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<i>Case Summary posted by the Task Force on Access to Justice</i>	
<i>Latvia; SKA-215/2011</i>	
<i>1. Key issue</i>	The public access to justice to challenge omission of binding obligations of local self-government
<i>2. Country/Region</i>	Latvia
<i>3. Court/body</i>	The Supreme Court of Latvia
<i>4. Date of judgment /decision</i>	2011-07-01
<i>5. Internal reference</i>	SKA-215/2011
<i>6. Articles of the Aarhus Convention</i>	Article 9
<i>7. Key words</i>	Access to justice; Local self-government; Omission of binding obligations
<i>8. Case summary</i>	
<p>The case originated in an application of association "Mezaparka attistibas biedriba" against Council of the City of Riga for its non-compliance with a decision of State's Inspection on Environmental Matters. State's Inspection on Environmental Matters inspected coastal area of the Lake Kisezers possessed by Council of the City of Riga and found out coastal area to be polluted by construction waste. As a result State's Inspection on Environmental Matters in its order obliges the Council of the City of Riga to remove the waste from coastal area of the Lake Kisezers and to restore coastline in its previous condition. The first and second instances of administrative courts decided in favor of applicant and their judgments were based on conclusions that an obligation upon the local-authority to be liable for establishing and maintaining a decent physical environment for life of dignity and well-being arises from provisions of Articles 111., 115. of the Satversme [Constitution] of the Republic of Latvia as well as Article 10 of Law on Environmental Protection. The defendant, namely, Council of the City of Riga brought a claim before the Supreme Court of Latvia on a ground that as the Lake Kisezers is included on the List of Public Lakes which is one of the annexes to the Civil Code. Provisions of the Civil Code regulate publicly accessible lakes and consequently an owner of it is not local self-government (Council of the City of Riga) but the state itself. Therefore it is upon state's authorities to guarantee removal of the waste of building construction and to restore coastline of the Lake Kisezers in its previous condition.</p> <p>Supreme Court in its judgment concluded that, firstly, legal reasoning of second-instance court of a law, namely, Administrative Court of Appeal based on well-established case-law of the Constitutional Court with regard to interpretation of Article 9 of Aarhus Convention and Article 115 of Satversme [Constitution] of the Republic of Latvia to be correct in this administrative dispute. However such an interpretation should be applied in accordance with general principles of law granted by Satversme. Secondly, when applying fundamental rights and liberties such as right to live in an environment adequate to person's health and well-being and ensuring an enforcement of such liberties by granting participation in decision-making and access to justice in environmental matters, the balance between interacting rights should be granted without violating other competing rights and liberties. Thirdly, Article 9 of Aarhus Convention is to be interpreted as right for an applicant to bring a claim before the court seeking for public authority in environmental matters to exercise the competence conferred upon it plainly, effectively and in due diligence. Aarhus Convention constitutes a legal framework for an access</p>	

to justice in environmental matters for every individual seeking for competent authorities to act effectively in environmental disputes.

9. *Link to judgement/decision*

http://www.tiesas.lv/files/AL/2011/07_2011/01_07_2011/AL_0107_AT_SKA-0215-2011.pdf