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Case Summary posted by the Task Force on Access to Justice

VZW Milieufront Omer Wattez v. Deputatie Provincie Oost-Vlaanderen / stad Geraardsbergen – Intervening party: VZW Vlaams Zweefvliegcentrum, Nr. 193.593

1. Key issue	Standing for an environmental NGO – The collective interest of an environmental NGO that is active in the region is sufficiently specialized and concerns land use planning, environmental protection and nature conservation, so that it has a sufficient interest to appeal an environmental permit for an airport for gliders in a scenic and valuable agricultural area.
2. Country/Region	Belgium (Flemish Region)
3. Court/body	Council of State (Supreme Administrative Court)
4. Date of judgment /decision	28 May 2009
5. Internal reference	Raad van State/Conseil d'État,, Nr. 193.593, 28 May 2009, VZW Milieufront Omer Wattez v. Deputatie Provincie Oost-Vlaanderen / stad Geraardsbergen – Intervening party: VZW Vlaams Zweefvliegcentrum
6. Articles of the Aarhus Convention	Art. 2, para. 5; Art. 9, para. 2
7. Key words	Environmental NGO – Standing – Aarhus Convention – Environmental Permit – Airport – Gliders - Scenic Valuable Agricultural Area - Annulment
8. Case summary	<p>An environmental permit was issued by the provincial government of Oost-Vlaanderen for the operation of an airport for gliders in a scenic and valuable agricultural area. The decision was appealed by VZW Milieufront, claiming that it violated the planning prescriptions for such an area.</p> <p>On the issue of admissibility, the Council of State stated that according to its bylaws, “VZW Milieufront Omer Wattez” is an environmental NGO that is active in the region of the “Flemish Ardennes”, to which the city of Geraardsbergen belongs. The NGO’s collective interest is sufficiently specialized and concerns land use planning, environmental protection and nature conservation. This purpose does not coincide with the general interest, nor with the individual interests of its members. Instead, it flows from the combined reading of article 2, paragraph 5 and article 9, paragraph 2 of the Aarhus Convention which indicate that environmental NGOs like the appellant should have effective access to justice. In the light of the Convention, environmental NGOs should have access to the Council of State.</p> <p>Thus, the decision of the provincial government of 2 February 2006 to grant such a permit is annulled.</p>
9. Link address	http://www.raadvst-consetat.be/Arresten/193000/500/193593.pdf