental dispute resolution or environmental mediation? Could Ombudsmen play a role in this?

**Exercise of roles.** In practice, what are the aspects of environmental administration that can most benefit from Ombudsman scrutiny? What are the sorts of environmental expertise that Ombudsman offices should engage? Examples of subject-matter for possible Ombudsman scrutiny:

- respect for procedurally important steps such as screening to determine need for environmental impact assessments;
- ensuring that administrations employ best scientific knowledge when making appropriate assessments of plans and projects that might impair key nature sites;
- ensuring that administrations have fit-for-purpose enforcement practices when citizens ask them to act on issues such as supply of unsafe drinking water, illegal hunting, illegal waste disposal and unauthorised quarrying.
- for future generations concept, ensuring that administrations take adequate account of long-term implications of their decisions, for example by focusing on adequacy of assessment of long-term resource implications.

**EU-level added value.** How do Ombudsman offices contribute to effective protection of environmental rights created at EU level? Does their activity have an effect on timeliness of procedures (by perhaps solving the case before going to court)? How does the issue of costs play a role in their procedure, do they contribute to ensure that procedures are not prohibitively expensive? The Commission already has a programme of co-operation with national judges. Is there scope for similar co-operation in the case of Ombudsman offices? Are there other ways in which the Commission can assist Ombudsman offices, e.g. through dissemination of guidance documents on key parts of the environmental acquis?

Extract from report of Access to Justice Task Force under the Aarhus Convention

**Ombudsman as Effective Remedy**

**General**

Nearly every State in this study has an Ombudsman, with the exception of Italy, which has regional Ombudsmen only, and Germany. Ombudsmen are selected by the legislative bodies of their State. The Ombudsman is generally an independent internal review institution that aids individuals and entities in disputes with administrative bodies. At minimum, an Ombudsman can investigate complaints and report on its findings. The institution tends to be quite flexible, inexpensive, and simple to access.

Most States have a single office of the Ombudsman that can receive complaints regarding multiple areas of law, whereas others have several or many offices that each receives complaints on specific topics. Some States have an Ombudsman specifically for the environment. For
example, Austria has a general Ombudsman Board as well as an Environmental Ombudsman. Austria’s Environmental Ombudsman can bring complaints before Austria’s Supreme Courts, whereas the Ombudsman Board does not have the authority to participate in legal proceedings. Hungary also has had an Environmental Ombudsman (called the Parliamentary Commissioner for Future Generations) since 2007. It has the power to participate in or initiate legal proceedings, as well as suspend the execution of administrative decisions.

In several other States, the Ombudsman has the authority to participate in or initiate legal proceedings. This is so in Albania, Poland, Romania, and Spain. In France and Sweden, the Ombudsman can initiate disciplinary proceedings; in Greece, the Slovak Republic and Slovenia, the Ombudsman can recommend disciplinary action. In the Slovak Republic, Slovenia and Sweden, the Ombudsman can propose amendments or laws.

More commonly, the Ombudsman’s powers are limited to non-legally binding activities such as investigating, reporting, mediating and recommending. While the lack of legal power may disqualify them from being considered to fulfill the requirements of the Aarhus Convention, in practice they are often nevertheless very useful. Many States report that the political pressure to follow the recommendations of the Ombudsman generally leads to compliance.

While the Ombudsman is generally an excellent tool for effectuating the goals of the Aarhus Convention, there are some aspects that may be problematic in some States. These will be discussed below.

**Discretion to launch investigations**

Ombudsmen generally have a great deal of discretion in choosing which complaints to investigate. Discretion in itself is not necessarily negative because it allows resources to be concentrated on the most important cases. Often, some response is required; for example, in Latvia, the Ombudsman must inform the complainant whether it will launch an investigation within one month of receipt of the complaint. An exception to discretionary participation is Austria, where the Environmental Ombudsman may be required to take action and can be found criminally liable if his inaction leads to environmental damage.

**Lack of resources**

Underfunding is, obviously, detrimental to the effectiveness of an Ombudsman. For example, the Estonia’s 2010 implementation report notes that while its Chancellor of Justice, a similar institution to the Ombudsman, carries out independent investigations, it lack the resources to be an efficient remedy.

**Lack of suspension of administrative decision or judicial complaint period**

Generally, complaint to the Ombudsman is a remedy intended to be pursued after administrative remedies and before judicial remedies. However, waiting for an investigation to be completed before applying for judicial review may cause a claimant to lose the opportunity to pursue other remedies.

**Lack of independence**
Generally, Ombudsmen are independent although they report to a legislative body. An exception is France, where the Ombudsman can only consider complaints that are referred by a Member of Parliament.

Lack of environmental knowledge

Parliamentary Ombudsmen are experts on administrative issues, but usually not experts on environmental matters. It has been mentioned in some States that a lack of environmental experts in the Ombudsman’s office can lead to superficial investigations overly focused on formal aspects of the case.