QUESTIONNAIRE
Measures to enable effective access to justice
in environmental matters

Response by Albania

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

  o Fully waiving the court fees
  o Fully waiving the application of the loser pays principle
  o Applying a protective cost order
  o Fully waiving the recovery of costs incurred by public authorities
  o Fully waiving the bonds or other security for injunction relief
  o Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
  o Other (e.g. measures to reduce costs, etc.):

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

  o Access to legal aid services
    Type of legal disputes covered (trial and non-trial matters)
    o Type of services covered
    o Criteria to apply for legal aid for natural persons
    o Criteria to apply for legal aid for NGOs
    o Providers
    o Procedural implications of being granted a legal aid
  o Established an environmental law (legal aid) clinic and its procedural status
  o Other pro bono services (please indicate type and provider)
  o Public funds for litigation by natural persons and/or NGOs
  o Financial support to non-governmental organizations
  o Incentives to support crowdsourcing campaigns
  o Incentives to support charitable funding
  o Legal insurance
  o Other:

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

  o Established specialized courts or tribunals
  o Established specialized chambers within courts
  o Designation of judges specialising in environmental cases
  o Established specialized prosecutor offices
  o Established specialized departments within prosecutor offices
  o Designation of prosecutors specialising in environmental cases
  o Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
    o Initial or Continuous
    o Optional or Mandatory
  o Other

Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:
Established independent expert bodies
- Technical judges
- **Technical experts in courts**
  - Publicly accessible lists of judicial experts
  - Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- **Other**

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- **Other**

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by Armenia

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court

V Other (e.g. measures to reduce costs, etc.): Article 22 of the Law of RA on "State Duty" defines Privileges in relation to the state duty at courts. Among them, privileges are provided to civil society organizations filing with the court as stipulated by Chapter 29.3 of the RA Code of Administrative Court Procedure.

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance

V Other: The RA Law "On Advocacy" was amended; due to it the functions of the Public Defender have been improved. This partially solves the provision of access to legal assistance for individuals to initiate environmental cases.

There is a Legal Clinic at Yerevan State University (established in 1999), where the best professors mentor undergraduate and graduate students, gets the opportunity enabling them both to complete their theoretical knowledge and acquire practical skills to provide free legal assistance to vulnerable groups and socially disadvantaged citizens.

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
o Established specialized chambers within courts
o Designation of judges specialising in environmental cases
o Established specialized prosecutor offices
o Established specialized departments within prosecutor offices
o Designation of prosecutors specialising in environmental cases
o Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  V Initial or Continuous
  V Optional or Mandatory
o Other: The Academy of Justice carries out initial training, gradual improvement of educational programs for judges, prosecutors and persons included in the applicants list in candidates for judges, as well as continuous training of judges and persons included in the list of candidates of applicants of judges.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

  Article 45 of the RA Law "On Fundamentals of Administration and Administrative Procedure" allows the administrative body to appoint an expert. In addition, the participants of the proceedings may be present at the actions performed by the expert, if being present will not hinder the examination. The expert must provide additional clarifications regarding the expert opinion in case of the request of the administrative body or the participants of the proceedings.

  In addition to the above-mentioned, according to Article 37 of the "Code of Administrative Court Procedure" the court may appoint an expertise at the petition of the party (parties) or on its own initiative in order to identify issues that require special knowledge arising during the examination of the case.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other:

  Article 110 of the Code of Administrative Court Procedure stipulates that before the end of the trial, participants of the proceedings may sign a settlement agreement at each stage of the trial, which is formulated in written form and submitted for approval by the court.

  According to the decision of the Supreme Judicial Council (ԲԴԽ-65-Ո-165, 2021), benchmark periods for the average duration of the procedures are defined according to the individuality and complexity of the cases.

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
The judges may be subject to disciplinary proceedings if a reasonable deadline is not met.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
  - E-access to environment-related standards and legislation
  - E-access to case law on environmental matters
  - Collection of quantitative data on environmental cases
  - Electronic submission and management of claims
    - For administrative review
    - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other: [www.arsi.am](http://www.arsi.am), [www.datalex.am](http://www.datalex.am), [https://court.am/](https://court.am/)

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
  - Other forms of dispute resolution: Office of the Human Rights Defender; Environmental issues are discussed by the Department of Protection of Civil, Socio-Economic and Cultural Right of the office of the Human Rights Defender.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by the Aarhus Centre of Armenia

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court

Other (e.g. measures to reduce costs, etc.):

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
  ✓ Other: we have no information about it

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
  ✓ Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
    ✓ Initial or Continuous
      o Optional or Mandatory
- Other
**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties)

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
  - Other- the measures is absent

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

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1 Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by the Administrative Court of Armenia

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

✓ Fully waiving the court fees
  o Fully waiving the application of the loser pays principle
  o Applying a protective cost order
  o Fully waiving the recovery of costs incurred by public authorities
  o Fully waiving the bonds or other security for injunction relief
  o Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
  o Other (e.g. measures to reduce costs, etc.):

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

 o Access to legal aid services
 o Type of legal disputes covered (trial and non-trial matters)
 o Type of services covered
 o Criteria to apply for legal aid for natural persons
 o Criteria to apply for legal aid for NGOs
 o Providers
 o Procedural implications of being granted a legal aid
 o Established an environmental law (legal aid) clinic and its procedural status
 ✓ Other pro bono services (please indicate type and provider) – free legal services (including representation in the court) by the Public Defender’s Office to the people who can’t afford it
 o Public funds for litigation by natural persons and/or NGOs
 o Financial support to non-governmental organizations
 o Incentives to support crowdsourcing campaigns
 o Incentives to support charitable funding
 o Legal insurance
 o Other:

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

 o Established specialized courts or tribunals
 o Established specialized chambers within courts
 o Designation of judges specialising in environmental cases
 o Established specialized prosecutor offices
 o Established specialized departments within prosecutor offices
 o Designation of prosecutors specialising in environmental cases
 ✓ Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
   o Initial or Continuous
   o Optional or Mandatory
 o Other
**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g., judicial experts appointed by courts or experts contracted by parties)

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

Additional information received:

1. Fully waiving the court fees

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g., studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Law of the RA on State tax, Article 22, para. 1, point 13

"Plaintiffs are exempted from paying the state fee in the courts in the cases provided for in Chapter 29.3 of the Code of Administrative Procedure of the Republic of Armenia."

Chapter 29.3 of the Code of Administrative Procedure of the Republic of Armenia includes inter alia cases brought by ecological NGOs.

2. Free legal services (including representation in court) by the Public Defender`s Office to the people who can`t afford it

Law of the RA on Advocacy, Article 41

"1. Free legal aid provided in the cases provided for by this article is considered public protection.

2. Free legal assistance includes:

1) consultation in the preparation of claims, applications, complaints, and other procedural documents of a legal nature, including the provision of legal information;

2) representation or defense in criminal proceedings, civil, administrative, and constitutional cases.

(...)"

5. The Public Defender's Office ... provides the free legal assistance provided for in this article to the following persons:

(...)"

2) disabled people of the 1st and 2nd groups.

(...)"

4) family members with an insecurity score higher than 0, recorded in the family insecurity assessment system;

(...)"

6) the unemployed.

(...)"

11) insolvent natural persons who present reliable data confirming their insolvency. In the sense of this point, a natural person who does not have sufficient income, a member of a working family living together, and also does not own any other real estate or a vehicle with a value exceeding one thousand times the minimum wage as property is considered insolvent.

(...)"
4. Judicial experts appointed by courts or experts contracted by parties

**Code of Administrative Procedure of the Republic of Armenia, Article 37, para. 1**

"In order to clarify issues that require special knowledge arising during the examination of the case, the court may, upon the mediation of the party (parties) or on its own initiative, appoint an expert, which can be assigned either to a specialized expert institution or to an expert."

5. Temporary injunctive relief

**Code of Administrative Procedure of the Republic of Armenia, Article 83**

"1. Accepting the claim suspends the implementation of the contested administrative act, except

(...) 

5) cases when an administrative act favorable to the addressee of the administrative act is contested by a person who is not the addressee of the administrative act [such as a mining license] 

(...) 

2. At the request of the petitioner, the administrative court may, during the examination of the case, fully or partially suspend the execution of the administrative act in the cases provided by clauses ... 5 ... of part 1 of this article.

(...) 

4. The petition is granted if there is a reasonable doubt that the execution of the administrative act will cause significant damage to the petitioner or will make it impossible to protect his rights.

(...)
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by “Armenian Forests” Environmental NGO

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- X Other (e.g. measures to reduce costs, etc.): No measure to reduce or waiving court fees. We pay common fees, like for other cases

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- X Other: No measures to facilitate access to legal aid and other assistance, There are some restrictions s to apply to the court for NGO

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- X Other No measures are taken to promote specialization and training of members of judiciary and other legal professionals in environmental law
Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- X Other (e.g. judicial experts appointed by courts or experts contracted by parties): No

Question 5: Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)¹
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- X Other: No measures. We have the environmental case, which is in the first instance court since 2015

Question 6: Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- X E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

Question 7: Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- X Other forms of dispute resolution: No

¹ Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by „Dalma-Sona” Human Rights, Educational-Cultural, Social-Environmental FUND/NGO

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.): NOTING WAS TAKEN!

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdfunding campaigns
- Incentives to support charitable funding
- Legal insurance
- Other: NOTING WAS TAKEN!

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):
  - NONE OF THE MENTIONED WAS IMPLEMENTED.

Question 5: Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other - NOTING WAS TAKEN!

Question 6: Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

- Except of the point “E-access to environment-related standards and legislation”, by other points nothing else can support access to justice in environmental cases.

Question 7: Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law

\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
- Other forms of dispute resolution

NONE!
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by Bulgaria

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:
Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties)

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

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1 Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Code of Administrative Procedure


Text in Bulgarian: Административнопроцесуален кодекс

**TITLE ONE**

**GENERAL PROVISIONS**

**Chapter One**

**SUBJECT MATTER, SCOPE AND APPLICATION**

Subject Matter

**Article 1.** This Code shall regulate:
1. the issuance, contestation and enforcement of administrative acts, as well as the judicial contestation of statutory instruments of secondary legislation;
2. the consideration and addressing of alerts and proposals by individuals and organizations;
3. (supplemented, SG No. 94/2019) the proceedings for compensation for detriment resulting from unlawful acts, actions or omissions by administrative authorities and officials, as well as for damage caused by the administration of justice by the administrative courts and the Supreme Administrative Court;
4. the examination of requests to obligate an administrative authority to perform or to refrain from performing a specific action;
5. the activity concerning the standardization of administrative case law;
6. the enforcement of administrative acts and of judicial acts in administrative cases;
7. (new, SG No. 27/2014, effective 25.03.2014) the provision of integrated administrative services;
8. (new, SG No. 74/2016) settlements and administrative contracts.

Territorial Scope and Applicability

**Article 2.** (1) This Code shall apply to administrative proceedings before all authorities of the Republic of Bulgaria, save insofar as otherwise established by a law.
(2) The provisions of this Code shall not apply to any acts:
1. of the National Assembly and of the President of the Republic;
2. whereby a right to initiate legislation is exercised;
3. whereby rights or obligations are created for any authorities or organizations subordinated to the authority which has issued the act, except where rights, freedoms or legitimate interests of individuals or legal persons are affected thereby.

Personal Applicability

Article 3. This Code shall apply to any foreigners who reside in the Republic of Bulgaria or who are participants in an administrative proceeding before a Bulgarian authority outside the Republic of Bulgaria, insofar as the Constitution and the laws do not require Bulgarian citizenship.

Chapter Two
MAIN PRINCIPLES

Legality

Article 4. (1) The administrative authorities shall act within the limits of the powers vested therein as established by the law.
(2) Administrative acts shall be issued for the purposes, on the grounds, and according to the procedure established by the law.
(3) The parties subject to the administrative process shall be obligated to exercise the rights and freedoms thereof without inflicting detriment on the State and the public and without affecting the rights, freedoms and legitimate interests of other parties.

Prevalence of Higher-Tier Statutory Instrument

Article 5. (1) Where any decree, regulations, ordinance, instruction or another statutory instrument of secondary legislation is in conflict with a higher-tier statutory instrument, the higher-tier instrument shall prevail.
(2) Where any law or statutory instrument of secondary legislation is in conflict with an international treaty, which has been ratified according to a procedure established by the Constitution, which has been promulgated, and which has entered into force for the Republic of Bulgaria, the international treaty shall prevail.

Proportionality

Article 6. (1) The administrative authorities shall exercise the powers vested therein reasonably, in good faith, and fairly.
(2) An administrative act and the enforcement thereof may not affect any rights and legitimate interests to a greater extent than the minimum necessary for the purpose for which the act is issued.
(3) Where an administrative act affects any rights or creates any obligations for individuals or for organizations, the measures which are more favourable to the said individuals or organizations shall applied if the purpose of the law can likewise be achieved in this manner.
(4) Should there be two or more legally conforming possibilities, the authority, in compliance with Paragraph (1), (2) and (3), shall be obligated to choose the possibility which is most economically feasible and is most favourable to the State and the public.
(5) The administrative authorities must refrain from any acts and actions which may inflict detriment manifestly disproportionate to the object pursued.
Truthfulness

**Article 7.** (1) Administrative acts shall be based on the actual facts relevant to the case. 
(2) All facts and arguments relevant to the case shall be subject to assessment. 
(3) The truth about the facts shall be established according to the procedure and by the means provided for in this Code.

Equality

**Article 8.** (1) All parties concerned with the outcome of the proceedings under this Code shall enjoy equal procedural opportunities to participate in the said proceedings for the defence of the rights and legitimate interests thereof. 
(2) Within the limits of operational autonomy, similar cases shall be treated equally under equal conditions.

Ex Officio Principle

**Article 9.** (1) Under the terms specified in the law, the administrative authority shall be obligated to initiate, to conduct and to conclude the administrative proceeding, save where the said authority is vested with a discretionary power to issue or not to issue the act. 
(2) The administrative authority shall collect all evidence necessary even where the parties concerned have not made such a request. 
(3) The court shall instruct the parties that they do no adduce evidence of certain circumstances relevant to adjudication in the case. 
(4) The administrative authority and the court shall cooperate procedurally with the parties for a legally conforming and fair resolution of the issue which is the subject of the proceeding, including a settlement.

Independence and Impartiality

**Article 10.** (1) The administrative authority shall carry out the proceeding independently. A superior authority may not order an inferior authority to surrender thereto an issue within the competence of the inferior authority for settlement unless this is provided for by law. 
(2) An official, who is interested in the outcome of a proceeding or who has relations with any of the parties concerned giving rise to reasonable doubts as to the impartiality of the said official, may not participate in the proceeding. In such case, the said official may be recused either on his or her own initiative or at a request by some of the parties concerned.

Celerity and Procedural Economy

**Article 11.** Procedural actions shall be performed within the time limits established by the law, and within the shortest time necessary according to the specific circumstances and the purpose of the action or of the administrative act.

Accessibility, Public Openness and Transparency

**Article 12.** (1) The authorities shall be obligated to ensure public openness, reliability and comprehensive coverage of the information in administrative proceedings. 
(2) The parties shall exercise the right thereof to access to the information in the proceeding according to the procedure established by this Code, and the rest of the parties shall exercise the said right according to the procedure established by the Access to Public Information Act.
(3) No stamp duties shall be collected and no court costs shall be paid on any proceedings under this Code, unless so provided for therein or in another law, as well as in the cases of a judicial appeal against administrative acts and upon bringing a legal action under this Code.

Consistency and Predictability

Article 13. The administrative authorities shall disclose publicly in due time the criteria, the internal rules and the established practice in the exercise of the operational autonomy thereof for application of the law and achievement of the purposes thereof.

Integrated Administrative Services


Language

Article 14. (1) The proceedings under this Code shall be conducted in the Bulgarian language.
(2) (Supplemented, SG No. 98/2020) Persons who do not have command of the Bulgarian language can make use of their native or another language. An interpreter shall be appointed in this case. Interpretation may be performed by videoconference.
(3) Any documents presented in a foreign language must be accompanied by an accurate translation into the Bulgarian language. If the competent authority is unable itself to verify the accuracy of the translation, the said authority shall appoint a translator for the account of the party concerned, unless a law or an international treaty provides otherwise.
(4) The costs of translation shall be borne by the person who has no command of the Bulgarian language if the administrative proceeding was initiated at the request thereof, unless a law or an international treaty provides otherwise.
(5) (Supplemented, SG No. 98/2020, amended, SG No. 9/2021, effective 6.02.2021) Where a party or another participant in the proceeding is deaf-mute, deaf, mute or blind, an interpreter in Bulgarian sign language shall be appointed at the request of the said party or if the procedural actions would otherwise be impeded or become impossible to perform. The rule under Paragraph 2, sentence three shall also apply to the interpreter in Bulgarian sign language.

Chapter Nine
GENERAL PROVISIONS

Initiation of Proceedings

Article 126. Court proceedings shall be initiated on a motion by a person concerned or by the prosecutor in the cases specified in this Code or in another law.

Denial of Justice Prohibited

Article 127. (1) The courts shall be obligated to consider and adjudicate, within a reasonable time, in each motion submitted thereto.
(2) The court may not deny justice under the pretext that there is no legal standard on the basis of which they can adjudicate in the motion.

Jurisdiction
Article 128. (1) The administrative courts shall have jurisdiction over all cases on motions for:
1. (supplemented, SG No. 74/2016) issuance, modification, revocation or declaration of nullity of administrative acts and administrative contracts;
2. declaration of nullity or voidance of settlements under this Code;
3. (new, SG No. 74/2016) execution of an administrative contract, unless otherwise stated in a special law;
4. (renumbered from Item 3, SG No. 74/2016) remedies against unwarranted actions and omissions by the administration;
5. (renumbered from Item 4, SG No. 74/2016) protection against wrongful coercive enforcement;
6. (renumbered from Item 5, SG No. 74/2016, supplemented, SG No. 94/2019) compensation for detriment resulting from legally non-conforming acts, actions and omissions by administrative authorities and officials, as well as for damage caused by the administration of justice by the administrative courts and the Supreme Administrative Court;
7. (renumbered from Item 6, SG No. 74/2016) compensation for detriment resulting from coercive enforcement;
8. (renumbered from Item 7, SG No. 74/2016) declaration of nullity, invalidation or reversal of judgments rendered by the administrative courts;
9. (renumbered from Item 8, SG No. 74/2016) establishment of the falsity of administrative acts under this Code.

(2) Everyone can bring a legal action for ascertainment of the existence or non-existence of an administrative right or legal relation, where he or she has standing and no other remedial procedure is available thereto.

(3) Any administrative acts, whereby the national foreign policy, defence and security are immediately implemented, shall not be subject to judicial appeal, save as otherwise provided for in a law.

Legal actions to declare the nullity of judgements and rulings issued by the administrative courts and the Supreme Administrative Court

Article 128a. (New, SG No. 77/2018, effective 1.01.2019) (1) The legal actions to declare the nullity of judgements and rulings which bar the further progress of the proceeding and which were issued by the administrative courts or the Supreme Administrative Court may be submitted indefinitely.

(2) The legal actions shall be submitted to the relevant administrative court.

(3) The judgment of the administrative court shall be subject to appeal.

Joinder of Appeals

Article 129. (1) If the legal conformity of an administrative act or of a refusal to issue an administrative act has been contested simultaneously before a superior administrative authority and before a court, the appeals shall be joined into a single proceeding under the jurisdiction of the court.

(2) The rule under Paragraph (1) shall not apply where the expediency of the administrative act has been contested by the appeal before the superior administrative authority. In such case, if a court proceeding has been instituted as well, the said proceeding shall be suspended until pronouncement by the superior administrative authority.

Jurisdiction Disputes

Article 130. (1) The administrative court shall have discretion to determine whether the case instituted is entertainable thereby or by another authority outside the court system.

(2) No other authority shall have the right to admit for consideration a case which is already being examined by the court.
(3) The question as to whether a case instituted is entertainable by the administrative court or by another authority outside the court system may be raised during any stage of the proceeding and ex officio by the court.

(4) Should the court find that the case is outside its jurisdiction, the court shall transmit the case to the competent authority. The order or ruling shall be contestable by an interlocutory appeal by the parties and by the authority whereto the case has been transmitted.

Proceedings in Two Instances

**Article 131.** Court proceedings under this Code shall be conducted in two instances, save as otherwise established in the said Code or in another law.

Cognizance Ratione Materiae

**Article 132.** (1) The administrative courts shall take cognizance of all administrative cases with the exception of such cognizable in the Supreme Administrative Court.

(2) The following shall be cognizable in the Supreme Administrative Court:
1. the contestations of the statutory instruments of secondary legislation, except such issued by the municipal councils;
2. (supplemented, SG No. 77/2018, effective 1.01.2019) the contestations of acts of the Council of Ministers, the Prime minister, the Deputy Prime Ministers and the government ministers issued in the exercise of their constitutional powers for management and state governance; in the cases envisaged by the law, as well as where these bodies delegated their powers to specific officials, the administrative acts issued by them shall be contested before the relevant administrative court;
3. the contestations of decisions of the Supreme Judicial Council;
4. the contestations of acts of the bodies of the Bulgarian National Bank;
5. cassation appeals and protests against first-instance judgments of court;
6. interlocutory appeals against rulings and orders;
7. motions for reversal of effective judicial acts on administrative cases;
8. the contestations of other acts specified in a law.

Cognizance Ratione Loci

**Article 133.** (Amended, SG No. 104/2013, effective 4.01.2014) (1) (Amended, SG No. 77/2018, effective 1.01.2019) The cases on contestation of individual administrative acts are examined by the administrative court at the permanent address or the seat of the addressee specified in the act, respectively addressees. Where the referred in the act addressee does not have a permanent address or domicile abroad, the disputes are examined by the Administrative Court of the City of Sofia.

(2) (Amended, SG No. 77/2018, effective 1.01.2019) Where the act has more than one addressee and these have different permanent addresses or seats, but within the same geographical jurisdiction, the proceedings under Paragraph 1 shall be heard by the administrative court in the area of the regional structure of the administration of the authority which issued the act. In any other cases, the cases are heard by the administrative court in the area where the authority has its seat.

(3) Proceedings on contestation of general administrative acts shall be heard by the administrative court at the seat of the authority that issued the contested act.

(4) Proceedings under Paragraphs (1) - (3) shall be heard by Sofia City Administrative Court in cases where the seat of the issuing authority is located abroad.

(5) Legal actions for compensation shall be brought before the court at the address or seat of the appellant also in cases where they are adjoined with a contestation under Paragraphs (1) - (4).
Compulsory Cognizance

Article 134. (1) The cognizance determined by the law may not be altered by agreement between the persons participating in the case.
(2) An objection to the territorial cognizance of the court may be lodged not later than at the first hearing before the court of first instance. Simultaneously with the lodging of the opposition, the party shall be obligated to present the evidence thereof.

Cognizance Disputes

Article 135. (1) Each court shall have discretion to determine whether a case brought before it is cognizable therein.
(2) If the court determines that the case is not cognizable therein, the court shall transmit the said case to the competent court. In such case, the case shall be considered pending before that court as from the day of submission of the petition to the non-competent court, and the steps performed by the latter shall retain the validity thereof.
(3) (New, SG No. 15/2021) Any cognizance disputes between the regional courts hearing an administrative case shall be settled by the respective common superior administrative court. If the said courts are located within the geographical jurisdictions of different superior administrative courts, the dispute shall be resolved by the superior administrative court within whose geographical jurisdiction the court which last accepted or refused to examine the case is located.
(4) (Renumbered from Paragraph (3), SG No. 15/2021) Any cognizance disputes between administrative courts shall be settled by the Supreme Administrative Court or, should a three-judge panel of the Supreme Administrative Court be party to any such dispute, by a five-judge panel of the said Court.
(5) (Renumbered from Paragraph (4), SG No. 15/2021) Any cognizance disputes between the ordinary and the administrative courts shall be settled by a panel consisting of three representatives of the Supreme Court of Cassation and two representatives of the Supreme Administrative Court.
(6) (Renumbered from Paragraph 5, amended, SG No. 15/2021) If the court whereto the case has been transmitted finds that the said case is not cognizable therein, the said court shall transmit the said case to the court referred to in Paragraph (3), (4) or (5) as the case may be, for determination of cognizance.
(7) (Renumbered from Paragraph 6, amended, SG No. 15/2021) Where the court whereto the case has been transmitted according to the procedure established by Paragraph (2) finds that the said case is cognizable in a third court, the said court shall transmit the said case to the court or panel referred to in Paragraph (3), (4) or (5), depending on the position of the third court, for determination of cognizance.
(8) (Renumbered from Paragraph (7), SG No. 15/2021) Any rulings rendered on cognizance disputes shall be unappealable.

Compulsory Representation

Article 136. (1) Where more than ten persons with identical interests, who are not represented by an authorized representative, participate in the case, the court may obligate the said person to name, within a reasonable time limit, a joint authorized representative from amongst
themselves. If the said persons fail to name such an authorized representative, the court, acting on its own initiative, shall appoint a joint legal counsel to represent the said persons in the court proceedings. (2) The procedural actions of the party shall take precedence of the procedural actions of the joint authorized representative or legal counsel. (3) The representative authority of the joint legal counsel appointed by the court shall be terminated by a declaration of the person represented by the said counsel after lapse of the prerequisites under Paragraph (1). (4) The costs on the joint legal counsel shall be incurred by the administrative authority in proportion to the granted part of the contestation.

Communications
(Title amended, SG No. 77/2018, effective 10.10.2019)

**Article 137.** (Amended, SG No. 77/2018, effective 10.10.2019) (1) The notices shall be served on a citizen at the address to which he was last summoned in the proceedings before the administrative body, unless in the case he indicated another address. When in the proceedings before the administrative body the citizen has provided the information under Article 18a, Paragraph 4, the notices shall be served under this procedure, unless otherwise indicated in the case. When the citizen has not participated in the proceedings before the administrative body or has not indicated the information under Article 18a, Paragraph 4, the notices shall be delivered to his current address, and in the absence of such - to his permanent address. (2) The notices to the administrative bodies, the judicial authorities, the persons performing public functions and the organizations providing public services, the organizations and the lawyers shall be served to the e-mail address indicated in the proceedings before the administrative body, unless in the case they indicate another e-mail address. If they have not participated in the proceedings before the administrative body, they must indicate an e-mail address according to theElectronic Government Act or an e-mail address according to Article 360f, Paragraph 1, item 7 of the Judicial System Act, to which electronic statements may be sent by the judicial authorities. (3) (New, SG No. 15/2021) Where service is effected by electronic means, the communication containing information needed to retrieve the summons, the communication or the papers shall be deemed to have been served on the day on which the said communication is retrieved by the addressee. In case the communication is not retrieved within seven days from the dispatch thereof, the said communication shall be deemed to have been served on the first day after the expiry of the time limit for retrieval. (4) (Renumbered from Paragraph (3), SG No. 15/2021) Where parties to the proceeding are represented by a joint authorized representative or legal counsel, communications shall be effected through him or her. (5) (Renumbered from Paragraph (4), SG No. 15/2021) Except in the cases referred to in Paragraphs 1 to 3, communications shall be delivered in accordance with the procedure established by Article 18a, Paragraphs 7 to 9. (6) (Renumbered from Paragraph (5), SG No. 15/2021) When the notification cannot be made due to the fact that the party or the person to be summoned has an unknown address, the notice shall be placed on the notice board or shall be published on the website of the court for a period not shorter than 7 days. When the party is summoned by placing the notice under Article 18a, Paragraph 9, as well as under sentence one, after establishing the regularity of the notice made in this way, the court shall order the notice to be attached to the case and shall appoint a special representative at the expense of the appellant. The remuneration of the ad hoc representative shall be determined by the court considering the factual and legal complexity of the case, whereupon the amount of the remuneration may be less
than the minimum amount for the type of work concerned according to Article 36 (2) of the Bar Act but not less than one half of the said amount.

Service of summons, judicial acts and case-related papers
(Title amended, SG No. 77/2018, effective 10.10.2019)

**Article 138.** (Amended, SG No. 77/2018, effective 10.10.2019) (1) Summons shall be served in accordance with the procedure established by Article 137.
(2) The parties who have been duly summoned shall not be sent succeeding summonses, unless the case has been adjourned in camera or the further progress of the said case has been barred.
(3) Save insofar as otherwise provided for in this Code, the judicial acts or papers related to the case shall be communicated to the parties by means of dispatch of transcripts according to the procedure established by Article 137 herein.

Adjournment of Case

**Article 139.** (1) The court shall adjourn the case if a party and the authorized representative thereof are unable to appear owing to an obstacle that the party cannot remove. In such cases, the next hearing shall be scheduled within three months.
(2) Upon a second motion by the same party, the case may be adjourned, by way of exception, solely on different grounds if, considering all circumstances, the court determines that this right is not abused.

Extension of Time Limits for Appeal upon Non-conforming Communication

**Article 140.** (1) Where the administrative act or the communication on the issuance thereof does not specify the authority and the time limit for lodgment of an appeal, the relevant time limit for appeal under this Section shall be extended by two months.
(2) Where the administrative act or the communication on the issuance thereof erroneously states that the said act is unappealable, the time limits for lodgment of an appeal under this Section shall be extended by six months.

Presentation of Electronic Documents


Assessment of Conformity with Substantive Law

**Article 142.** (1) The conformity of an administrative act with the substantive law shall be assessed at the time of issuance of the said act.
(2) The ascertainment of new facts relevant to the case after the issuance of the act shall be assessed at the time the parties rest the oral arguments thereof.

Publication of Memoranda

**Article 142a.** (New, SG No. 77/2018, effective 1.01.2019) The memorandum of a public court hearing shall be published in the Internet site of the court within 14 days of the hearing.

Performance of procedural steps
Article 142b. (New, SG No. 15/2021) (1) The court, acting ex officio, shall see to the due performance of procedural steps. The court shall instruct the party as to the nature of the non-conformity of the procedural step performed thereby and to the manner in which the said non-conformity can be cured, and shall set a time limit for the curing. The cured procedural step shall be considered conforming as from the time of performance thereof. The parties shall perform procedural steps orally during a court hearing and in the rest of the cases in written form.

(3) A procedural step containing obscene words, insults or threats shall be deemed non-performed.

Liability for Costs

Article 143. (1) Where the court revokes the appealed administrative act or refusal to issue an administrative act, the stamp duties, the court costs and the fee for one lawyer, if the appellant had retained a lawyer, shall be reimbursed from the budget of the authority which issued the revoked act or refusal.

(2) The appellant shall furthermore be entitled to be awarded costs under Paragraph (1) upon dismissal of the case by reason of a withdrawal of the administrative act contested thereby.

(3) (Amended, SG No. 15/2021) When the court rejects the contestation or suspend the proceeding, the respondent shall be entitled to costs, with exception of the cases where his behavior has given rise to a proceeding, including legal adviser remuneration stipulated according to Article 37 of the Legal Aid Act.

(4) (Amended, SG No. 15/2021) When the court rejects the contestation or suspend the proceeding the interested parties for which the act is favourable shall also be entitled to costs.

Fine for Breaches upon Examination of Case

Article 143a. (New, SG No. 15/2021) The hearing shall be chaired by the presiding judge, who may impose fines for:
1. disorderly behaviour during a court hearing;
2. disobedience of the orders of the court;
3. use of obscene words, insults and threats addressed to the court, administrative personnel and the parties in the court proceedings.

Subsidiary Application of Civil Procedure Code


Reference for preliminary rulings in criminal matters

Article 144a. (New, SG No. 63/2017, effective 5.11.2017) Where the validity of an instrument or the interpretation of European Union law in the field of police and judicial cooperation in criminal matters, or the ruling on the validity and interpretation of measures implementing such instrument are relevant to the proper outcome of a case, the court before which the case is pending shall make a reference for a preliminary ruling to the Court of Justice of the European Union under Chapter Thirty-Seven of the Criminal Procedure Code.

Chapter Ten
FIRST-INSTANCE CONTESTATION OF ADMINISTRATIVE ACTS
Section I
Contestation of Individual Administrative Acts

Subject of Contestation

**Article 145.** (1) Administrative acts may be contested before the court in respect of the legal conformity of the said acts.
(2) The following shall be subject to contestation:
1. the original individual administrative act, including the refusal to issue such an act;
2. (amended, SG No. 39/2011) the decision of the superior administrative authority amending the act referred to in Item 1, or revoking it and ruling on the substance of the matter;
3. the decisions on requests to issue documents relevant to the recognition, exercise or extinguishment of rights or obligations.
(3) Administrative acts may be contested in whole or in separate parts thereof.

Grounds for Contestation

**Article 146.** Administrative acts may be contested on the following grounds:
1. lack of competence;
2. non-compliance with the established form;
3. material breach of administrative procedure rules;
4. conflict with provisions of substantive law;
5. non-conformity with the purpose of the law.

Right to Contest

**Article 147.** (1) The right to contest an administrative act shall vest in the individuals and organizations whereof the rights, freedoms or legitimate interests are violated or jeopardized by the said act or in respect of whom the said act gives rise to obligations.
(2) The prosecutor may lodge a protest against the act in the cases covered under Article 16 herein.

Electivity of Procedure for Contestation

**Article 148.** An administrative act may be contested before the court even if the possibility for administrative contestation of the said act has not been exhausted, unless otherwise provided for in this Code or in a special law.

Time Limits for Contestation

**Article 149.** (1) Administrative acts shall be contestable within fourteen days after the communication thereof.
(2) A tacit refusal or a tacit consent shall be contestable within one month after the expiry of the time limit wherewithin the administrative authority was obligated to pronounce.
(3) Where the act, the tacit refusal or the tacit consent have been contested according to an administrative procedure, the time limit referred to in Paragraph (1) or in Paragraph (2), as the case may be, shall begin to run as from the communication that the superior administrative authority has rendered a decision and, if the said authority has not pronounced, as from the latest date on which the said authority should have pronounced.
(4) Where a prosecutor has not participated in the administrative proceeding, the said prosecutor may contest the act within one month after the issuance thereof.
(5) No time limitation shall apply to the contestability of administrative acts by a motion to declare the nullity thereof.

Form and Content of Appeal and Protest

Article 150. (1) An appeal and a protest shall be lodged in writing and must state:
1. specification of the court;
2. the forename, patronymic and surname, telephone number, telefax number and electronic mail address, if available - applicable to Bulgarian citizens or, respectively, the name and position of the prosecutor, the telephone number, telefax number or telex number, if available;
3. the full name and address, the personal number - applicable to a foreigner, and the address declared to the relevant administration, telephone number, telefax number and electronic mail address, if available;
4. the business name of the merchant or the designation of the legal person, written in the Bulgarian language as well, the registered office and the address of the place of management as last named in the relevant register, and the electronic mail address thereof;
5. indication of the administrative act which is contested;
6. specification of the legal non-conformity of the act;
7. essence of the request;
8. signature of the person who lodges the appeal or protest.
(2) In the appeal or protest, the contestant shall be obligated to specify the evidence which the contestant wants to be collected and to present the written evidence in the possession thereof.
(3) (New, SG No. 15/2021) The appeal cannot contain obscene words, insults or threats.

Attachments

Article 151. The following shall be attached to the appeal or protest:
1. certificate of the existence and representation of an appellant organization;
2. power of attorney, where the appeal is lodged by an authorized representative;
3. documentary proof of stamp duty paid, where such is due;
4. transcripts of the appeal or protest, of the written evidence and of the attachments according to the number of the rest of the parties.

Lodgment of Appeal and Protest

Article 152. (1) The appeal or protest shall be lodged through the agency of the authority which issued the contested act.
(2) Within three days after the expiry of the time limits for contestation by the rest of the persons, the authority shall transmit the appeal or protest, together with a certified copy of the entire case file on the issuance of the act, to the court, notifying the submitter of the said transmittal.
(3) The authority shall be obligated to attach to the case file a list of the parties to the proceeding for the issuance of the administrative act, stating the addresses at which the said parties were last summoned.
(4) If the authority fails to fulfil the obligations thereof under Paragraphs (1) to (3), the court, acting on its own initiative, shall have the case file delivered on the basis of a copy of the appeal or protest.

Parties

Article 153. (1) The contestant, the authority which issued the administrative act, as well as all persons concerned, shall be parties to the case.
(2) Should the authority be closed down after the issuance of the administrative act without identifying a legal successor to the said authority, the authority empowered with the competence to issue the same acts shall be a party to the case.

(3) Should the administrative authority be deprived of competence in the matter, the court shall strike the said authority and, acting on its own initiative, shall constitute a competent authority as a party to the case.

(4) The ruling under Paragraph (3) shall be contestable by an interlocutory appeal.

Constituting the Parties

**Article 154.** (1) The court shall constitute the parties, acting on its own initiative.

(2) Where the administrative authority has failed to fulfil the obligation thereof under Article 152 (3) herein, the court shall set a time limit for the fulfilment of the said obligation.

Withdrawal and Abandonment of Contestation

**Article 155.** (1) During any stage of the proceeding, the contestant may withdraw the contestation or abandon the contestation in whole or in part.

(2) A motion to declare nullity may be withdrawn without the consent of the respondents to the appeal before the close of the first hearing of the case.

(3) A withdrawal and an abandonment of the contestation outside a court hearing shall be effected by means of a written application.

(4) Any advance waiver of the right to contest shall be void.

Withdrawal of Contested Act

**Article 156.** (1) (Supplemented, SG No. 77/2018, effective 1.01.2019) At any stage of the proceeding, with the consent of the other respondents and of the parties concerned for whom or which the contested act is favourable, the administrative authority may withdraw the contested act in whole or in part or may issue the act which the said authority has refused to issue.

(2) The consent of the contestant as well shall have to be obtained for a withdrawal of the act after the first hearing of the case.

(3) The withdrawn act may be re-issued solely under new circumstances.

(4) Where a legal action for compensation has been joined with the contestation, the proceeding on the said action shall continue.

Institution and Scheduling of Case

**Article 157.** (1) (Supplemented, SG No. 77/2018, effective 1.01.2019) The president of the court, a vice president or the head of the department shall institute the administrative case, which shall be delivered to a rapporteur judge. The rapporteur judge, respectively the head of department at the Supreme Administrative Court, shall schedule the case within a period that may not exceed two months after the receipt of the appeal at the court. This period shall be suspended during judicial vacations, unless shorter timeframes are provided for in this Code or in a special law.

(2) The rapporteur judge shall be designated depending on the order of receipt of the contestations at the court through an electronic distribution or in another manner of random case distribution, specified in internal rules adopted by the relevant court and publicly announced.

Verification of Conformity of Appeal and Protest

**Article 158.** (1) (Amended, SG No. 77/2018, effective 1.01.2019, supplemented, SG No. 15/2021) Where the appeal or protest does not conform to the requirements of Article 150 (1) and (3) and Article 151 herein, the rapporteur judge, respectively the head of department at the Supreme
Administrative Court, shall leave said appeal or protest without progress, sending a communication to the contestant requesting them to cure the non-conformities within seven days.

(2) Where the addresses of the contestant and of the representative thereof are not named, the communication referred to in Paragraph (1) shall be effected by means of posting a notice at the place designated for this purpose at the court in the course of seven days.

(3) (Supplemented, SG No. 77/2018, effective 1.01.2019) In case the non-conformities are not cured within the time limit referred to in Paragraph (1), the appeal or protest shall be left without examination by an order of the rapporteur judge, respectively of the head of department at the Supreme Administrative Court. Where the non-conformities are detected while the proceeding is in progress, the court shall dismiss the case.

(4) The cured contestation shall be considered conforming as from the day of the submission thereof.

Verification of Admissibility of Appeal and Protest

Article 159. The appeal or protest shall be left without examination and, if a court proceeding has been instituted, it shall be terminated where:
1. the act is incontestable;
2. the contestant lacks legal personality;
3. the contested administrative act has been withdrawn;
4. the contestant has no standing to contest;
5. the contestation is overdue;
6. there is an effective judgment of court on the contestation;
7. a case has been instituted before the identical court, between the identical parties, and on identical grounds;
8. the contestation is withdrawn or abandoned.

Contestation of Act on Admissibility of Appeal and Protest

Article 160. (1) The order whereby the appeal or protest is left without examination, or the ruling whereby the case is dismissed, shall be contestable by an interlocutory appeal. A transcript of any such appeal shall not be presented if the order was rendered prior to the service of a transcript of the contestation.

(2) (Amended, SG No. 39/2011) Interlocutory appeals shall be examined in camera, unless the court finds it appropriate to review such appeals in a public hearing.

Resumption of Time Limit for Appeal

Article 161. (1) Within seven days after the communication that the appeal has been left without examination, a resumption of the time limit may be motioned if non-compliance with the said time limit is due to special unforeseen circumstances or to behaviour of the administration that misled the appellant. Alternatively, any such motion may be submitted with the appeal.

(2) A motion for resumption of the time limit shall cite all evidence supporting the grounds under Paragraph (1).

(3) The ruling whereby the motion referred to in Paragraph (1) is rejected shall be contestable by an interlocutory appeal. The ruling whereby the motion referred to in Paragraph (1) is granted shall be appealed together with the judgment on the case.

Communication of Act by Court

Article 162. (1) Where the administrative act has not been communicated to all persons affected, the court shall transmit a communication to the said persons and shall continue the court proceeding on the appeal, affording the said persons a possibility to defend the interests thereof.
(2) Where the contested act is favourable to the persons referred to in Paragraph (1), the court, acting on its own initiative, shall constitute the said persons as parties and shall adjourn the case if necessary.
(3) Where any appeals from the persons referred to in Paragraph (1) are received as well prior to the commencement of the oral arguments, the appeals shall be joined into a single proceeding for the rendition of a common judgment.

Service of Appeal and Protest Transcripts and Response Thereto

Article 163. (1) If the appeal or protest is admissible, the rapporteur judge shall order the transmittal of transcripts thereof to the parties.
(2) Within fourteen days after receipt of the transcript, each of the parties may present a written response and adduce evidence. The written evidence in the possession of the parties shall be attached to the response.
(3) Where collection of further evidence, other than such contained in the case file, is necessary for clarification of the legal dispute, the rapporteur judge shall instruct the relevant party on the need to collect such evidence.

Administrative Court Panel

Article 164. The administrative court shall examine the case sitting in a panel of a single judge.

Supreme Administrative Court Panel

Article 165. The Supreme Administrative Court shall examine the case sitting in a panel of three judges.

Stay of Enforcement of Administrative Act

Article 166. (1) A contestation shall stay the enforcement of the administrative act.
(2) (Amended and supplemented, SG No. 39/2011) During any stage of the proceeding until the entry into effect of the judgment, acting on a motion by the contestant, the court may stay the anticipatory enforcement admitted by an effective direction of the authority which has issued the act under Article 60(1) if the said enforcement could inflict a significant or irreparable detriment on the contestant. The enforcement may be stayed solely on the basis of new circumstances.
(3) (Amended, SG No. 39/2011) The motion referred to in Paragraph (2) shall be examined in camera. The court shall immediately render a ruling, which shall be contestable by an interlocutory appeal within seven days after the announcement of the ruling.
(4) (New, SG No. 39/2011) When no explicit prohibition of judicial review is stipulated, any anticipatory enforcement which has been allowed in respect of an administrative act on the grounds of a given law may be stayed by the court under the conditions laid down in Article 2, upon the request of the contestant.

Admission of Anticipatory Enforcement by Court

Article 167. (1) During any stage of the proceeding, the court may admit anticipatory enforcement of the administrative act under the terms whereunder the said enforcement can be admitted by the administrative authority.
(2) Where anticipatory enforcement could inflict a significant or irreparable detriment, the court may admit such enforcement subject to the condition of a payment of a security deposit at an amount set by the court.
(3) The ruling on the motion shall be appealable within three days after the communication thereof. If anticipatory enforcement is reversed, the status quo ante the enforcement shall be restored.
Subject of Court Verification

**Article 168.** (1) The court shall not limit itself to consideration of the grounds stated by the contestant but shall be obligated, proceeding from the evidence presented by the parties, to verify the legal conformity of the contested administrative act of all grounds covered under Article 146 herein. (2) The court shall declare the nullity of the act even if the court has not been approached with a motion to do so. (3) Nullity may be declared even after the expiry of the time limit referred to in Article 149 (1) to (3) herein. (4) (New, SG No. 77/2018, effective 1.01.2019, repealed, SG No. 15/2021). (5) (New, SG No. 77/2018, effective 1.01.2019, repealed, SG No. 15/2021).

Judicial Review and Operational Autonomy

**Article 169.** Upon contestation of any administrative act issued in operational autonomy, the court shall verify whether the administrative authority possessed operational autonomy and whether the said authority complied with the requirement for legal conformity of administrative acts.

Onus of Proof

**Article 170.** (1) The administrative authority and the persons whereto the contested administrative act is favourable must establish the existence of grounds of fact specified in the said act and the fulfilment of the legal requirements upon the issuance thereof. (2) Where a refusal to issue an administrative act is contested, the contestant must establish that the conditions for the issuance of the said act have existed. (3) (New, SG No. 77/2018, effective 1.01.2019) The court shall be obliged to notify the parties of the apportionment of the burden of proof.

Evidence

**Article 171.** (1) The evidence duly collected in the proceeding before the administrative authority shall have force before the court as well. The court may question as witnesses the persons who have provided information to the administrative authority and the experts solely if the court finds it necessary to hear the said persons directly. (2) On a motion by the parties, the court may collect new evidence as well which are admissible under the Code of Civil Procedure. The court may also act on its own initiative when it appoints experts and orders inspection and certification. (3) (New, SG No. 98/2020) The court may hear a party and examine witnesses and experts by videoconference. (4) (Renumbered from Paragraph (3), SG No. 98/2020) The parties shall be obligated to cooperate for establishment of the truth. (5) (Renumbered from Paragraph (4), SG No. 98/2020) The court shall be obligated to cooperate with the parties for rectification of any errors in form and any ambiguities in the statements of the parties and to instruct the said parties that certain circumstances relevant to the case do not furnish evidence. (6) (Renumbered from Paragraph (5), SG No. 98/2020) The court shall pronounce on the motions for evidence in camera. Any such motions may furthermore be granted at the first hearing of the case, should the court find it necessary to hear also the oral explanations of the parties on the evidence adduced thereby.

Judgment on Case
**Article 172.** (1) The court shall render judgment within one month after the hearing whereat the examination of the case was completed.
(2) The court may declare the nullity of the contested administrative act, may revoke the said act in whole or in part, may modify the said act, or may reject the contestation.
(3) Where a tacit refusal or a tacit consent is revoked, an express refusal or an express consent succeeding prior to the judgment on revocation shall likewise be considered to be revoked.
(4) The judgment shall state the names of the parties, unless the judgment is effective erga omnes.

**Judgment: Content**

**Article 172a.** (New, SG No. 39/2011) (1) The judgement shall refer to:
1. the date and place of rendition;
2. the court; the names of the judge/s, the court secretary and the prosecutor, when the latter has been involved in the case;
3. the number of the case in which the judgment is rendered;
4. the reference number and the date of the administrative act and the name of the issuing authority;
5. the names or, respectively, the corporate name of the parties;
6. what the court decrees;
7. against whom the costs are awarded;
8. whether the judgment is appealable, before which court and within what time limit.
(2) In its judgement, the court shall present its reasons, specifying the positions upheld by the parties, the facts in the main proceedings and the legal conclusions of the court.
(3) The judgment shall be signed by all judges who have participated in the rendition thereof. Where any of the judges is unable to sign the judgment, the presiding judge or the senior judge shall note the reasons for this on the judgment.

**Powers or Court upon Nullity or Revocation of Administrative Act**

**Article 173.** (1) Where the matter does not lie within the discretion of the administrative authority, after declaring the nullity or revoking the administrative act, the court shall adjudicate in the case on the merits.
(2) Outside the cases referred to in Paragraph (1), as well as where the act is null by reason of lack of competence or if the nature of the said act precludes adjudication in the matter on the merits, the court shall transmit the case file to the relevant competent administrative authority with mandatory instructions on the interpretation and application of the law.
(3) In the event of a wrongful refusal to issue a document, the court shall order the administrative authority to issue the said document without giving instructions as to the content thereof.
(4) In the event of a refusal by a non-competent authority to issue an administrative act, the court shall declare the refusal null and shall transmit the case as a case file to the relevant competent authority.

**Setting Time Limit for Enforcement of Judgment of Court**

**Article 174.** (Supplemented, SG No. 77/2018, effective 19.11.2018) Upon obligating the authority to issue an administrative act or a document, the court shall furthermore set a time limit for the said issuance. In case of tacit refusal by the administrative authority, a transcript of the judgement of court shall be sent to the competent authorities referred to in Article 307.

**Correction of Apparent Error of Fact**

**Article 175.** (1) Acting on its own initiative or on a motion by a party, the court may correct any written errors, errors in calculations or other such apparent inexactitudes committed in the judgment.
(2) The judgment of the correction shall be rendered in camera and shall be appealable according to the procedure established by the judgment itself. Upon the entry thereof into effect, the said judgment shall be noted on the corrected judgment and the transcripts.

Rendition of Additional Judgment

**Article 176.** (1) Where the court has not pronounced on the entire contestation, the court, acting on its own initiative or on a motion by a party to the case submitted within one month, shall render an additional judgment.
(2) (Amended, SG No. 77/2018, effective 1.01.2019) The court shall send a communication to the opposing party regarding the amplification sought, instructing the said party to present an answer within 7 days. The request shall be examined in public session with the parties being summoned, where the court deems this necessary with a view to the circumstances in the dispute. The court shall render an additional judgment which shall be contestable according to the procedure established by the original judgment.

Effect of Judgment of Court

**Article 177.** (1) The judgment shall be effective inter partes. If the contested act is revoked or modified, the judgment shall be effective erga omnes.
(2) Any acts and actions performed by the administrative authority in contravention with an effective judgment of court shall be null. Each party concerned may always invoke the nullity or motion the court to declare it.
(3) A judgment whereby a contestation claiming revocation of an administrative act has been rejected shall be an impediment to the contestation of the said act claiming nullity, as well as to the contestation of the said act on other grounds.

Judicial Settlement

**Article 178.** (1) A judicial settlement may be reached during any stage of the proceeding under the conditions whereunder a settlement may be reached in the proceeding before the administrative authority, even if the said authority has refused to confirm the said settlement.
(2) All parties to the case shall mandatorily participate in the settlement.
(3) A refusal of the court to confirm a settlement shall be contestable by an interlocutory appeal lodged jointly by the parties to the said settlement.
(4) By the ruling conforming the settlement, the court shall invalidate the administrative act and shall dismiss the case.
(5) The ruling may be appealed solely by a party which did not participate in the settlement. Should any such settlement be revoked, examination of the case shall proceed.
(6) A confirmed settlement shall have the significance of an effective judgment of court.

Section II

Contestation of General Administrative Acts

Time Limits for Contestation

**Article 179.** General administrative acts shall be contestable within one month after the communication of the issuance thereof or within fourteen days after the separate communications to the persons who participated in the proceeding before the administrative authority.

Effect of Contestation
**Article 180.** (1) A contestation shall not stay the enforcement of the general administrative act.
(2) The court may stay enforcement on the grounds and according to the procedure established by Article 166 (2) and (3) herein.

**Communication of Contestation**

**Article 181.** (1) If the contestation conforms to the requirements, the court shall communicate the said contestation within one month by means of a notice inserted in the State Gazette, which shall specify the contested administrative act or part thereof and the number of the case instituted.
(2) A copy of the notice shall be posted at a place designated for this purposes at the court and on the Internet site of the Supreme Administrative Court.
(3) A ruling on suspension of the case shall likewise be communicated according to the procedure established by Paragraphs (1) and (2).
(4) (New, SG No. 77/2018, effective 1.01.2019) An effective ruling on suspension of the effect or the enforcement of the general administrative act shall be promulgated in the State Gazette.
(5) (New, SG No. 44/2020, effective 14.05.2020) The announcement under Paragraph (1) and the order under Paragraph (4) shall be promulgated in the following issue of State Gazette.

**Parties**

**Article 182.** (1) The contestant and the authority which issued the administrative act shall be parties to the case.
(2) (Amended, SG No. 59/2007) The parties whereto the contested act is favourable may join the case as parties alongside the administrative authority prior to the commencement of the oral arguments during any stage of the proceeding. Should any party which has joined after the first hearing cause adjournment of the case by a procedural action, the said party shall incur, regardless of the outcome of the case, the costs of the new hearing, of the collection of new evidence or of the re-collection of previously collected evidence, the costs incurred by the other party and of the authorized representative thereof on appearance in the case, as well as shall pay an additional stamp duty to the amount of one-third of the initially paid stamp duty but not less than BGN 100.
(3) Any person who or which has standing may join the contestation or join as a party alongside the administrative authority prior to the commencement of the oral arguments during any stage of the proceeding, without having the right to motion for repetition of procedural actions which have been performed. A transcript of the petition for joinder of the contestation or as a party shall be made available to the opposing parties.
(4) A ruling whereby a joinder is not admitted shall be contestable by an interlocutory appeal.

**Court Panel**

**Article 182a.** (New, SG No. 77/2018, effective 1.01.2019) The court shall examine the case in a three-judge panel.

**Effect of Judgment**

**Article 183.** A judgment whereby the contested act is declared null, is revoked or modified, shall be effective erga omnes.

**Subsidiary Application**

**Article 184.** (Amended, SG No. 77/2018, effective 1.01.2019) The provisions on contestation of individual administrative acts shall apply to any matters unregulated in this Section.
Section III
Contestation of Statutory Instruments of Secondary Legislation

Subject of Contestation

Article 185. (1) Any statutory instruments of secondary legislation shall be contestable before a court of law.
(2) Statutory instruments of secondary legislation may be contested in whole or in separate parts thereof.

Right to Dispute

Article 186. (1) The right to contest a statutory instrument of secondary legislation shall vest in the individuals, the organizations and the authorities whereof the rights, freedoms or legitimate interests are affected or may be affected by the said instrument or in respect of whom the said instrument gives rise to obligations.
(2) The prosecutor may lodge a protest against the instrument.

Contestability Sine Die

Article 187. (1) No time limitation shall apply to the contestability of statutory instruments of secondary legislation.
(2) A successive contestation of a statutory instrument of secondary legislation on identical grounds shall be inadmissible.

Communication of Contestation

Article 188. A contestation shall be communicated according to the procedure established by Article 181 (1) and (2) herein.

Parties

Article 189. (1) The contestant and the authority which issued the statutory instrument of secondary legislation shall be parties to the case.
(2) Any person who or which has standing may join the contestation or join as a party alongside the administrative authority prior to the commencement of the oral arguments during any stage of the proceeding, without having the right to motion for repetition of procedural actions which have been performed. A transcript of the petition for joinder of the contestation or as a party shall be made available to the opposing parties.
(3) A ruling whereby a joinder is not admitted shall be contestable by an interlocutory appeal.
(4) (Amended, SG No. 59/2007) The persons who have joined the contestation or as parties shall incur, regardless of the outcome of the case, the costs of the new hearing, of the collection of new evidence or of the re-collection of previously collected evidence, the costs incurred by the other party and of the authorized representative thereof on appearance in the case, as well as shall pay an additional stamp duty to the amount of one-third of the initially paid stamp duty but not less than BGN 100.

Effect of Contestation

Article 190. (1) The contestation shall not suspend the effect of the statutory instrument of secondary legislation, unless the court decrees otherwise.
(2) The ruling of the court under Paragraph (1) on suspension of the effect of the statutory instrument of secondary legislation shall be promulgated in the manner of promulgation of the instrument and shall enter into effect as from the day of promulgation.

Cognizance and Court Panel

Article 191. (Amended, SG No. 77/2018, effective 1.01.2019) The statutory instruments of secondary legislation shall be contested before the competent court, which shall examine the case sitting in a panel of three judges.

Participation of Prosecutor

Article 192. The case shall be examined with the participation of a prosecutor.

Assessment of Conformity

Article 192a. (New, SG No. 77/2018, effective 1.01.2019) The competence of the body for issuance of the statutory instrument of secondary legislation shall be assessed at the moment of its issuance. The compliance of the statutory instrument of secondary legislation with the substantive law shall be assessed at the time of the court decision.

Judgment on Case

Article 193. (1) The court may declare the nullity of the contested statutory instrument of secondary legislation or of a part thereof, may revoke the said instrument in whole or in part, or may reject the contestation.
(2) The judgment of court shall be effective erga omnes.

Promulgation of Judgment of Court

Article 194. A judgment of court, whereby nullity of a statutory instrument of secondary legislation is declared or any such instrument is revoked, and whereagainst no cassation appeal or protest has been lodged in due time or any such appeal or protest has been rejected by the court of second instance, shall be promulgate in the manner of promulgation of the instrument and shall enter into effect as from the day of promulgation.

Effect of Judgment Revoking Statutory Instrument of Secondary Legislation

Article 195. (1) A secondary instrument of secondary legislation shall be considered revoked as from the day of entry into effect of the judgment of court.
(2) The legal consequences which have arisen from any statutory instrument of secondary legislation which has been declared void or which has been revoked as nullifiable shall be settled ex officio by the competent authority within a period that may not exceed three months after the entry into effect of the judgment of court.

Subsidiary Application

Article 196. (Supplemented, SG No. 77/2018, effective 1.01.2019) The provisions on contestation of individual administrative acts, with the exception of Article 142(1), Article 152(3), Articles 173 and 178 herein, shall apply to any matters unregulated in this Section.

Chapter Eleven

PROCEEDINGS FOR COMPENSATION
Applicable Law

Article 203. (1) (Supplemented, SG No. 77/2018, effective 1.01.2019, amended, SG No. 94/2019) Any legal actions for compensation for detriment inflicted on individuals or legal persons by legally non-conforming acts, actions or omissions of administrative authorities and officials shall be examined according to the procedure established by this Chapter.
(3) (New, SG No. 94/2019) Any legal actions for compensation for detriment caused by a sufficiently serious breach of European Union law shall also be examined according to the procedure established by this Chapter; the standards of non-contractual liability of the State for breach of European Union law shall apply to the pecuniary liability and the admissibility of the legal action.

Admissibility of Legal Action

Article 204. (1) A legal action may be brought after the revocation of the administrative act according to the relevant procedure.
(2) A legal action may alternatively be brought together with a contestation of the administrative act prior to the close of the first hearing of the case. All defects of the statement of action must be cured not later than the next succeeding hearing.
(3) Where detriment is caused by a null or withdrawn administrative act, the legal non-conformity of the act shall be established by the court before which the legal action for compensation has been brought.
(4) The legal non-conformity of an action or omission shall be established by the court before which the action for compensation has been brought.
(5) (New, SG No. 94/2019) The rules laid down in the Code of Civil Procedure shall apply to the requirements for the content of the statement of action, the annexes thereto and the evidence.

State fee

Article 204a. (New, SG No. 77/2018, effective 1.01.2019) With respect to any litigation under this Chapter, a regular state fee at the amount set by the tariff adopted by the Council of Ministers shall be paid.

Respondent in Legal Action

Article 205. (1) (Previous text of Article 205, SG No. 94/2019) A legal action for compensation shall be brought against the legal person represented by the authority whose legally non-conforming act, action or omission has inflicted the detriment.
(2) (New, SG No. 94/2019) Where the respondent specified in the statement of action does not meet the requirements set out in Paragraph (1), the court shall indicate to the plaintiff the person against which the action shall be directed and shall give the plaintiff a time limit of 7 days from the notification to remedy the irregularity or to state whether it maintains the action against the originally named respondent. If the plaintiff fails to comply with the instructions within this period, the statement of action together with the annexes shall be returned. The order of return may be appealed by an interlocutory complaint.

Separation of Legal Action
Article 206. (1) On a motion by a party or at the discretion of the court, the legal action for compensation may be separated if the examination thereof would impede the proceeding for contestation of the administrative act.
(2) The examination of the separated legal action shall proceed in the same court after entry into effect of the judgment whereby the act is declared null or is revoked.

Termination of Proceeding on Joined Legal Action

Article 207. (1) Should the proceeding for contestation of the administrative act be terminated, the proceeding on the legal action joined therewith shall be terminated as well, except where the said action is for compensation for detriment resulting from a null administrative act or where the proceeding for contestation has been terminated by reason of withdrawal of the administrative act.
(2) The proceeding on the legal action shall furthermore be terminated if the contestation of the administrative act is rejected. Upon reversal of the judgement of court, the proceeding shall be resumed.
(3) Alternatively, a settlement on the amount of compensation may be reached upon termination of the proceeding.

Chapter Twelve
CASSATION PROCEEDING

Subject of Cassation Contestation

Article 208. The first-instance judgment of court shall be subject to cassation contestation in whole or in separate parts thereof.

Cassation grounds

Article 209. A cassation appeal or a cassation protest shall be lodged where the judgment is:
1. null;
2. inadmissible;
3. incorrect by reason of violation of the substantive law, material breach of the rules of court procedure, or lack of justification.

Right to Cassation Contestation

Article 210. (1) The right to contest the judgment shall vest in the parties to the case whereeto the said judgment is adverse.
(2) The persons in respect of whom the judgment is effective shall have the right to appeal the said judgment where it is adverse thereto, even if the said persons did not participate in the case.
(3) The Prosecutor General or the Deputy Prosecutor General heading the Supreme Cassation Prosecution Office may lodge a cassation protest.

Time Limit for Cassation Contestation

Article 211. (1) The appeal shall be lodged with the Supreme Administrative Court through the agency of the court which rendered the judgment within fourteen days after the day of communication that the judgment has been drafted.
(2) The Prosecutor General or the Deputy Prosecutor General heading the Supreme Cassation Prosecution Office may lodge a protest with the Supreme Administrative Court through the agency of
the court which rendered the judgment within one month after the day of rendition of the said judgment.
(3) The persons referred to in Article 210 (2) herein may appeal the judgment as from the time of the entry of the said judgment into effect in respect of the parties to the case.

Form and Content of Appeal and Protest

**Article 212.** (1) An appeal and a protest shall be lodged in writing and must state:
1. specification of the court;
2. the name and exact address of the appellant and, if a natural person, also the Standard Public Registry Personal Number thereof, the name and exact address of the legitimate representative or authorized representative, if any, or, respectively, the name and position of the prosecutor;
3. indication of the judgment which is contested;
4. exact and reasoned indication of the specific defects of the judgment which constitute the grounds for cassation;
5. essence of the petition;
6. signature of the person who lodges the appeal or protest.
(2) (Amended, SG No. 77/2018, effective 1.01.2019, supplemented, SG No. 94/2019) The cassation appeal, with the exception of cases pursuant to the Administrative Violations and Sanctions Act, cases related to pension, health and social insurance, cases in which the appellant’s obligation to pay state fee has been waived, or in which the appellant is a person deprived of his or her liberty by an enforceable sentence, shall be countersigned by a lawyer or legal adviser, unless where the appellant or the appellant’s representative is licensed to practice law. A power of attorney for re-signing shall be attached to the motion, and when the appellant or his representative has legal capacity - a certificate of legal capacity.
(3) (New, SG No. 15/2021) The appeal cannot contain obscene words, insults or threats.

Attachments

**Article 213.** The following shall be attached to the appeal or protest:
1. certificate of the existence and representation of the appellant organization, unless presented to the first instance;
2. power of attorney, where the appeal is lodged by an authorized representative;
3. (supplemented, SG No. 77/2018, effective 1.01.2019) documentary proof of state fee paid, where such is due, or a petition pursuant to Article 227a(2);
4. transcripts of the appeal or protest, of the written evidence and of the attachments according to the number of the rest of the parties.

Verification of the Regularity and Admissibility of the Cassation Appeal or protest

**Article 213a.** (New, SG No. 77/2018, effective 1.01.2019, amended, SG No. 15/2021) (1) The judge-rapporteur in the first instance court shall conduct verification of the conformity of the cassation appeal or the protest and if they do not conform to the requirements under Articles 212 and 213 shall by order leave them without progress and shall send communication to the contestant requesting them to cure the non-conformities within seven days of receipt. When the non-conformities are not remedied in due time the first-instance court shall return the appeal or the protest.
(2) The cassation appeal or the protest shall be left without consideration from the Court of First Instance on the grounds under Article 215.
(3) The Court of First Instance shall rule on the requests for restoration of the term for cassation contestation, for exemption from state fee, as well as on the requests made before sending the case for provision of legal aid under the Legal Aid Act and requests under Articles 166 and 167.
(4) If the cassation appeal or the protest are conforming and the grounds referred to in paragraph (2) are not present, the court shall send a duplicate copy together with the attachments to the rest of the parties, which may present a written response within 14 days of their receive. The response cannot contain obscene words, insults or threats.

(5) After submission of the response or after the expiry of the deadline referred to in Paragraph (4) above, the case shall be sent to Court of Cassation.

(6) The chairman of the court of cassation or his deputies, respectively the chairman of the division shall exercise control over the inspection of the regularity and admissibility of the cassation appeal or protest carried out by the court of first instance, and:
1. shall leave without motion the cassation appeal or protest or send the case to the court of first instance with specific instructions, if non-performance of the obligations under paragraph 1 is found;
2. shall leave without consideration the cassation appeal or the protest by an order and the proceedings and the case shall be terminated, if the instructions for elimination of irregularities are not fulfilled in due time or any of the grounds under Article 215 is present; the court has the same powers in initiated cassation proceedings.

(7) The acts under sentence two of paragraph (1), paragraph (2) and item 2 of paragraph (6) and the acts which refuse exemption from state fee, may be appealed with a private appeal and no state fee shall be due. A transcript of the private appeal shall not be presented, if the judicial act was rendered prior to the service of a transcript of the cassation contestation. The court ruling on the appeal is definitive.

(8) When with a cassation appeal or protest a decision of a three-member panel of the Supreme Administrative Court is disputed, the powers under paragraphs 1, 2 and 4 shall be exercised by the chairman of the respective department.

(9) In the cases within the scope of item 2 of paragraphs (6) and paragraph (7), the order or ruling may award costs if such costs have been claimed and evidence of payment has been provided.

**Article 213b.** (New, SG No. 77/2018, effective 1.01.2019, amended and supplemented, SG No. 94/2019, repealed, SG No. 15/2021). Withdrawal and Abandonment of Contestation

**Article 214.** (1) The contestant may withdraw the contestation or abandon the contestation in whole or in part prior to the close of the cassation proceeding.

(2) (New, SG No. 77/2018, effective 1.01.2019) Abandonment of the contestation in whole or in part may not be withdrawn.

(3) (Renumbered from Paragraph 2, SG No. 77/2018, effective 1.01.2019) Any advance waiver of the right to contest shall be void.

Leaving Appeal and Protest without Examination

**Article 215.** An appeal or protest shall be left without examination, and the cassation proceeding instituted shall be dismissed, where:
1. the said appeal or protest has been lodged by an individual or organization which did not participate in the court proceeding;
2. the judgment or the appealed part thereof is non-existent;
3. the said appeal or protest has been lodged after expiry of the time limit referred to in Article 211 herein;
4. the said appeal or protest has been lodged against a judgment which is not subject to cassation contestation;
5. the said appeal or protest is withdrawn or abandoned by a written application.
Article 216. (Repealed, SG No. 77/2018, effective 1.01.2019).

Examination of Case

Article 217. (Amended, SG No. 77/2018, effective 1.01.2019) (1) The case shall be examined by a three-judge panel of the Supreme Administrative Court, where the judgment has been rendered by an administrative court, and by a five-judge panel, where the judgment has been rendered by a three-judge panel of the Supreme Administrative Court.

(2) (Declared unconstitutional by Decision No. 5 of the Constitutional Court of the Republic of Bulgaria - SG No. 36/2019)

The five-judge panels of the Supreme Administrative Court shall examine the case in public hearings which shall be scheduled by order of the court chairperson, the deputy chairpersons or a specific judge. Where the cassation instance is the only court instance, the case shall be examined in a public hearing. The case shall be examined by a three-judge panel of the Supreme Administrative Court in camera, unless the rapporteur judge orders the case to be heard in public. The order shall not be appealable. Where a party requests at the latest in the cassation appeal or in the response to the cassation appeal the case to be heard in public, it shall be heard in this manner.

(3) (Declared unconstitutional in regards to the words "Where this Code or a special law provides for the case to be heard in public or where the court decides it to be heard in this manner" by Decision No. 5 of the Constitutional Court of the Republic of Bulgaria - SG No. 36/2019)

Where this Code or a special law provides for the case to be heard in public or where the court decides it to be heard in this manner, the first hearing shall be scheduled no later than 4 months of the date of its institution. In case the cassation appeal has deficiencies, the time limit shall begin after they have been rectified. In a public hearing the case shall be examined with the participation of a prosecutor. The Supreme Administrative Court shall render a judgement within one month of the hearing at which the examination of the case was completed.

(4) (Declared unconstitutional by Decision No. 5 of the Constitutional Court of the Republic of Bulgaria - SG No. 36/2019)

Where the case is heard in camera, the judgement shall be rendered no later than 6 months of the date of its institution. In case the cassation appeal has deficiencies, the time limit for rendering the judgement shall begin after they have been rectified. Where the case is heard in camera, the prosecutor shall render a conclusion within two months of its institution, or by a deadline set by the court.

(5) Where the case is adjourned, the next hearing shall be scheduled within two months, and the duly summoned parties shall check on their own for the date of the next public court hearing. The court shall be obliged to announce the date of the next public court hearing in its Internet site within 14 days.
(6) The time limits shall be suspended during judicial vacations and on days declared as official holidays, unless shorter timeframes are provided for in this Code or in a special law.

Subject of Cassation Review

**Article 218.** (1) The Supreme Administrative Court shall limit itself to considering the defects of the judgment as indicated in the appeal or protest.
(2) The court, acting on its own initiative, shall furthermore see to the validity, admissibility and conformity of the judgment to the substantive law.

Evidence

**Article 219.** (1) Written evidence shall be admissible for establishment of the grounds for cassation.
(2) No evidence shall be admissible for establishment of any circumstances irrelevant to the grounds for cassation.

Establishment of Facts Prohibited

**Article 220.** The Supreme Court of Cassation shall assess the application of the substantive law on the basis of the facts established by the court of first instance in the contested judgment.

Judgment on Cassation Contestation

**Article 221.** (1) (Repealed, SG No. 77/2018, effective 1.01.2019).
(2) (Supplemented, SG No. 77/2018, effective 1.01.2019) The Supreme Administrative Court shall leave in effect the judgment or shall reverse the judgment in the contested part thereof if the said judgment is incorrect. Where the Supreme Administrative Court leaves in effect the judgement, it shall provide reasons thereof and may also refer to the reasons given by the court of first instance.
(3) Where the judgment is inadmissible, the Supreme Administrative Court shall invalidate the said judgment in the contested part and thereupon shall dismiss the case, shall refer the case back for re-examination, or shall forward the case to the competent court or authority.
(4) Where the administrative authority, acting with the consent of the rest of the respondents, withdraws the administrative act or issues the act which the said authority has refused to issue, the Supreme Administrative Court shall invalidate the judgment of court rendered on the said act or refusal as inadmissible and shall dismiss the case.
(5) Where the judgment is null, the Supreme Administrative Court shall declare the nullity thereof in whole and if the case is not dismissible, shall refer the said case back to the court of first instance for rendition of a new judgment.
(6) Where settlement has been reached before the Supreme Administrative Court, the court shall confirm the said settlement by a ruling whereby the judgment of court shall be invalidated and the case shall be dismissed.

Powers of Supreme Administrative Court upon Reversal of Judgment

**Article 222.** (1) When reversing the judgment, the Supreme Administrative Court shall adjudicate in the case on the merits.
(2) The Supreme Administrative Court shall refer the case for re-examination by another panel of the court of first instance where:
1. the Supreme Administrative Court finds a material breach of the rules of court procedure;
2. facts must be established, for which collection of written evidence is not sufficient.

Finality of Cassation Judgment
Article 223. The cassation judgment shall be final.

Binding Orders on Application of Law

Article 224. The orders of the Supreme Administrative Court on the interpretation and application of the law shall be binding upon a further examination of the case.

Examination of Appeal and Protest against Re-rendered Judgment

Article 225. An appeal or protest against a re-rendered judgment shall be examined by another panel of the Supreme Administrative Court.

Re-examination of Case by Court of First Instance

Article 226. (1) The court of first instance shall examine the case according to the standard procedure, with the proceeding commencing from the first legally non-conforming procedural action which served as grounds for the referral of the case back to the said court.

(2) Solely written evidence which could not have been known to the party, as well as evidence of newly discovered or intervening circumstances after the initial examination of the case by the court of first instance, shall be admissible upon re-examination of the case.

(3) The court shall furthermore pronounce on the costs of litigation at the Supreme Administrative Court.

Powers of Supreme Administrative Court upon Reversal of New Judgment

Article 227. (Amended, SG No. 39/2011) (1) Where the judgment of the court of first instance is reversed again, the Supreme Administrative Court shall not remand the case for a new review but shall adjudicate on the substance of the matter.

(2) When the reversal grounds require so, after reversing the judgement, the Supreme Administrative Court shall schedule a date for reviewing the case in a public hearing and, if necessary, shall also collect new evidence.

Fees in the Cassation Proceedings

Article 227a. (New, SG No. 77/2018, effective 1.01.2019) (1) The cassation appellant shall pay in advance a state fee amounting to BGN 70, where the appellant is an individual, sole trader, state or municipal body, or another person performing public functions, or an organisation providing public services, and amounting to BGN 370, where the appellant is an organisation. In cases involving claims to which a monetary value can be assigned these fees shall not be payable, instead a fee shall be due determined as a percentage of that monetary value.

(2) (Amended and supplemented, SG No. 94/2019, amended, SG No. 15/2021) A state fee for submission of a protest shall not be payable by the prosecution, nor by individuals for whom the court has established that they do not avail of sufficient funds to pay it. When examining the application for exemption from stamp duty, the court shall take into account:

1. the income accruing to the person and to the family thereof;
2. the property status, as certified by a written declaration;
3. the family situation;
4. the health status;
5. the employment status;
6. the age;
7. other relevant circumstances.

(3) In cases involving claims to which a monetary value can be assigned, the state fee payable by individuals, sole traders, organisations, state or municipal bodies, other persons performing public
functions, and organisations providing public services, shall be proportional and shall amount to 0.8 per cent of the monetary value assigned to the claim, but no more than BGN 1700, and in cases where the monetary value assigned to the claim exceeds BGN 10 000 000, the fee shall amount to BGN 4500.

(4) (Supplemented, SG No. 94/2019) Irrespective of whether a monetary value can be assigned to the case or not, the fees in cassation appeals in cases related to pension, health and social insurance and assistance shall amount to BGN 30 for individuals and sole traders and to BGN 200 for organisations, state or municipal bodies, other persons performing public functions, and organisations providing public services.

(5) Paragraphs 1 to 4 shall not apply in the cassation proceedings pursuant to the Administrative Violations and Sanctions Act.

Subsidiary Application

Article 228. The provisions on first-instance proceeding shall apply, mutatis mutandis, to any matters unregulated in this Chapter.

Chapter Fifteen
REMEDIES AGAINST UNWARRANTED ACTIONS AND OMISSIONS BY THE ADMINISTRATION

Section I
Remedies against Un warranted Actions

Right to Motion

Article 250. (1) Any person who has standing may motion for the cessation of actions performed by an administrative authority or an official which are not warranted by an administrative act or by the law.

(2) (Repealed, SG No. 94/2008, effective 1.01.2009).

Submission of Motion

Article 251. (1) The motion shall be submitted in writing to the administrative court exercising jurisdiction over the place of performance of the actions.

(2) (Repealed, SG No. 94/2008, effective 1.01.2009).

(3) Any such motion shall be entered into a special book, noting the exact time of receipt and the submitter.

Consideration of the petition

Article 252. (1) The motion shall be examined by a judge without delay.

(2) (Amended, SG No. 94/2008, effective 1.01.2009) The court shall obligate the administrative authority or the official who performs the unwarranted actions, to provide immediately data on the grounds of the actions performed.

(3) (Amended, SG No. 94/2008, effective 1.01.2009) The court may verify, through the authorities of the police, as well as in any other ways which are not prohibited by the law, whether the actions are performed, on whose behalf and on what grounds and, respectively.

(4) The verifying authorities shall draw up a memorandum on the verification performed.
Pronouncement on the application

**Article 253.** (1) Immediately after completion of the verification, the court shall render an order on the basis of the data collected by the said verification and of the evidence presented by the parties.

(2) An unconditional cessation of the actions which are not performed in implementation of an administrative act presented upon the verification or of the law shall be ordered or the motion shall be rejected by the order referred to in Paragraph (1). Any such order shall be enforced immediately by the authorities of the police.

(3) (Repealed, SG No. 94/2008, effective 1.01.2009).

Appellate Review

**Article 254.** (1) (Amended, SG No. 94/2008, effective 1.01.2009) The order shall be appealable within three days of the issuance thereof by the authority or the official who has performed the actions where the motion is granted, and by any person who has standing where the motion is rejected.

(2) The appeal shall be examined according to the procedure established by Chapter Thirteen herein and shall not stay the enforcement.

Legal Action for Ascertainment

**Article 255.** The remedies under this Chapter shall not prejudice actionability under Article 128 (2) or under Article 203 herein.

**Section II**

**Remedies against Unwarranted Omissions**

Subject and Procedure for Contestation

(Title amended, SG No. 77/2018, effective 1.01.2019)

**Article 256.** (Amended, SG No. 77/2018, effective 1.01.2019) (1) The inaction of the administrative authority on an obligation arising directly from a statutory instrument shall be appealable indefinitely, applying, mutatis mutandis, the provisions on contestation of individual administrative acts.

(2) The non-performance of actual actions, which the administrative authority is obligated to perform by virtue of the law, shall be contestable within fourteen days after the submission of a request to the authority for the performance of said action.

(3) By the judgment thereof, the court may order the administrative authority to perform the action, establishing a time limit for this, or may reject the motion.

**Article 257.** (Repealed, SG No. 77/2018, effective 1.01.2019).
Legal Aid Act


Text in Bulgarian: Закон за правната помощ

Chapter One
GENERAL DISPOSITIONS

Article 1. This Act shall regulate legal aid in criminal, civil and administrative matters before courts of all instances.

Article 2. Legal aid under this Act shall be provided by lawyers and shall be financed by the State.

Article 3. The purpose of this Act is to guarantee persons equal access to justice by means of ensuring and grating effective legal aid.

Article 4. (Amended, SG No. 15/2013, effective 1.01.2014) The resources for legal aid shall be provided by the state budget.

Article 5. Legal aid shall be granted to natural persons on the grounds specified in this Act and in other laws.

Chapter Two
LEGAL AID AUTHORITIES

Article 6. (1) The Minister of Justice shall elaborate, coordinate and conduct the state policy in the sphere of legal aid.

(2) Legal aid shall be organized by the National Legal Aid Bureau (NLAB) and the Bar Councils.

(3) (Amended, SG No. 15/2013, effective 1.01.2014) The National Legal Aid Bureau shall be an independent state body, a public-financed legal person with the Minister of Justice, with a head office in Sofia.

(4) (Repealed, SG No. 15/2013, effective 1.01.2014).

Article 7. (1) The National Legal Aid Bureau shall be assisted by an administration.

(2) The work organization of the NLAB, the structure, composition and functions of the separate units of the administration thereof, shall be determined by Rules which shall be adopted by the Council of Ministers.

Article 8. The National Legal Aid Bureau shall perform the following functions:

1. (supplemented, SG No. 28/2013) provide general and methodological guidance of the activity concerning the granting of legal aid and, to this end, issue

Информационна система АПИС
https://web.apis.bg
mandatory instructions on the application of the Act and the statutory instruments of secondary legislation;
2. prepare a draft of a legal aid budget;
3. dispose of the resources on the legal aid budget;
4. organize the keeping of the National Legal Aid Register;
5. pay for the legal aid granted;
6. exercise control over the granting of legal aid;
7. prepare bills and other statutory instruments in the sphere of legal aid, which shall be laid before the Council of Ministers by the President of the NLAB;
8. analyze the information required for the proper planning and management of the legal aid system;
9. popularize the legal aid system;
10. (amended, SG No. 28/2013) adopt decisions on entry, on a refusal of entry or on striking a lawyer from the National Legal Aid Register;
11. (new, SG No. 28/2013) adopt decisions on a refusal to pay for legal aid or on recovery of a fee upon ascertainment of any legal aid provided in bad faith or incompetently in a particular case;
12. (renumbered from Item 11, SG No. 28/2013) endorse the standard forms under this Act;
13. (renumbered from Item 12, SG No. 28/2013) pursue international legal cooperation in the sphere of legal aid.

**Article 8a.** (New, SG No. 13/2017) The National Legal Aid Bureau shall establish a single information system for reporting by electronic means of the legal aid by all Bar Councils.

**Article 9.** (1) The National Legal Aid Bureau shall be a body which considers and decides the matters within the competence thereof at meetings.
(2) The decisions of the NLAB shall be adopted by a simple majority of the total number of members of the said Office.

**Article 10.** (1) The National Legal Aid Bureau shall be headed by a President.
(2) In the activity thereof, the President shall be assisted by a Vice President.
(3) (New, SG No. 13/2017). In the absence of the President, the functions thereof shall be performed by the Vice President.

**Article 11.** (1) The National Legal Aid Bureau shall consist of five members: a President, a Vice President, and three members.
(2) The President and the Vice President of the NLAB shall be appointed and removed from office by an order of the Prime Minister on the basis of a Council of Ministers decision. The motion to the Council of Ministers shall be made by the Minister of Justice.
(3) The remaining three members of the NLAB shall be elected by the Supreme Bar Council.

**Article 12.** (Amended, SG No. 28/2013, SG No. 13/2017) The members of the NLAB shall be appointed or elected, as the case may be, for a term of office of four years. The said members may be re-appointed or re-elected for the same term.

**Article 13.** Eligibility for membership of the NLAB shall be limited to Bulgarian citizens who:
1. have graduated in Law from a higher educational establishment and possess a licensed competence to practise law;
2. have practised law for at least five years;
3. have not been sentenced to deprivation of liberty for intentional publicly prosecutable offences, regardless of whether they have been rehabilitated;
Article 14. (1) A member of the NLAB shall vacate office prior to the expiry of the term of office thereof:

1. upon resignation;
2. upon gross or systematic violation of this Act;
3. when sentenced by an effective sentence to deprivation of liberty for an intentional publicly prosecutable offence;
5. (renumbered from Item 4, SG No. 42/2009) when unable to discharge the duties thereof for a period longer than six months;
6. (renumbered from Item 5, SG No. 42/2009) upon interdiction;
7. (renumbered from Item 6, SG No. 42/2009) upon death.

(2) In the cases covered under Paragraph (1), the Prime Minister or the President of the Supreme Bar Council shall make a motion for a pre-term termination of the term of office.

(3) The Council of Ministers or the Supreme Bar Council shall pronounce on the removal and, respectively, on the designation of a new member within one month.

(4) The new member of the NLAB shall serve the remainder of the term of office of the removed member.

Article 15. (1) The President and the Vice President shall perform the activity thereof under an employment relationship and may not occupy another position under an employment or civil-service relationship.

(2) The remunerations of the President and of the Vice President shall be fixed as follows:

1. of the President: three average monthly wages of the persons hired under an employment relationship and under a civil-service relationship in the public sector, conforming to data of the National Statistical Institute;
2. of the Vice President: 90 per cent of the remuneration of the President, referred to in Item 1.

Article 16. (Supplemented, SG No. 99/2010, effective 1.01.2011, amended, SG No 99/2011, effective 1.01.2012, supplemented, SG No. 82/2012) The members of the NLAB shall receive remuneration for attendance of a meeting in the amount of BGN 120, unless otherwise provided for in a law.

Article 17. The President of the NLAB shall perform the following functions:

1. organize and direct the activity of the NLAB in accordance with this Act, the Rules referred to in Article 7 (2) herein and the decisions adopted by the NLAB;
2. be responsible for the exercise of the powers of the NLAB;
3. represent the NLAB in dealings with third parties;
4. appoint and dismiss the civil servants and conclude and terminate the contracts of employment with the employees under employment relationships of the NLAB administration;
5. lay before the Council of Ministers the instruments referred to in Item 7 of Article 8 herein;
6. submit an annual report on the activity of the NLAB to the Council of Ministers, the Supreme Bar Council and the Supreme Judicial Council;
7. conduct inspections on the implementation of this Act, whether personally or through persons authorized thereby;
8. issue orders within the powers vested therein;
9. (new, SG No. 28/2013) issue decisions fixing the amount of the lawyers' fees according to the procedure established by the ordinance referred to in Article 37 (1) herein;
10. (new, SG No. 28/2013) issue decisions on recovery of paid fees in the
cases referred to in Article 378 (3) herein or upon incorrect or duplicated payment.

**Article 18.** The Bar Councils shall organize the granting of legal aid within the respective geographical jurisdiction and, to this end:

1. shall prepare an opinion on the applications of the lawyers of the Bar Association for entry into the National Legal Aid Register;

2. (supplemented, SG No. 28/2013, amended, SG No. 13/2017) shall compile and maintain a list of lawyers on duty, stand-by defence counsel and lawyers offering advice at the regional consultation centres;

3. (amended, SG No. 92/2018) according to Article 25 (5) and (6) herein, shall designate a lawyer of the Bar Association, entered in the National Legal Aid Register, for implementation of the legal aid, making sure that the professional experience and qualifications of the said lawyer are suitable for the type, the factual and legal complexity of the case, other appointments according to the procedure established by this Act, and the caseload of the said lawyer;

4. (new, SG No. 28/2013, supplemented, SG No. 13/2017, amended, SG No. 92/2018) see to compliance with the form and content of the instrument referred to in Article 25 (4) herein and of the timesheet referred to in Article 38 (1) herein;

5. (renumbered from Item 4, amended, SG No. 28/2013) exercise current control as to the quality of the legal aid provided by the lawyers of the Bar Association and, to this end, carry out checks and ascertained and, where necessary, institute disciplinary proceedings and inform the NLAB of this;

6. (renumbered from Item 5, amended, SG No. 28/2013, SG No. 13/2017) authenticate the timesheets of the lawyers who have provided legal aid and prepare motions for payment of a fee in accordance with the ordinance referred to in Article 37 (1) herein;

7. (new, SG No. 28/2013) ensure training of the assigned counsel;

8. (new, SG No. 28/2013) ensure the technical support of legal aid;

9. (new, SG No. 28/2013) assist the persons referred to in Article 22 herein to receive legal aid.

**Article 19.** The Bar Councils shall receive remuneration from the NLAB budget for the activity performed concerning the administration of legal aid.

**Article 20.** (1) (Amended, SG No. 32/2010, effective 28.05.2010, supplemented, SG No. 28/2013, SG No. 56/2018) The National Legal Aid Bureau shall interact with the Supreme Bar Council, with the Bar Councils, with the judicial authorities and the Ministry of the Interior and the Ministry of Defence, with the Ministry of Finance and with the Ministry of Justice, and with the State Agency for National Security in connection with the granting of legal aid.

(2) (Amended, SG No. 32/2010, effective 28.05.2010, supplemented, SG No. 28/2013). In the exercise of the powers thereof, the NLAB may require oral and written information related to the granting of legal aid from the lawyers, from the Bar Associations, from the judicial authorities and the authorities of the Ministry of Interior and the Ministry of Defence, from the Ministry of Finance and from the social assistance authorities, which shall be obligated to provide any information required forthwith and at no charge.

(3) (Amended, SG No. 32/2010, effective 28.05.2010, SG No. 28/2013). In the exercise of the powers thereof under this Act, the relevant authority referred to in Article 25 (1) herein may require information from the NLAB, the Bar Councils, the tax authorities, the National Social Security Institute authorities and the social assistance authorities, the Labour Office Directorates and other State and municipal bodies, which shall be obligated to provide the information requested.

**Article 20a.** (New, SG No. 28/2013) The National Legal Aid Bureau and the authorities referred to in Article 20 herein shall issue joint instructions on the application of the Act.
Chapter Three
TYPE AND SCOPE OF LEGAL AID

Article 21. Legal aid shall be of the following types:
1. (supplemented, SG No. 13/2017) pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings or to bringing a case before a court, including advice under Chapter Five "a" herein;
2. preparation of documents for bringing a case before a court;
3. representation in court by legal counsel;

Article 22. (Amended, SG No. 28/2013) (1) Legal aid under Items 1 and 2 of Article 21 herein shall be granted to:
2. persons and families who satisfy the eligibility requirements for assistance with a targeted heating allowance for the preceding or current heating season;
3. (amended, SG No. 24/2019, effective 1.07.2020 - amended, SG No 101/2019) persons who use social or integrated health and social services for residential care, pregnant women and mothers at risk of abandoning their children who use social services to prevent abandoning;
4. children placed with foster families or with immediate or extended family members according to the procedure established by the Child Protection Act;
5. a child at risk within the meaning given by the Child Protection Act;
6. (amended, SG No. 13/2017) persons referred to in Articles 133 and 144 of the Family Code and to persons who have not attained the age of 21 years, in accordance with Council Regulation (EC) No. 4/2009 of 18 December 2008 or jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ, L 7/1 of 10 January 2009) and the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ, L 192/51 of 22 July 2011);
7. victims of domestic or sexual violence or of trafficking in human beings, who are unable to pay and wish to avail themselves of the assistance of a lawyer;
8. seekers of international protection according to the procedure established by the Asylum and Refugees Act, in respect of which the granting of legal aid is not due on another legal basis;
9. foreigners in respect of whom a coercive administrative measure has been applied and foreigners accommodated at a special facility for temporary accommodation of foreigners according to the procedure established by the Foreigners in the Republic of Bulgaria Act, who are unable to pay and wish to avail themselves of the assistance of a lawyer;
10. (new, SG No. 97/2016) persons who have been refused statelessness status in the Republic of Bulgaria or whose statelessness status has been withdrawn or for whom the procedure for determining statelessness status has been terminated according to the procedure established by the Foreigners in the Republic of Bulgaria Act, who are unable to pay and wish to avail themselves of the assistance of a lawyer;
The circumstances under Paragraph (1) shall be certified by judgments of court or by documents issued by the relevant competent authorities, and by a declaration on marital and property status of the person in a standard form endorsed by the NLAB.

(3) (New, SG No. 13/2017). When the applicants for legal aid fail to certify any circumstance covered under Paragraph (1), the NLAB shall arrive at a determination on the granting of legal aid taking into consideration the circumstances referred to in Article 23 (3) herein which have been ascertained by documents by the relevant competent authorities and depending on the amount of the poverty line established for the country.

(4) (New, SG No. 92/2018). The National Legal Aid Bureau shall collect ex officio the information under Paragraphs (2) and (3) and obtain via electronic channels the requisite documents from the respective competent bodies.

Article 23. (1) (Supplemented, SG No. 32/2010, effective 28.05/2010) The legal aid system referred to in Item 3 of Article 21 herein shall cover the cases in which the assistance of a lawyer, a stand-by defence counsel or representation is mandatory as provided by virtue of a law.

(2) (Amended, SG No. 32/2010, effective 28.05.2010) The legal aid system shall furthermore cover the cases in which an accused, a defendant, or a party to a criminal, civil or administrative matter is unable to pay for the assistance of a lawyer, wishes to have such assistance, and the interests of justice require this.

(3) (Amended, SG No. 32/2010, effective 28.05.2010, SG No. 28/2013 supplemented, SG No. 92/2018) In civil and administrative matters, legal aid shall be granted in the cases where, on the basis of evidence presented by the relevant competent authorities the court, respectively the President of the NLAB, determines that the party is unable to pay a lawyer's fee. The court, respectively the President of the NLAB, shall arrive at such determination taking into consideration:
   1. the income accruing to the person or to the family thereof;
   2. the property status, as certified by a declaration;
   3. the marital status;
   4. the state of health;
   5. the employment;
   6. the age;
   7. other circumstances.

(4) (Amended, SG No. 28/2013) In criminal matters, the determination that the accused or the defendant is unable to pay a lawyer's fee shall be made by the authority who directs the procedural steps on the basis of the property status of the person ascertained ex officio in the specific matter and of the circumstances referred to in Items 1, 3, 4, 5, 6 and 7 of Paragraph (3). In respect of the private accuser, the civil plaintiff, the civil respondent and the private complainant, the determination shall be made according to the procedure established by Paragraph (3).

Article 24. Legal aid under Items 1, 2 and 3 of Article 21 herein shall not be granted:
   1. where the granting of legal aid is not justified in terms of the benefit that such aid would confer on the applicant for legal aid;
   2. where the claim is manifestly unfounded, unjustified, or inadmissible;
   3. (amended, SG No. 105/2005, supplemented, SG No. 13/2017) in the cases of commercial matters and tax matters under the Tax and Social-Insurance Procedure Code, unless the party applying for legal aid is a natural person and fulfils the conditions for the granting of legal aid.

Chapter Four
ACCESS TO LEGAL AID SYSTEM
Article 25. (1) (Amended, SG No. 28/2013, supplemented, SG No. 56/2018) In the cases referred to in Items 3 and 4 of Article 21 herein, the decision to grant legal aid shall be made by the authority directing the procedural steps or by the relevant police or customs authority or authority under Article 124b(1) of the State Agency for National Security Act at the request of the person concerned or by virtue of the law, and explanations in writing shall be provided to the person by a declaration in a standard form endorsed by the NLAB to the effect that in case of a judgment finding against the said person or a sentence, the person owes reimbursement of the costs of legal aid. A refusal to grant legal aid shall be reasoned and shall be appealable according to the applicable procedure.

(2) (Amended, SG No. 28/2013, supplemented, SG No. 77/2018, effective 1.01.2019) In the cases referred to in Items 1 and 2 of Article 21 herein, the decision to grant legal aid shall be made by the President of the NLAB within 14 days after submission of an order, judgment of court or certificate referred to in Article 22 (2) herein, issued by the relevant competent authorities. Any refusal shall be appealable before the relevant Administrative Court according to the procedure established by the Administrative Procedure Code. The judgment of the administrative court shall be final.

(3) (New, SG No. 92/2018) Where legal aid was granted in the form of consultation at a regional consultation centre, the person may apply for legal aid under Items 2 and 3 of Article 21 herein. The decision for granting legal aid for the preparation of documents for bringing an action and appointment of a counsel for representation in court, shall be made by the President of the NLAB within 14 days of receipt of the documents from the relevant Bar Council. Any refusal to grant legal aid shall be motivated and subject to appeal; Paragraph 2 shall be applicable to such appeal.

(4) (Renumbered from Paragraph 3, SG No. 92/2018) The instrument or granting of legal aid shall be issued in a written form and shall state:
1. title of the instrument;
2. designation of the authority who issues the instrument;
3. factual and legal basis for issuance of the instrument;
4. the person whereto legal aid is granted;
5. the type of legal aid and, in the cases referred to in Item 3 of Article 21 herein, also the matter in which the said aid is granted;
6. the means by which an appeal against the instrument can be lodged;
7. date of issuance, position and signature of the person who issued the instrument.

(5) (Renumbered from Paragraph 4, SG No. 92/2018) The instrument or granting of legal aid shall be transmitted forthwith to the relevant Bar Council for designation of a lawyer entered in the National Legal Aid Register.

(6) (Renumbered from Paragraph 5, SG No. 92/2018) If practicable, the Bar Council shall designate a lawyer named by the person whereto legal aid is granted.

Article 26. (1) The Bar Council shall notify the authority referred to in Article 25 (1) or (2) herein of the designated lawyer.

(2) (Supplemented, SG No. 28/2013) The authority referred to in Article 25 (1) or (2) herein shall appoint the designated lawyer as representing counsel, defence counsel or ad hoc representative for all phases and courts of all instances, unless an objection to this has been raised.

(3) The appointed lawyer may delegate the authority to another lawyer entered in the National Legal Aid Register.

(4) In exceptional cases, where qualified assistance of a lawyer in a particular matter cannot be provided, the Bar Council may designate a lawyer from another geographical jurisdiction with the consent of the said lawyer.

(5) The appointed representing counsel, defence counsel or ad hoc
representative may be replaced at the request of the authority referred to in Article 25 (1) or (2) herein according to the procedure of the appointment thereof.

**Article 27.** (1) The person whereto legal aid has been granted shall be obligated to notify forthwith the authority referred to in Article 25 (1) or (2) herein of any intervening change in the circumstances which render the said person eligible for the granting of the aid.

(2) The authority who made the decision to grant legal aid may terminate the said aid as from the time of occurrence of the change. A duplicate copy of the instrument shall be transmitted forthwith to the NLAB.

(3) (Amended, SG No. 105/2005, SG No. 28/2013) In case the person fails to notify promptly a change in circumstances referred to in Paragraph (1), on the basis of a decision under Item 17 of Article 9 herein the said person shall reimburse the NLAB for any costs incurred as from the time of the said change.

**Article 27a.** (New, SG No. 28/2013) In cases specified by a law, the persons whereto legal aid has been granted shall reimburse the NLAB for the costs incurred.

**Article 27b.** (New, SG No. 28/2013) The costs of legal aid referred to in Article 27 (3) and in Article 27a herein shall be private State receivables and shall be collected by the National Revenue Agency on the basis of a writ of execution issued by the court.

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**Chapter Five**

**LAWYERS ON DUTY AND STAND-BY DEFENCE COUNSEL**

*(Heading amended, SG No. 28/2013)*

**Article 28.** (1) (Amended, SG No. 32/2010, effective 28.05.2010, SG No. 28/2013, SG No. 63/2017, effective 5.11.2017) In urgent cases on cases of coercive procedural measures and questioning before a judge in the pre-trial proceeding, as well as in a summary proceeding under the Criminal Procedure Code and in a proceeding under the Health Act and under the Child Protection Act, the Secretary of the Bar Council shall designate a lawyer on duty, if the person has not retained a defence counsel of his or her own.

(2) (Amended, SG No. 17/2006, supplemented, SG No. 82/2011, effective 1.01.2012, amended, SG No. 53/2014, SG No. 56/2018) A lawyer on duty shall furthermore be designated according to the procedure established by Paragraph (1) for a detainee in the cases under Article 72 (1) of the Ministry of Interior Act, under Article 16a of the Customs Act and under Article 124b(1) of the State Agency for National Security Act, where the said detainee is unable to retain a lawyer of his or her own.

**Article 29.** (Amended, SG No. 28/2013) (1) A lawyer on duty and a stand-by defence counsel shall be designated from amongst the lawyers entered in the National Legal Aid Register who have granted consent to be included in the list of lawyers on duty and, respectively, in the list of stand-by defence counsel.

(2) The consent referred to in Paragraph (1) may not be effective for a period shorter than one month and shall express the readiness of the lawyer to be designated a lawyer on duty at any time of the day or night, including on holidays and non-working days, and to be designated a stand-by defence counsel regardless of the duration of the trial.

(3) The Bar Council shall maintain a list of the lawyers on duty and shall draw up a weekly schedule, which the Council shall make available to the competent authorities.

(4) The Bar Council shall draw up and maintain a list of the stand-by defence counsel.

**Article 30.** (Amended, SG No. 28/2013) (1) (Supplemented, SG No. 56/2018)
request to designate a lawyer on duty in the cases referred to in Article 28 (1) herein shall be made by the authority directing the procedural steps, and in the cases referred to in Article 28 (2) herein, by the competent police/customs officer or authority under Article 124b(1) of the State Agency for National Security Act, to the Bar Council in writing or by telephone not later than three hours before the time appointed for the relevant proceeding.

(2) Immediately after a person is detained or after a person is constituted as an accused party, the authority referred to in Article 25 (1) herein shall explain to the detainee the right thereof to defence, serving upon the said detainee, upon signed acknowledgement, a form stating the right thereof to assistance of a retained or assigned lawyer.

(3) The authority referred to in Article 25 (2) herein shall notify the Bar Council of the need to appoint a lawyer on duty. The lawyer selected shall immediately proceed with the discharge of the duties thereof for the provision of legal aid.

(4) The lawyer on duty shall continue to provide the legal aid in all phases of the trial.

Chapter Five "a"
(New, SG No. 13/2017)
PROVIDING LEGAL AID ON NATIONAL LEGAL AID HOTLINE AND AT REGIONAL CONSULTATION CENTRE

Section I
(New, SG No. 13/2017)
National Legal Aid Hotline

Article 30a. (New, SG No. 13/2017) The National Legal Aid Hotline shall be a form of offering advice to natural persons under facilitated conditions beyond the standard procedure for the granting of legal aid under Article 25 (2) herein.

Article 30b. (New, SG No. 13/2017) The operation of the National Legal Aid Hotline shall be administrated by the NLAB.

Article 30c. (New, SG No. 13/2017) The terms and procedure for the operation of the National Legal Aid Hotline shall be determined by internal rules endorsed by a decision of the NLAB.

Article 30d. (New, SG No. 13/2017) Advice on the National Legal Aid Hotline shall be offered by lawyers entered at the NLAB and designated by a decision of the NLAB.

Article 30e. (New, SG No. 13/2017) The advice offered on the National Legal Aid Hotline shall be certified by a timesheet of the lawyer, completed in a standard form endorsed by the NLAB.

Article 30f. (New, SG No. 13/2017) Payment for the advice offered on the National Legal Aid Hotline shall be effected under the terms and according to the procedure established by the ordinance referred to in Article 37 (1) herein.

Section II
(New, SG No. 13/2017)
Regional Consultation Centre

Article 30g. (New, SG No. 13/2017) The regional consultation centre shall be a form of offering advice to natural persons under facilitated conditions beyond the standard procedure for the granting of legal aid under Article 25 (2) herein.

Article 30h. (New, SG No. 13/2017) A regional consultation centre may be opened by
a decision of the relevant Bar Council.

Article 30i. (New, SG No. 13/2017) The operation of the regional consultation centre shall be administered by the NLAB and by the relevant Bar Council.

Article 30j. (New, SG No. 13/2017) The operation of the regional consultation centre, the terms and procedure for offering advice shall be determined by internal rules endorsed by a decision of the NLAB.

Article 30k. (New, SG No. 13/2017) Natural persons whose income, certified by a document by the relevant competent authority, does not exceed the amount of the poverty line established for the country, shall be entitled to advice at the regional consultation centre. If advice is refused, the person concerned may submit an application to the NLAB according to the procedure established by Article 25 (2) herein.

Article 30l. (New, SG No. 13/2017) Advice at the regional consultation centre shall be offered by lawyers entered at the NLAB and designated by a decision of the NLAB.

Article 30m. (New, SG No. 13/2017) The advice offered at the regional consultation centre shall be certified by a timesheet of the lawyer, completed in a standard form endorsed by the NLAB and authenticated by the Bar Council.

Article 30n. (New, SG No. 13/2017) Payment for the advice offered at the regional consultation centre shall be effected under the terms and according to the procedure established by the ordinance referred to in Article 37 (1) herein.

Chapter Six
NATIONAL LEGAL AID REGISTER

Article 31. The National Legal Aid Bureau shall keep a National Legal Aid Register for the lawyers designated to provide legal aid by geographical jurisdiction of the relevant district courts.

Article 32. (1) The Register shall be open to public inspection. The Register shall be compiled on a paper-based and on an electronic data medium and shall be posted on the Internet.

(2) The National Legal Aid Bureau shall provide the Bar Councils with information on the lawyers entered in the Register referred to in Article 31 herein.

Article 33. (1) Any lawyer wishing to be entered into the National Legal Aid Register shall submit an application in the NLAB care of the relevant Bar Council.

(2) The application referred to in Paragraph (1) shall be completed in a standard form endorsed by the NLAB.

(3) The Bar Council shall prepare an opinion on the application received and shall transmit the said application to the NLAB.

(4) The lawyer shall be entered in the National Legal Aid Register by decision of the NLAB.

(5) (Amended, SG No. 28/2013) The National Legal Aid Bureau shall issue a reasoned refusal to enter a lawyer into the Register or shall strike a lawyer entered therein if:

1. a disciplinary sanction has been imposed;
2. (repealed, SG No. 13/2017);
3. a violation under this Act or providing legal aid in bad faith or incompetently has been ascertained by the Bar Council or by the NLAB;
4. the said lawyer has refused to accept assigned defence or representation in the course of six months without reasonable excuse.

(6) (Amended, SG No. 28/2013) The National Legal Aid Bureau shall strike a lawyer entered from the Register:
1. in the cases referred to in Item 1 of Paragraph (5): for the period of disqualification from the exercise of the legal profession, and if a less severe sanction has been imposed, for a period of three months;

2. (repealed, SG No. 13/2017);

3. in the cases referred to in Items 3 and 4 of Paragraph (5): for a period of one year or, when repeated, for a period of three years.

(7) (Amended, SG No. 28/2013, supplemented, SG No. 77/2018, effective 1.01.2019) Any refusal of entry and any striking of a lawyer from the National Legal Aid Register shall be communicated to the party concerned and shall be contestable before the relevant Administrative Court according to the procedure established by the Administrative Procedure Code and shall be published on the Internet site of the NLAB. The judgment of the administrative court shall be final.

(8) (Repealed, SG No. 28/2013).

Article 34. (Amended, SG No. 28/2013) (1) Entries into the National Legal Aid Register shall be made twice within a calendar year: until the end of March and until the end of September.

(2) In exceptional cases, changes in the National Legal Aid Register may also be made during the year according to the procedure established for entry.

(3) Outside the cases covered under Article 33 (5) herein, striking from the National Legal Aid Register shall be effected:

1. at the request of the lawyer;
2. upon withdrawal from the Bar Association;
3. upon death.

Article 35. (1) The National Legal Aid Bureau may conduct inspections as to the legal aid provided under Article 21 herein. The said Office may require information from the competent authority directing the proceeding to certify the scope and type of the legal aid provided.

(2) (Amended, SG No. 13/2017) The persons whereto legal aid has been granted or the authorities referred to in Article 25 (1) herein may refer breaches committed by lawyers providing legal aid to the NLAB for consideration.

(3) The findings of the inspections may be grounds for striking of the lawyer from the National Legal Aid Register.

Article 36. (Amended, SG No. 28/2013) (1) The Bar Councils shall compile and shall keep, on a paper-based and on an electronic data medium, a list of the lawyers who provide legal aid. The Bar Councils shall notify the NLAB of any change in the said list.

(2) The list shall be prepared in a standard form endorsed by the NLAB and shall be posted in a conspicuous place in the building of the relevant Bar Council and on the Internet site of the NLAB.

Chapter Seven
PAYMENT FOR LEGAL AID

Article 37. (1) Payment for legal aid shall depend on the type and amount of work performed and shall be determined by an ordinance of the Council of Ministers on a motion by the NLAB.

(2) (Amended, SG No. 28/2013) Without prejudice to other sanctions, the lawyer shall not be paid a fee for any legal aid provided in bad faith or incompetently in a particular case and upon failure to submit a timesheet within the time limit referred to in Article 38 (4) herein.

(3) (New, SG No. 28/2013) Where the lawyer has received a fee, upon ascertaining that legal aid has been provided in bad faith or incompetently, the said lawyer shall return the amount paid on the basis of a decision of the President of the
**Article 38.** (1) The type and amount of the work performed shall be certified by a timesheet of the lawyer, completed in a standard form endorsed by the NLAB.

(2) (Amended, SG No. 28/2013) The Bar Council shall verify and authenticate the timesheet of the lawyer who has provided legal aid and shall propose an amount of the fee depending on the type, amount and quality of the legal aid provided within the limits established by the ordinance referred to in Article 37 (1) herein.

(3) (New, SG No. 28/2013) The timesheet shall be submitted:

1. in respect of a pre-trial proceeding in criminal matters: after completion of the pre-trial proceeding by a prosecutorial act;
2. in respect of trial proceedings: upon completion of the proceeding before the court of the respective instance.

(4) (New, SG No. 28/2013, supplemented, SG No. 13/2017) The lawyer shall be obligated to submit a timesheet on the legal aid provided thereby within one year after the cessation of the participation thereof in the proceeding. In case the lawyer has missed the deadline, the said lawyer may request a renewal of the said deadline if he or she proves that the missing was due to special circumstances which the said lawyer could not have foreseen and for the occurrence of which he or she is not liable. Any such request shall be considered at a meeting of the NLAB.

(5) (Renumbered from Paragraph (3), amended, SG No. 28/2013) The appointed lawyer shall furthermore be reimbursed for the necessary expenses on the defence, incurred for visit to the places of deprivation of liberty or to detention facilities and on defence in another nucleated settlement according to the procedure established by the Ordinance on Domestic Business Trips (promulgated in the State Gazette No. 11 of 1987; amended in No. 21 of 1991, No. 2 of 1994, No. 62 of 1995. No. 34 of 1997, No. 40 of 1999, No. 2 of 2008 and No. 2 of 2011).

**Article 39.** (Supplemented, SG No. 28/2013) Payment for the legal aid provided shall be effected by the NLAB by means of bank transfer on the basis of the timesheet referred to in Article 38 herein and a decision of the President of the NLAB.

**Article 40.** (Amended, SG No. 13/2017) The lawyer who provides legal aid shall not have the right to receive any fee and resources covering expenses from the person whereto legal aid is granted.

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**Chapter Eight**

(Effective 1.07.2007)

**SPECIFICITIES OF GRANTING LEGAL AID IN CROSS-BORDER DISPUTES**

**Article 41.** (1) The provisions of this Chapter shall apply to the granting of legal aid in cross-border disputes in civil and commercial matters before courts of all instances. The said provisions shall not apply to criminal and administrative matters.

(2) "Cross-border dispute", within the meaning given by Paragraph (1), shall be a dispute where the party applying for legal aid is a citizen of a Member State of the European Union or a person residing lawfully in a Member State of the European Union, and where the dispute is settled by a competent authority in another Member State of the European Union.

(3) The provisions of this Act shall apply to the granting of legal aid in cross-border disputes, save insofar as otherwise specifically provided for in this Chapter.

**Article 42.** (1) The citizens of the European Union or the persons residing lawfully in a Member State of the European Union shall be granted legal aid if the property status of the said persons does not exceed the social threshold established in Article 22 (1) herein.

(2) (Amended, SG No. 28/2013) Where the property status of the persons referred to in Paragraph (1) exceeds the social threshold established in Article 22 (1)
herein but the said persons are unable to pay for the costs of the case, the NLAB shall determine whether the applicant can pay the said costs. The said determination shall take into account the circumstances covered under Article 23 (3) herein, as well as the differential between the minimum cost of living required in the Member State and in Bulgaria.

**Article 43.** (Amended, SG No. 28/2013) The Ministry of Justice shall be the authority of the Republic of Bulgaria which shall be competent to receive and transmit applications for legal aid in cross-border disputes from and to the competent authorities of Member States of the European Union.

**Article 44.** (1) The applicant shall have the right to submit an application for legal aid either to the competent authority of the Member State of the European Union in which the said applicant is domiciled or habitually resident, or directly to the Ministry of Justice of the Republic of Bulgaria, should the case is to be tried by a court in the Republic of Bulgaria or should the judgment of court is to be enforced in the Republic of Bulgaria.

(2) The application for legal aid and the documents proving that the person is responsive to the eligibility requirements for the granting of legal aid, as submitted to the Ministry of Justice, shall be translated into the Bulgarian language or into another official language of the institutions of the European Community, which the Republic of Bulgaria has specified as acceptable to the European Commission. Legalization of the said documents shall not be required.

(3) Upon receipt of an application for legal aid from a competent authority of another Member State of the European Union, the Ministry of Justice of the Republic of Bulgaria shall verify whether the application is accompanied by all the supporting documents required and whether a translation of the documents has been provided. If the documents are responsive to these requirements, the application shall be forthwith transmitted to the NLAB for adoption of a decision.

(4) In case the application is not responsive to the requirements of this Article, the said application shall be returned to the competent transmitting authority of the foreign Member State of the European Union for curing of the non-conformities as detected.

(5) The National Legal Aid Bureau shall transmit the decision thereof on the application for legal aid to the Ministry of Justice, which shall forward the said decision to the competent authority of the other Member State of the European Union for service up on the applicant.

(6) (Supplemented, SG No. 77/2018, effective 1.01.2019) Any refusal by the NLAB to grant legal aid shall be reasoned and shall be appealable according to the procedure established by the Administrative Procedure Code. The judgment of the administrative court shall be final.

**Article 45.** (1) (Amended, SG No. 9/2011) Should the case be tried by the court of another Member State of the European Union, or should the judgment of court is to be enforced in another Member State of the European Union, any applicant who is a Bulgarian citizen residing within the territory of the Republic of Bulgaria, a foreign citizen or a stateless person who has been permitted continuous, long-term or permanent residence in the Republic of Bulgaria, or a person who has been recognized a refugee status or who has been afforded a right of asylum within the territory of the Republic of Bulgaria, may submit the application thereof together with the documents proving that the said applicant is responsive to the eligibility requirements for the granting of legal aid, directly to the competent authority of the respective Member State of the European Union, or care of the Ministry of Justice of the Republic of Bulgaria.

(2) The documents referred to in Paragraph (1) shall be translated into the official language or into one of the official languages of the other Member State of the
European Union, or into another official language of the institutions of the European Community, which the said Member State has specified as acceptable to the European Commission.

(3) The Ministry of Justice of the Republic of Bulgaria shall have the right to refuse to transmit the application in case the said application is not responsive to the requirements of this Chapter. In such case, the Ministry of Justice of the Republic of Bulgaria shall notify the applicant of the reasons for the refusal.

(4) The Ministry of Justice of the Republic of Bulgaria shall be obligated to inform the applicant of the documents required for acceptance of the application for legal aid in the other Member State of the European Union and shall arrange a translation of the application and of the documents proving that the person is responsive to the eligibility requirements for the granting of legal aid.

(5) The Ministry of Justice of the Republic of Bulgaria shall be obligated to transmit the application together with the documents accompanying the said application to the competent authority of the other Member State of the European Union within 15 days after the day of translation of the application and of the documents.

(6) Should the competent authority of the other Member State of the European Union reject the application for legal aid, the applicant shall repay the costs of translation of the application and of the documents borne by the Ministry of Justice of the Republic of Bulgaria.

Article 46. The applications referred to in Articles 44 and 45 herein shall be submitted in standard forms established by the European Commission.

Article 47. The Ministry of Justice of the Republic of Bulgaria shall provide the European Commission with the following information:

1. the names and addresses of the competent receiving and transmitting authority;
2. the means by which applications are received;
3. the languages that may be used for the completion of the applications.

Article 48. The applicant who has received legal aid in another Member State of the European Union, where the case was tried, shall have the right to legal aid under this Act in case the Republic of Bulgaria is asked to recognize or admit enforcement of a judgment of court rendered in the matter of the relevant case.

Article 49. (1) The legal aid granted to the persons referred to in Article 42 herein shall furthermore cover the following costs related to the cross-border nature of the dispute:

1. relating to interpretation;
2. relating to translation of documents required by the court or by another competent authority;
3. travel costs, where the physical presence of witnesses in the court hearing is mandatorily required.

(2) The legal aid granted to the persons referred to in Article 45 (1) herein shall cover the following costs:

1. relating to legal aid under Item 1 of Article 21 herein, which has been granted in the Republic of Bulgaria until the time when the application for legal aid was received in another Member State of the European Union where the case is tried or where the judgment of court must be enforced;
2. relating to the translation of the application for legal aid and of the documents proving that the person is responsive to the eligibility requirements for the granting of legal aid.

SUPPLEMENTARY PROVISIONS
§ 1. "Systematic violation", within the meaning given by this Act, shall be the commission of three or more violations.

§ 2. Legal aid in civil matters shall furthermore include legal aid in a subsequent enforcement proceeding, which has commenced within one year after the entry into effect of the judgment of court, unless there is a change in the circumstances that existed during the consideration of the application for legal aid.

TRANSITIONAL AND FINAL PROVISIONS

§ 3. Any pending cases, in which an assigned defence counsel or an ad hoc representative has been appointed, shall be tried under the hitherto effective terms and procedure.

§ 4. The Council of Ministers shall provide the property and the financial resources necessary for commencement of the work of the NLAB.


"(6) If the claim of a recipient of legal aid is granted, the due fees and applicable costs shall be awarded in favour of the National Legal Aid Bureau commensurate to the portion of the action granted. In the cases of a judgment adverse to the recipient of legal aid, the said recipient shall owe costs commensurate to the portion of the action rejected."

§ 6. The Bar Act (promulgated in the State Gazette No. 55 of 2004; amended in No. 43 of 2005) shall be amended as follows:

1. Article 44 shall be amended to read as follows:

"Article 44. (1) A lawyer, who has been entered in the National Legal Aid Register, shall be obligated to provide legal aid according to the procedure established by the Legal Aid Act, where the said lawyer has been designated for this.

(2) The lawyer shall be obligated to conduct the case assigned thereto, in the matter of which he or she provides legal aid according to the procedure established by the Legal Aid Act, exercising the same care as if he were retained by the client."

2. In Article 89, Item 15 shall be amended to read as follows:

"15. participate in the arrangement of legal aid according to the procedure established by the Legal Aid Act;"

3. In Item 6 of Article 132, the words "assigned defence or ad hoc representation" shall be replaced by "legal aid".


"5. for the costs of legal aid under the Legal Aid Act, incurred after the lapse of the grounds for the granting of such aid."

§ 8. This Act shall enter into force on the 1st day of January 2006, with the exception
of Chapter Eight, which shall enter into force as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

§ 9. The implementation of this Act shall be entrusted to the National Legal Aid Bureau.

The Act was passed by the 40th National Assembly on the 21st day of September 2005 and the Official Seal of the National Assembly has been affixed thereto.

TRANSITIONAL AND FINAL PROVISIONS
to the Administrative Procedure Code
(SG No. 30/2006, effective 12.07.2006)

§ 106. In the Legal Aid Act (promulgated in the State Gazette No. 79 of 2005 amended in No. 105 of 2005, No. 17 of 2006), the words "the Administrative Procedure Act" shall be replaced passim by "the Administrative Procedure Code".

FINAL PROVISIONS
to the Act to Amend the Administration Act
(SG No. 82/2012)

§ 16. The Council of Ministers and the government ministers shall bring the statutory instruments of secondary legislation adopted or issued thereby, as the case may be, into conformity with this Act within one month after the entry thereof into force.

TRANSITIONAL AND FINAL PROVISIONS
to the Act to Amend and Supplement the Legal Aid Act
(SG No. 13/2017)

§ 13. The single information system referred to in Article 8a [of the Legal Aid Act] shall be implemented within two years from the entry into force of this Act. After the expiry of this time limit, the Bar Councils shall be obligated to use the said system for electronic information exchange and electronic reporting of the legal aid. § 3 herein regarding Article 12 of the Act shall furthermore apply with regard to any running and unfinished terms of office as from the time of entry into force of the Act.

§ 14. (1) The provision of Article 67 (3) of the Judiciary System Act shall not apply to the court assessors elected until the 9th day of August 2016.

(2) The court assessors elected until the 9th day of August 2016 shall complete the five-year term of office for which the said assessors have been elected.

(3) The court assessors elected until the 9th day of August 2016, who were released early in pursuance of Article 69 (1) or Item 7 of Article 71 (1) of the Judiciary System Act until the entry into force of this Act, shall be reinstated by decision of the respective general assembly.

TRANSITIONAL AND FINAL PROVISIONS
to the Social Services Act
(SG No. 101/2019, effective 1.07.2020 - amended, SG No. 24/2019)

§ 41. (1) The provisions of the Health Act, the Health Insurance Act, the Employment Promotion Act, the Legal Aid Act, the Local Taxes and Fees Act, the Veterinary Practices Act, the Bulgarian Personal Documents Act, the Civil Registration Act and the Environmental Protection Act that are applicable to social and integrated
health and social services for residential care, to the heads of such services and to the persons who use such services shall apply mutatis mutandis to the homes for children deprived of parental care, their heads and the persons placed in them until said homes are closed down.

(2) The provisions of the Health Act, the Health Insurance Act, the Legal Aid Act, the Employment Promotion Act, the Veterinary Practices Act, the Environmental Protection Act, the War Invalids and Victims Act, the Persons with Disabilities Act and the Local Taxes and Fees act that are applicable to the social and integrated health and social services for residential care and to the persons who use such services shall apply mutatis mutandis to the homes for adults with mental retardation, homes for adults with mental disorders, homes for adults with physical disabilities, homes for adults with sensory disorders and homes for adults with dementia and to the persons placed in them until said homes are closed down.

(3) Until the homes for medical and social care for children are closed down, Article 124(2) of the Health Act shall apply to the children placed in said homes.

(4) Until the homes for children deprived of parental care and the homes for medical and social care for children are closed down, Article 8e(6) of the Family Allowances for Children Act, Article 22c(2)(3) and Article 22d(2)(3) of the Income Taxes on Natural Persons Act shall apply when children are placed in said homes.

(5) The provisions of the Income Taxes on Natural Persons Act and the Corporate Income Tax Act that are applicable to donations to the benefit of social and integrated health and social services for residential care shall apply mutatis mutandis to the donations to homes for children deprived of parental care, homes for adults with mental retardation, homes for adults with mental disorders, homes for adults with physical disabilities, homes for adults with sensory disorders and homes for adults with dementia until said homes are closed down.

§ 45. (Amended, SG No. 101/2019). This Act shall enter into force on 1 July 2020 with the exception of:

1. Paragraph 6, subparagraph 5(a), Paragraph 7, subparagraph 2(a) and (b), subparagraph 3, subparagraph 6(a), subparagraph 9 and subparagraph 10, Paragraph 18(2) in the part concerning the "homes for medical and social care for children in accordance with the Medical Treatment Facilities Act" and Paragraph 20, subparagraph 2 in the part concerning the deleting of the test "and the homes for medical and social care for children" and subparagraph 5(c), which shall enter into force on 1 January 2021;

2. Paragraph 3(4)(f), (g) and (h) and Paragraph 28, subparagraph 1(a) and subparagraphs 2 and 5, which shall enter into force on 1 January 2019;

3. Article 22(4), Article 40, Article 109(1), Article 124, Article 161(2) Paragraphs 3(6), 30, 36, 37 and 43, which shall enter into force as from the day of promulgation of this Act in the State Gazette.
Mediation Act


Text in Bulgarian: Закон за медиацията

Chapter One
GENERAL DISPOSITIONS

Scope of Application

Article 1. This Act regulates the relationships associated with mediation as an alternative method of resolution of legal and non-legal disputes.

Notion of Mediation

Article 2. Mediation is a voluntary and confidential procedure for out-of-court resolution of disputes, whereby a third party mediator assists the disputants in reaching a settlement.

Subject of Mediation

Article 3. (1) Subject of mediation may be civil, commercial, labour, family and administrative disputes related to consumer rights, and other disputes between natural and/or legal persons, including when they are cross-border disputes.

(2) Mediation shall furthermore be conducted in the cases provided for in the Criminal Procedure Code.

(3) Mediation shall not be conducted if a law or another statutory instrument provides for another procedure for conclusion of an agreement.

Organization of Mediation

Article 4. Mediation shall be implemented by natural persons. Such persons may associate for the purpose of implementing the activity. No persons performing functions of administration of justice in the judiciary system may carry out mediation activities.

Chapter Two
PRINCIPLES OF MEDIATION

Voluntary Recourse and Equal Treatment

Article 5. The parties shall have equal opportunities to participate in a mediation process. They shall participate in the process of their own free will and may withdraw at any time.

Neutrality and Impartiality

Article 6. (1) A mediator shall not display partiality and shall not impose a resolution of the dispute.

(2) Within a mediation process, all questions shall be resolved by mutual agreement between the parties.

Confidentiality

Article 7. (1) (Previous text of Article 7, SG No. 27/2011) Discussions in connection
with the dispute shall be confidential. The participants in a mediation process shall be bound by the obligation to respect the confidentiality of all circumstances, facts and documents as have come to the knowledge thereof in the course of the process.

(2) (New, SG No. 27/2011) Mediators may not be interrogated as witnesses regarding circumstances which have been confided to them by mediation participants and which are relevant to the resolution of the dispute that is the subject of the mediation, unless having received the explicit consent of the confiding party.

(3) (New, SG No. 27/2011) An exception to mediation confidentiality is allowed where:
   1. this is necessary for the purposes of criminal proceedings or in relation to the protection of public order;
   2. this is required in order to ensure the protection of the best interests of children or to prevent harm to the physical or psychological integrity of a person; or
   3. disclosure of the content of the agreement resulting from mediation is necessary in order to implement or enforce that agreement.

Chapter Three
LEGAL STATUS OF MEDIATOR

General Eligibility Requirements

Article 8. (Amended, SG No. 86/2006) A mediator may be only a legally capable person who meets the following requirements:
   1. has not been convicted for criminal offenses at public law;
   2. has successfully undergone a course for mediators;
   3. has not been deprived of the right to exercise a profession or conduct an activity;
   4. (Supplemented, SG No. 9/2011) has a permit for long-term or permanent residence in the Republic of Bulgaria, in the event the person is a foreign national;
   5. has been entered in the Uniform Register of Mediators with the Minister of Justice.

(2) (Effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The requirement under paragraph 1, item 4 does not apply to nationals of member-states of the European Union, the other states from the European Economic Area and Switzerland.

(3) (Supplemented, SG No. 77/2018, effective 1.01.2019) The Minister of Justice or an official from the Ministry empowered thereby shall issue a certificate to the mediator ascertaining his/her entering in the Uniform Register of Mediators.

(4) The Minister of Justice shall approve by issuing an order the organizations which deliver training to mediators. The terms and conditions for their approval, as well as the requirements for mediation training are to be defined in an ordinance of the Minister of Justice.

(5) (Amended, SG No. 77/2018, effective 1.01.2019) In the event a person, applying for mediator and an organization, applying to deliver training for mediators, do not meet the statutory requirements, the Minister of Justice or an official from the Ministry empowered thereby shall issue an order to refuse, respectively approve, their entering in the Uniform Register of Mediators. The order can be appealed following the procedure set out in the Administrative Procedure Code before the relevant administrative court.

Uniform Register of Mediators

Article 8a. (New, SG No. 86/2006) (1) (Supplemented, SG No. 77/2018, effective 1.01.2019) The Minister of Justice or an official from the Ministry empowered thereby creates and maintains the Uniform Register of Mediators.

(2) The following is entered in the Uniform Register of Mediators:

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https://web.apis.bg
1. name, personal identification number (personal number of a foreign national), citizenship, education, profession, additional specialization in the field of mediation, the organization which has trained the mediator, foreign language skills, address and telephone for contacts and number of the mediator;

2. deletion and striking off the mediator;
3. the organization where the mediator was trained
4. changes in the circumstances under Article 8, paragraph 1, item 1, 3 and 4.

(3) The Uniform Register of Mediators is public.

(4) (Supplemented, SG No. 77/2018, effective 1.01.2019) A person entered in the Uniform Register of Mediators shall declare in writing to the Minister of Justice or an official from the Ministry empowered thereby any changes in the circumstances, subject to entering in the Register, within 14 days after they occur.

(5) (Amended, SG No. 77/2018, effective 1.01.2019) When a requirement of Article 8, paragraph 1, items 1, 3 and 4 is no longer met, the Minister of Justice or an official from the Ministry empowered thereby issues an order for deletion of the mediator in the Uniform Register of Mediators. The order can be appealed following the procedure set out in the Administrative Procedure Code before the relevant administrative court.

(6) The procedure for entering in, striking off and deletion from the Uniform Register of Mediators is determined by the ordinance as per Article 8, paragraph 4.

(7) (Amended, SG No. 17/2019) The information under Paragraph 2, item 1 about the personal identification number (personal number of alien) shall be provided in compliance with the requirements for the protection of personal data.

Fees

**Article 8b.** (New, SG No. 86/2006) The Ministry of Justice shall charge a fee for entering in the Uniform Register of Mediators and for approval of organizations which train mediators, to an amount set with a tariff, adopted by the Council of Ministers.

Rules of Mediator Conduct

**Article 9.** (1) (Supplemented, SG No. 86/2006) A mediator shall act in good faith in compliance with the law, good morals, and the procedural and ethical rules of mediator conduct. These rules shall be determined in the ordinance under Article 8, paragraph 4.

(2) A mediator shall accept to conduct the procedure solely if able to guarantee his or her own independence, impartiality and neutrality.

Mediator’s Obligations and Liability

**Article 10.** (1) A mediator may not give legal advice.

(2) During the process, a mediator shall be obligated to comply with the opinion of each of the disputants.

(3) A mediator shall withdraw from the process upon occurrence of any circumstances as would cast doubt on the independence, impartiality and neutrality thereof.

(4) A mediator may not communicate to the other participants in the process any circumstances concerning solely one of the disputants without the consent of the said disputant.

(5) A mediator shall not be liable if the parties fail to reach a settlement.

(6) A mediator shall not be liable for non-performance of the agreement.

**Chapter Four**

**MEDIATION PROCESS**
Article 11. (1) A mediation process shall commence on the initiative of the disputants, with each of the said disputants having the right to propose resolution of the dispute through mediation.

(2) (New, SG No. 27/2011) The beginning of a mediation process shall be the date on which the parties have reached an explicit agreement to commence such a process, and when no explicit agreement is available the beginning of the mediation process shall be the date of the first meeting of all participants with the mediator.

(3) (Renumbered from Paragraph 2, SG No. 27/2011) A proposal for resolution of the dispute through mediation may furthermore be made by the court or another competent authority whereto the dispute has been referred for settlement.

(4) (Renumbered from Paragraph 3, SG No. 27/2011) The consent of the parties to resolution of a possible future dispute therebetween through mediation may furthermore be stipulated as a clause of a contract.

Effect of the mediation process beginning on the limitation period

Article 11a. (New, SG No. 27/2011) No limitation period shall run while the mediator process is ongoing.

Participants

Article 12. (1) A mediation process shall be implemented by one or more mediators selected by the parties.

(2) (Supplemented, SG No. 86/2006) The disputants shall participate in the process personally or through a representative. Authorization shall be made in writing.

(3) Lawyers, as well as other specialists, may likewise participate in a mediation process.

Mediator's Steps

Article 13. (1) Prior to conduct of the process, the mediator shall inform the parties of the essence of mediation and of the consequences thereof and shall require the written or oral consent of the said parties to participation.

(2) (Amended, SG No. 27/2011) The mediator shall be obligated to indicate all circumstances as may give rise to reasonable doubt in the parties as to the impartiality and neutrality of the mediator, including the cases when the mediator is a person:

1. who is a spouse or a relative in a direct line to an unlimited degree and collaterally up to and including the fourth degree, or to the third degree of affinity, of any of the parties or their representatives;
2. who lives in de facto marital cohabitation with any party to the dispute that is the subject of the mediation;
3. who has been a representative or an agent of any party to the dispute that is the subject of the mediation;
4. in respect of whom there are other circumstances that cause reasonable doubt as to the mediator's impartiality.

(3) (New, SG No. 27/2011) A mediator shall sign a statement of impartiality for each process which has been assigned to him/her and shall present it to the parties to the dispute. The statement of impartiality shall contain, inter alia, a reference to the circumstances under Paragraph 2.

(4) (Renumbered from Paragraph 3, SG No. 27/2011) In the course of the process, the essence of the dispute shall be clarified, the mutually acceptable options of solutions shall be specified, and the possible framework of an agreement shall be outlined.

(5) (Renumbered from Paragraph 4, SG No. 27/2011) Upon performance of the said steps, the mediator may schedule separate meetings with each of the parties, with due respect for the equal rights thereof to participation in the process.
Grounds for Suspension of Process

**Article 14.** (1) Mediation shall be suspended:
   1. by common agreement between the parties, or at the request of one of the parties;
   2. upon the death of the mediator;
   3. in the cases provided for in Article 10 (3) herein.

   (2) (Supplemented, SG No. 86/2006) If mediation is conducted while a proceeding is pending, the parties shall forthwith inform the competent authority of the suspension of the mediation process.

Grounds for Termination of Process

**Article 15.** (1) A mediation process shall be terminated:
   1. upon reaching a settlement;
   2. by mutual agreement between the parties;
   3. upon withdrawal of one of the parties;
   4. upon the death of a disputant;
   5. upon dissolution of a disputant if a legal person.
   6. (new, SG No. 27/2011) upon expiration of 6 months from the beginning of the process.

   (2) The agreement of the parties to the termination of the dispute must be expressed clearly and unequivocally.

   (3) Upon termination of a mediation process, a pending proceeding that has been suspended shall be resumed in accordance with the provisions of the law.

**Chapter Five**

**AGREEMENT**

Form and Content

**Article 16.** (1) (Previous Article 16, supplemented, SG No. 27/2011) The form and content of the agreement shall be determined by the parties. The form may be oral, written, or written with a notarization of the parties' signatures. A written agreement shall state the place and date whereat the said agreement was reached, the names of the parties and the addresses thereof, the points of agreement, the name of the mediator, and the date under Article 11(2) and shall bear the signatures of the parties.

   (2) (New, SG No. 27/2011) The parties may include a liability clause in the agreement governing any cases of defaulting on the obligations laid down therein.

Effect of Agreement

**Article 17.** (1) The agreement shall be binding solely on the disputants and may not be held adverse to any persons who did not participate in the process.

   (2) (Amended, SG No. 86/2006) The agreement shall be binding on the parties solely in respect of the points of agreement therebetween.

   (3) (New, SG No. 86/2006) Null shall be an agreement which contradicts or evades the law, as well as an agreement which is in conflict with the morals.

Making an agreement enforceable

**Article 18.** (New, SG No. 27/2011) (1) Any agreement concerning a legal dispute within the meaning of Article 1 of this Act reached in a mediation process shall have the effect of a court settlement and shall be subject to approval by regional courts in Bulgaria.

   (2) The competent court shall approve the agreement, once acknowledged by the parties, if it does not contradict the law or the principles of morality. The court
shall hear the opinion of the prosecutor, if the latter is involved as a party to the process.

**ADDITIONAL PROVISION**  
(New, SG No. 27/2011)

§ 1. (New, SG No. 27/2011) Within the meaning of this Act, a 'cross-border dispute" shall be:

1. One in which at least one of the parties is domiciled or habitually resident in a Member State other than that of any other party on the date on which:
   (a) the parties agree to use mediation after the dispute has arisen; or
   (b) an invitation is made to the parties by a court to which the case has been referred to the effect that they are to use mediation for resolving the dispute.

2. One in which judicial proceedings or arbitration following mediation between the parties are initiated in a Member State other than that in which the parties were domiciled or habitually resident on the date referred to in paragraph 1.

For the purposes of paragraphs 1 and 2, domicile shall be determined in accordance with Articles 59 and 60 of Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

**TRANSITIONAL AND FINAL PROVISIONS**

§ 1a. (Renumbered from § 1, SG No. 27/2011) Within six months after the entry of this Act into force, the Minister of Justice shall adopt mediator training standards, Procedural and Ethical Rules of Mediator Conduct, and shall establish and maintain a Uniform Register of Mediators.

§ 2. The implementation of this Act shall be entrusted to the Minister of Justice.

This Act was passed by the 39th National Assembly on the second day of December in the year two thousand and four, and the Official Seal of the National Assembly has been affixed thereto.

**TRANSITIONAL AND FINAL PROVISIONS**

to the Amendment and Supplement Act to the Mediation Act  
(SG No. 86/2006)

§ 7. The persons who have been entered in the Uniform Register of Mediators have to ascertain with the due documents before the Ministry of Justice, within 6 months of the coming of this act into effect, that they meet the requirements of Article 8, paragraph 1, item 1, 3 and 4. The same term applies for filing of applications for entering in the Register of Mediators of persons who meet the requirements of Article 8, paragraph 1, item 1 - 4 and who have been trained as mediators in the country or abroad prior to the entering of this act in effect.

§ 8. The Minister of Justice shall issue the ordinance under Article 8, paragraph 4 within three months after the entering of this act in effect.

§ 9. The Council of Ministers shall adopt the tariff under Article 8b within three months after the entering of this act in effect.

§ 10. Paragraph 1 concerning Article 8, paragraph 2 shall enter into effect as of the date of accession of the Republic of Bulgaria to the European Union.

**ADDITIONAL PROVISION**  
to the Amendment and Supplement Act to the Mediation Act
Economic Commission for Europe

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Task Force on Access to Justice

Fourteenth meeting
Geneva, 27 and 28 April 2022
Item 3 of the provisional agenda
Stocktaking of recent and upcoming developments
Information paper N3

QUESTIONNAIRE

Measures to enable effective access to justice in environmental matters

At its seventh session¹, the Meeting of the Parties to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/3 on promoting effective access to justice and requested the Task Force on Access to Justice to promote the exchange of information, experiences, challenges and good practices relating to the implementation of the third pillar of the Convention. Through this decision, the Meeting of the Parties also encouraged Parties to undertake further considerable efforts to improve the effectiveness of public access to justice in environmental matters, e.g., by removing, as the case may be, barriers with regard to costs, access to assistance mechanisms and timeliness. Objective I.12 (c) of the Convention’s Strategic Plan for 2022-2030 also requires each Party to undertake genuine efforts to reduce and eliminate financial and other barriers that may prevent access to such review procedures and establishes, where appropriate, assistance mechanisms – also covering vulnerable and marginalized groups.

To support the implementation of the Convention’s Strategic Plan for 2022-2030 and decision VII/3, the Aarhus Convention Task Force on Access to Justice will carry out a survey to collect good practices and challenges in implementing measures that aim to overcome the above-mentioned barriers and enable effective access to justice.

The survey outcomes will lay the ground for advancing the implementation of article 9, paras. 4 and 5, of the Aarhus Convention and thereby support the attainment of SDG targets 16.3 “Promote the Rule of Law and Ensure Equal Access to Justice”.

The questionnaire below was prepared by the secretariat in consultation with the Chair. Each question identifies high impact measures that aim to significantly reduce or eliminate financial and other barriers for members of the public to access to justice and also provides a possibility to report on other measures that can contribute to this aim. Environmental cases are understood as cases falling within the scope of the Aarhus Convention².

¹ See para. 14(a) (i) of decision VII/3 of the Meeting of the Parties adopted at its seventh session (Geneva, 18–21 October 2021) available from: https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7.
When completing the questionnaire, please include a brief description of the measures taken in your jurisdiction and share the relevant references to the legislation and case law in English and if not available in the national language and links to the relevant webpages. Please report good practices and challenges related to the reduction of court fees and other legal costs, access to judicial experts appointed by courts or contracted by parties under “Other” measures as they can contribute partially to the resolution of the above-mentioned challenges.

The draft questionnaire was discussed at the fourteenth meeting of the Task Force on Access to Justice in Geneva on 27-28 April 2022 and finalised by the secretariat in consultation with the Chair in the light of the discussion at and after the meeting.

National focal points of the Convention, the network of judiciary, judicial training institutions and other review bodies in the pan-European region, non-governmental organizations and other stakeholders are invited to complete the questionnaire and submit their responses to the Aarhus Convention secretariat (aarhus.survey[at]un.org) by 1 November 2022.

The outcomes of the survey will be discussed at the next meeting of the Aarhus Convention Task Force on Access to Justice in April 2023 and further reported to the subsequent meeting of the Working Group of the Parties to the Aarhus Convention.

CONTACT INFORMATION
Please provide name and contact data of the person who filled in the questionnaire:
First Name: Last Name: the Board of Appeal
Organization: European Chemicals Agency
Address: Telakkakatu 6, P.O. Box 400, FI-00121 Helsinki, Finland
Telephone: Fax: N/A
E-mail: Website: https://echa.europa.eu/

The completed questionnaires will be posted on the website of the meeting. Please tick the box if you prefer your reply not to be posted ☐.

Preliminary Remark:

Before responding to the below survey’s questions, the following should be mentioned. The Board of Appeal (‘BoA’) of the European Chemicals Agency (‘the Agency’ or ‘ECHA’) - that is an agency of the European Union - is an independent review body that decides on appeals against certain ECHA’s decisions taken under the REACH Regulation and the Biocidal Products Regulation. Given the administrative rather than judicial nature of the BoA, the answers are provided in a wide interpretation of the questions and considering the apparent integration of the BoA in the EU judicial system by virtue of Article 58a of the Statute of the Court of Justice of the European Union.

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
  - In appeal cases before the BoA, a corresponding appeal fee needs to be paid when a notice of appeal is lodged. For appeals under REACH, a reduced appeal fee is foreseen for small and medium sized enterprises pursuant to Article 10(2) of the REACH Fee Regulation.
- Fully waiving the application fee in accordance with the loser pays principle

More information is available from https://unece.org/environmental-policy/events/fourteenth-meeting-task-force-access-justice-under-aarhus-convention
Under Article 17a of the Rules of Procedure of the Board of Appeal (‘RoP’), the parties shall bear their own costs. Thus, in cases where the BoA dismisses an appeal as unfounded, the appellant is not liable to pay for the costs incurred by the Agency in the appeal proceedings.

- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court

Under Article 2(3) of BoA Decision on costs relating to taking of evidence in appeal proceedings, (i.e. implanting measure adopted pursuant to the RoP) the BoA may decide - in exceptional cases and if applied for - that the Agency pays the costs for taking evidence, where the evidence is necessary and decisive for the outcome of the proceedings and is in the interest of the proper administration of justice.

- Other (e.g. measures to reduce costs, etc.)
  - Under Article 10(4) of the REACH Fee Regulation, the Agency will refund the appeal fee to the appellant if the Executive Director of the Agency rectifies the decision contested by appeal, or the appeal is decided in favour of the appellant;
  - According to Article 9 of the RoP, parties or interveners in the proceedings before the BoA do not need to be represented by a qualified lawyer;
  - According to Article 10(3) of the RoP, the BoA may allow that party’s or interveners’ documents are lodged by telefax, e-mail or by any other technical means of communication in place of the submission by hand or by post (less cost-efficient means); and
  - According to Article 14(4) of the RoP, the BoA may, following the request of the intervener, authorise it to use an official language of the Community other than the language of the case, thus allowing the intervener to save costs it would otherwise have to bear for translators/interpreters.

**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other

- See above, parties or interveners in the proceedings before the BoA do not need to be represented by a qualified lawyer to submit and defend an appeal before the BoA;
- Under Article 8(1) of the RoP, any person establishing an interest in the result of the case before the BoA may intervene in the proceedings. The fact of being included in the Agency’s list of accredited stakeholder organisations leads in most of the appeal cases to a decision allowing such applicant’s leave to intervene;
- Under Article 6(6) of the RoP, an announcement of the notice of appeal is published on the Agency’s website, indicating in particular the subject matter of the proceedings, the remedy sought by the appellant and a summary of the pleas in law and of the main supporting arguments. One of the purposes of this publication is to offer the possibility to members of the public to see what the notice of appeal pending before the BoA is about, in case they
consider applying to intervene in the appeal case. For this they need to demonstrate that they have an interest in the result of the case – threshold that is lower when compared to cases before EU Courts.

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

Under Article 1(1) and (2) Commission Regulation 1238/2007 on laying down rules on the qualification of the members of the BoA, the BoA consists of technically and legally qualified members. The technically qualified members, including the alternates, are required to hold a university degree (or equivalent qualification) and shall have professional experience in hazard assessment, exposure assessment or risk management with regard to human health or environment risks of chemical substances or in related fields. The legally qualified members and their alternates are required to hold a law degree and have experience in EU law. Also, the legally qualified member shall have proven knowledge and experience in EU law, related to chemicals or another analogous regulatory field (e.g. plant protection products, food additives, pharmaceuticals or cosmetics, the Water Framework Directive, the Integrated Pollution Prevention and Control Directive, the Seveso Directive). The fact that decisions are taken by both legally and technically qualified members demonstrates that ECHA has the necessary expertise to itself carry out assessments of highly complex scientific facts (see judgment of the General Court of 20 September 2019, BASF Grenzach v ECHA, T-125/17, EU:T:2019:638, paragraph 88).

In addition, internal and external training activities are organised for the BoA members and its Registry staff that assist the BoA, including the alternate BoA members. These trainings focus mainly on scientific areas, such as toxicology or assessment of technical equivalence in the framework of the Biocidal Products Regulation, but also legally related topics, for instance legal drafting techniques, amendments to REACH Annexes, etc.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties)

See above (the BoA is composed of both, legally and technically qualified members).

In addition, proceedings before the BoA include multiple means of evidence taking (see Article 16 of the RoP). This further ensures an independent review procedure. Also, if the BoA considers it necessary, it may also invite a witness or expert to give evidence before the BoA. Other means of taking evidence are requests for information and production of documents and items.
Question 5: Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^4\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

Due to the specific nature of the BoA as administrative review mechanism and in line with Article 25 of the REACH Regulation (principle of animal testing as last resort) an appeal before the BoA has suspensive effect under Article 91(2) REACH and Article 77(2) BPR. Mindful of the nature of the appeal proceedings where all sides to an appeal should be given sufficient opportunities to present their arguments during, both written and oral phase of the proceedings, the BoA aims to adopt a final decision in appeal case in 90 working days after the hearing or following a closure of written procedure where no hearing is taking place. The average length of appeal proceedings is 14 months.

Question 6: Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
  All BoA decisions are published on ECHA website, Decisions - ECHA (europa.eu). They can be searched by decision number, date, type, subject matter and outcome. A text search is also available.
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
    Webform for submission of documents related to appeal proceedings to the Registry of the BoA
  - For judicial review
- E-access to case files at court for the parties
  Parties do not have e-access to the documents related to the case they are involved in; however, they receive the documents via email communications from the Registry of the BoA.
- Remote court hearings
  According to Article 13(7) of the RoP, hearings may be held by video-conference or by other communication technology. During the Covid-19 pandemic remotely held hearings became a new constant. Following that, the parties are given the opportunity to say whether the hearing will be held remotely or in person.
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other
  Press releases on the ECHA website;
  Digest of BoA decisions;
  Annual Report from the Chairman of the Board of Appeal to ECHA’s Management Board. These reports also contain some quantitative data on environmental cases before the BoA.

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\(^4\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Question 7: Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

- Although not intended strictu sensu as an alternative dispute resolution, under Article 1a of the RoP, the Chairman may invite the parties to consider resolving their dispute by reaching an amicable agreement. In the future a proper alternative dispute resolution mechanism, whereby parties would be able to initiate alternative dispute resolution mechanism could be developed to resolve the cases before the BoA.

- If the contested decision is rectified by the Executive Director of the Agency, the appellant has the option to withdraw the appeal, which leads to the closure of the case by the Chairman without a substantive decision.
QUESTIONNAIRE
Measures to enable effective access to justice
in environmental matters

Response by Finland

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

Answer:

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeals stage:

- Administrative court: 270 euro
- Supreme Administrative Court: 530 euro

Individual appellants can be exempted from fee under certain circumstances. An essential ground for exemption is that the appellant is successful in his or her challenge. In addition to such categorical exemptions from the trial fee, an exemption can be granted on grounds of unreasonableness on a case-by-case basis by the referendary or rapporteur, who assigns the fee. Although the trial fee is charged together with the decision of the court, it is separately challengeable through a request for reconsideration with the official who has assigned the fee. The decision of the official can be challenged by means of administrative appeal.

There are no additional court fees for any additional stages of the proceedings, e.g. consideration of an application for injunctive relief or arranging an oral hearing or viewing. Likewise, parties will not be incurred costs for other measures of the court in investigating the matter, such as acquiring a statement from an expert authority.

When multiple persons jointly lodge an appeal, only one fee is charged.

Legal counsel is not mandatory in any environmental administrative court proceedings. Neither is it in practice very common for appealing individuals or NGOs to employ counsel. For corporations, in the capacity of appellant or otherwise concerned party, it is more usual.

The Administrative Judicial Procedure Act does not require counsel, when used, to have a law degree or other training, only general suitability is called for (AJPA\(^1\), Section 30). The only exception for this is the case of extraordinary appeal in the Supreme Administrative Court. To lodge an appeal for annulment of a final decision or judgement the services of an attorney or licensed legal counsel must be used by other applicants than a public authority according to Section 118 of AJPA.

No security is required from an applicant for injunction, regardless of whether enforceability is based on a granted right to commence or other order of execution.

Traditionally the “loser party pays” principle has not played a central role in administrative judicial procedure, but since the renewal of the Administrative Judicial Procedure Act (AJPA) in 2020 the situation has changed somewhat. According to the AJPA a party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case, that the other party would bear his or her own costs (AJPA, Section 95). This includes fees for legal counsel as well as possible costs for producing expert statements or other evidence on one’s own initiative. If an oral hearing is held, the state is responsible for compensating witnesses and experts called by the court on its own initiative. Parties, on the other hand, are ordinarily obligated to compensate witnesses that they have called.

With regard to the obligation of another party or the authority whose decision has been challenged to bear these costs in full or in part, the circumstances of the case are tried by the court on a case-by-case basis. The AJPA provides that especially the outcome of the case shall be considered. Assessment of the reasonableness of a liability may also consider the legal ambiguity of the matter, the actions of the parties and the significance of the matter for a party. In addition, the AJPA holds that private individuals can be held liable for the costs of a public authority only if they have made a manifestly unfounded claim. In practice, it is not common in environmental cases for private parties to be obligated to pay other private parties’ expenses. However, it is worth repeating that the administrative judicial proceedings typically give rise to relatively low costs, and it is considerably more common that private parties claim no expenses in court than that they do so.

**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid

- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

**Answer:**

Legal aid at the expense of the state is available for persons who need expert assistance in a legal matter according to the Legal Aid Act (257/2002, https://www.finlex.fi/en/laki/kaannokset/2002/en20020257_20110720.pdf). Legal aid is not commonly used in environmental matters where the costs of the administrative judicial procedure are usually relatively low. Under section 2, subsection 3 of the Act, legal aid is not provided to a company or a corporation, the latter including environmental NGOs.

Legal aid is provided for persons resident in Finland or another EU or EEA country. It is also provided irrespective of residence, if the recipient has a matter to be heard by a Finnish court or when there is special cause. Legal aid is granted based on the applicant’s available means. It is provided for free to persons without means, while other entitled persons are liable to co-pay for the aid.
The aid covers legal advice as well as necessary measures and representation before a court or other authority. For court proceedings, the applicant can choose between representation by a public legal aid attorney or a private attorney. In other matters, legal aid is provided solely by public legal aid attorneys. Persons who are granted legal aid are also exempt from trial fees. There are some exceptions as to when legal aid is provided, such as matters considered legally simple or of little importance to the applicant, as well as matters in which standing is based on municipal membership, for example.

In addition to the above, right to legal aid may be restricted in part or fully if the applicant has legal expenses insurance covering the matter at hand. This is relatively common, as such insurance is typically included in many kinds of insurance policies, such as home insurance, car insurance as well as trade union insurances. The financial assistance provided by legal expenses insurances vary according to the policy in question, which determines its scope as well as applicable deductibles and maximum compensations. Insurance conditions in common use stipulate a deductible of 15% and a maximum compensation of 10 000 euro.

Many law firms, especially bigger ones, do pro bono legal work, often in accordance with established pro bono programmes of their own. Associations of public utility, including also environmental NGOs, can be recipients of such pro bono legal assistance. There are no widely publicized pro bono programmes providing legal assistance for individuals in environmental matters, specifically. On the whole, pro bono work does not play a significant role in environmental judicial proceedings.

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

Answer:

Within the administrative court system, a major part of all environmental cases on the Finnish mainland (not covering the Åland Islands) has been centralized to one of the regional administrative courts, i.e. the Vaasa administrative court. This court deals with all cases under the Environmental Protection Act (EPA) and the Water Act, which makes up for roughly one fourth of environmental cases in administrative courts nationwide. The remaining environmental cases, such as ones dealing with nature protection, soil extraction and quarrying as well as land use planning and building, are handled by the regionally competent administrative court.

Expert judges in Vaasa Administrative Court and in the Supreme Administrative Court (SAC) participate in the consideration of cases on the basis of the Water Act and the Environmental Protection Act. In Vaasa Administrative Court the expert judges work full time, and in SAC there are part-time environmental expert judges. In Vaasa Administrative Court there can be one or two expert judges in the composition with two legally
trained judges, depending on the expertise needed in the case. In SAC there can be one expert judge in the composition with three legally trained judges when a leave to appeal is decided on, and there are always two expert judges in the composition with five legally trained judges when the final decision is made. The expert judges as well as other members of the court assess the materials in the case file on the basis of their own expertise. An expert judge shall have an appropriate Master’s degree in technology or in the natural sciences. In addition, he or she shall be familiar with the duties falling within the scope of the applicable legislation.

Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

Answer:

The Administrative Court of Vaasa, with nation-wide competence in appeals matters under the Environmental Protection Act (EPA) and Water Act, makes use of judges trained in natural and technical science in order to ensure it sufficient expertise for such consideration. Also, the Supreme Administrative Court has appointed expert judges that participate in the decision-making in cases concerning EPA and Water Act.

A member of an administrative court, other than a legally trained member, who participates in the consideration of cases on the basis of the EPA and Water Act, shall have an appropriate Master’s degree in technology or in the natural sciences. In addition, he or she shall be familiar with the duties falling within the scope of the applicable legislation. The expert judges are equal members of the court with independent decision-making powers and voting right and can therefore independently define the scope of the scientific evidence they deem to be relevant.

Court-appointed experts are also possible in every sort of case (not only environmental), but quite rare.

A party may turn to an expert he/she prefers. Professors (even in the field of law) and researches are sometimes used. There are no public registries for contact details of environmental experts. The expert opinion is not binding on judges, the court can freely consider all the evidence presented in the case (so called free assessment of evidence).

According to the Administrative Judicial Procedure Act a party to judicial proceedings shall be liable to compensate another party for that party’s costs in whole or in part if, particularly in view of the ruling issued in the matter, it is unreasonable for the latter party to be required to meet its own costs (AJPA, Section 95). It is still quite common that the parties bear their own costs. This includes fees for legal counsel as well as possible costs for producing expert statements or other evidence on one’s own initiative. If an oral hearing is held, the state is responsible for compensating witnesses and experts called by the court on its own initiative. Parties, on the other hand, are ordinarily obligated to compensate witnesses that they have called.

Question 5: Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:
○ Case weighting (indicate what methodology is used)\(^2\)
○ Fast tracking/prioritization of environmental cases
  ▪ Defined by law
  ▪ Defined by court
○ Temporary injunctive relief
○ Special procedural rules for environmental cases
○ Measures to take in case judges exceed procedural deadlines
○ Other

**Answer:**

Administrative procedure does not include a general stage of internal review, i.e. reconsideration by the decision-maker or a superior administrative body. However, substantive law can prescribe such administrative review procedures. The administrative review procedure follows the rules stipulated in Administrative Procedure Act (APA, 434/2003, Chapter 7a). If a review procedure is provided for, it cannot be bypassed by directly lodging an appeal with the court. As an example, the Land Use and Building Act (LUBA) stipulates that court proceedings are preceded by a request for rectification with the municipal supervision authority in cases where a matter has been decided by a subordinate official under delegated competence.

The APA generally provides that an administrative matter shall be considered without undue delay. In environmental matters, specific time limits are more typically prescribed for parties than the authority, although there are exceptions, such as EIA procedure, where deadlines are provided for the authority as well. As environmental decisions are taken by a multitude of different administrative authorities, it is not possible to give a comprehensive account on average pending times. The authorities may provide average-based estimates on their websites and are also required by APA to provide a case-specific estimate upon request, as well as respond to queries as to the progress of the matter.

According to general provisions regarding enforceability, an administrative decision qualifying for appeal may not be enforced before (ordinary) means of challenge have been exhausted, i.e. the decision has become final or gained “legal force” (saanut lainvoiman, vunnit laga kraft, AJPA, Section 122). This entails that lodging an appeal against a decision ordinarily automatically delays its execution. The same applies also for a request for an administrative review if such a review process is prescribed in the substantive law, but in the case of the municipal appeal lodging of the appeal does not automatically delay the execution of the decision.

Appeal to the Supreme Administrative Court shall nevertheless not prevent enforcement of a decision in a matter in which leave to appeal is required. Enforcement may nevertheless not be undertaken if it renders the appeal useless.

Environmental and other permit regimes often provide for an option to request the right to commence work or activities in accordance with the permit decision irrespective challenges against it (see question 4).

Although there are no specific provisions with regard to requests for injunctive relief, such are typically processed urgently and can even be resolved in a matter of days or less, in extreme cases. There are no separate deadlines for submitting a request for an injunctive relief, but since the time limits for a request for an administrative review and also for processing such request are usually quite short, the request should be made as early in the process as possible. There are no specific conditions in the law for an injunctive relief, but if the request for administrative review would become futile due to the execution of the administrative decision, this supports ordering an injunctive relief.

Another form of interim judicial protection is the power of the court to order an administrative decision to remain in force until a new decision has been taken in a situation where the court rules to overturn it. An example of application would be a case where a decision to implement nature protection is overturned and sent back for partial reconsideration or renewal of incorrect procedure.

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\(^2\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
With regard to appeals proceedings in the administrative courts, there are no prescribed time limits for courts to deliver a judgment, for the majority of matters. The Constitution provides everyone with the right to have his or her case dealt with without undue delay in a court of law. In addition, certain categories and types of appeal matters are prescribed urgent by law, which translates in practice to prioritization in the order of resolution. Examples of such statutorily urgent environmental matters are detailed master plans for land use and plans for public roads, when they are considered of communal importance.

An administrative court shall, on request, provide an estimate of the time required to consider a matter (AJPA, Section 55).

The pending times for appeals proceedings in the regional administrative courts have in recent years (situation in January 2020) averaged around 10 months in the category of land use and building matters and slightly above 12 months in other environmental matters. In the Supreme Administrative Court the corresponding pending times were approximately 11 and 10 months, respectively.

There is no sanction mechanism in place with regard to undue delays, but the courts are subject to the same oversight by the supreme overseers of legality as administrative authorities, as well as possible criminal and tort liability.

There has been since 2009 also a compensation regime in place for undue delays in the general courts, regulated by the Act on Compensation for Excessive Length of Judicial Proceedings (362/2009). The act was amended in 2013 to cover also administrative court proceedings. The act provides that a claim for compensation can be filed with the same court considering the main issue at hand and sets a premise value for compensation at 1,500 euro per year of delay. The maximum sum of compensation is 10,000 euro. In administrative proceedings the right to compensation is limited to those individuals who are directly affected by the matter decided in the court, which means that e.g. NGOs can usually not claim for compensation.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Answer:**

General information about administrative (and general) court proceedings is available on the website of the Finnish justice system:

The courts publish yearly reports online on their activities, including statistics on environmental cases. These reports and data are available in the national languages Finnish and Swedish on the website https://oikeus.fi

The Administrative Court of Vaasa uses the administrative courts’ electronic service system for submission of claims:
https://asiointi2.oikeus.fi/hallintotuomioistuimet/#/

Information about the legislation is available in the FINLEX database, owned by the Ministry of Justice. The database contain not only statutes that are in force and those that have been repealed but also information about case law, treaties, government proposals, collections of regulations of the ministries and other legislative information:
https://www.finlex.fi/en/

The general website of the environmental administration provides information such as data on the state of the environment in Finland, contact details of authorities and information relating to different environmental procedures, including information on access to court:

The websites of the four Regional State Administrative Agencies competent in environmental and water permit matters include registers on pending permit matters and permit decisions:

The documents of pending and completed EIA procedures are published on the environmental administration’s EIA website:
http://www.ymparisto.fi/YVA

Further information on specific environmental procedures and access to justice may be provided on the websites of municipalities, for example.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

**Answer:**

It is ordinarily not possible to officially confirm settlements in administrative court appeals matters, and mediation or other means of alternative dispute resolution are correspondingly not available in administrative environmental matters.

In civil matters, different methods or dispute resolution are available. Court mediation is offered by the general courts, and it is also possible to confirm out-of-court settlements. There are not established forms of out of court solutions in the environmental area, but there have been some experimental and academic research projects on mediation in real estate and environmental disputes (like the SOMARI-project at Aalto University by Finnish Forum for Mediation in 2012).
Finnish Forum for Mediation offers also up to date information on mediation in Finland:

http://sovittelum/In-english/

In addition to directly challenging administrative decisions, also the option of making an administrative complaint is available. Complaints can be filed with municipal or state supervisory authorities, when relevant, or the two supreme overseers.

The Parliamentary Ombudsman and the Chancellor of Justice with the Government are the two supreme overseers of public authorities’ and officials’ compliance with law and good administrative practice, with an emphasis on fundamental and human rights. With minor distinctions, the jurisdictions of the supreme overseers are largely the same. The overseers deliver their opinion to complaints lodged with them and are also competent to issue official reprimands as well as initiate criminal prosecution for malfeasance. The overseers can also initiate investigations on their own initiative. It bears mentioning, that the supreme overseers of legality are competent to investigate the actions of courts and court officials, which naturally entails careful consideration with respect to the separation of powers and judicial independence. The overseers are not competent to compel authorities or officials in individual matters or to overturn or amend decisions or to lodge appeals of their own.

There are also a number of specialized overseers with a nationwide jurisdiction, such as the Data Protection Ombudsman, the Consumer Ombudsman and the Ombudsman for Minorities, for example, but no such office is designated for especially environmental matters.

Office of the Parliamentary Ombudsman:


Office of the Chancellor of Justice:

http://www.okv.fi/en

Ombudsman for Minorities:

https://www.syrjinta.fi/web/EN/frontpage
Economic Commission for Europe

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Task Force on Access to Justice

Fourteenth meeting
Geneva, 27 and 28 April 2022
Item 3 of the provisional agenda
Stocktaking of recent and upcoming developments
Information paper N3

QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

At its seventh session¹, the Meeting of the Parties to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/3 on promoting effective access to justice and requested the Task Force on Access to Justice to promote the exchange of information, experiences, challenges and good practices relating to the implementation of the third pillar of the Convention. Through this decision, the Meeting of the Parties also encouraged Parties to undertake further considerable efforts to improve the effectiveness of public access to justice in environmental matters, e.g., by removing, as the case may be, barriers with regard to costs, access to assistance mechanisms and timeliness. Objective I.12 (c) of the Convention’s Strategic Plan for 2022-2030 also requires each Party to undertake genuine efforts to reduce and eliminate financial and other barriers that may prevent access to such review procedures and establishes, where appropriate, assistance mechanisms – also covering vulnerable and marginalized groups.

To support the implementation of the Convention’s Strategic Plan for 2022-2030 and decision VII/3, the Aarhus Convention Task Force on Access to Justice will carry out a survey to collect good practices and challenges in implementing measures that aim to overcome the above-mentioned barriers and enable effective access to justice.

The survey outcomes will lay the ground for advancing the implementation of article 9, paras. 4 and 5, of the Aarhus Convention and thereby support the attainment of SDG targets 16.3 “Promote the Rule of Law and Ensure Equal Access to Justice”.

The questionnaire below was prepared by the secretariat in consultation with the Chair. Each question identifies high impact measures that aim to significantly reduce or eliminate financial and other barriers for members of the public to access to justice and also provides a possibility to report on other measures that can contribute to this aim. Environmental cases are understood as cases falling within the scope of the Aarhus Convention².

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¹ See para. 14(a) (i) of decision VII/3 of the Meeting of the Parties adopted at its seventh session (Geneva, 18–21 October 2021) available from: https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7.

When completing the questionnaire, please include a brief description of the measures taken in your jurisdiction and share the relevant references to the legislation and case law in English and if not available in the national language and links to the relevant webpages. Please report good practices and challenges related to the reduction of court fees and other legal costs, access to judicial experts appointed by courts or contracted by parties under “Other” measures as they can contribute partially to the resolution of the above-mentioned challenges.

The draft questionnaire was discussed at the fourteenth meeting of the Task Force on Access to Justice in Geneva on 27-28 April 2022\(^3\) and finalised by the secretariat in consultation with the Chair in the light of the discussion at and after the meeting.

National focal points of the Convention, the network of judiciary, judicial training institutions and other review bodies in the pan-European region, non-governmental organizations and other stakeholders are invited to complete the questionnaire and submit their responses to the Aarhus Convention secretariat (aarhus.survey[at]un.org) by 1 November 2022.

The outcomes of the survey will be discussed at the next meeting of the Aarhus Convention Task Force on Access to Justice in April 2023 and further reported to the subsequent meeting of the Working Group of the Parties to the Aarhus Convention.

**CONTACT INFORMATION**

Please provide name and contact data of the person who filled in the questionnaire:

First Name: ___________________________ Last Name: ___________________________

Position: ___________________________

Organization: ___________________________

Address: ___________________________

Telephone: ___________________________ Fax: ___________________________

E-mail: ___________________________ Website: ___________________________

The completed questionnaires will be posted on the website of the meeting. Please tick the box if you prefer your reply not to be posted □.

**Question 1:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

**Regarding civil disputes**

Proceedings before the courts are free of charge. A compulsory contribution of € 35 to finance legal aid was in force in civil matters before the year 2000. It was reintroduced in 2011 and abolished in 2014. There is therefore no longer any fee for lodging appeals.

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\(^3\) More information is available from [https://unece.org/environmental-policy/events/fourteenth-meeting-task-force-access-justice-under-aarhus-convention](https://unece.org/environmental-policy/events/fourteenth-meeting-task-force-access-justice-under-aarhus-convention)
In France, the scope of legal aid covers all legal and judicial procedures as well as certain extra-judicial procedures for which the assistance of a legal professional may be necessary.

Therefore, climate issues and environmental topics may be the subject of legal proceedings for which natural and legal persons, whose resources could limit access to justice, may request legal aid.

Legal aid can be granted totally or partially and cover the costs of lawyers but also of other court officers involved in a legal procedure such as expertise and court stamps when necessary.

**Regarding appeals before the administrative courts:**

Since January 1st, 2014, stamp duty has been abolished before the administrative courts. In principle, access to the administrative judge is now free of charge.

As far as legal fees are concerned, the action for annulment («recours pour excès de pouvoir») opened against any administrative act or actions for interim relief before the administrative court or the administrative court of appeal (article R.431-11 CAJ) are, as a general rule, exempt from the obligation to be assisted by a lawyer.

Large parts of environmental litigation are subject to full litigation, which in principle requires the assistance of a lawyer. The costs incurred and not included in the costs may be charged to the losing party. The assumption of these costs by the party whose position was legally ill-founded is intended to cover, at least partially, the sums paid to his lawyer by the party whose claims were well-founded, but also the sums related to the litigation (travel expenses, reproduction of documents, etc.).

The costs of expert opinions incurred before the administrative courts may be charged to one or both parties to the proceedings. If the winning party has made a claim for the reimbursement of costs, the costs of the expert opinion will be charged in whole or in part to the losing party.

Law no. 91-647 of July 10, 1991 on legal aid established a legal aid mechanism open to persons of French nationality or nationals of a Member State of the European Union, or even of foreign nationality outside the European Union but usually and regularly resident in France. However, legal aid may be granted on an exceptional basis to persons who do not meet the above-mentioned conditions, when their situation appears to be particularly worthy of interest with regard to the subject matter of the dispute or the foreseeable costs of the trial. It is a financial aid, total or partial, granted by the State to persons “whose resources are insufficient to assert their rights in court” (article 2 of law n°91-647). Under the terms of decree n°2020-1717 of December 28, 2020, full legal aid is available to applicants whose reference tax income for 2021 is less than €11,262, and partial aid to applicants for whom this amount is less than €16,890. The applicant’s personal, real estate and financial assets are taken into account, as well as his or her family situation.

**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
4

AC/TF.AJ-14/Inf.2/Rev.1

Regarding civil disputes

The French traditions of the legal profession, as well as the directives of the French bars, require that a fee agreement be established between an “avocat” and his client.

This tradition has been made mandatory by law since 2015. Some lawyers may choose, within the framework of this fee agreement, a favourable fixed remuneration for the benefit of a natural or legal person who would not have access to legal aid but who defends the public interest.

Such a practice could fall within the scope of pro bono assistance. However, it is neither organised nor collectively displayed as such by the French bars. No French court or bar association advertises the existence of this kind of assistance. However, it is known in the national network of associations whose main purpose is the protection of the environment.

France has a system of legal aid allowing persons without sufficient resources, including nationals of Member States of the European Union and persons of foreign nationality habitually and regularly residing in France, to benefit from total or partial coverage by the State of legal fees and costs.

The website service-public.fr provides general information on the cost of a lawsuit, depending on the court and the documents required. The conditions for obtaining legal aid are specified.

In France, access to justice concerns both natural person and legal person. Legal aid is available under certain conditions to non-profit organizations according to eligibility criteria set by law.

A non-profit organization that meets these criteria can appear before a judge to bring an environmental case and benefit from the same total or partial coverage that legal aid offers to any other litigant.

If the appeal fails, the losing party may be ordered to reimburse the opposing party for the costs it has incurred (lawyer's fees, bailiff's or expert's fees, etc.).

Trial costs are called "dépens" in civil matters. These are the costs incurred by the trial, not including lawyers' fees. They are defined in Article 695 of Code of Civil Procedure. It includes, in particular, bailiff's fees for the service of summonses and decisions, the costs of any expert opinions or investigations, but also the compensation received by the lawyer of the winning party if he was receiving legal aid. It is in civil lawsuits that these costs can be the most significant.

The costs of a criminal trial are made up of the “fixed costs of proceedings”, ranging from € 31 to € 527 depending on the jurisdiction. In the event of payment by the losing party of the fixed costs of proceedings within the month following the conviction, he automatically benefits from a reduction of 20% of the sums to be paid[174].

Regarding appeals before the administrative courts:
For individuals, legal aid ensures that the State covers the legal costs. It can be requested before all administrative courts. Legal aid includes not only the remuneration of court officers, such as lawyers, but also all costs related to acts ordered by the judge, including an expertise. Legal aid can be granted in all proceedings, whether the ministry of a lawyer is mandatory or optional.

Legal aid may also be granted when compulsory administrative appeals prior to certain legal actions are filed. The same applies to mediation decided by the administrative judge. This aid also concerns the execution, on French territory, of a court decision or any other enforceable title.

For non-governmental organizations, there are also mechanisms for access to the courts and, more generally, for financial support. Thus, the benefit of legal aid can be "exceptionally granted to non-profit legal entities based in France and lacking sufficient resources" (article 2 of law n° 91-647 of July 10, 1991). The public authorities also subsidize associations, which enables them to finance their legal actions, if needed. The State facilitates and encourages independent financing of the associative sector. In particular, Article 200 of the General Tax Code provides for a tax reduction for taxpayers making unrequired donations to organizations of general interest. This includes payments of money, donations in kind, contributions, waivers of income or products and expenses incurred in the context of a voluntary activity.

The system for informing and accompanying the public about their rights and duties is defined by the law of July 10, 1991. It is mainly structured around departmental councils for access to the law, which bring together institutional and judicial actors, legal professionals and associations.

Law no. 2022-401 of March 21, 2022 aiming to improve the protection of whistleblowers now allows a whistleblower who is a party to a dispute to ask the judge, in certain situations, to award him or her, at the expense of the other party, an advance on legal costs. The judge will rule quickly and may decide, at any time during the proceedings, that this advance is definitively acquired.

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
  - Other

Previously, there were no specialities regarding court rules in the environmental sector.

**Specialisation in criminal cases related to environment**
In the wake of the sinking of the Erika, the law of May 3rd, 2001, and the decree of February 11th, 2002, created six specialized courts ("JULIS": juridictions du littoral spécialisées) dedicated to sea environmental crimes (especially oil pollution damage from ships). In each of these JULIS, specialized prosecutors and judges are in charge of investigating and judging these cases.

The law of March 9th, 2004, and the decree of September 16th, 2004 created eight interregional courts ("JIRS": juridictions interrégionales spécialisées). Since the laws of November 15th, 2013 and August 8th, 2016, they have jurisdiction over cases of damage to the natural heritage, wastes trafficking, illegal mining, and plant protection products trafficking, when an organized gang commits them. In each of these JIRS, there are specialized prosecutors and judges in charge of investigating and judging these cases.

JULIS and JIRS prosecutor offices have concurrent jurisdiction with local prosecutors, who decline jurisdiction in favour of the first ones when it comes to complex and serious cases.

The law of March 4th, 2002 and the decree of April 22nd, 2022 created two national public health divisions which also prosecute some environmental offences since the law of March 9th, 2004 ("PSPE": pôles santé publique et environnement). The PSPE are located within Paris and Marseille prosecutor offices. They have concurrent jurisdiction with local prosecutors, JIRS prosecutors and PRE prosecutor who decline jurisdiction in favour of the PSPE when it comes to the most complex environmental cases.

The law of December 24th, 2020 and the decree of March 16th, 2021 created the regional environmental divisions ("PRE": pôles régionaux environnementaux). There is one PRE in each court of appeal, within one of the local prosecutor offices (i.e. regarding the Court of Appeal of Aix-en-Provence, the PRE is established within the Marseille prosecutor office).

The PRE conduct investigations and prosecute offences punished by the environmental code and the forest code, some of the offences regarding plant protection products trafficking, illegal mining, or wood market offences.

In PRE and PSPE, specialized prosecutors are in charge of conducting investigations and prosecuting.

At local and regional scale, the circular of April 21st, 2015 established by the Ministry of Justice enhanced local prosecutor offices (in tribunals) and general prosecutor offices (in courts of appeal) to appoint a prosecutor specialized in environmental cases. These prosecutors are the preferred local points of contact for partners (environmental inspectors, environmental offices such as the National Office of Forests or National Office of Biodiversity,...) and other specialized judicial institutions (JULIS, JIRS, PRE, PSPE) in these matters.

The environmental referent of general prosecutor offices organise meetings with the local referents on a regular basis, in order to coordinate with each other and establish a summary of their actions and relations with other administrations. This specialization also allows them to implement training programs within their jurisdictions, based on local specific environmental issues.

**Specialisation in civil cases related to environment**

The French Parliament recently voted a bill, which provides for the creation of regional courts specialized in civil claims in matters of serious environmental damage or endangerment.

These new courts, made up of specialized judges deal, for example, with pollution of water or soil by industrial activities, breaches of the regime of classified installations that degrade the environment, damage to protected species or areas, breaches of regulations on industrial waste, etc. These courts also deal with specific environmental civil disputes, in particular
actions based on compensation for environmental damage provided for in articles 1246 et seq. of the French Civil Code.

**Training**

In 2018, the ENM (National School of Magistracy) redesigned one of its eight teaching departments, which is now called the Economic, Social and Environment Department, in order to strengthen teaching in environmental law.

Since 2020, the initial training curriculum has a specific program on “Justice and Environment”. Students can take part in group workshop about topics such as “Justice and Climate”, combining research assignments and interviews with specialists.

As part of the initial training, students can also chose to do internships in specialized institutions such as the National Office or Biodiversity. As for continuous training, French Judges and Prosecutors must take at least 5 days of training courses per year; yet, the topics of these courses are optional. The ENM offers several long continuous training programs on environmental law:

- a training course on environmental justice of 5 modules of 3 days each, for prosecutors and judges (“CAJE” Cycle Approfondi sur la Justice Environnementale)
- a 3 days training course on environmental liability, for prosecutors, judges, lawyers and legal experts (“MA” Magistrats Avocats Juristes)
- a training course for prosecutors and judges on environmental crimes investigations, organized with the OCLAESP (Central Office for Coordinating Environmental and Public Health Crime). This program consists in two stages: a first theoretical stage with 10 online modules (24 hours in total) and a second stage of physical exchanges with environment inspectors.

The ENM also offers several shorter training courses (2 to 5 days) on specific topics such as: introduction to environmental law, European environmental law, law and animals, ...

Ultimately, as part of its bilateral cooperation arrangements, the ENM International department provides training courses to foreign judges and prosecutors on environmental topics.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

The introduction of specific judicial experts and recruitment of technical experts in courts is currently under consideration to reinforce the new regional courts specialized in environmental damages.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:
o Case weighting (indicate what methodology is used)⁴
  o Fast tracking/prioritization of environmental cases
    ▪ Defined by law
    ▪ Defined by court
  o Temporary injunctive relief
  o Special procedural rules for environmental cases
  o Measures to take in case judges exceed procedural deadlines
  o Other

Regarding civil disputes

Before the civil courts, it is possible to obtain in summary proceedings a protective measure or a measure of restoration to prevent imminent damage or to stop an illicit disturbance.

These measures may be subject to a fine set by the judge in the event of delay in the execution of the decision.

It is also possible to bring a group action in environmental matters (Article L. 142-3-1 of the Environmental Code).

Environmental group action is available when legal or natural persons suffer damage resulting from harm caused to the environment by the same person, the common cause of which is a failure of the same kind to comply with its legal or contractual obligations;

- a group action can be brought before a civil or administrative court;
- it allows the cessation of the breach and/or the reparation of physical or material damage;
- the associations that can bring the action are approved associations whose statutory purpose includes the defence of victims of personal injury or the defence of the economic interests of their members, as well as approved environmental protection associations.
- The losses that can be compensated are those mentioned in Article L. 142-2 of the EC Treaty.

Furthermore, the right to take legal action for compensation for ecological damage, defined in Article 1248, is very broadly open.

Articles 1246 et seq. of the Civil Code[138] provide for a specific civil action dedicated to compensation for ecological damages. This is about repairing the “pure” ecological damage. The latter is different from the damage mentioned above. It is not only a question of repairing the consequences of environmental damage for humans, but also of repairing the damage to the environment per se. It is defined as “significant damage to the elements or functions of ecosystems or to the collective benefits derived by man from the environment”.

The action is open to “any person with standing and interest in the action, such as the State, the French Agency for Biodiversity, local authorities and their groupings whose territory is concerned, as well as public establishments and associations approved or created for at least five years on the date of the institution of proceedings which have as their object the protection of nature and the defence of the environment“. The principle of reparation by priority in kind is laid down in Article 1249. In the event of the impossibility or inadequacy of remedial measures, “the court shall order the person responsible to pay damages, earmarked for the repair of the environment, to the plaintiff or, if the plaintiff is unable to take appropriate measures to that end, to the State“. Damages must be the exception to reparation. When damages are awarded, they should be channelled to environmental remediation, in the hands of the applicant or the State, if the applicant cannot afford to take

⁴ Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
the remediation measures (which may be too large or complex for a single actor). The judge may impose a penalty payment. In addition, independently of the reparation of the ecological damage, the judge may prescribe reasonable measures to prevent or stop the damage.

Under Article 1248 of the Civil Code, individuals may claim compensation for this type of damage under the same conditions as in a conventional civil action. For their part, approved associations are expressly empowered by law to take this action. For the time being, there is no significant case law on this point, but Article 1248 should logically lead to exempt approved associations from demonstrating the existence of an interest.

**Regarding appeals before the administrative courts:**

Interim relief procedures allow the judge to take temporary measures in the context of an environmental dispute.

Article L. 521-1 of the Code of Administrative Justice, which establishes a general interim injunction known as "suspension", provides that in urgent cases and if a serious doubt as to the legality of a litigious decision is established, the interim relief judge may temporarily suspend the execution of the decision or some of its effects. The suspension may also concern a negative decision. The interim injunction, provided for in article L.521-3 of the aforementioned code, allows the judge to pronounce, in case of urgency, any "useful measure", provided that it is not contrary to an existing administrative decision. The interim injunction allows the interim relief judge "upon simple request and even in the absence of a prior administrative decision, to prescribe any useful measure of expertise or investigation" (article R. 532-1 of the Code of Administrative Justice). The provisional interim injunction makes it possible to obtain from the court an indemnity refused by the administration, pending the judgment fixing the final amount of the claim (article R. 541-1 of the Code of Administrative Justice). The interim statement of facts allows to ask the judge to appoint an expert in order to establish the facts concerning the environmental damage (article R. 531-1 code of administrative justice).

Articles L. 554-11 and L. 554-12 of the same code provide for two specific interim measures for the protection of nature or the environment, which make it possible to dispense with the need to justify urgency. The first one can be directed against authorizations relating to the realization of projects that have not, wrongly, been subject to a prior environmental assessment. The second can be used to obtain the suspension of a planning decision subject to a prior public inquiry which has not been organised, or which has been the subject of an unfavourable opinion by the investigating commissioner. In the same sense, article L. 123-16 of the Environmental Code provides that the administrative judge shall grant a request for suspension of a decision taken after unfavorable conclusions of the investigating commissioner, if there is a serious doubt as to the legality of this decision.

With the exception of a few derogatory rules, environmental law is subject to the ordinary law of administrative litigation.

Some rules specific to urban planning litigation are intended to reduce the time required for processing by the administrative courts. This is the case for the abolition of appeals, tested until December 31, 2027, in disputes relating to certain building permits issued in tense areas (article R. 811-1-1 of the Code of Administrative Justice) or the introduction of an indicative ten-month time limit for judgments against certain building permits and subdivision development permits (article R. 600-6 of the Code of Urban Planning).
In the event of excessive length of proceedings before the administrative courts, Article R.311-1 of the Code of Administrative Justice gives the Conseil d’État jurisdiction in the first and last instance to hear liability claims against the State.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Regarding appeals before the administrative courts:**

The Légifrance website publishes all the legal texts applying in France. It allows you to consult impact studies of bills, legislative files, and also has a large database of case law which includes decisions and rulings transmitted by the Constitutional Council, the Council of State, the Court of Cassation, the Court of Conflicts, as well as a certain number of rulings and judgments pronounced by the courts of first and second degree.

The website of the Council of State also offers an important database of case law as well as a large panel of conclusions pronounced by the public rapporteurs. It also publishes studies, thematic reports and comments on decisions. The annual activity report of the administrative jurisdictions published by the Council of State includes quantitative and qualitative data relating in particular to environmental litigation.

Article L.112-8 of the code of relations between the public and the administration provides that any person can regularly refer to the administration by electronic means. The referral may take the form of an electronic submission or the use of a teleservice. Any electronic submission to the administration must be acknowledged by an acknowledgement of receipt or an electronic registration.

The decree n°2018-251 of April 6, 2018 relating to the use of a teleservice before the Council of State, the administrative courts of appeal and the administrative tribunals has extended the possibility of referring cases to the administrative judge by means of a teleservice called "Télécours" to all litigants. Its use remains optional for certain categories of litigants: municipalities of less than 3,500 inhabitants and individuals and legal entities under private law not represented by a lawyer (article R.414-2 of the administrative justice code).

This "Télécours" application also allows the courts to communicate and notify the parties of all the documents and items necessary for the investigation of the applications (article R.611-8-2 of the Code of Administrative Justice) as well as the court decisions (article R.751-4-1). However, for individuals and legal entities under private law who are not represented by a
lawyer, the administrative judge may only proceed with the communication and notification if he has previously proposed the use of "Telecourses" to the parties and if they have agreed to it.

**Regarding civil disputes**

The websites service-public.fr and justice.fr provide general information on legal proceedings, including where they concern environmental cases.

The decisions of the Court of Cassation are freely accessible online since September 2021, those of the courts of appeal - excluding criminal matters - since April 2022. The decisions of the first instance courts will gradually be made available to the public online and free of charge in the years 2024-2025. This public availability of decisions, previously “pseudonymised”, will therefore concern environmental litigation. The most significant decisions are specially highlighted on the website of the Court of Cassation, as well as in its annual and thematic reports.

E-access to case files at judicial court for the parties is not currently feasible. However, remote court hearings are possible: parties to the case, or any person summoned to a hearing (witness, expert, lawyer, etc.) may request that a video hearing be held. The president of the court cannot therefore decide to use it ex officio or impose it on a party; in order to be granted, the request must invoke a legitimate reason and the use of the video hearing must be compatible with the nature of the proceedings and respect for the adversarial principle.

Regarding data mining, the statistical tools of the Ministry of Justice enable the collection of data on the volume of cases, classified according to their nature, and thus to obtain quantitative data on the number of decisions on ecological damage, for example.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

**Regarding civil disputes**

**Mediation**

In civil matters, extra-judicial mediation allows the parties to a dispute to settle it without going to court. In a judicial context, any judge seized of a dispute may, after having obtained the agreement of the parties, order a mediation. The mediator's task is to hear the parties and compare their views to help them find a solution to the conflict between them. When the judge has not obtained the parties' agreement to mediation, he may order them to have a meeting with a mediator, who will be in charge of informing them of the purpose and progress of a mediation measure. Whether the mediation takes place in a conventional or judicial framework, each party can request the judge to homologate the resulting agreement, in order to give it enforceability.

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Conciliation enables parties to reach an agreement, either partial or total, on their dispute under the guidance of a third party, which may be the judge or the judicial conciliator - whether or not within the framework of an instance. If it is successful, it leads to the signing of an agreement, recorded by the judicial conciliator and which may be homologated by the judge.

For disputes of less than 5,000 euros, neighbourhood disputes and abnormal neighbourhood disturbances, a party is not entitled to take legal action if it has not first tried to implement an amicable settlement, which may be mediation, conciliation or participatory proceedings (an agreement by which the parties to a dispute undertake to work together in good faith to resolve their dispute amicably or to put their dispute in order). Failure to implement an amicable settlement is sanctioned by the inadmissibility of the legal claim pronounced by the judge or at the request of a party.

All of these mechanisms are applicable to environmental matters, but there are few examples of alternative dispute resolution in environmental matters.

**Regarding appeals before the administrative courts:**

Law No. 2016-1547 of November 18, 2016 on the modernization of justice for the 21st century introduced into administrative law a mediation procedure defined as "any structured process, by whatever name it may be called, by which two or more parties attempt to reach an agreement with a view to the amicable resolution of their disputes, with the assistance of a third party, the mediator, chosen by them or appointed, with their agreement, by the court" (Article L. 213-1 of the Code of Administrative Justice). The definition adopted for mediation allows it to include conciliation.

Mediation can be initiated by the parties outside of any dispute before the administrative judge. As soon as the parties agree on the use of mediation, the time limits for appeal and prescription are interrupted. They may also refer the matter to the president of the administrative tribunal or the administrative court of appeal with territorial jurisdiction so that he or she can organize the mediation.

Resort to mediation may also be at the discretion of the president of the court if he or she obtains the agreement of the parties. In this situation, the judge determines the conditions of remuneration of the mediator. If a party is a beneficiary of legal aid, the costs of mediation will be covered by the State.

Mediation is not reserved for a specific dispute and environmental disputes may be subject to such a procedure. The only restriction imposed by the legislation is that it prevents the parties from reaching an agreement that may affect rights that are not freely available to them (article L. 213-3 of the Code of Administrative Justice).

Finally, the parties who have concluded a mediation agreement may refer the matter to the administrative judge for homologation and enforceability of the agreement (Article L. 2134 of the Code of Administrative Justice).

**Other Public Actors**

The Defender of Rights is a constitutional institution (article 71-1 of the Constitution) which mission is to ensure that rights and freedoms are respected by State administrations, local authorities, public institutions, as well as all bodies carrying out a public service mission or by those it’s Institutional Act decides fall within his remit.
The Defender of Rights is responsible for improving relations between citizens, the administration and public services, in particular through mediation.

It may be seized by any person who considers himself or herself aggrieved by the operation of a public service and may take up the matter ex officio. The referral is free of charge and can be done online. It is totally independent of the existing remedies available elsewhere.

The Defender of Rights shall be appointed by the President of the Republic in accordance with the procedure provided for in the last paragraph of Article 13 of the Constitution. The Defender of Rights shall be entrusted with five major missions listed in the Organic Law of 29 March 2011:

- defending rights and freedoms in the context of relations with State administrations, local authorities, public establishments and bodies with a public service mission;
- to defend and promote the best interests and rights of the child as enshrined in law or in an international commitment regularly ratified or approved by France;
- to fight against direct or indirect discrimination prohibited by law or by an international commitment duly ratified or approved by France, and to promote equality;
- to ensure compliance with professional ethics by persons carrying out security activities on the territory of the Republic;
- to refer to the competent authorities any whistleblower, as defined by the law no 2016-1691 of 9 December 2016, and to monitor the rights and freedoms of this person.

The Defender of Rights may not follow up on a referral: in this case, it must indicate the reasons for its decision.

It may propose to the claimant a settlement with the defendant. In the case of discrimination punishable under the Criminal Code, the settlement may consist in the payment of a transactional fine.

With the exception of the judiciary, the Defender of Rights may refer to the authority empowered to initiate disciplinary proceedings any facts of which he has knowledge, and which appear to him to justify a sanction.

The Defender of Rights may request the Vice-President of the Conseil d’Etat or the First President of the Court of Audit to have any studies carried out.

When the Defender of Rights receives a complaint, not submitted to a judicial authority, which raises a question relating to the interpretation or scope of a legislative or regulatory provision, it may consult the Conseil d’Etat and make his opinion public.

It may recommend any legislative or regulatory amendments it deems useful. It may be consulted by the Prime Minister on any bill falling within its field of competence. It may also be consulted by the Prime Minister, the President of the National Assembly or the President of the Senate on any matter falling within its area of competence.

The Defender of Rights, which is an independent constitutional authority, has the power to intervene with the administration. It may make any recommendation that appears to him to guarantee respect for the rights and freedoms of the injured party and to resolve the difficulties raised before him or to prevent their recurrence. He may also recommend that the situation of the person before him be resolved in equity.

The authorities or persons concerned shall inform the Defender of Rights, within a period of time to be determined by him, of the action taken on his recommendations. If no information is provided within this time limit or if he considers, on the basis of the information received,
that a recommendation has not been followed up, the Defender of Rights may order the person concerned to take the necessary measures within a specified time limit. In the event of failure to comply with the injunction, the Defender of Rights prepares a special report, which is communicated to the respondent. The Defender of Rights shall make the report and, where appropriate, the respondent's response public.

In 2019, the environment and urban planning represent only 3.1% of the complaints addressed to the Defender of Rights.

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Chapter I – General Provisions

Article 1 – Goal of the Law

1. The goal of the Law is to create a sustainable and reliable legal aid system oriented to social requirements which is necessary to ensure the right of protection guaranteed by the Constitution of Georgia and international agreements, as well as an efficient legal aid administration system for transparent and effective spending of budget funds.

2. Everyone has the right to take advantage of consistent and qualified legal advice and legal aid at the expense of the State, according to the procedure established by this Law.

3. Legal aid is based on the principles of rule of law, equality of arms and ensures unhindered enjoyment of the rights guaranteed by the Constitution of Georgia.

4. According to the procedure established by this Law, legal advice is rendered on any legal issue, and legal aid is provided during criminal, civil and administrative legal proceedings.

Article 2 – Definition of terms

Terms used in this Law have the following meanings:

a) legal aid – preparation of legal documents, representation in a court with respect to administrative and criminal cases and an administrative body, as well as in criminal proceedings at the expense of the State;

b) legal advice – provision of publicly available legal consultation on any legal issue;

c) register of invited public lawyers (the 'Register') – a list of lawyers providing legal aid compiled by the Legal Aid Unit on the basis of the Georgian Bar Association data;

d) public lawyer – a lawyer of the Legal Aid Bureau, a legal aid provider, or a lawyer recorded in the register who provides legal aid under this Law;

e) legal aid provider (the 'Provider') – a legal person under private law or a lawyer who provides legal aid;

f) legal aid beneficiary – a citizen of Georgia, a stateless person, or a foreign citizen who meets the criteria established by this Law and other legislative acts;

g) Insolvent person – a member of a family registered in the unified database of socially vulnerable families, whose socioeconomic index is below the limit established by the Government of Georgia.

Chapter II – Legal Aid

Article 3 – Types of legal aid

For the purposes of this Law, types of legal aid shall be to:

a) draft legal documents (applications, claims, complaints, statements of defence, motions and other documents);

b) defend an accused, convicted, or acquitted person in criminal proceedings;

c) protect victims in criminal proceedings when conducting a defence in cases provided by the Criminal Procedure Code of Georgia at the expense of the State;

d) provide representation in court with respect to administrative and civil cases;

e) provide representation before an administrative body.


Article 4 – Legal aid beneficiaries

A natural person has the right to receive legal aid at the expense of the State in cases provided for by this Law and under the procedure established by this Law.

Article 4.1 Minors enjoying legal aid

1. At any stage of criminal proceedings an accused/convicted/acquitted and injured minor shall enjoy the right to free legal aid. At any stage of criminal proceedings a minor witness may exercise this right if he/she is indigent.

2. The right specified in paragraph 1 of this article may also be enjoyed by persons aged from 18 to 21 if they are the accused.


Article 4.2 Permanent Group of Lawyers Specialising in Juvenile Justice

There is a Permanent Group of Lawyers Specialising in Juvenile Justice operating within the Legal Aid Unit, which will provide legal aid to minors immediately upon request, in the shortest period of time, in cases provided for by law.


Article 5 – Conditions for rendering legal aid

1. Legal aid is provided in cases directly prescribed by law; also, under the procedure established by this Law if an accused, convicted and/or acquitted person is insolvent.

2. Representation in court in civil and administrative proceedings, as well as representation in an administrative body in an administrative proceeding shall be provided if a person is insolvent and it is appropriate to render legal aid to him/her (represent him/her in court, in an administrative body) based on the importance and complexity of a case.

2.1. The Legal Aid Unit ensures that legal documents on any issue with respect to civil and administrative cases are drafted for an insolvent person regardless of the importance and complexity of a case.

2.2. The legal aid under Article 3(a) and (d) of this Law shall be provided to a person with respect to whom a court is to decide the question of recognising the person as a beneficiary of support in connection with the cases stipulated in Chapter XLIV of the Civil Procedure Code of Georgia, and also to a beneficiary of support who is a party to a civil and/or administrative proceeding, irrespective of his/her ability to pay, unless this person has chosen a lawyer according to the general procedure. (Paragraph 2.2 shall become effective as from 1 April 2018 in the part which provides for rendering legal aid to the party who is a beneficiary of support in a civil and/or administrative proceeding)

2.3. The legal aid under Article 3(a) and (d) of this Law shall be provided to an asylum seeker, as well as to a person with international protection, with respect to whom a dispute on application for international protection is to be resolved by a court in connection with a case stipulated in Chapter VII of the Administrative Procedure Code of Georgia, irrespective of his/her ability to pay, unless this person has chosen a lawyer according to the general procedure.

3. Director of the Legal Aid Unit, may, based on the criteria predefined by the Legal Aid Council, decide that legal aid be rendered to a person who is not a member of a family registered in the unified database of socially vulnerable families.


Law of Georgia No 3368 of 20 March 2015 – website, 31.3.2015

Law of Georgia No 4064 of 17 July 2015 – website, 29.7.2015


Article 6 – Determination of insolvency of persons

http://www.matsne.gov.ge
Article 7 – Reimbursement of legal aid expenses

1. If, when considering civil or administrative proceedings, the court makes a decision in favour of a legal aid beneficiary, the reimbursement of legal aid expenses shall be imposed on the opposing party for the benefit of the Legal Aid Unit, under the procedure established by the legislation of Georgia.

2. If a legal aid beneficiary receives legal aid by way of submitting forged and/or false information about his/her insolvency, he/she must reimburse the rendered legal aid expenses.

Chapter III – The Structure of the Legal Aid Unit and the Guarantees of Independent Activity


Article 8 – The Legal Aid Unit

1. The Legal Aid Unit (the ‘Unit’) is a legal entity under public law which is independent in its activity and ensures the availability of legal advice and legal aid on the basis of the Constitution of Georgia, this Law, other legal and subordinate normative acts and the statute of the Unit.

2. Activities of the Unit are not subject to the operation of Articles 10(4), 11, 12 and 14 of the Law of Georgia on Legal Entities under Public Law.

3. The Unit is not subordinated to any State body and is accountable only to the Parliament of Georgia under the procedure established by the legislation of Georgia.

4. The Director of the Unit (the ‘Director’) annually submits to the Parliament of Georgia, not later than 1 March, the Unit activity report for the previous year. After hearing the report on the Unit activity, the Parliament of Georgia approves it by resolution, or requires that the Unit eliminate certain defects and/or improve its activities.

5. If the Parliament of Georgia, after hearing the Unit activity report or based on the information received from other sources, concludes that there are grounds under Article 13(7)(d, e) of this Law for premature termination of the Director’s powers, the Parliament shall pass a resolution to prematurely terminate the Director’s powers. The Parliament of Georgia may pass a resolution to prematurely terminate the Director’s powers on the grounds referred to in this paragraph also upon recommendation of at least one third of the members of the Legal Aid Council.

6. The Unit comprises the Office of the Unit (the ‘Office’), Legal Aid Bureaus and consultation centres established under this Law.

7. The Statute of the Unit is approved by the Legal Aid Council upon recommendation of the Director.


Article 8\(^1\) – Guarantees for the independence of the Unit activity

The Unit is independent in performing tasks assigned to it. Any influence on its activity is inadmissible.


Article 8\(^2\) – Activities to be preliminarily approved

1. With the consent of the Ministry of Finance of Georgia, the Unit may:

   a) take a loan;

   b) act as surety;

   c) determine the staff list of the Unit and wages fund;

   d) determine the limits of funds allocated for material incentives of the staff, and the limits for planned fuel and communication expenses.
2. With the approval of the Ministry of Economy and Sustainable Development of Georgia, the Unit may:

a) acquire, alienate or encumber real property;

b) make other decisions related to Unit property if they fall beyond the scope of its ordinary activity.

3. Refusal to perform activities defined in paragraphs 1 and 2 of this article must be substantiated. The refusal may be appealed under the procedure established by the legislation of Georgia.

4. The Unit is obliged to keep records of and reports on its financial and economic activities, draw up balance sheet and submit it for approval to the Ministry of Finance of Georgia under the procedure established by the legislation of Georgia. The Ministry of Finance or an independent auditor appointed by it inspects the annual balance sheet of the Unit.


Article 9 – (Deleted)


Article 10 – Legal Aid Council

1. A collegiate body – the Legal Aid Council (the 'Council') is established to ensure administration of the Unit, efficient performance of its functions, and independence and transparency of the Unit.

2. The Council is comprised of nine members. Three members are selected by the Executive Council of Georgian Bar Association and three members – by the Public Defender of Georgia; one member is selected by the Legal Aid Bureaus from the lawyers of the Bureaus; one member is nominated by the Minister of Justice of Georgia from the employees of the Ministry of Justice of Georgia and one member is nominated by the High Council of Justice of Georgia from the non-judge members of the High Council of Justice.

3. The Public Defender of Georgia nominates one member of the Council from the staff of its Office.

4. The Public Defender of Georgia selects two members of the Council on an open competition basis from representatives of non-entrepreneurial (non-commercial) legal entities implementing activities in the field of human rights protection and from representatives of the scientific field that work in higher educational institutions of Georgia upon recommendations of the administrative bodies of the organisations.

5. The Public Defender of Georgia selects on an open competition basis a member of the Council that has public recognition and high reputation, higher education, experience of working in the field of human rights protection and/or in academic/scientific activities. A member of the Council selected on an open competition basis may not implement advocacy activities.

6. A member of the Council is independent in his/her activity. A member of the Council nominated by the Public Defender of Georgia and selected on an open competition basis may not be withdrawn from membership.

7. Activities of the Council members are not remunerated.

8. The term of office of the Council members is four years except for a member who at the same time is a lawyer of a Legal Aid Bureau. A member of the Council who at the same time is a lawyer of a Legal Aid Bureau is selected for a one-year term according to the procedure established by Article 16(8-10) of this Law.

9. The same person may be elected as a member of the Council only for two consecutive terms, except for the member who at the same time is a lawyer of a Legal Aid Bureau.

10. The Director participates in Council sessions with a voting right.

11. A session of the Council is open to the public, except when, based on the content of an issue concerned, the Council considers it appropriate to close the session. The procedure for attending sessions is defined by the Statute of the Council.

12. The rules of procedure of the Council are defined by the Statute of the Council approved by the Council upon recommendation of the Chairperson of the Council.

13. The council meets at least once in two months.


Law of Georgia No 4254 of 25 February 2011 – website, 1.3.2011


Article 11 – Functions of the Council and decision-making procedures

http://www.matsne.gov.ge
1. The Council:

a) elects the Director on competition basis and, in the cases defined in Article13(7) of this Law, makes a decision to prematurely terminate his/her term of office;

b) approves the strategy of the Unit and monitors its performance;

c) upon recommendation of the Director, approves the Statute of the Unit and upon recommendation of the Chairperson of the Council – the Statute of the Council;

d) upon recommendation of the Director, approves the procedure and criteria for the quality assessment of the legal advice and legal aid rendered by the Unit;

e) approves the criteria for rendering legal aid provided in Article 5(3) of this Law; based on the criteria, the Director may make a decision to render legal aid to a person;

f) upon recommendation of the Director, makes decisions to establish and/or cancel Legal Aid Bureaus/consultation centres, and defines the jurisdiction of Legal Aid Bureaus and providers;

g) upon recommendation of the Director, approves the staff list of the Unit and the limits of funds allocated for remuneration of the employees;

h) upon recommendation of the Director, approves the procedure for involving in a proceeding a lawyer registered in the registry, the amount of his/her remuneration of labour and payment procedure;

i) upon recommendation of the Director, approves the reporting procedure and the form of a Consultation centre, a Legal Aid Bureau, a Provider, and a lawyer registered in the registry;

j) hears a financial report of the Director on the activities of the Unit at the end of each fiscal year;

k) hears current and annual reports of the Director on the activities of the Unit;

l) applies to the Director with a recommendation to improve activities of the Unit and monitors its performance within the scope defined by the Statute of the Council;

m) if necessary, hears a report on the activity of a Legal Aid Bureau/Consultation Centre, and their suggestions on optimisation of the activities of the Unit;

n) may hear a claim of a person employed by the Unit with relation to exercising by the Director of his/her powers;

o) may conduct research to investigate the availability and quality of legal aid and legal advice;

p) promotes activities of the Unit;

q) exercises other powers provided by this Law and the Statute of the Council.

2. The Council is duly constituted if at least two-thirds of the members attend a session. The Council makes decisions by a majority of votes of the members attending the session. In the event of a tie vote the Chairperson of the Council casts the deciding vote. In the cases provided in paragraph 1(a, b, e, h) of this article, the Council makes decisions by at least two-thirds of the full composition of the Council.

3. A member of the Council who at the same time is a lawyer of a Legal Aid Bureau may not participate in voting if the Council is considering the issues of electing the Director and/or prematurely terminating powers of the Director.

4. The Council has a Secretariat. The staff list of the Secretariat is approved by the Council upon recommendation of the Chairperson of the Council. Employees of the Secretariat are appointed and dismissed by the Director with the consent of the Chairperson of the Council. Employees of the Secretariat are the employees of the Unit.


**Article 12 – The Chairperson of the Council**

1. The Chairperson of the Council (the 'Chairperson') is elected among the Council members by a majority of votes of the full composition of the Council for a one-year term. The same person may be elected as the Chairperson only for two consecutive terms.

2. Decisions to elect the Chairperson, extend and/or prematurely terminate his/her powers is made in the form of a resolution signed by all members participating in the voting.

3. The Chairperson convenes and presides over Council sessions, and signs recommendations adopted by the Council and other documents made on behalf of the Council. The Chairperson submits the draft Statute of the Council to the Council for approval.

Article 12 – Grounds for premature termination of powers of a Council member

1. Powers of a member of the Council are prematurely terminated:
   a) based on personal application;
   b) if a court judgement of conviction becomes effective against him/her;
   c) if he/she is declared by the court as missing or dead;
   d) if he/she has violated the requirements established by the Law of Georgia on Conflicts of Interest and Corruption in Public Service;
   e) in case of death;
   f) if he/she is appointed as a judge or a prosecutor;
   g) if he/she took office as a member of the Council and his/her powers have been terminated;
   h) in other cases provided by law.

2. If there are grounds defined in paragraph 1(c), (d) or (g) of this article, the powers of a member of the Council are prematurely terminated by decision of the Council, and the Council accepts for reference the information of a circumstance under paragraph 1(a) or (b) or (c) or (e) or (f) of the same article, as a result of which the powers of a member of the Council are prematurely terminated.

\[5. \text{The Director is subject to the requirements established by the Law of Georgia on Conflicts of Interest and Corruption in Public Service.} \quad \text{(Shall become effective from 1 July 2017)}\]

3. A citizen of Georgia, at least 30 years old, with higher legal education and with at least 5 years working experience as a lawyer and at least 3 years working experience as a manager may be elected as a Chairperson only twice consecutively.

4. The Director may not be a member of the Council at the same time. During the term of office, the Director may not work as a lawyer or carry out other paid activities except for scientific, teaching and creative activities.

5. The Director is subject to the requirements established by the Law of Georgia on Conflicts of Interest and Corruption in Public Service.

6. If, in the cases provided by this Law and the Statute of the Unit, the Director has personal interest in a decision to be solely adopted by him/her, he/she must inform the Council in writing on the conflict of interests and the Council shall make an appropriate decision.

7. The powers of the Director are prematurely terminated:
   a) based on a person application;
   b) if a court judgement of conviction becomes effective against him/her;
   c) if he/she is declared by the court as missing or dead;
   d) if he/she has violated the requirements established by the Law of Georgia on Conflicts of Interest and Corruption in Public Service;
   e) if he/she severely or regularly violates law and the Statute of the Unit, or fails to perform or improperly performs functions assigned to him/her;
   f) in case of death.

8. If there are grounds defined in paragraph 7(c), (d) or (e) of this article, the powers of the Director are prematurely terminated by decision of the
Article 14 – Functions of the Director

1. The functions of the Director are to:

a) administer the Unit, supervise activities of the Consultation centre, the Legal Aid Bureau, and the Provider;
b) develop proposals on the Statute of the Unit and on making amendments to it and to submit them to the Council for approval;
c) submit annually to the Parliament of Georgia, not later than 1 March, in agreement with the Council, Unit activity reports for the previous year;
d) determine amounts of remuneration for labour for the employees within the limits of funds approved by the Council;
e) approve the insignia of the Unit in agreement with the Council;
f) submit, in agreement with the Council, the draft budget of the Unit and reports on implementation of the Unit’s budget to the Ministry of Finance of Georgia;
g) submit to the Council draft decisions to establish and/or cancel Legal Aid Bureaus/consultation centres, as well as to define the jurisdiction of Legal Aid Bureaus and providers;
h) develop the reporting procedure and the form of a Consultation centre, a Legal Aid Bureau, a Provider, and a lawyer registered in the registry and submit them to the Council for approval;
i) develop the procedure for involving in a proceeding a lawyer registered in the registry, the amount of his/her remuneration for labour and payment procedure and submit them to the Council for approval;
j) ensure provision of a qualified legal aid by a lawyer registered in the registry and control the quality of the provided service under the procedure established by the Statute of the Unit;
k) approve the internal regulations of the Unit;
l) coordinate and analyse production of statistics by the Unit;
m) appoint and dismiss employees of the Office, Legal Aid Bureaus and Consultation Centres, apply disciplinary actions against and incentive measures for them according to the procedure established by the legislation of Georgia;
n) develop the procedure and criteria for the quality assessment of the legal advice and legal aid rendered by the Unit, submit them to the Council for approval and supervise their implementation;
o) consider complaints related to the activity of Consultation Centres, Legal Aid Bureaus and Providers, as well as the reasonableness of refusing to render legal aid under the procedure established by the legislation of Georgia;
p) provide training courses and workshops to retrain and raise qualification of the Unit employees and public lawyers;
q) submit current and annual Unit activity reports to the Council;
r) submit financial reports on Unit activities to the Council at the end of each fiscal year;
s) make arrangements for the financial accounting and reporting of the Unit under the procedure established by the legislation of Georgia;
t) ensure publicity and accessibility of the annual Unit activity report;
u) ensure promotion of Unit activities;
v) issue administrative-legal acts within his/her competence;
w) exercise other powers provided by this Law and the Statute of the Unit.

2. The Director may terminate a labour contract of the Head of the Legal Aid Bureau, a lawyer and a consultant only with the consent of the Council, except for cases of termination of employment at personal request, under the procedure established by the Organic Law of Georgia the Labour Code of Georgia.

3. The decision of the Director may be appealed only to a court.
Article 15 – The Office
To effectively administer the Unit, the Office of the Unit is established. The procedure of formation, structure and powers of the Office is defined by the Statute of the Unit.

Article 16 – Legal Aid Bureaus
1. A legal Aid Bureau is a division of the Unit that renders legal aid under the procedure established by this Law and within its jurisdiction.

2. A Legal Aid Bureau is responsible for provision of qualified legal aid and for maximum protection of the interests of legal aid beneficiaries within its jurisdiction to enable them to completely enjoy the rights granted to them by the legislation of Georgia.

3. A legal Aid bureau is composed of the Head of Legal Aid Bureau, lawyers, consultants and administrative staff.

4. When conducting activities, a lawyer of a Legal Aid Bureau is guided by the Constitution of Georgia, this Law, the Law of Georgia on Advocates, the Statute of the Unit and other normative acts.

5. Unlawful influence on the activity of a Legal Aid Bureau is inadmissible.


7. The powers of the Head of a Legal Aid Bureau, lawyers, consultants and administrative staff of the Bureau are defined by the Statute of the Unit.

8. Legal Aid Bureaus select one member of the Council from among the lawyers of Legal Aid Bureaus each year.

9. Each Legal Aid Bureau may, not earlier than three months and not later than two months before the term of office of a Council member nominated by a Legal Aid Bureau expires, nominate one candidate for member of the Council. A legal Aid Bureau selects a candidate for membership of the Council from among its lawyers through a secret ballot by majority of the entire composition of lawyers of that Bureau. In the event of a tie vote of two or more than two lawyers, these candidates shall be re-voted. The candidate who receives more votes than other candidates shall be considered as being nominated.

10. Each selected candidate from the Legal Aid Bureaus, within three weeks after the voting, submits an action programme with respect to the activity to be implemented by the candidate in the Council during the coming year. The candidates vote for the submitted action programmes. The candidate whose action programme is put to the vote does not take part in the voting. The candidate whose action programme receives majority of votes is considered to be elected as member of the Council. In the event of a tie vote of two or more than two action programmes of the candidates, these programmes are re-voted. The candidate whose action programme receives more votes than the action programmes of other candidates are considered to be elected as member of the Council.


Article 17 – Consultation Centres
1. Legal advice is provided in Consultation Centres established within the unified legal aid system. The duration of legal advice is no longer than one hour.

2. A natural person may receive legal advice in any Consultation Centre regardless of his/her place of residence and property status.

3. In those regions of Georgia where no Legal Aid Bureaus operate, a Consultation Centre ensures the involvement of a public lawyer in a proceeding from the registry.


Article 18 – Providers
A Provider is a legal person under private law or a lawyer selected on tender basis which renders legal aid under this Law and within jurisdiction determined by an agreement.

Article 19 – The Registry
1. A Lawyer registered in the registry renders legal aid at the expense of the State in the cases provided for by this Law and based on an application of a Legal Aid Bureau, a Provider or a Consultation Centre.
The registry is maintained by the Unit. A lawyer is registered in the registry based on the lawyer's application on an open competition basis.

The forms of the registry and the application are determined by the Director and approved by the Council.

1. Legal Aid Bureaus, Providers, or Consultation Centres ensure the involvement of a public lawyer in criminal proceedings:
   a) based on an application of an accused, convicted and/or acquitted person or his/her representative or close relative;
   b) based on an application of a body conducting proceedings according to the procedure established by the legislation of Georgia.

2. An accused, convicted and/or acquitted person must be given an opportunity to get in contact with a public lawyer and invite him/her. A body conducting proceedings is obliged to ensure the unimpeded involvement of a public lawyer in the proceeding and the exercise of powers defined by the legislation of Georgia by the lawyer.

3. A Legal Aid Bureau, a Provider or a Consultation Centre immediately considers the application of a person with respect to civil and administrative cases; it finds out whether the application meets criteria established by this Law and other legal acts and within two working days decides to appoint a public lawyer or refuse to appoint him/her. The Legal Aid Unit is obliged to comply with the court judgement to appoint a lawyer at the expense of the State.

4. The refusal to render legal aid must be reasoned. The decision to refuse to render legal aid may be appealed to the Director of the Unit. The refusal to satisfy an appeal may be appealed to the court according to the procedure established by the legislation of Georgia.

5. The procedure for involving a public lawyer in the proceedings shall be defined by the Statute of the Unit.

6. A public lawyer involved in the proceedings is obliged to immediately commence to exercise the rights and duties defined by this Law, the Statute of the Unit and the procedural law.

7. A public lawyer employed by the Legal Aid Unit receives a salary for rendering legal aid on criminal, civil and administrative cases; and the legal aid rendered by an invited public lawyer is remunerated according to the rule on the Amount of Remuneration of Labour and Its Payment approved by the Council.

Article 21 – Guarantees of public lawyers’ independence

A public lawyer conducts his/her activity independently. It is inadmissible to interfere in the professional activity of a public lawyer, or to apply a sanction or threaten to apply a sanction against him/her for activities that are not in conflict with the legislation of Georgia and the lawyers’ ethics code.
Chapter V – Financial Guarantees of the Unit Activity


Article 22 – Financing sources of the Unit

1. Financing sources of the Unit are
   a) special purpose funds allocated from the State budget of Georgia;
   b) donations and grants;
   c) other income permitted by the legislation of Georgia.

2. The State funding of the Unit is defined by the annual State Budget Law.

3. The draft budget of the Unit is submitted to the Ministry of Finance of Georgia with the agreement of the Council and based on consultation with the Parliament of Georgia under the procedure established by the Budget Code of Georgia.


Article 22¹ – Reduction of the budget of the Unit

Reduction of the budget of the Unit within the amount provided under the Economic Classification article of the State Budgetary Expenditures compared to the respective data of the previous year is possible only with the consent of the Council.


Chapter VI – Transitional Provisions

Article 23 – Measures to be implemented with respect to entry of this Law into force

1. (Deleted)

2. (Deleted)

3. (Deleted)

4. Before 1 January 2009, legal aid is provided in criminal proceedings under the procedure established by this Law regardless of the property status of a suspect, accused, defendant and convicted person.


Article 23¹ – Temporary rules for the provision of legal aid

1. Legal aid (representation in court) with respect to civil and administrative legal proceedings, considering the importance and complexity of a case, shall be provided to an insolvent person from 15 April 2015 to 1 January 2018 if the case refers to issues related to Book Five and Book Six of the Civil Code of Georgia; the law of Georgia on Social Aid; the law of Georgia on State Pension; the law of Georgia on State Compensation and State Academic Scholarship; the law of Georgia on Health Care; the law of Georgia on Patient Rights; the law of Georgia on War and Military Veterans; the law of Georgia on Internally Displaced Persons – Refugees from the Occupied Territories of Georgia; the law of Georgia on Social Protection of the Families of Persons Fallen, Missing in Action, or Dead from Injuries Received in the Fight for Territorial Integrity, Freedom and Independence of Georgia; the law of Georgia on Recognition of the Citizens of Georgia as Victims of Political Repressions and Social Protection of the Repressed Persons; the law of Georgia on Social Protection of Persons with Disabilities, and based on the above laws and the issues related to the subordinate normative acts issued to implement them.

2. The Council may further define the issues from 15 April 2015 to 1 January 2018 that are not included in paragraph 1 of this article and with respect to which the Unit has to provide legal aid (representation in court) considering the insolvency of a person and the importance and complexity of a case.

3. If a civil or administrative case refers to an issue that is not included in paragraph 1 of this article or is not in the list of issues further defined by the Council, legal aid (representation in court) shall be provided from 15 April 2015 to 1 January 2018 if the case can be considered in court by way of consolidation of claims. If a case is separated, legal aid (representation in court) shall be provided only in relation to the issue that is included in paragraph 1 of this article, or in the list of issues further defined by the Council.

4. Paragraphs 1 and 2 of this article with respect to representation in an administrative body in an administrative proceeding shall apply as from 15 June 2016.
**Article 24 – (Deleted)**


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**Chapter VII – Final Provisions**

**Article 25 – Invalid normative acts**

Order No 308 of 17 February 2005 of the Minister of Justice of Georgia on Establishment of the Legal Entity under Public Law – the Public (Treasury) Lawyer’s Service shall be considered invalid upon entry of this Law into force.

**Article 26 – Entry of the Law into force**

1. This Law, except for the case provided in paragraph 2 of this article, shall enter into force upon its promulgation.

2. This Law shall enter into force from 15 April 2015 in the part of representation in court with respect to civil and administrative cases, except when conducting defence at the expense of the State and defence of victims of domestic violence provided by the Administrative Procedure Code of Georgia. This Law shall enter into force in the part of drawing up legal documents on any issue with respect to civil and administrative cases upon its promulgation.

3. This Law shall enter into force from 1 March 2011 when conducting defence at the expense of the State in cases provided by Code of Administrative Offences of Georgia.

4. This Law shall enter into force from 1 January 2016 in the part of representation in an administrative body, except for the proceedings for disciplinary violations committed by accused/convicted persons provided by the Imprisonment Code and cases of conducting defence of victims of domestic violence.


Law of Georgia No 4254 of 25 February 2011 – website, 1.3.2011


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**President of Georgia**

Tbilisi,

19 June 2007

No 4955– I

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საქართველოს კანონი
უფლებით დახმარების შესახებ
თათ. I. შესაძლო დაუმუშავებლობა

მუხლი 1. კანონის შესახებ

1. ამ კანონის შესახებ საქართველოს კონსტიტუციათა და საქართველოს სახელმწიფო კოდექსით გათვალისწინებული დადგენილების უფლებების, საქართველოს სამართლის-საზოგადოებით ფილიმამართული, მდგრადი და საბოლოო უფლებით დახმარების სისტემის და საბოლოო საბიუჯეტო სისტემის გამჭირვალობა და შექმნა საქართველოს უფლებით დახმარების ადმინისტრაციის უფლებებით სისტემის მიმართ.

2. კანონმდებლობით, ამ კანონით დაქორწინებით შექმნა საქართველოს უფლებებით დახმარების შესახებ საქართველოს საქართველოს სამართლის გამჭირვალობა და შექმნა საქართველოს უფლებით დახმარების ადმინისტრაციის უფლებებით სისტემის მიმართ.

3. სისტემი დანიშვნის ექსპერტის, საქართველოს სამართლის-საზოგადოებით ფილიმამართული, საბოლოო უფლებით დახმარების სისტემის მიმართ

4. ამ კანონით დაქორწინებით შექმნილ საქართველოს უფლებით დახმარების შესახებ საქართველოს სამართლის გამჭირვალობა მიზნით გამჭირვალობა საჭირო სამართლებრივ სისტემა;

მუხლი 2. კანონით გამოყენებულ ფონების გამოყენება

ამ კანონით გამოყენებულ ფონებში აქვს შემდგარი შესილობები:

1) უფლებით დახმარების კანონი — საქართველოს საქართველოს სამართლის მოსამსახურე უფლებებით დახმარების, საქართველოს საქართველოს საბიუჯეტო სისტემის მიმართ;

2) უფლებით კონსულტაცია და უფლებით დახმარება — საქართველოს საქართველოს სამართლის გამჭირვალობა მიზნით გამჭირვალობა საჭირო სამართლებრივ სისტემი;

3) საქართველოს სამართლის მოსამსახურე უფლებით დახმარების სისტემა — საქართველოს საქართველოს საკუთარში გამჭირვალობა საჭირო სამართლებრივ სისტემი;

4) უფალმა ერთმანეთთან შექმნილ საქართველოს უფლებით დახმარების შესახებ საქართველოს საქართველოს საქართველოს სამართლის გამჭირვალობა საჭირო სამართლებრივ სისტემი;

5) უფალმა ერთმანეთთან შექმნილ საქართველოს უფლებით დახმარების შესახებ საქართველოს საქართველოს საქართველოს სამართლის გამჭირვალობა საჭირო სამართლებრივ სისტემი;

6) უფალმა ერთმანეთთან შექმნილ საქართველოს უფლებით დახმარების შესახებ საქართველოს საქართველოს საქართველოს სამართლის გამჭირვალობა საჭირო სამართლებრივ სისტემი.

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მუხლი 4. უფროსი დამატებით მისაღებად ამოცანა.

1. არასრულწლოვნების სახით უფროს უფროსი უფროსი დამატებით განიხილოს, ისე, როგორც არასრულწლოვნის სახით. ამ არასრულწლოვნის სახით. არასრულწლოვნის სახით.

2. უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროส უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფროს უფრო}

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რეგისტრირებული ოჯახის წევრი.

განსაზღვრული იურიდიული დახმარების გაწევის კრიტერიუმების საფუძველზე.

ბანკში ფიზიკურ პირად მიერ პირად ოჯახში პუნქტით ან იურიდიულ დახმარების საბჭოს მიერ დამატებით განსაზღვრულ საკითხთა ჩამონათვალით.

წარმომადგენლობა)

საქმის პუნქტით გამოცემულ შესახებ, უკვლოდ ტერიტორიულ „პაციენტის კომპენსაციისა მეექვსე საქმე სარგებლობის მიუხედავად სასამართლო მოქმედებების მსხვერპლისათვის უზრუნველყოფილია არ აირჩია.

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ზეორთული ადმინისტრაციული დახმარების სახით თანხის უფლებების საქმის განმავლობაში.
ხელში 6.1. თუ კანონმდებლობის ან/და კანონმდებლობის შეცვლა დასაზღვრულ პირს მიიღო, საბოლოო დანაშაულის საქმიანობის დანაშაულის შემთხვევაში
1. იურიდიული პირი, თუ სამსახურის მიერ ამის სამართლის დასაშვებად მაინც არ მოახდენს თავისი გამოთყვამიანობა, შეგიძლია, რომ იმასთან ვარაუდოთ იურიდიული პირი, ხოლო ამ პირის პირველი პირთან გადახდისუუნარობის შედეგად კანონმდებლობა მიიღო. იმავე შემთხვევაში, თუ პირის წევრმა არ გამოთხოვს იქნება, რომ იმასთან შეიძლება გამოყოფილიყურა დასაღები შემთხვევის შედეგად საქმიანობა.
2. თავის სახით, თუ იურიდიულმა პირმა გამოითხოვს იურიდიული პირის ინფორმაცია, თუმცა შემგზავრებს უწყვეტი სამსახურის კანონი, თუმცა ეს მოხდებს იურიდიული პირის სამსახურის თანხმობაში.

3. სამშენებლო ან ექსპლუატაციის ადმინისტრაციული ორგანოს და ოპერაციული პირთან საქართველოს პარლამენტის წინამდებლობით იქნება ხელისუფლება საქართველოს გამომავალების განვითარებაში სამსახურს.
4. სამშენებლო დონეზე (შექმნა – ფანჯარა) ყველაფერიდან, არსებობს 1 მნიშვნელოვანი ქონება, საქართველოს პარლამენტის წინამდებლობით წინამდებლობით დახმარება წინამდე.
6. სამშენებლო მეშვეობის სამშენებლო პარლამენტის (შექმნილ – პარლამენტ), ამ კანონის საფუძველზე შექმნილი უმაღლესი საბჭოთა უსამოართლო და ცხოვრების ტერიტორიების ქონები და საქართველოს ტერიტორიები წარუდგინების ფაქტორი.
7. სამშენებლო მეშვეობის გამომავალების ფინანსთა უწყვეტ საბჭოთა ქონები და სამშენებლო ქონები მაღალი ფინანსთა უწყვეტ.

მუხლი 81. სამშენებლო საქმიანობის გარანტიის წინამდებლობა საქართველო დამოუკიდებლობა პროგნოზირებულ პირველაბს, დამოუკიდებლობით მის საქმიანობაზე შესახებ.


მუხლი 82. საქმიანობა, რომლის წინამდები თანამშრომელი გამოცდილება
1. სამშენებლო საქმიანობის თანამშრომლობის ჩატვირთვა შეიძინება საქმიანობის საქმიანობაზე შეიძინება:
   a) ადგინის სახელში;
   b) ქალაქ-იმპორტის სახელში;
   c) გამომავალი საქმეთა ფინანსთა სახელში და საქმეთა სათაურზე;
   d) ქალაქ-იმპორტის საქმეთა ფინანსთა სახელში საქმიანობის გახმაურების სახელში, ამჯერად საქმიანობის შემადგენელთა საერთო წლიური ბალანსში და საქმეთა საერთო წლიური ბალანსში დახმარება გამომავალებში.
2. სამშენებლო საქმიანობის საიდუმლო ან გაუხერხევია მის მიერ გამომავალ საქმიანობის ხელმძღვანელი დახმარება.

3. ამ მუხლის პირველი და მე-2 პუნქტები გამოახდენილი წესების გამომავალების უმაღლეს საბჭოთა წესით განსაზღვრება.
4. სამშენებლო გამომავალების საქართველო განვითარებაში დაყრდნობით წლიური პირობის საქართველოს პარლამენტში საქმიანობა საქართველო გაამგზავრებს საქართველოს საქმიანობით საქმიანობა საქართველო გავრცელებით საქართველოს თანამშრომლობით.


მუხლი 9. (პირველად)


მუხლი 10. იურიდიული დახმარების საქმე
1. სამშენებლო საქმეთა საქმიანობა საქმიანობის მიერ საქმეთა დამოუკიდებლობის მაღალ სახელში დახმარებით იურიდიული დახმარება უმაღლესი ფინანსთა უმაღლესი საბჭოთა ქონება.
2. საქართველო განსაზღვრს საქართველო საქმიანობით საქმეთა დახმარებით ბალანსში 2 წელით გამოწვევით ქონება.
3. საქართველო საქართველო საქმიანობა საქმიანობით საქმეთა დახმარებით ბალანსში 2 წელით თავიანთ ქონები.
4. საქართველო საქმეთა საქმიანობა საქმიანობით განსაზღვრს საქართველო საქმიანობით საქმიანობით საქმეთა დახმარებით.

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5. საქართველოს სახელმწიფო დაწყების და კონტრაქტის წესით საქმეს განსაზღვროს თანამშრომელთა ანგარიში და მათი ვერობების შესწუმა პროცესი, რომელშიც აქვს უფლება განათავსება, ადგილის უფლებამოსილ ერთობლივ ქ�არჯვების/დახმარების საქმისათვის ან/და პირდაპირი/საქმიანობის საქმისთან ახლოს 5 წლის განმავლობაში. ის კონტრაქტის წესით შემჩნეულ საქმე წესით არ შეუძლია ახორციელებით საქმიანობის შესაძლო არჩევნა.

6. საქმეს წყვილი თათვა საქმიანობის შესაძლო არჩევნა. საქართველოს სახელმწიფო დაწყების მიერ წარდგენილი და კონტრაქტის წესით შემჩნეულ საქმეს წყვილი განმავლობა დაწყებული არ განისაზღვრა.

7. საქმეს წყვილი განსაზღვრის პირობებს არ აშენებული.

8. საქმეს წყვილი უფლებამოსობით გავა 3 წლის, გარდა საქმისთვის წყვილი, რომლითაც ფინანსური დახმარების მიერ ან/და საქმიანობის რეჟიმი გამოკვეთა პერიოდში, მოქმედი 1 წლის გამო თათვა ან აქ შემთხვევაში ამ მე-16 წლის მე-8-ში 10-მემკვიდრედ ფაქტურულ დღეში. საქართველოს სახელმწიფო ასამბლის მიერ საქმეზე პირდაპირი ანგარიში შესწუმის პროცესი შესრულდება დასაბუთებული ადგილი. უფლებამოსობით დახმარებით დასაბუთებული ადგილი.

9. რეჟიმში და ფინანსურ დახმარებით დამოკიდებული აქტი უფლებამოსილ ყველა საქმიანობში.

10. საქმე შეიძლება დამოკიდებული იყოს საქმიანობის შეუსწორებლად.

11. საქმე შეგიძლია და მათ წესრიგზე კონტრაქტის პირისაგან აქტი შეიძლება მიიღოს ღია კონკურსის შენახვაში.

12. საქმე შეგიძლია ჩატაროს რეგიონების მიერ საქმიანობათა შეუსწორებლად.

13. საქმე შეგიძლია არ გამოვიყენოთ რეგიონი.

14. საქმე შეგიძლია არ დამოკიდებული იყოს დახმარებით.

15. საქმე შეგიძლია არ გამოვიყენოთ პერიოდში.

16. საქმე შეგიძლია არ გამოვიყენოთ რეგიონი.

17. საქმე შეგიძლია არ გამოვიყენოთ პერიოდში.

18. საქმე შეგიძლია არ გამოვიყენოთ პერიოდში.
INOXS, თავმჯდომარე დირექტორისა თუ თავმჯდომარე თავმჯდომარის მოსამართლის გამამტყუნებელ განაჩენი, თუ მისი მიმართ კანონიერ ძალაში შევიდა სასამართლოს ოთხი მუხლი
2. თავმჯდომარე დირექტორის, თუ მის ხელამოსტო ერთი იგივე პირს თავმჯდომარის ხმათა შესახებ 160.020.020.05.001.002.895
შეფასების თანამდებობაზე წარდგენა; გადაწყვეტილებათა პროექტების საბჭოსთვის წარდგენა; იურიდიულ შესაბამისად; გამოყენების ოდენობების განსაზღვრა; სამსახურის წინა წლის საქმიანობის შესახებ ანგარიშის წარდგენა; საქართველოს საქართველოს 2013 წლის შედეგადაც დირექტორს უფლებამოსილება ვადამდე უწყდება. არაჯეროვნად ასრულებს მისთვის დაკისრებულ ფუნქციებს; სასამართლოს გადაწყვეტილებით სხვა რამ არ არის განსაზღვრული; კონფლიქტის შესახებ წერილობით აცნობოს საბჭოს, რომელიც იღებს შესაბამის გადაწყვეტილებას. „საჯარო დახმარებისში ინტერესები და ვიყიდებული შესახებ“ საქართველოს კანონით დადგენილი მოთხოვნები.


9. საქართველოს კანონი №3368 – ვებგვერდი, 31.03.2015წ.

10. საქართველოს კანონი №4359 – ვებგვერდი, 11.11.2015წ.


14. დირექტორის ფუნქციები

1. დირექტორის ფუნქციებს:

a) საქმიანობის უფლებამოსილებით, საჯარო დახმარების, საიურიდიული საქმიანობის, სამსახურის მიერ სტატისტიკის წარმოების და მათი შეტანის კოორდინაცია და მათი ანალიზი;

b) საქმიანობის დახმარების და მამაკაც გამოყენების თანამედროვე წარმოების შექმნა და გაუმჯობესება სამსახურთათვის;

2. ბიუროს/საკონსულტაციო დახმარების წარმოებით და მუხლი 14. დირექტორის ფუნქციებში გამოყენების ზღვრული ფორმისა და ნაკრძალთა საქმეში;

3. ადვოკატის დახმარების წარმოების სამოქმედებები შეტანის კონსულტაციის საკონსულტაციო დებულებით

4. საუკეთესო რეგისტრირებული საქმიანობის მიმართ დისციპლინური დებულება;

5. საქმიანობის შემთხვევებში ადვოკატის საუკეთესო რეგისტრირებული საქმიანობის მიმართ დისციპლინური დებულება

6. გამოყენების ზღვრული ფორმის მშვიდობით ძალიან გამოყენების წარმოებით სათანადო და ვიყიდებული შესახებ საქმეში;

7. საქმიანობის შედეგად არ არის განსაზღვრული სასამართლოს გადაწყვეტილებით;


9. საქმიანობამდე, საიურიდიული საქმიანობა ღირსშესანიშნავი, საიურიდიული საქმიანობა ღირსშესანიშნავი.

10. საქმიანობამდე, საიურიდიული საქმიანობა ღირსშესანიშნავი.
პროგრამასაც კენჭი. წარდგენილად ჩაითვლება ის კანდიდატი, რომელიც სხვა კანდიდატებზე მეტ ხმას დააგროვებს.

ადვოკატის გასვლამდე საერთო კრების მიერ დამტკიცებული ადვოკატთა პროფესიული ეთიკის კოდექსის შესაბამისად.

საქართველოს კანონმდებლობით მინიჭებული უფლებებით.

უფლებამოსილება განისაზღვრება სამსახურის დებულებით. განხორციელება დადგენილი წესით.

2. დოკუმენტური უფლებამოსილებით თვალსაჩივრო ადმინისტრაციულ-სამართლებრივი აქტების გამოცემა.

3. დოკუმენტების გადაეცემა შედეგად გამოვლინება მხოლოდ საბჭოთა.

15. აქტი

საქართველოს ფინანსური მაქსიმალური საქმიანობის წესი, სასწავლო და უფლებამოსილება განახორციელება სასამართლოში.

16. პირობა

1. პირობათა დომენის პირობა არის სასამართლოში შესყიდვად დოკუმენტი, რომლიდან ამ კომპლექს დავითში ჩაითვლამ და თავის სანოლებით ტექნიკურად დადგენილი იქნება პირობზე სახელმძღვანელო დამტკიცებულების გამომჩენა.

2. პირობათა დომენის პირობა პირობათა პირობა ამოცანით გამომჩენილი იქნება ლანგვარი მაგიდიდან, გარდა პირობა დაგროვების გამოსახულების შემთხვევაში, საქართველოს სამეურნეო კლუბში „საქართველოს შირის კოლეჯი“ დადგენილი წესი.

3. პირობათა დომენის პირობა რამდენიმე მხრივ გამოვლინება მხოლოდ საბჭობთა.

4. პირობათა დომენის პირობა აღჭურვა თავის საქმიანობის გამოსახულებად საქართველოს კომპიუტერული, ან კიდევ, „აღჭურვა შესყიდა“ საქართველოს წლით, სასამართლოს დეწესებაში და ხშირად სრულიან აქტით.

5. პირობათა დომენის პირობა საქმიანობაში გამოქვეყნება.

6. პირობათა დომენის პირობა აღჭურვის მიღებამ საქართველოს პირობით ანორბის საქმიანობის მიღებით გაცემული ძალის სახით შესყიდა.

7. პირობათა დომენის პირობა საქმიანობა, აღჭურვის, საქმიანობის და გამოსახულებად უფლებამოსილები განსაზღვრება სასამართლოში.

8. პირობათა დომენის პირობა პირობით უფლებამოსილების ექსპორტი განსაზღვრება სასაქმიანობის ფინანსურ ორგანოში, შემდგომ დანიშვნის შემდგომ.

9. პირობათა დომენის პირობა მიიღწინებს წარმოქმების ფაზას, შემდგომ ლანგვარი გამომჩენილი იქნება საქმიანობის შეზღუდვები დამტკიცებულები. პირობათა პირობა აღჭურვის შემდგომ გამოქვეყნება, საქმიანობი საქმიანობის შეზღუდება დამტკიცებულები.

10. პირობათა დომენის პირობა აღჭურვის სრულად უფლებამოსილები გამოყოფა 3 წლის გადასახად შეიყვანებს საქმიანობის მიღებით 1 წლით გამოსახულებამ მაის შვეიც საქმიანობის გამოთვალება დამტკიცებულები. პირობათა პირობა უფლება შეიყვანს არაუაგვიანობის დამტკიცებულება.

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18. მოსაზრება

19. წესი

20. ანგარიშების ფორმა

IV. საზღვართან დონის დადგენილება

21. საზღვართან დონის დადგენილება
1. იურიდიული დახმარების სამსახური
2. სამსახურის ბიუჯეტის შემცირება
3. კანონის ამოქმედებასთან დაკავშირებით განსახორციელებელი ღონისძიებები
4. საზოგადოებრივი ადვოკატის საქმიანობა
5. ლიტერატურის ბიბლიოგრაფიული დაწესებულება

2. საბჭო უფლებამოსილი 2018 წლის 1 მარტიდან 2021 წლის 1 იანვრისათვის განსაზღვრისთან ახლა წევრების უფლებამოსილების თავი VII. დასკვნითი დებულები

3. 1. 2018 წელის ვადის შეთანხმებისთან ახლა წევრების უფლებამოსილების მიერ შერჩეული წევრები, გარდა უფლებამოსილი დახმარების მიერ შერჩეული წევრთა შესახებ.


4. საქართველოს ადმინისტრაციული მდგრადობის შესახებ ქართული საქმის უფლებამოსილების პოზიცია გარდა უფლებამოსილი დახმარების მიერ შერჩეული წევრები, გარდა უფლებამოსილი დახმარების მიერ შერჩეული წევრთა შესახებ.

5. საქართველოს ადმინისტრაციული მდგრადობის შესახებ ქართული საქმის უფლებამოსილების პოზიცია გარდა უმართელი დემონსტრაცია

6. საქართველოს ადმინისტრაციული მდგრადობის შესახებ ქართული საქმის უფლებამოსილების პოზიცია გარდა უფლებამოსილი დახმარების მიერ შერჩეული წევრები, გარდა უფლებამოსილი დახმარების მიერ შერჩეული წევრთა შესახებ.

7. საქართველოს პოლიტიკური საქმის მნიშვნელობისა და სირთულის გათვალისწინებით 2018 წლის 1 იანვრად.

8. საქართველოს პოლიტიკური საქმის მნიშვნელობისა და სირთულის გათვალისწინებით 2018 წლის 1 იანვრად.

9. საქართველოს პოლიტიკური საქმის მნიშვნელობისა და სირთულის გათვალისწინებით 2018 წლის 1 იანვრად.

10. საქართველოს პოლიტიკური საქმის მნიშვნელობისა და სირთულის გათვალისწინებით 2018 წლის 1 იანვრად.

11. საქართველოს პოლიტიკური საქმის მნიშვნელობისა და სირთულის გათვალისწინებით 2018 წლის 1 იანვრად.
საზოგადოებრივი (სახაზიო) ლიცენზიის შემდგომი შეძენის შესახებ” საქართველოს თავმჯდომარეობის თბილისი 2005 წლის 17 თებერვლის №308 ბრძანება.

§ 26. კანონის აპრეზიდენტი
1. ეს კანონი, გარდა ამ მუხლის მე-2 პუნქტით გათვალისწინებული შემთხვევით, ამოქმედდება განხილვის შემთხვევით.
2½. ეს კანონი ქალთა მიმართ ძალადობის (გარდა ფაქტორებით შემთხვევის) ადმინისტრაციულ ინსტიტუტის რაოდენობით და სასამართლოში წარმომადგენლობის ნაწილში ამოქმედდება 2017 წლის 1 იანვრიდან.
3. ეს კანონი საქართველოს საზოგადოებრივი სამსახურის კომისიის გათვალისწინებით დაფარების განხორციელების შემთხვევაში ამოქმედდება 2011 წლის 1 იანვარიდან.
4. ეს კანონი ადმინისტრაციული ინსტიტუტის წარმომადგენლობის ნაწილში, გარდა საქართველოს კოლეგიით ააგებული ფაქტორებით შეთანხმების/შეთანხმებული შეთანხმების მიღება საჯაროდ დისციპლინურ დანერგვის სამსახურის შემთხვევაში და თემაში შამალამოს მსხვერპლის დაფარების განხორციელების შემთხვევაში, ამოქმედდება 2016 წლის 1 იანვარიდან.

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QUESTIONNAIRE

Measures to enable effective access to justice
in environmental matters

Response by Italy

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

The Italian civil procedural system provides, as a general principle at the outcome of the trial, “the loser pays principle”, on the basis of which the legal costs incurred are charged to the non-victorious party.

Indeed, pursuant to the article 91 of the Code of Civil Procedure "the judge, with the judgment that closes the trial before him, sentences the losing party to reimburse the costs in favor of the other party".

The ratio of such a provision would seem to be identified, on the basis of the doctrinal elaborations, in the purpose of inducing the potential trial parties to a careful assessment of the appropriateness of referring to the judicial authority for the purposes of protection, as well as a deterrent to the establishment of completely spurious and unfounded procedures.

In Italy, the main provisions dealing with the order for costs are Articles 91, 92 and 96 of the Civil Procedure Code. Article 91 of the Civil Procedure Code governs the loser pays principle, according to which the judge sentences the party who lost the case to pay legal fees, which he liquidates in sentence.

This principle, however, provides for temperaments. Indeed, immediately afterwards, the general principle is subject to some exceptions, in the event that the judge has formulated a conciliatory proposal during the course of the case, and one party has rejected it without justified reason. In this case, the loser pays principle finds a partial derogation, and the legal costs of the activity following the conciliatory proposal are charged to the party who refused it, even if it were the victorious party.

The article 92 of the Civil Procedure Code establishes further exceptions to the general principle of the loser pays principle, allowing the judge not to charge the losing party when they are excessive or superfluous, and when the victorious party has violated the duties of loyalty and probity in the trial.

Paragraphs 2 and 3 of the same article, deals with the compensation of expenses, or the case in which each party bears its own legal expenses. The judge can therefore decide to compensate the costs between the parties when there is mutual defeat, when the question dealt with is absolutely new, or there is a change in the jurisprudence on the ditrimental questions, or finally in the case of conciliation of the case.
The loser pays principle was also taken up in the administrative field by law no. 1034/1971 and confirmed by the current art. 26, paragraph 1, of the code of the administrative process (Legislative Decree n.104 of 2.7.2010), according to which the judge provides for the expenses in accordance with articles 91, 92, 93, 94, 96 and 97 of the Italian Code of Civil Procedure, also taking into account compliance with the principles of clarity and conciseness of the documents.

Therefore, the Legislative Decree no 104 of 2.7.2010, on the reorganization of the administrative process, addresses the issue of unsuccessful costs in the administrative process in Article 26.

Pursuant to the first paragraph of article 26, when issuing a decision, the judge also provides for the costs of the trial, according to articles 91, 92, 93, 94, 96 and 97 of the code of civil procedure, also taking into account compliance with principles of clarity and conciseness referred to in article 3, paragraph 2. In any case, the judge, even ex officio, may also order the losing party to pay, in favor of the counterpart, an equitably determined sum, in any case not more than double the paid expenses, in the presence of manifestly unfounded reasons.

Paragraph 2 establishes that the judge ex officio condemns the losing party to pay a pecuniary sanction, not less than double and not more than five times the unified contribution due for the introductory appeal of the judgment, when the losing party has acted or recklessly resisted in court.

The law sets a minimum and maximum amount of the pecuniary sanction to be applied, the application of which in the specific case is left to the discretion of the judge.

It should be noted that the aforementioned Legislative Decree no 104 of 2.7.2010, Annex 2- Title V- “justice expenses”, in article 14 provides for the establishment of a commission for admission to legal aid at the expense of the State, at the Council of State and every regional administrative court.

As regards administrative jurisdiction, art. 14 specifically provides that: << A commission for early and provisional admission to legal aid is set up at the Council of State, the Administrative Justice Council for the Sicilian Region and each regional administrative Court and related sections, composed of two administrative magistrates, appointed by the president, the eldest of whom assumes the functions of president of the commission, and by a lawyer, appointed by the president of the Bar Association of the capital in which the body is based. One or more alternate members are designated for each member. A secretarial employee, appointed by the president, performs the functions of secretary. The chairman and the members are not entitled to any compensation or reimbursement of expenses >>.

Article 96 of the Code of Civil Procedure which governs the aggravated liability provided for the so-called “legal overreach” that occurs when the losing party has acted or resisted in court with bad faith or gross negligence, provides that the judge, at the request of the other party, sentences him, in addition to the costs, to compensation for damages, which liquidates, even ex officio, in the sentence.

The Consolidated Law on Legal and Regulatory Provisions on Legal Expenses (hereinafter for brevity Presidential Decree no 115 of 2002) has adopted some measures aimed at removing or reducing financial barriers in order to allow access to environmental justice.

In particular, Article 13, paragraph 6-bis, lett. A) of Presidential Decree 115 of 2002 establishes that no contribution is due for the appeals provided for by article 25 of law no. 241 of 1990 against the denial of access to information pursuant to legislative decree no. 195, implementing Directive 2003/4 / EC on public access to environmental information.

Furthermore, on the basis of the combined provisions of articles 119 and 76 of Presidential Decree 115 of 2002, non-profit organizations and associations that do not pursue economic activities are admitted to free legal aid, if they have an income not exceeding 11,746, 68 euros.
The legislator has set a maximum level of income to access the benefit of legal aid (not exceeding € 11,746.68) which is identical for individuals and organizations and associations. The ratio for identifying a maximum level of income also for organizations and associations can be found in the fact that, since the latter are made up of a plurality of subjects and in many cases managing activities from which they derive considerable income, they have a greater capital and financial capacity.

Furthermore, according to Article 12 of Presidential Decree 115 of 2002, the exercise of civil action in the criminal trial is not subject to the payment of the court fee, if only the general sentence of the person responsible is requested.

**Question 2:**

Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
- Type of legal disputes covered (trial and non-trial matters)
- Type of services covered
- Criteria to apply for legal aid for natural persons
- Criteria to apply for legal aid for NGOs
- Providers
- Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

Free legal aid is an institution recognized by Article 24 of the Italian Constitution to all citizens without wealth: “Everyone can take judicial action to protect individual rights and legitimate interests. The right to defence is inviolable at every stage and instance of the proceedings. The indigent are assured, through appropriate institutions, the means for action and defence before all levels of jurisdiction. [...]”

If admitted, the applicant does not have to pay any sum to the lawyer, who can be chosen by the applicant; legal aid fees are directly paid by the state to the appointed lawyer, who has to be filed (even) as legal aid lawyer; the fees are severely reduced by law provisions and practice.
To exercise his services, the lawyer must be registered in a special register, which can be consulted online on the websites of the various Councils of the Bar, within which the party can choose a professional at his discretion.

The lawyer can receive the remuneration only and exclusively from the State: if he asks or accepts money from the client, he commits an ethical crime, punishable by the Council of the Order to which he belongs.

The same income threshold necessary for access to legal aid, in fact, makes the benefit of the institution de quo really limited: the threshold, in fact, set at an immutable amount during the year of application, can only be assessed in monetary terms, risks becoming preclusive and limiting rights.

Free legal aid is guaranteed in all jurisdictions: civil, criminal, administrative, accounting, tax and voluntary.

With reference to legal aid, please also refer to the first answer of the questionnaire.

**Question 3:**

Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
  - Other

Within the public prosecutor's office in the major Italian courts at the court of Rome there is a specialized group of magistrates dealing with crimes relating to Ecology and Environmental Protection.

In general these groups have competence in the following crimes:

- Pollution (including articles 29 quattordices, 137, 255 paragraph 3, 256, 259, 279, 261 bis of Legislative Decree no. 152/06) and, following Law no. 68/15, for the offenses referred to in articles:
  - 452 bis of the criminal code environmental pollution;
  - art. 452 quater of the criminal code environmental disaster;
  - art. 452 sexies of the criminal code traffic and abandonment of highly radioactive material;
- art. 452 septies of the criminal code impediment to control;
- art. 452 terdecies of the criminal code omitted remediation;
- Landscape assets (including art. 181 of Legislative Decree no. 42/04);
- Hunting (including art. 30 of Law no. 152/92);
- Animals: crimes against the sentiment of animals (including articles 544 bis, 544 ter, 544 quater, 544 quinques, 638 and 727 of the criminal code) - possession and importation of protected species (including articles 1, 2 and 6 of Law no. 150/92) - trade in skins and furs (including art. 2 of Law no. 189/04) - trafficking of animals (including art. 4 of Law no. 201/10);
- Management of end-of-life vehicles (including art. 13 of Legislative Decree no. 209/03);
- Protected areas (including Article 30 of Law no. 394/91);
- Navigation safety (including articles 1112 and 1231 R.D.n. 327/42 so called Navigation Code);
- Crimes relating to the peaceful use of nuclear energy (Law no. 1860/62 and subsequent);
- Forest fire art. 423 bis of the Criminal Code;
- Disturbing noises art. 659 of the Criminal code;
- Offensive issues art. 674 of the Criminal code;
- Habitat destruction art. 733 bis Criminal code.

The Italian Legislative Decree no 26 of 2006 assigns the updating and training of judges to the exclusive competence of Superior School of Judiciary (Scuola Superiore della Magistratura), an autonomous didactic structure with full organizational autonomy. The Article 2 of legislative decree n. 26 of 2006 specifies that the school’s exclusive competence includes, among other things, decentralized training activities and the training of magistrates in charge of training tasks. Italian Superior School of Judiciary on regular basis provides courses of in-depth study of environmental subjects for both public prosecutors and judges at the national level of initial and continuous training.

Furthermore, training activity, may be also provided by decentralized structures of Superior School of Judiciary that work at district level in the continuous training of judges and public prosecutors.

Among the Public research bodies the Italian Institute for Environmental Protection and Research (ISPRA), is worth mentioning. The Institute is a public research body, with legal personality under public law, technical, scientific, organizational, financial, managerial, administrative, patrimonial and accounting autonomy.

**Question 4:**

Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
The Register of Technical Consultants and the Register of Experts are established at each Court. Where necessary, the Judge may be assisted by criminal experts, technical consultants in civil matters and experts in the matter.

Technical Consultant, or Technical Experts, in the event of a panel of experts being nominated, must, according to the regulations, be entered in the appropriate register divided into categories, kept at each court and presided over by the chairman of said court.

Question 5:

Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)
- Fast tracking/prioritization of environmental cases
- Defined by law
- Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

Italian Constitution at art. 113 provides the fundamental principle of the reasonable duration of trials which refers to all kind of judicial proceedings - criminal, civil and administrative.

In any major area of administrative law, it is necessary to refer to the general law on administrative procedures, that sets up the basic principles for any administrative action. Any special law applied to a specific administrative law area (such as environment, public procurement) may contain further and more specific provisions, according to the general rule “lex specialis derogat legi generali” (the special principle prevails on the general one), provided that the special provisions contain at least the basic guarantees of the general law. Law n. 241/1990 is the general law on administrative procedures and provides a general overview of the good administration principles, as set up by the Italian Constitution in Art. 97. More specifically, Law n. 241/1990 disciplines the administrative action

Article 25 paragraph 4 of the law no 241 of 1990, establishes that, against the denial or postponement of the right of access, the applicant can, as an alternative to the judicial appeal and within the same terms, submit a request for review to the “Difensore civico”. He must decide within thirty days whether to confirm the rejection or declare it illegitimate, communicating their assessments to the appellant and to the competent authority.

Article 25, in regulating the review procedure before the “Difensore civico”, proposes an optional alternative, as it still remains available to the private individual for the possibility of judicial appeal pursuant to art. 25 paragraph 5, according to the procedures set out in art. 116 c.p.a .. Conversely, since the review is a ordinary administrative appeal, it is not allowed after the deadline for referring to the judge or the same has been seized. The deadline for judicial judgment is intended to be suspended when the through protection review
is undertaken before the “Difensore Civico” - suspension not provided for in the accelerated procedure before the European Ombudsman - which, therefore, begins to run or from confirmation, even below form of silence, denial of access by the defender or by the provision motivated against the declaration of illegality of the defender by the authority qualified.

Unlike the judicial remedy, the review before the “Difensore Civico” admits also a trade union on merit, not only that of legitimacy.

At the provincial level Trento was one of the first local realities to foresee the figure of the “Difensore civico” as early as 1982.

Question 6: Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review

- E-access to environment-related standards and legislation

- E-access to case law on environmental matters

- Collection of quantitative data on environmental cases

- Electronic submission and management of claims

- For administrative review

- For judicial review

- E-access to case files at court for the parties

- Remote court hearings

- Data mining for processing environmental cases

- Tools integrating spatial, environmental and case-management data

- Other

In the administrative proceedings, as already happened in relation to the civil one, the legislator has chosen to resort to digital administration to bring the advantages offered by ICT to justice, thus life to the so-called "Electronic administrative process", which has also become the exclusive mode of action from 1 January 2018.

In the European and international context, Italy qualifies as one of the most interesting and positive examples of interaction between digitalization and trial, both by extension for the degree of consolidation of the technological innovations used in the work practices of justice. There is an evident link between due process and technology which is no longer simply a tool for reducing the costs of justice but also entails a qualitative change in the governance of the sector, as well as in the modus operandi of courts and prosecutors, in the relationship between advocacy and parties and, finally, the accessibility itself of citizens to the judicial system. The field of innovation practice also touches, and above all, the administrative process along three lines: i) dematerialization and standardization; rationalization of the drafting scripts and iii) remotization or
despatialisation of the public hearing. Electronic access to environmental legislation and jurisprudence is guaranteed. Complaints in environmental matters can also be submitted electronically.

The recently approved law n. 2022 that will come into force at the beginning of 2023 provides the possibility of remote hearing or the written procedure in order to speed up civil and criminal proceedings, also in environmental cases.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

The mediation procedure is currently governed by Legislative Decree 28/2010 and subsequent amendments. Mediation is: "the activity, carried out by an impartial third party and aimed at assisting two or more subjects in the search for an amicable agreement for the settlement of a dispute, also with the drafting of a proposal for the resolution of the same".

The mediator is: "the natural person or persons who, individually or collectively, carry out the mediation without, in any case, the power to make binding judgments or decisions for the recipients of the service".

Given the effectiveness and success of mediation found over the years and the specific needs of environmental conflicts, the field of action of mediation has widened by applying it to this type of conflict.

In December 2015 the Chamber of Commerce of Milan Monza Brianza Lodi (CAM) started the experimental phase of the environmental mediation project. Then, due to its success and its growth, the service has been established permanently within CAM and an innovative service, named “FacilitAmbiente service”, to help businesses, public bodies and citizens to deal preventively with environmental conflicts, through a Facilitation process with qualified subjects.

For what regards the damages compensation in environmental cases, which falls under the competence of civil judges, art. 185 and 185 bis of civil procedural code are applicable: this implies that judges have to try the conciliation of the case at the first hearing or, if it is the case, even later until the last hearing where the case is finally discussed.
Вопрос
Меры по обеспечению эффективного доступа к правосудию
по вопросам, касающимся окружающей среды
Ответ Казахстана

Вопрос 1: Пожалуйста, опишите, какие меры принимаются в соответствии с законодательством и практикой в вашей соответствующей юрисдикции (включая передовую практику и проблемы) для уменьшения или устранения финансовых барьеров для представителей общественности в возбуждении экологических дел, в частности, в отношении:

- Полное освобождение от судебных издержек
  (при подаче исков и обжалования судебных актов в гражданском процессе)
  Подпункты 8), 11) 28) ст.616 Налогового кодекса
  По результатам рассмотрения дел судебные расходы взыскиваются по правилам статьи 109 ГПК
  - Полный отказ от применения принципа «платит проигравший».
  - Применение защитного ордера на расходы
  - Полный отказ от возмещения расходов, понесенных государственными органами
  - Полный отказ от облигаций или другого обеспечения для снятия судебного запрета
  - Полное освобождение от расходов, понесенных государственными органами
  - Полное отсутствие судебных издержек
  - Полное освобождение от судебных издержек

- Полные освобождения от судебных издержек
  По результатам рассмотрения дел судебные расходы взыскиваются по правилам статьи 109 ГПК
  - Полный отказ от применения принципа «платит проигравший».
  - Применение защитного ордера на расходы
  - Полный отказ от возмещения расходов, понесенных государственными органами
  - Полный отказ от облигаций или другого обеспечения для снятия судебного запрета
  - Полное освобождение от расходов, понесенных государственными органами
  - Полное отсутствие судебных издержек

Другое (например, меры по снижению затрат и т. д.):

- В порядке АППК рассматриваются иски об обжаловании административного акта, действия (бездействие) административного органа. В силу статьи 109 ГПК стороне, в пользу которой состоялось решение, суд присуждает с другой стороны все понесенные по делу судебные расходы. Если иск удовлетворен частично, то расходы присуждаются истцу пропорционально размеру удовлетворенных судом исковых требований, а ответчику пропорционально той части исковых требований, в которой истцу отказано.
- При рассмотрении уголовного дела предоставляется бесплатный адвокат для подсудимого. Касательно освобождения расходов, в случае виновности подсудимого за экспертизу и другие судебные расходы взыскиваются с осужденного. В случае невиновности подсудимого, он освобождается от оплаты с разъяснением права на возмещение морального и материального ущерба.

Вопрос 2: Пожалуйста, опишите, какие меры принимаются в соответствии с законодательством и практикой в вашей соответствующей юрисдикции (включая передовую практику и проблемы) для облегчения доступа к юридической помощи и другим механизмам помощи для представителей общественности в возбуждении экологических дел, в частности, в отношении к:

- Доступ к услугам юридической помощи
  - Тип охватываемых правовых споров (судебные и внесудебные дела)
  - Тип предоставляемых услуг
  - Критерии обращения за юридической помощью для физических лиц
  - Критерии обращения за юридической помощью для НПО
  - Провайдеры
  - Процессуальные последствия предоставления юридической помощи
  - Учреждена экологическая юридическая (юридическая помощь) клиника и ее процессуальный статус
  - Другие бесплатные услуги (пожалуйста, укажите тип и поставщика)
  - Государственные средства на судебные процессы физических лиц и/или НПО
  - Финансовая поддержка неправительственных организаций
  - Стимулы для поддержки краудсорсинговых кампаний
  - Стимулы для поддержки благотворительного финансирования
  - Юридическая страховка
  - Другой:
Согласно статье 18 ГПК каждый имеет право на получение квалифицированной юридической помощи в соответствии с положениями настоящего Кодекса. В случаях, предусмотренных законом, юридическая помощь оказывается бесплатно.

Вопрос 3: Пожалуйста, опишите, какие меры принимаются в соответствии с законодательством и практикой в вашей соответствующей юрисдикции (включая передовую практику и проблемы) для содействия специализации и обучению членов судебных органов и других юристов в области экологического права, в частности:

- Создание специализированных судов или трибуналов
- Созданы специализированные палаты в судах
- **Назначение судей, специализирующихся на экологических делах**
- Созданы специализированные прокуратуры.
- Созданы специализированные отделы в органах прокуратуры.
- Назначение прокуроров, специализирующихся на экологических делах
- Созданы программы обучения и тренингов на основе разработанной учебной программы по экологическому праву для учебных заведений судей, прокуроров, коллегий адвокатов и юридических факультетов:
  - Начальный или **непрерывный**
  - Необязательный или **обязательный**
- **Другой**
  - по внутреннему распоряжению председателя суда определяются специализации, согласно которому судьи будут рассматривать эти дела, в том числе и по экологическим правонарушениям. А также в Академии правосудия, так и в самих судах ведутся семинары и тренинги, куда и включается и эта тема.
  - с 1 июля 2021 года начали работу новые специализированные административные суды. В Верховном Суде и областных судах созданы судебные коллегии по административным делам.

Вопрос 4: Пожалуйста, опишите, включая передовой опыт и проблемы, доступ к независимой экологической экспертизе во время судебных и административных процедур рассмотрения, в частности:

- **Созданы независимые экспертные органы**
- Технические судьи
- Технические специалисты в судах
- **Общедоступные списки судебных экспертов**
- Другое (например, судебные эксперты, назначенные судами, или эксперты, нанятые сторонами): при назначении экспертизы судья своим постановлением определяет место и учреждения проведения экспертизы.

Вопрос 5: Пожалуйста, опишите, включая передовой опыт и проблемы, другие меры, которые принимаются для обеспечения своевременности и сокращения продолжительности судебного и административного рассмотрения экологических дел:

- Взвешивание случаев (укажите, какая методология используется) ¹
- Быстрое отслеживание/приоритизация экологических дел
  - **Определено законом**
  - **Определено судом**
- **Временный судебный запрет**
- **Специальные процессуальные правила по экологическим делам**
- **Меры, принимаемые в случае превышения судьями процессуальных сроков**
- **Другой**
  - Главное судебное разбирательство по уголовным делам должно быть окончено в разумные сроки согласно ст.322 УПК РК.
  - Экологические споры (в рамках гражданского процесса) судами общей юрисдикции рассматриваются в сроки, определенные нормами ст.ст.164, 183 ГПК.

¹ Веса дел оценивают сложность различных типов дел на основе количества судебного времени и усилий, необходимых для обработки (например, изучение дела, проведение судебных слушаний, составление постановлений и решений и другие действия, связанные с делом).
- В силу статьи 120 АПК стороны на основании взаимных уступок могут полностью или частично окончить административное дело путем заключения соглашения о примирении, медиации или об урегулировании спора в порядке партиципативной процедуры на всех стадиях (этапах) административного процесса до удаления суда для вынесения решения. При этом примирение возможно только в случае если у ответчика имеется административное усмотрение.

Вопрос 6: Пожалуйста, опишите, включая передовой опыт и проблемы, инициативы в области электронного правосудия, которые могут способствовать доступу к правосудию в делах, связанных с окружающей средой, например:

- Электронный доступ к информации о процедурах проверки:
  - Административный обзор
  - Судебный пересмотр
- Электронный доступ к экологическим стандартам и законодательству
- Электронный доступ к прецедентному праву по экологическим вопросам
- Сбор количественных данных по экологическим делам
- Электронная подача и управление претензиями
  - Для административного рассмотрения
  - Для судебного рассмотрения
- Электронный доступ к материалам дела в суде для сторон
- Удаленные судебные заседания
- Интеллектуальный анализ данных для обработки экологических случаев
- Инструменты, объединяющие пространственные данные, данные об окружающей среде и данные о ведении дел
- Другой


Вопрос 7: Пожалуйста, опишите, в том числе о передовой практике и проблемах, доступно ли и/или используется ли на практике альтернативное разрешение споров по экологическим делам, в частности:

- Арбитраж
- Переговоры
- Посредничество
- Примирение
- Механизм рассмотрения жалоб на оперативном уровне
- Закон коренных народов
- Другие формы разрешения споров

В силу статьи 120 АПК стороны на основании взаимных уступок могут полностью или частично окончить административное дело путем заключения соглашения о примирении, медиации или об урегулировании спора в порядке партиципативной процедуры на всех стадиях (этапах) административного процесса до удаления суда для вынесения решения. При этом примирение возможно только в случае если у ответчика имеется административное усмотрение.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Response by the Aarhus Centre of the Republic of Moldova (NGO Ecocontact)

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

Answer: The Administrative Code of the Republic of Moldova states that for carrying out an administrative procedure and issuing an act or carrying out a procedure, fees may be charged, if they are provided for by law. No fees may be collected for the fulfilment of the duties of public authorities that must be performed ex officio or compulsorily.

According to the art. 4, (1) State tax Law no 1216/1998, the plaintiffs are exempted from paying the court tax for the following cases:

a) plaintiffs - in the cases of collection of damage caused by environmental pollution and irrational use of natural resources.

b) plaintiffs – in cases arising from administrative litigation reports – any person who claims a right damaged by a public authority, or by an environmental administrative act or by not resolving a claim within the legal term can address the competent court to defend his right.

Also, the State Tax Law establish that in the cases provided by law, upon request, the judge, or the court, depending on the material situation and the evidence presented in this regard, is entitled to exempt individuals and legal persons, completely or partially, from paying the state tax, as well as to stagger or postpone the payment of the state tax.

The payment of which the plaintiff was exempted, is collected from the defendant in proportion of the satisfied claims.

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:
Answer: **The Administrative Code, art. 19, stipulates that the preliminary request is the institution that offers a way of prejudicial resolution of administrative disputes. So, the Environmental Authorities apply the amicable resolution of the dispute through preliminary request procedure.**

**Also, the Public Association EcoContact provide free legal assistance for the individuals, NGOs, and local public authorities in environmental matters. Annually, EcoContact provides around 15 legal assistance to different beneficiaries.**

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

**Answer:** The Public Association EcoContact in partnership with National Institute of Justice developed an environmental course for judges and prosecutors since 2020 that are conducted in autumn and spring sessions.

The environmental course consists in three days training, each day on a different environmental matter. The main subjects are water resources management, forest management, environmental legislation violation, environmental impact assessment and environmental strategic assessment.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Answer:** National Centre of Judicial Expertise provides a list of ecological expertise that are conducted by their institution. Often, the Centre provides this expertise in the trial upon the request of the parties. Also, in the trial the parties have the right to provide/ to conduct additional/repeated expertise, with the judge authorisation.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Special procedural rules for environmental cases
Measures to take in case judges exceed procedural deadlines
Other

**Answer:** The art. 27 of Administrative Code establish that if this code or other special laws do not impose a certain term, the public authorities and the competent courts must act within a reasonable term. Also, the art. 192 of the Civil Procedure Code states that civil cases are examined within a reasonable time. The criteria for determining the reasonable term are - the complexity of the case, the behaviour of the participants in the trial, the conduct of the court and the relevant authorities, the importance of the trial for the interested party. Compliance with the reasonable term for judging the case is ensured by the court.

In all cases, the parties have the right to request to respect and judge the case in a restraining timeframe.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Answer:** The State Registry of legal acts is an open source of Republic of Moldova normative acts. All the adopted normative acts by Parliament, Government and Ministries are published in the State Registry of Legal acts. Any individuals or legal person has free access to the environmental legal provision and standards.

Also, The National Courts' web portal offer free access to the information about the decisions and conclusions of the court and the date of the court hearings. In this context, anyone interested can access the court’s case law on environmental matters.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

**Answer:** The judge, during the preparation phase of the case for judicial debates, takes measures to reconcile the parties, explains to the parties the right to resort to mediation, informs them about the essence, advantages and effects of mediation or proposes that they participate in an information session regarding the settlement disputes through mediation.

Also, according to the Law on mediation 137/2015, art. 25, civil, environmental, and administrative disputes regarding the rights and obligations that are or may be subject to examination in court or arbitration and that
the parties can dispose of freely by transaction, under the law, may be subject to mediation. Mediation in civil disputes may take place outside the judicial process, as well as within the judicial process.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters
Response by Norway

**Question 1:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

**Administrative complaints procedures**

Norway has established a system of *administrative complaints* pursuant to the Public Administration Act. Complaints concerning individual decisions by authorities may be submitted to the authority immediately above the authority who adopted the decision. Complaints concerning decisions taken by a Ministry will be decided upon by the King in Council. Legislation in specific fields may contain adjustments to the general system of administrative complaints, and in some fields there are also special complaints organs. There are however no special complaints organs for the environmental field in general. Complaints may also be made to the Ombudsman who is appointed by the Norwegian Parliament to safeguard the rights of individual citizens in their dealings with the public administration. No fees are required for the use of these complaints procedures.

**Legal cost and the loser pays principle**

The level of legal costs in the Norwegian courts is followed closely by the Ministry of Justice and Public Security. When the draft report on Norway's implementation of the Aarhus Convention was up for a public hearing during the summer of 2020, certain institutions and organizations raised the question if Norwegian legal costs are in line with the convention. These inputs and our view are both described in more detail on pp. 30-32 in the final implementation report which was sent to the Secretariat in the end of February 2021.

When it comes to legal costs, the main rule is that the losing party pays the legal costs of the successful party, see the first paragraph of Section 20-2 of the Norwegian Dispute Act. Nevertheless, the court can make exceptions in whole or in part if it finds that compelling grounds justify exemption, according to Section 20-2. Environmental considerations may qualify as compelling grounds under this rule. The judgement of Borgarting Court of Appeal in the so-called Norwegian climate case (ref. LB-2018-60499) is one example of the application of the exception in the third paragraph of Section 20-2 of the Dispute Act. We would also like to highlight a new decision from the Frostating Court of Appeal, from 26 August 2021, which isn’t mentioned in the implementation report. The Appeal Court
overturned the district court's decision on legal costs in the case of the wind power plant on Haramsøy. The Appeal Court stated that whether the legal costs are in accordance with the requirements of the Aarhus Convention must be assessed, and that the legal costs can neither exceed the party's financial capacity nor be objectively unreasonable. The district court followed this in its new decision on legal costs and reduced them from over 1 million to 450,000 NOK.

As mentioned in the implementation report, a commission was appointed by the Government to consider the status and development of the courts in Norway and delivered its report in 2020 (Domstolskommisjoner; NOU 2020:11 Den tredje statsmakt – Domstolene i endring). The commission points out that the high and increasing level of costs is particularly worrying in terms of citizens' access to the courts, and recommends that a committee be set up to investigate measures that could curb the growth, see point 24.4 of the report. It has not yet been decided how to address all of the findings and recommendations in the report. However, as a first step, the Norwegian Ministry of Justice, in cooperation with the Norwegian National Courts Administration, has throughout 2022 conducted a series of workshops where relevant stakeholders are invited to discuss appropriate measures to be taken in order to reduce the financial barriers for members of the public to bring cases to the courts – including, but not limited to, environmental cases.

We would also like to emphasize that the Dispute Act Section 1-2 states that the act shall apply subject to such limitations as recognised in international law or stipulated in any agreement with a foreign state. If a court, contrary to expectations, finds that the provisions of the Dispute Act are not in conformity with the obligations under the Aarhus Convention, the Aarhus Convention will come out superior, see the implementation report bullet point XXVIII.

Security for injunction relief

Chapter 32 of the Dispute Act provides rules on provisional security, including arrest of goods and interlocutory measures. Under Section 32-11 (1) a claimant shall compensate any loss that the defendant has sustained as a result of the security or as a result of measures that have been necessary to avoid the security or have it set aside, provided that the provisional security is set aside or lapses and it transpires that the claim submitted by the claimant did not exist when the security was ordered. However, when an interlocutory measure is granted to secure a main claim based on violation of provisions for the protection of the environment, the claimant is only liable to compensate such costs referred to if they knew or ought to have known that the claim did not exist when the order for provisional security was made.

Likewise, when an interim measure is granted to secure a main claim based on violation of provisions for the protection of the environment, the claimant cannot be ordered to provide security for the claim, see Section 34-2 (3) of the Dispute Act.
**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

According to the [Legal Aid Act](#), free legal aid can be granted to natural persons and NGOs. Legal aid is usually only granted to natural persons, but can be granted to NGOs when particular reasons so warrant, but this access is practiced restrictively. Free legal aid can include legal advice, legal representation in cases before the courts, or a waiver of court fees. The aid is provided by a lawyer. According to the Act, the right to legal aid is limited to certain types of cases, not including environmental cases. The Act contains an exemption from this general rule, stating that free legal aid can be granted if the applicant fulfils certain financial conditions, and the case, seen from an objective point of view, is especially pressing for the applicant. In this assessment, emphasis must be placed on whether the case shares similarities with the types of cases covered by the Act. This exemption is practiced restrictively.

The Ministry is currently considering changes in the Act after receiving a report from a commission appointed by the Government ([Rettshjelputvalget; NOU 2020:5 Likhet for loven - Lov om støtte til rettshjelp](https://www.regjeringen.no/contentassets/0c5f01a35b2040568c85a840b019f8d1/retdhjelploven.pdf)).

**Financial support to NGOs**

NGOs in the environmental field may apply for financial support from the Government. The annual budget for the Ministry of Climate and Environment sets aside a sum for this purpose. The following are among the criteria for deciding upon applications for support; the level of activity of the organisation nationally and locally, their economy and alternative means available for financing and the number of their members.

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
Designation of prosecutors specialising in environmental cases
Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
- Initial or Continuous
- Optional or Mandatory
- Other

The ordinary courts of Norway are of general jurisdiction, adjudicating both civil and criminal cases. Hence, there are no courts of tribunals or chambers within the courts specialized in environmental law. Administrative cases are treated as civil cases, and are as such subject to the ordinary court’s jurisdiction. Cases concerning environmental matters are thus heard by the ordinary courts.

Økokrim is the central unit in Norway responsible for investigating and prosecuting environmental crime, and is subordinate to the Attorney General and the Norwegian Police Directorate. The unit is both a special body in the police and a national public prosecutor’s office. Økokrim investigates and reprimands large, complex and more serious cases and/or cases with matters of principal importance concerning environmental crime, including cases with ramifications abroad. The unit has specialized prosecuting lawyers to lead the investigation, decide on prosecution and to bring cases concerning environmental crime to court. At the request of the police districts or special bodies Økokrim also can provide assistance to local investigation, prosecuting and reprimanding of environmental crime. It is the chief of police who requests assistance.

The National Court Administration is the central support and service agency for the courts. The National Court Administration is responsible for professional training and additional education for judges in the first and second instance. Seminars, courses, lectures and educational stays are arranged, and funding for local and regional educational programmes is granted. This includes additional education within environmental law. Justices in the Supreme Court of Norway may attend these seminars and courses, but the training of the Supreme Court Justices is the responsibility of the Supreme Court itself.

The Norwegian Police University College offers various forms of specialization in the investigation of environmental crime, including labour and labour market crime and fisheries crime.

Education and training programmes

Environmental law is part of the education programmes at Norwegian Universities:

The Research Group in Natural Resources Law - The Faculty of Law (ui.no)
Research group for Natural Resource Law, Environmental Law and Development Law | University of Bergen (uib.no)
Environmental Law - master | UiT

Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:
Established independent expert bodies
Technical judges
Technical experts in courts
Publicly accessible lists of judicial experts
Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Technical judges**

Pursuant to Section 9-12 of the Dispute Act, if requested by one of the parties or deemed by the court to be desirable, the court shall sit with two lay judges during the main hearing in addition to the professional judges. The lay judges shall be expert lay judges if required for the proper conduct of the case.

**Experts appointed by the court or contracted by the parties**

The Norwegian Dispute Act regulates the use of experts in civil cases in general, see the [Dispute Act chapter 25](#), but there are no specific rules for environmental cases. There are two types of expert evidence: expert assessments by court-appointed experts, and expert evidence by so-called “expert witnesses”, that is witnesses who have expertise in the relevant area and who evaluate the evidence on behalf of a party without being appointed by the court. Under Section 25-2 (1), the court may appoint an expert when requested by a party or at its own initiative pursuant to when such an appointment is necessary to establish a sound factual basis for the ruling in the case. If the case can have consequences beyond the specific ruling for a party and, for that reason, the party wishes to call expert witnesses, the court may appoint experts if this is necessary to ensure balance between the parties in the presentation of evidence, see Section 25-2 (2). Pursuant to the [Court Fee Act](#) Section 2 (2), the party who requested the court to appoint an expert, is required to cover the costs of the expert. However, in cases where free legal aid or exemption from court fees have been granted pursuant to Sections 16 or 25 of the [Legal Aid Act](#), this includes the costs of the expert.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

**Fast tracking/prioritization of environmental cases**

There is no fast tracking or prioritizing of environmental cases in administrative or judicial review in Norway. The system of administrative complaints pursuant to the [Public Administration Act](#) mentioned in the answer to Question 1 applies also to environmental cases, unless otherwise set out in environmental legislation. Pursuant to Section 11a of the

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Act, cases shall be dealt with without undue delay. In some environmental fields there are more specific procedural rules, but they do not require fast tracking/prioritization.

Nor are there any special procedural rules for judicial review of environmental cases. Nevertheless, the topic of how to improve the justice and court systems *in general* has been paid quite a lot of attention. In the above-mentioned report on *courts in Norway*, the commission discusses rather thoroughly how we can streamline and concentrate court proceedings in general, as well as the function and work in the appeal court, see the report chapters 22 og 25. Among other topics, the commission looks at challenges in the system and discusses possible solutions to shorten the waiting time and make the system more efficient. The commission also considers the work on similar issues in northern countries, and looks at reform trends in Europe on the appeal courts.

**Temporary injunctive relief**

Chapters 32–34 of the Dispute Act provide rules on provisional security, which includes arrest of goods and interim measures. Interim measure may be granted when the defendant's conduct makes it necessary to provisionally secure the claim because the action or execution of the claim would otherwise be considerably impeded, or when it is necessary to make a temporary arrangement in a disputed legal issue in order to avert considerable loss or inconvenience, or to avoid violence which the conduct of the defendant gives reason to fear.

As described under question 1, the Dispute Act contains special rules on providing security for the claim for claims based on violation of provisions for the protection of the environment.

**Measures to take in case judges exceed procedural deadlines**

The Dispute Act Section 11-7 gives rules on responses in the event of inadequate management of the case. Under Section 11-7 (1) the chief judge shall ensure compliance with the duty to take an active part in the management of the case and shall ensure orders that are necessary for rectifying deficiencies through neglected or delayed management of the case. A party may demand the intervention of the chief judge. In the event of material neglect of duties, the chief judge shall transfer the case to another judge or take over the case themselves if this is necessary for the proper conduct of the continued proceedings, see subsection (2). Under subsection (3), the decision by the chief judge may be appealed. The appeal court has the same powers as the chief judge pursuant to subsection (1) and (2) to determine the management of the case and may also refer the case to another court.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
Tools integrating spatial, environmental and case-management data

E-access to environment-related legislation and case law

In Norway e-access to legislation, regulations and case law, including on environmental matters, is free of charge and open through www.Lovdata.no. (There are also several other internet pages available for legal literature collections etc. for paying customers.) We do not have an open collection on environmental case law in specific, but we do have a web-based registry for regulations and decisions by authorities concerning the environment, called “Miljøvedtaksregisteret” (only accessible in Norwegian). Furthermore, the website “environment.no” contains extensive information concerning environmental issues, and certain administrative bodies use their webpage to inform the public on a number of environmental issues, in addition to international conventions and national legislation, among them the Norwegian Environment agency, which is a public organ under the Ministry of Climate and Environment. The statements and decisions from the Parliamentary ombudsman (Sivilombudet) are also available online.

Remote court hearings

Under section 13-1 (3) of the Dispute Act, court hearings may be held as distance meetings in whole or in part when it is deemed appropriate and justifiable. A distance meeting is a meeting at which not all participants are present in person, but participate using remote communication technology. Also, the Dispute Act states that Parties, witnesses and experts may be questioned before the court by remote hearing (distance examination) when it is appropriate and justifiable, see section 21-10. Before the court makes a decision on remote hearings pursuant to the first paragraph, the parties shall be given the opportunity to make a statement. Distance examination is carried out by video examination. If equipment for video examination is not available, audio examination can be used if the conditions under the first paragraph are still met.

Electronic submission and management of claims for judicial review

Norwegian courts use a digital portal (Aktorportalen) for their communication with lawyers. All documents from the court are sent to through the portal. It is mandatory for lawyers to use the portal in communication with the court, see Section 3 a of the Regulation on Electronic Communication with the Courts. The portal user uploads all documents as PDF files to the court (and the other party) through the portal. Electronic signing of documents in the portal is equivalent to a signature. The court's decisions are made available in the portal as a confirmed electronic document.

On digitalisation of the courts in general, we can mention that the Norwegian court administration has digitalised their case system through the information system Lovisa, which has become a daily working tool for judges and is used in all criminal and civil cases in Norway.

Question 7: Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
Chapter 6 of the Dispute Act provides rules on proceedings before the Norwegian Conciliation Board. The procedure shall assist the parties in achieving a simple, swift and inexpensive resolution of the case through mediation or judgment. The Conciliation Board can hear cases that can be brought before the district court, with certain exceptions. Notably, the board shall not hear cases against a public authority, institution or civil servant concerning matters which are not exclusively of a private law nature. In addition, Chapters 7 and 8 of the Dispute Act provide the opportunity for non-judicial mediation, general mediation within the main proceedings before the ordinary courts and a specific procedure for judicial mediation.

As mentioned in answer to Question 1 above, Norwegian Public Administration law states the general right to complain to an administrative body, as well as to appeal to a superior body which reviews all sides of the case. In addition to this, control of the administration in environmental matters can also take place through the Parliamentary Ombudsman (Sivilombudet) or the The Office of the Auditor General (Riksrevisjonen).

Proposals to consider the establishment of an Environment Appeals board or tribunal have been considered by the Storting (the Parliament) in 2016 and 2019. The Storting supported the Government's opinion, as expressed by the Minister of Climate and Environment in his letter to the Storting 13 May 2019: The system of administrative appeal within the authorities and the access for individuals and organisations to regular courts is sufficient - also in cases concerning climate and environment. This view is also repeated in the answer from the former Minister of Climate and Environment Ola Elvestuen, when he was asked about the same issue in the Storting 28 August 2020.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters
Response by Romania

The questionnaire was filled by the Ministry of Environment, Waters and Forests of Romania based on the valuable support offered by the authorities responsible for justice: the Ministry of Justice, the Romanian Superior Council of Magistracy and the National Institute of Magistracy. Also, a significant number of courts from Romania completed the questionnaire, offering substantive information regarding jurisprudence in environmental cases.

Therefore, this response reunites the expertise of different bodies responsible for justice from our country.

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

Answer:

According to the Ministry of Justice, from the perspective of reducing the financial barriers:

1. According to article 21 para. 1 of Law no. 292/2018 on assessment of impact of certain public and private projects on environment, any person who is part of the public concerned or who considers oneself prejudiced in his/her right or in a legitimate interest can address the competent administrative contentious court of law to challenge from procedural or substantial point of view, the acts, decisions or omissions of the competent public authority which are subject to public participation, and also the competent administrative contentious court can be addressed also by any non-governmental organization which fulfils certain requirements.

In the situation when the procedures for requesting environmental information are based on Law of administrative contentious, the costs paid by the parties are minimal, which is 50 lei per each request, and in the situation when it have a patrimonial character and include also the request for repairing the damages due to an administrative act, then the cost is 10% of the value but no more than 300 lei. The preliminary administrative procedure is tax free, according to article 16 para. 3 of Governmental Decision no. 878/2005 on public access to environmental information.

2. In case the judicial procedures regarding environmental aspects are based on the common right, free access to justice is assured also to persons whose financial situation limits their access to a court and its procedures. In this sense, the Romanian justice system provides for offering aid for exercising this fundamental right, in the frame of the concept of juridical assistance.

Thus, the party may ask for juridical civil assistance. When legal assistance is offered, the contract for assistance is between the party and the appointed attorney accordingly with the provisions of Law no. 51/1995 on the organization and exercise of the attorney’s profession, republished, with further amendments, and the provisions of the Decision of the National Union of Romanian Bars no. 64/2011 on the adoption of the professional status of attorney, with further amendments.

Since 2008, through Governmental Emergency Decision no. 51/2008 on public legal aid with regard to civil matters, with further amendments, Romania established a public system for legal assistance in civil matters in order to guarantee real access to justice, by assuring a good qualification of attorneys. According to section 2 of GEO 51/2008, the forms of legal assistance are:

- assistance through an attorney;
- payment of costs with experts, translators or interprets used during trial, with consent from the court, if this payment devolves upon the person asking for public legal aid;
- payment of the officer of the court fee;
- waiving, reducing, postponing or adjournment from the payment of legal fees provided by law, including for those owed in the phase of foreclosure.

According to the Romanian Superior Council of Magistracy, general aspects regarding public legal aid with regard to civil matters are regulated by GEO no. 51/2008 on public legal aid with regard to civil matters, with further amendments. According to article 6, “public legal aid can be given in the following forms:

a) Payment of the representation fee, of the legal assistance and, as the case, of the defence, through an appointed attorney or a chosen attorney, for carrying out or defending a right or a legitimate interest or for preventing a litigation, referred to below as assistance through attorney;

b) Payment of an expert, translator or interpret used during trial, with consent from the court or from the authority with jurisdictional attributions, if this payment, by law, devolves upon the person asking for public legal aid;

c) Payment of the officer of the court fee;

d) Waiving, reducing, postponing or adjournment from the payment of legal fees provided by law, including for those owed in the phase of foreclosure.”

Regarding criminal cases, in accordance with article 29, para. 1, letter I of GEO no. 80/2013 regarding legal stamp fees, with further amendments, these are waived from payment of the legal stamp fee. Also, in the Code of Criminal Procedure, the following aspects are regulated: aspects regarding mandatory legal assistance, the right of the suspect, defendant, injured party, civil party, civilly responsible party to benefit of legal assistance offered by the state in case they cannot defend themselves or in case they didn’t choose an attorney, the right of the suspect, defendant, and the injured party, to benefit free of charge from an interpret in the situation they do not understand, cannot express themselves well or cannot communicate in Romanian language.

On the other hand, according to article 126, para. 1 of the Romanian Constitution, republished, justice is made only through the High Court of Cassation and Justice and the other courts of law established by law, and according to article 124, para. 3 of the Fundamental Law, judges are independent and only obey the law.

Therefore, the interpretation and application of the law for solving trials pending before the legal courts, including the ones regarding public legal aid in civil cases and the ones regarding legal assistance in criminal cases, are the exclusive attribute of courts. In this context, the questionnaire was sent to courts so that they can give substantive information regarding jurisprudence in environmental cases, including regarding measures to facilitate access to justice.

The Court of Appeal of Brasov and other courts within its area:

The Brasov Court (‘Tribunalul1 Brasov’) answered that it took all measures indicated by the Code of Civil Procedure, by GEO no. 80/2013 regarding stamp legal fees and GEO no. 51/2008 regarding public legal aid in civil matters, and other special provisions, like article 270 of Labour Code or article 157 of Law no. 263/2010.

The Court of Appeal of Bucharest and other courts within its area:

The Bucharest Court (‘Tribunalul Bucharest’) answered that the provisions of GEO no. 80/2013 regarding stamp legal fees are applicable to the entire legal system, such that no legal provision regulates the possibility to fully waive applying the legal provisions regarding stamping for cases registered on the role of the legal courts, except the requests provided by special legal provisions regarding relief from paying stamp legal fees.

Romanian legislation includes an express provision that the party who lost the trial has to pay the expenses generated by the trial (article 453, para. 1 of the Code of Civil Procedure: the party who lost the trial is obliged, at the request of the winning party, to pay him/her the trial expenses).

1 According to article 95 of Law no. 134/2010 on the Code on Civil Procedure, this type of court called tribunal in Romanian language has the responsibility to judge in first court the cases on administrative and fiscal contentious, and other cases as a court of appeal or recourse.
Article 399 para. 1 of the Code of Civil Procedure specifically regulates the monetary right of the expert for his specialized paper, such that there is no possibility to fully waive the costs of experts due for their expertise reports.

The Ilfov Court (‘Tribunalul Ilfov’) answered that in civil cases for environmental matters there were no special facilitations for stamp legal fees or for waiving/discounts for stamp legal taxes, for the parties that initiated the trials. However, the stamp fee for contravention complaints, according to article 19 of GEO 80/2013 regarding legal stamp fees, which is 20 Romanian lei, is unexpensive, therefore it makes it easy to check the lawfulness and reliability of contravention acts for environmental matters. Also, article 7 of GEO 80/2013 which is often quoted and applied for establishing the stamp fee in actions concerning civil liability on environmental damage sets the stamp fee at 100 Romanian lei, which also assures access to justice.

In this context, in environmental cases the party that loses the trial pays the trial expenses, the public authorities pay their own expenses and there are no special provisions for waiving the costs of experts. The provisions of GEO no 51/2008 on public legal aid with regard to civil matters, which indicate waiving for paying stamp legal fees and expert fees, apply also in environmental matters, and public authorities are waived from paying stamp legal fees, in some conditions provided by GEO no 80/2013.

The Court of Appeal of Cluj and other courts within its area:

The Bistrita-Nasaud Court (‘Tribunalul Bistrita-Nasaud’) answered that by adopting GEO no 80/2013 new procedural warranties for the parties were established in order to assure an equitable trial. The legal courts cannot establish new rules or exceptions from applying the provisions of GEO 80/2013.

The Bistrita Court (‘Judecatoria Bistrita’) answered that according to articles 28-30 of GEO no 80/2013, the environmental cases are not waived from paying the stamp fees, therefore in the Bistrita Court these fees are paid. Also, the legal provisions do not include the possibility to stop applying the principle that the party who lost the trial has to pay the expenses generated by the trial, to stop recovering the costs paid by public authorities, if these costs are mentioned as trial costs, or the costs with experts involved in the trial, no matter if the experts were named by the parties or by the court.

The Cluj Court (‘Tribunalul Cluj’) answered that the courts cannot adopt measures for reducing or removing financial barriers for environmental cases in particular, since GEO no 80/2013 does not provide for waiving the stamp fee for actions and requests concerning the environment.

The help given to natural or legal persons is conditioned by the family or the applicant’s financial situation, taking into account the income, the owned goods, the expenses, and considering certain monthly medium income limits per family member.

The trial expenses are regulated by the Code of Civil Procedure and there is no derogation for environmental cases in particular.

The Gherla Court (‘Judecatoria Gherla’) mentioned that courts cannot adopt measures for reducing or removing financial barriers for environmental cases. Also, the stamp fees, the experts’ fees and the trial expenses are regulated by GEO no 80/2013 and by the Code of Civil Procedure. The parties can ask for public aid in accordance with GEO no. 51/2008, which means not only waiving, reducing, postponing, postponing of the stamp fee, but also the experts’ fees, according to article 6 of GEO no. 51/2008.

The Salaj Court (‘Tribunalul Salaj’) answered that the legal provisions do not provide for waiving the legal stamp fees for environmental cases. These cases are treated according to common law, taking also into account the general legal provisions for stamp fees.

The Court of Appeal of Craiova and other courts within its area:

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2 According to article 94 of Law no. 134/2010 on the Code on Civil Procedure, this type of court called ‘judicatoria’ in Romanian language has the responsibility to judge in first court inter alia the cases on family matters, marital status, tall buildings, evacuation, possessions, judicial division, inheritance, usucapion, real estate, cases valued for less than 200000 lei and other cases as a court of appeal.
The Dolj Court (‘Tribunalul Dolj’) answered that free access to justice is a constitutional right guaranteed for all the parts involved, no matter the domain or the type of legal problems.

The Gorj Court (‘Tribunalul Gorj’) answered that the measures taken by this court are according to GEO no. 51/2008, which allows for public legal aid in cases presented to courts or other authorities with legal responsibilities, the legal aid taking the form of waiving, postponing or postponing stamp fees or costs of experts.

Also, in Romania GEO 80/2013 sets a protective cost regarding legal fees in matters concerning administrative contentious, which according to article 16 have to be less than 300 Romanian lei. In matters concerning paying remedies for financial or moral damage resulting from damage to the physical or psychical integrity, the stamp fee is 100 Romanian lei, and for legal actions that cannot be valued in money (article 27) the stamp fee is 20 Romanian lei. Until now, the Gorj Court did not take measures according to Law 86/2000 on the ratification of the Aarhus Convention.

The Slatina Court (‘Judecatoria Slatina’) answered that public access to environmental information held by public authorities is guaranteed without any constrains like stamp fees. Regarding the requests for information of public interest, the complaints made at the administrative contentious section of the court, and also the remedies against the solutions given by the court (‘tribunal’) are waived from the stamp fee.

The Court of Appeal of Galati answered that waiving, reducing, postponing and postponing of the stamp fee are granted in accordance with GEO no. 51/2008.

The Court of Appeal of Iasi answered that there is no special legal frame for environmental cases for regulating fully waiving legal fees, applying a protective cost, fully waiving the costs paid by public authorities or fully waiving the bonds or other security for injunction relief.

In accordance with article 19 para. 1 of GEO 51/2008, if the party who benefited from public legal aid loses the trial, the costs with the trial made by the state remain in the duty of the state. Also, the costs of experts remain also in the duty of the state, even if the party lost the trial.

The Court of Appeal of Oradea and other courts within its area:

The Court of Appeal of Oradea answered that financial aspects are regulated by GEO no 80/2013, which sets the quantum of the stamp fee and the aids, and the court cannot offer exemptions for the stamp fee other than the ones mentioned in GEO 80/2013.

The Bihor Court (‘Tribunalul Bihor’) answered that for reducing or removing financial barriers for the members of the public which bring environmental cases, the court analyses, at the request of the party, whether the conditions from GEO no. 51/2008 are met in order to benefit of free legal assistance by an attorney, costs of expert, translator or interpret, payment of the officer of the court fee, or waiving, reducing, postponing or adjournment from the payment of legal fees provided by law.

The Satu Mare Court (‘Tribunalul Satu Mare’) answered that, considering each case, the court can decide to offer public legal aid for payment of the attorney, expert, officer of the court fee, or waiving, reducing, postponing or adjournment from the payment of legal fees in accordance with GEO no. 51/2008.

The Court of Appeal of Pitesti and other courts within its area:

The Ramnicu Valcea Court (‘Judecatoria Ramnicu Valcea’) and Balcesti Court (‘Judecatoria Balcesti’) answered that they took the measures provided by law.

The Court of Appeal of Suceava and other courts within its area:

The Botosani Court (‘Tribunalul Botosani’) answered that they did not took any particular measures for removing financial barriers for members of the public to bring environmental cases. Romanian law does not provide for fully waiving stamp fees for this type of cases in particular, nor for applying the principle that the party who lost the trial has to pay the expenses generated by the trial.

The only waiving of legal fees is set by the legislator in favour of public institutions, and public environmental authorities benefit of dispensations according to law.
Regarding the possibility to apply a protective cost order or fully waiving the costs of experts involved in the court procedure, this can only be applied by a court if the legislative frame allows these benefits.

The Court of Appeal of Targu Mures answered that GEO no. 195/2005 regarding environment protection and GEO no. 80/2013 do not explicitly provide for waiving stamp fees in environmental cases.

GEO no. 51/2008 includes provisions aiming to harmonize the principle of free access to justice with the reality that there are people facing difficulties in covering the legal stamp fees. This legal act regulates a predictable and accessible system for establishing legal aid for paying the stamp fees.

Thus, according to article 3 and 4 of GEO no. 51/2008, public legal aid is offered in civil, commercial, administrative, work related, social security or other cases, except criminal cases, and it can be requested by any natural person facing difficulties in covering the trial costs or the costs generated by legal consultations when in the situation of defending a right or a legal interest, without putting at risk the ability to support himself/herself or his/her family.

In this context, the court can decide waiving, reducing, postponing or adjournment from the payment of stamp legal fees, as well as aid for legal persons, like abatement, postponing or adjournment from the payment of stamp legal fees.

With respect to waiving the applicability of the principle that the party who lost the trial has to pay the expenses generated by the trial, this one corresponds to the provisions of article 453 para. 1 from the Code of Civil Procedure, according to which the party who lost the trial is obliged, at the request of the winning party, to pay the trial expenses.

With respect to applying a protective cost order and fully waiving the recovery of the costs paid by public authorities, these issues are not under the authority of the court, but they are related to implementing a court decision.

Speaking about fully waiving the bonds or other security for injunction relief and fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court, article 6 of GEO 51/2008 provides that the court can decide that the costs of expert, translator or interpret, used during the trial, with the consent of the court or of the authority with legal responsibilities, if this payment should be made by the party asking for legal aid.

Regarding the trial costs to bring environmental cases to court, the Court of Appeal of Targu Mures, Civil Section II for administrative and fiscal contentious asked the Court of Justice of the European Union the following preliminary question: „in case of an affirmative answer to questions 1 and 2 or independently from the answers to previous questions, Article 9 para. 3, 4, 5 of the Convention, and article 47 para. 1 and 2 from the Charter of Fundamental Rights of the European Union, together with article 19 para. 1 from the second thesis of the Treaty on European Union must be interpreted in the sense that adequate and effective remedy, including adopting a court decision “shouldn’t cost too much” implies rules and/or criteria to limit the costs that have to be paid by the party that lost the trial, in the sense that the national court must make sure that the requirement about no prohibitive cost taking into account of the interest of the person defending his rights, and also of the general interest regarding environmental protection is respected.”

The court took note that the national legislation (article 451-453 of Code of Civil Procedure) sets the trial costs (legal taxes collected by the state, costs with attorneys, experts, sums owed to witnesses etc.), the party obliged to pay the trial expenses (the party who lost the trial is obliged, at the request of the winning party) and some criteria applicable by the court to reduce, in justified cases, the costs of attorneys when these costs are visible disproportionate with the value or the complexity of the case or the activity of the attorney, taking also into account the circumstances of the case.

On the other hand, the EU law with respect to environment protection provides, at article 4 para. 4 of the Convention, that the right to access to justice has to be made possible to be exercised, through appeals, available to interested public and public according to article 9 para. 1, 2, 3 of the Convention, in an adequate and effective way, and the appeals have to be “fair, equitable, timely and not prohibitively expensive”.

With respect to national law, the Court of Appeal of Targu Mures took note about the general criteria provided by our legislation, to evaluate the trial costs, including the possibility to reduce the costs of attorneys, and is interested
in giving a proper interpretation to the EU law, more exactly to article 9 para. 4 of the Convention, regarding the costs generated by a litigation about a possible break of the environment protection rules by a public authority, in the sense that the above-mentioned provisions of national law include sufficient criteria to appreciate whether the costs are too high and are prohibitively expensive, and, also whether it can discourage a private person (natural or legal person or an entity established in accordance with the law, like a professional association of attorneys) to have access to justice in an environmental case.

Reference was made to the jurisprudence of the Court of Justice of the European Union which in the Judgement of the Court from 15 March 2018 (C-470/16) stated that the provision regarding the fact that legal procedures should not imply prohibitive costs applies to costs related to reasons appealed by a prosecutor and based on noncompliance with the rules on public participation in decision making on environmental matters. This Judgement refers to Directive 2011/92, article 11 para. 4, and firstly, the court considered it needed an interpretation from the Court of Justice of the European Union about whether this interpretation expends over the right to access to justice provided by article 9 para. 4 of the Convention, in the elements detailed above.

Secondly, the question was raised on whether the national court – even if it can apply the general criteria that can be taken into account including in relation to the circumstances of the case (article 451-453 of the Code of Civil Procedure) – in the specific case of environment protection, as it is defined and detailed by EU law, has to take into account the specific criteria/rules so that it does not affect the right to access to justice by imposing a prohibitive cost to the prosecutor.

Up to this moment, the Court of Justice of the European Union did not respond to the preliminary question.
**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

**Answer:**

According to the Ministry of Justice, regarding the access to legal assistance:

1. Access to justice is a fundamental right guaranteed to all citizens, without being limited to the citizen’s affiliation to a specific category. According to article 21 para. 1 “Free access to justice” of the Constitution of Romania, republished, “(1) Any person can address the court for defending his/her rights, liberties and legitimate interests”. Regarding the committed guarantees, the provisions of article 21 of the Constitution is in close relation with other articles, like article 1 para. 4 regarding the separation of powers within the state, article 24 regarding the right to defence, article 52 regarding the right of the affected person because of a public authority.

   There are also the provisions of article 128 regarding the use of mother tongue in justice, and article 129 regarding the possibilities of appeal against the ruling given by courts of justice.

   Free access to justice means the possibility of a natural person (citizen, foreigner, stateless) or legal person to address a court of justice, without being discriminated based on different reasons (for example: race, nationality, ethnic origin, language, religion, gender or affiliation to other disadvantaged groups etc.), directly and at first hand, for defending his/her rights and legitimate interests in a concrete and effective manner, each time his/her rights are affected.

   With respect to the judicial procedures, access to justice is regulated in a general manner by Law no. 304/2004 on judicial organization. Thus, access to justice is guaranteed to all parties, without any discrimination based on different reasons (for example: race, nationality, ethnic origin, language, religion, gender or affiliation to other disadvantaged groups etc.), and provisions of articles 6 and 7 from the previously mentioned law are applied, according to which any person “can address the court for defending his/her rights, liberties and legitimate interests when exercising his/her right to a fair trial (under conditions of equality, as provided by article 7 of the law).”

   Closely related to article 7 of Law no. 304/2004 on judicial organization, at jurisprudential level, the principle of a fair trial also implies the principle of equal weapons, in this situation “equal weapons require that each party should be given the reasonable possibility to defend his/her cause, which means each party should be legally cited in the cause.”

   Regarding the normative frame for civil matters, the provisions of article 30 are to be applied, meaning that the requests in justice under Law no. 134/2010 regarding the Code for Civil Procedure, republished, must respect “the equality of citizens under the justice and in relation to public authorities, so that any exclusion which might represent a violation of the equality in treatment is unconstitutional”. Also, article 192 para. 1 provides that “for defending his/her rights and legitimate interest, any person can address the court by bringing proceeding before the competent court. In some cases, specifically mentioned by law, bringing proceedings before the court can also be made by other persons or bodies.”
2. Free access to justice is also guaranteed in administrative matters. Law no. 544/2004 on administrative contentious, with further amendments, allows any person whose rights/legitimate interests were affected by a public authority, to submit a complaint. Article 1 “Matters for bringing proceedings before the court” provides that: “(1) any person which considers that his/her right or legitimate interest was affected by a public authority, through an administrative act or by not solving a request within the legal time, can address the competent court for administrative contentious, for cancellation of the act, recognition of his/her right or legitimate interest and repairment of the damage caused to him/her. The legitimate interest can be both private or public. (2) The court for administrative contentious can also be addressed by a person whose right or legitimate interest was affected by an administrative act with individual character, addressed to another subject of law (…)”.

The Court of Appeal of Bacau answered that such cases do not have a special regime, therefore the court applies and respects the legal norms regarding other requests under the competence of the Section of Administrative and Fiscal Contentious.

The Court of Appeal of Bucharest and other courts within its area:

The Bucharest Court (‘Tribunalul Bucharest’) answered that, in subjects related to administrative and fiscal contentious, the provisions of GEO no 51/2008 regarding public legal aid with regard to civil matters are applicable, the most common type of requests for public legal aid being for waiving, reducing, postponing, postponing for the stamp legal fees, for the sums set as bonds, and for designation of an office defender.

The criteria applicable to legal assistance for natural persons and the criteria applicable for legal assistance for NGOs are set by the specific legal provisions, which is GEO no. 51/2008.

According to article 22 of GEO no 51/2008, the fond for public legal aid is specifically identified in the Ministry of Justice budget of incomes/expenses.

The Ilfov Court (‘Tribunalul Ilfov’) answered that, regarding opportunities for access to legal assistance in civil trials, there are no specific provisions for environment cases, but general legal provisions included in frame laws, which are GEO no. 51/2008 and articles 90-91 from the Code of Civil Procedure.

Regarding the criteria applicable for legal assistance for natural persons, financial criteria are in place and are provided by article 8 of GEO no 51/2008. These criteria are not applicable for legal assistance for NGOs, since there are no specific norms in this sense.

However, regarding NGOs access to justice on environmental matters, there are specific provisions, such as article 20 para. 6 of GEO no. 195/2005 on environment protection, which provide that environmental NGOs have the right to bring to court environmental cases, since they have an active standing in litigations regarding environment protection.

The Court of Appeal of Cluj and other courts within its area:

The Bistrita-Nasaud Court (‘Tribunalul Bistrita-Nasaud’) answered that GEO no 51/2008 sets the procedure and the conditions for benefiting of waiving, postponing, postponing for the stamp legal fees, legal assistance by an appointed/chosen attorney, costs of experts, translator or interpreter used during trial, cost of prosecutor officer. This legal frame applies to all cases, no matter their nature, except for criminal cases. Therefore, environmental cases are included. Beneficiaries of these types of aid are natural or legal persons. Relevant information about this GEO is made available on the website of the court and in the building, at the archive office and the register office, in order to facilitate access to information.

The Bistrita Court (‘Judecatoria Bistrita’) answered that any natural person facing difficulties in bringing and sustaining an environmental case, can benefit of legal aid, without prejudicing his/her capacity to support himself/herself or his/her family, in accordance with the provisions for legal aid. The request for legal aid is free of stamp taxes.

According to GEO 51/2008, public legal aid can be offered in the following ways:
a) Payment of the representation fee, of the legal assistance and, as the case, of the defence, through an appointed attorney or a chosen attorney, for carrying out or defending a right or a legitimate interest or for preventing a litigation;
b) Payment of an expert, translator or interpret used during trial, with consent from the court or from the authority with jurisdictional attributions, if this payment, by law, devolves upon the person asking for public legal aid;
c) Payment of the officer of the court fee;
d) Waiving, reducing, postponing or adjournment from the payment of legal fees provided by law, including for those owed in the phase of foreclosure.

The request for public legal aid has to be made in writing and accompanied by a self-declaration about whether during the last 12 month the applicant benefited of public legal aid, what type, for which case and in what amount.

Public legal aid can be offered, separately or cumulated, in any of the above-mentioned forms. The value of the public legal aid offered separately or cumulated, in any of the forms from a) to c), during one year, cannot exceed 10 national minimum gross salaries from the year of the request for aid.

The persons who’s monthly medium net income per family member for the last 2 months prior to the aid request is less than 300 lei, benefits from legal aid in the forms mentioned above. The sums representing the public legal aid are entirely moved on by the state.

If the monthly medium net income per family member for the last 2 months prior to the aid request is less than 600 lei, 50% of the sums representing the public legal aid are moved on by the state.

Public legal aid can also be offered in other situations, proportionally to the needs of the applicant, when the known or estimated trial costs might limit the effective access to justice, including due to the differences between the cost of living in the member state where the applicant has the domicile or residence and the cost of living in Romania.

The request for legal aid can be filed anytime during the trial and is maintained for the whole trial.

The Cluj Court (‘Tribunalul Cluj’) and Bistrita Court (‘Judecatoria Bistrita’) answered that, according to article 6 of GEO no. 51/2008, natural persons can benefit of public legal aid in the following forms: payment of the representation fee, legal assistance through an attorney, payment of an expert, translator or interpret used during trial, payment of the officer of the court, as well as waiving, reducing, postponing or adjournment from the payment of legal stamp fees, for actions and requests brought to courts.

The criteria for benefiting of public legal aid is provided by article 8 of GEO no 51/2008 and are related to the material situation of the applicant or his/her family, and the applicant fills an application which refers to elements provided by article 14 from GEO 51/2008.

For legal persons, according to article 42 para. 2 of GEO 80/2013, the court can offer different benefits, upon request, like reducing, postponing or adjournment of legal stamp fees, in the following situations: a) when the fee represents more than 10% of the monthly medium net income for the last 3 months of activity; b) when the full payment of the fee is not possible because the legal person is under liquidation or dissolved or its goods are preserved under the conditions of the law.

Legal persons cannot benefit of legal aid in the form of legal assistance.

The Salaj Court (‘Tribunalul Salaj’) answered that legal provisions don’t provide for waiving the legal stamp fees in environmental cases in particular. These cases are solved according to common law with respect to legal provision regarding legal fees.

The Court of Appeal of Craiova and other courts within its area:

The Gorj Court (‘Tribunalul Gorj’) answered that the measures taken by them to facilitate access to legal aid are the ones provided by GEO 51/2002.

In order to facilitate access to legal aid, public legal aid in the form of assistance by an attorney is not limited to special categories of cases, and is accessible to any natural person, so that the right to a fair trial is respected and the equal access to justice is guaranteed.
The criteria taken into account for granting legal aid is related to monthly medium net income per family member, however public legal aid can be granted independently from these criteria in the conditions provided by article 8 ind. 1 of GEO 51/2008 as a protection measure in special situations.

For legal persons, like NGOs, according to article 42 para. 2 of GEO 80/2013 there are benefits like reducing, postponing or adjournment of legal stamp fees.

The Court of Appeal Iasi answered that public legal aid is given in the form of assistance by an attorney according to article 6 letter a) of GEO 51/2008. Public legal assistance to bring environmental cases is offered according to GEO 51/2008 for any type of litigation (civil, administrative contentious etc.). The services covered are the ones mentioned in article 6 of GEO 51/2008: legal assistance, in the form of payment of the representation fee of the legal assistance and, as the case, of the defence, through an appointed attorney or a chosen attorney, for carrying out or defending a right or a legitimate interest or for preventing a litigation; payment of an expert, translator or interpret; payment of the officer of the court fee; waiving, reducing, postponing or adjournment from the payment of legal fees.

The criteria for granting legal assistance for natural persons take into account the monthly medium net income per family member (in case of an income lower than 300 lei, waiving is offered, in the sense of moving on the expenses by the state, and in case of an income between 300 and 600 lei, 50% of the sums representing the public legal aid are moved on by the state according to article 8 of GEO 51/2008).

The criteria for legal assistance for NGOs (which consists only in reducing, postponing or adjournment of legal stamp fees) take into account the medium net income of the NGO, its situation - liquidation or dissolvement or its current activity being significantly affected by the payment of the stamp fee (article 42 para. 2 of GEO 80/2013).

The Court of Appeal of Oradea and other courts within its area:

The Court of Appeal of Oradea answered that the criteria for public legal aid and its forms are provided by GEO 51/2008.

The Bihor Court (`Tribunalul Bihor`) answered that in order to facilitate public access to legal assistance to bring environmental cases, the courts can apply article 80 para. 4 of the Code of Civil Procedure according to which when the law provides or when the circumstances of the case require it, in order to guarantee the right to a fair trial, the judge can name for any of the parties involved in the trial a representative in accordance to article 58 para. 3, setting also the limits and the duration of the representation. Also, the courts can apply article 23 of GEO 51/2008 which provide that public legal aid in the form of assistance by an attorney is granted according to the provisions of Law no 51/1995 on the organization and exercise of the attorney’s profession, republished, with further amendments, regarding the legal assistance or free of charge legal assistance. In this sense, it is necessary to attach an application that respects the conditions of format and that has attached the elements provided by article 14 from GEO 51/2008.

The Satu Mare Court (`Tribunalul Satu Mare`) and other courts from its area answered that, in order to benefit of legal assistance or other assistance mechanisms to bring environmental cases, whether by natural persons or by NGOs, depending on the particular situation of any cause, the applicants can request the following:
- public legal aid for payment of the representation fee, of the legal assistance and, as the case, of the defence, through an appointed attorney or a chosen attorney, for carrying out or defending a right or a legitimate interest or for preventing a litigation, referred to as assistance through attorney;
- payment of an expert, translator or interpret used during trial, with consent from the court or from the authority with jurisdictional attributions, if this payment, by law, devolves upon the person asking for public legal aid;
- payment of the officer of the court fee;
- waiving, reducing, postponing or adjournment from the payment of legal fees provided by law, including for those owed in the phase of foreclosure.

The Court of Appeal of Pitesti and other courts within its area:
The Valcea Court (‘Tribunalul Valcea’) answered that the measures that can be taken by a court to remove financial barriers, and to guarantee the right to legal assistance to bring environmental cases to court, are provided by GEO 51/2008.

The Ramnicu Valcea Court (‘Judecatoria Ramnicu Valcea’) and Balcesti Court (‘Judecatoria Balcesti’) answered that they took the measures provided by law.

The Court of Appeal of Suceava answered that according to legal provisions applicable to all types of litigation, the person that wants to bring environmental cases can ask for the benefits provided by GEO 51/2008 in the form of free assistance by an attorney.

Another way of guaranteeing legal assistance is through standard application forms for bringing cases to court, that are made available to the public on the webpages of courts. These forms are not specific to environmental cases.
**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

**Answer:**

According to the **National Institute of Magistracy**, regarding the specialization of judges and prosecutors:

In respect to continuous training, the institute organized on 23 June 2021 a working meeting with prosecutors that instrument forest crimes. The meeting’s goals were to specialize prosecutors which instrument such cases, and to identify specialists for this field, to find problems within the legislation, to assure an aimed and uniform education to those who instrument such dossiers. The aspects pointed out by the participants were legislative problems, probative aspects in researching these crimes, collaboration with other competent authorities, logistical problems and problems regarding personnel.

Taking into consideration the conclusions of the above-mentioned event, the National Institute of Magistracy decided to add to its Programme for continuous training for 2022 two training sessions on forest crimes, dedicated to prosecutors which instrument such cases, with the goal to assure their specialization.

At the first training session on forest crimes, organised in Bucharest, on 9-10 May 2022, a number of 15 prosecutors attended, and at the second training session, also organised in Bucharest, on 29-30 September 2022, a number of 20 prosecutor attended. The following subjects were discussed:

- Introduction in the field on forest criminality. Definition and clarification of specific terms;
- Relevant legislation;
- Structure and general responsibilities of forest authorities at national level, and also of those under their subordination or coordination;
- Theoretical aspects regarding forest infrastructure;
- Specific probative processes that can be used for the research of forest crimes;
- Debates on each probative process (ground, aspects to be analysed/ highlighted/ followed and problems that can be explained/ objectives, the entity which can perform the probative process);
- Presentation of practical matters/ cases.

Also, within the Programme for continuous training for 2022, the National Institute of Magistracy will develop a training course on environmental crimes, for prosecutors, during 8-9 December 2022.

According to the **Romanian Superior Council of Magistracy**:

a) According to article 35 para. 2 of Law 304/2004 on legal organization, republished, with further amendments, “within the courts of appeal, in respect to the complexity and the number of cases, there are sections, or where the case, specialized panels for civil cases, cases with professionals, penal cases, cases with minors and families, cases of administrative and fiscal contentious, cases regarding labour conflicts and social security, insolvency, unfair competition or for other subjects, like specialized panels for maritime and river cases.”
Also, article 36 para. 3 of the same law, provides that “within the courts (‘tribunale’), in respect to the complexity and the number of cases, there are sections, or where the case, specialized panels for civil cases, cases with professionals, penal cases, cases with minors and families, cases of administrative and fiscal contentious, cases regarding labour conflicts and social security, insolvency, unfair competition or for other subjects, like specialized panels for maritime and river cases.”

Article 41 para. 1 and 2 of the same law, provides that the sections organised within the courts of appeal and other courts within their area are being appointed at the proposal of the leading committee, through the decision of the Section for judges of the Romanian Superior Council of Magistracy, and the specialized panels organised within the courts of appeal and other courts within their area are being appointed by the president of the court, at the proposal of the leading committee of the court, in respect to the amount of activity, and taking into consideration the specialization of the judge.

In this context, the Romanian Superior Council of Magistracy sent the present questionnaire to courts, so that they can give information regarding the need to appoint sections or specialized panels for environmental cases. All the consulted courts replied that there are no courts, sections or panels specialized for environmental cases, nor legal provision, in our nation law, which would specifically provide the need to have a specialized court for environmental cases. Usually, the litigations regarding environment are solved by specialized panels for administrative contentious.

b) On another hand, according to article 90, para. 1 and 2 of Law no. 304/2004, republished, with further amendments, the prosecutor's offices next to the courts of appeal or the courts (tribunal) have sections that might include different services or bureaus, and in respect to the nature and number of cases, the prosecutor's offices next to the courts (‘judecatorie’) might have specialised sections.

Also, according to article 116 para. 5 of Law no. 304/2004, republished, with further amendments, “within the prosecutor’s offices, specialists in the economic, financial, banking, custom, informatic or other fields can be appointed, through order of the general prosecutor of the prosecutor's office next to the High Court of Cassation and Justice, in order to clarify the technical aspects for the activity of criminal prosecution.”

In this context, the Romanian Superior Council of Magistracy sent the present questionnaire to the High Court of Cassation and Justice, so that it can give information regarding the existence of specialised sections for the instrumentation of environmental crimes and specialists in environmental problems within the prosecutor's offices.

The prosecutor's office next to the High Court of Cassation and Justice, with respect to the appointment of prosecutors specialized in environmental cases, replied that, even though there are no internal structures dedicated exclusively or primarily to the investigation of environmental crimes, within the Public Ministry there was created a network of specifically appointed prosecutors to whom the criminal environmental cases are assigned, in order to supervise the criminal research activity performed by the judicial police bodies and to give basic solutions. Currently, this network is formed of 180 active prosecutors, proportionally distributed at all hierarchical levels of each institution and equally distributed in the country.

The personnel movement is regulated by the unit manager, who periodically distributes new prosecutors as part of the network. There is also an electronic mail platform, to which all the members of the network are part of. Through this network, a coordinating prosecutor at national level communicates data and information in this field.

In order to fulfil the need for specialization of the prosecutors from the network, the prosecutor's office next to the High Court of Cassation and Justice coordinates the training activity in the field of environmental crimes, especially by facilitating the carrying out of thematic training and conference, to which these prosecutors are constantly designated to participate.

c) Regarding the professional training of judges and prosecutors, the Romanian Superior Council of Magistracy mentioned the Programme for continuous professional training for 2022 was approved by Plenary Decision of the Superior Council of Magistracy no. 196/2021 and amended by Plenary Decision of the Superior Council of Magistracy no. 7/2022.

The programme included a 2 days training in the field of “environmental crimes” at centralised level, dedicated to 20 prosecutors which instrument environmental crimes dossiers.
**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Answer:**

According to the **Romanian Superior Council of Magistracy**, general aspects regarding technical expertise are regulated by GO no. 2/2000 *on organisation of the judicial and extrajudicial technical expertise, with further amendments*, the Code of Civil Procedure and Code of Criminal Procedure.

According to article 6, point V, subpoint 5 of GD no. 652/2009 *on the organization and functioning of Ministry of Justice, with further amendments*, the Ministry of Justice coordinates, with respect to administrative and methodological aspects, the activity of judicial technical expertise.

Also, according to article 11, para. 3 of GO no. 2/2000, with further amendments, “the nominal table including judicial technical experts, their identification data, for each specialization and county, depending on their domicile, is published annually on the web page of the Ministry of Justice and Citizens Liberties and is sent to the local bureaus for technical and accounting judicial expertise within courts (‘tribunale’). “
**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

**Answer:**

According to the **Ministry of Justice**, regarding the reasonable duration of judicial procedures:

With respect to the dossiers pending in courts regarding access to environmental information, the provisions of Law no. 544/2001 on free access to information of public interest apply, and these dossiers are subject to prioritization, according to legal provisions. Article 22 para. 5 of this law includes important procedural elements: “both the complaint and the appeal are judged in court, under emergency procedure and are waived of stamp fee.” Therefore, the diligence in judging these cases is not only by default, resulting from the European provision to judge a cause in a reasonable duration (article 6 from the Convention for the Protection of Human Rights and Fundamental Freedoms and article 21 para. 3 of the Convention), but also explicit, directly based on the special law applicable at national level.

Based on a quantitative analysis of the type of cases pending before the courts for administrative contentious, according to the Report on the state of justice in 2020, there was a number of 1407 dossiers in 2020, and the medium solving duration of a dossier was 3.2 months for criminal matters and 5.0 months for non-criminal matters at the level of the justice system, and broken down by courts, 5.9 months at the courts of appeal. In comparison with the European average as it resulted from the periodic evaluation by the European Council (CEPEJ statistics), the Romanian courts for administrative contentious are at a standard level, only 0.01 cases per 100 inhabitants exceeded a duration of 2 years. The administrative procedure from the High Court of Cassation and Justice is also at a standard level, since there are no statistical data on dossiers with a duration exceeding 2 years.

In comparison with the existing situation in other EU Member States, according to the EU Justice Scoreboard for 2021, Romania fits in the European average for the matter of solving litigations of administrative contentious:

- The resolution rate for administrative contentious cases in first court in 2019 is 100%;
- The estimated duration needed for solving administrative contentious cases in first court in 2019 meets the criteria for reasonability, an is smaller the European average;
- The estimated duration needed for solving administrative contentious cases in all courts in 2019 is less than 200 days in first instance and slightly exceeds 200 days in appeal.

According to the **Romanian Superior Council of Magistracy**:

According to article 6 para. 1 of Code of Civil Procedure, “any person has the right to a fair judging of his/her case, in an optimal and predictable time, by an independent, impartial and established by law court. For this purpose, the court is obliged to order all the measures allowed by the law and to assure the proceeding of the trial with celerity.”, and according to article 241 para. 1 of the same Code, “for the research of the trial, the judge sets short terms, even from one day to the next.”

Also, according to article 8 of the Code of Criminal Procedure, “the judicial bodies are obliged to proceed the criminal investigation and the trial and also respecting the trial guarantees and the rights of the parties and of the trial subjects, in order to find in a timely manner and completely the facts that represent a crime, in order not to

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3 Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
hold accountable an innocent person, and any person that committed a crime to be punished according to law, in a reasonable time”.

Moreover, articles 522-526 of the Code of Civil Procedure regulate the appeal on delaying a trial, and articles 488\textsuperscript{1}-488\textsuperscript{6} of the Code of Criminal Procedure regulate the appeal on delaying a criminal trial.

On the other hand, according to article 99, letter h) from Law no. 303/2004 regarding the status of judges and prosecutors, republished, with further amendments, it is considered official misconduct the repeated and imputable failure to comply with the legal provisions regarding solving the cases with celerity or repeated delays in carrying out the work, because of imputable reasons.

The legal provisions mentioned above represent the common law in this matter, and do not exclusively refer to environmental cases.
**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Answer:**

According to the **Ministry of Justice**, regarding e-access to information:

The Romanian legislation is fully accessible, free of charge on the webpage of the Ministry of Justice ([www.just.ro](http://www.just.ro)).

Information on dossiers and sessions are automatically updated, every day, at central level (the portal’s database) from the courts level (ECRIS CDMS database for each court), and is available at the link: [http://portal.just.ro/SitePages/despre.aspx](http://portal.just.ro/SitePages/despre.aspx)

The dossiers pending at the High Court of Cassation and Justice are accessible at [https://www.iccj.ro/](https://www.iccj.ro/).

According to the **Romanian Superior Council of Magistracy**:

The portal of the courts is hosted and maintained by the Ministry of Justice, acting as administrator of justice, with the purpose of facilitating the public access to information for the activities of the system.

Also, [https://legislatie.just.ro](https://legislatie.just.ro) is the legislative portal developed by the Ministry of Justice. This platform offers citizens and professionals from Romania, and the European Union (portal N-lex: [https://n-lex.europa.eu/n-lex/](https://n-lex.europa.eu/n-lex/)) free and unrestricted access to national legislation, with further amendments.
**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

**Answer:**

According to the *Ministry of Justice*, regarding the alternative dispute resolution:

If the applied procedure is the one for administrative contentious, then the preliminary procedure itself and the associated preliminary complaint, provided by article 7 of Law 554/2004 on administrative contentious, represent a dispute resolution in an administrative manner, in certain cases and conditions.

If the applied procedure is under common law, then the alternative dispute resolutions are available. Mediation before bringing to court a case is optional. During the resolution of the trial, the judicial authorities are obliged to inform the parties about the possibility to use mediation and its advantages. The relevant legislation is represented by Law no. 192/2006 on mediation and organization of the mediator’s profession. According to article 2 para. 1 of Law 192/2006, if the law doesn’t provides otherwise, then the parties, natural or legal persons, can solve their dispute of any nature through mediation, even after the beginning of the trial in front of a court.”

The parties of a dispute can turn to arbitration, which is an alternative jurisdiction of a private nature. The relevant legislation is represented by the Fourth Book – “About arbitration” from the Code of Civil Procedure (article 541-621). The persons having full capacity of exercise can convene on solving their litigations by arbitration, except the ones regarding marital status, a person’s capacity, succession debate, family relationships, or rights upon which the parties cannot order. The arbitration decision presented to parties is final and mandatory. The rule is that the arbitration decision is implemented willingly by the party against which it was decided, immediately or at the moment stated in the decision. In case it is needed to apply enforcement, the arbitration decision represents enforcement order and is enforced exactly as a court decision.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Report by High Court of Cassation and Justice of Romania

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

The case law of the Supreme Court has not identified any cases falling within the scope of the Aarhus Convention in which measures of the kind referred to in this question are involved.

Moreover, an analysis of both the rules of ordinary law and the rules on environmental protection has not revealed any provisions providing the national court with levers for the separate application to environmental cases of the matters referred to in the question.

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

With regard to access to legal aid services, it should be noted that an analysis of both the common law regulations and the environmental protection regulations did not reveal any provisions providing the national judge with separate levers for applying the issues raised in the question to environmental cases.

With regard to the other aspects of question 2, we note that we do not have any data.

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
Established specialized prosecutor offices
Established specialized departments within prosecutor offices
Designation of prosecutors specialising in environmental cases
Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  o Initial or Continuous
  o Optional or Mandatory
  o Other

At the level of the courts, we note that no courts, tribunals or chambers specialised in environmental cases have been set up, nor are there judges strictly specialised in such cases; in principle, environmental cases falling within the scope of the Aarhus Convention are dealt with by the judges of the administrative chambers.

We have no data on the internal organisation of the prosecutors' offices and the appointment of prosecutors in environmental cases.

As regards the existence of education and training programmes based on the curriculum developed in the field of environmental law, we mention that, within the Faculty of Law of the University of Bucharest, according to the Educational Plan 2022/2023, environmental law is studied as a compulsory subject.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

The Romanian legal system does not have the concept of technical judge for environmental cases, but there are regulations on the judicial technical expert, among the specializations of judicial technical expertise there is also the one on "ecology and environmental protection", as it emerges from the provisions of the Order of the Minister of Justice No 199/2010 for the approval of the Nomenclature of specializations of judicial technical expertise, published in the Official Gazette No 78 of 4 February 2010, with subsequent amendments and additions.

A list of forensic technical experts specialising in ecology and environmental protection is available on the Ministry of Justice website, https://www.just.ro/beta-experti-tehnici-judiciari-rezultate/, and is accessible to the public.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief\(^1\)
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

An analysis of both the common law rules and the environmental protection rules did not reveal any provisions providing national courts with levers for the separate application to environmental cases of the issues raised by the question.

\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
Question 6: Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

Measures to facilitate access to justice in general include digitisation.

With regard to the High Court of Cassation and Justice, we note that in June 2021, the President of the Supreme Court approved the Digitisation Plan for this institution.

According to the Digitisation Plan of the High Court of Cassation and Justice, the Supreme Court launched on 9 July 2021 the new website of the High Court of Cassation and Justice (www.iccj.ro), which contains a platform of digital services (electronic file, electronic communication of procedural documents service, digital library, including case law, collections of relevant decisions, decisions on preliminary referrals and decisions on appeals in the interest of the law).

As of 19 November 2021, parties and their representatives have the possibility to file documents in electronic format at the chambers of the High Court of Cassation and Justice, using the "Form for filing documents in electronic format" on the website of the Supreme Court; using the form, parties and their representatives also have the possibility to request "Electronic communication of procedural documents (by e-mail)."

Alongside other objectives, the Digitisation Plan also includes providing remote access to court proceedings administered by the Supreme Court.

At the level of the High Court of Cassation and Justice, electronic access to the matters covered by the question is provided for environmental cases under similar conditions to those established for other cases falling within the jurisdiction of the Supreme Court.

With regard to access to environmental standards and legislation, it should be noted that there are websites of public institutions that provide this facility, such as, for example, that of the Ministry of the Environment, Water and Forests, www.mmediu.ro.

Question 7: Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

We have no data on alternative dispute resolution in practice for environmental disputes.
At the legislative level, the Romanian legal system contains regulations on alternative dispute resolution in general, without specifying their incidence in environmental conflicts, and therefore without containing specific rules in this regard.

By way of example, one such general regulation is Law No 192/2006 on mediation and the organisation of the profession of mediator, published in the Official Gazette No 441 of 22 May 2006, as subsequently amended and supplemented, with the stipulation that mediation may not cover rights which the parties cannot dispose of by law.
QUESTIONNAIRE
Measures to enable effective access to justice in environmental matters

Report by Slovakia

Question 1: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees – Environmental NGOs are exempted from the obligation to pay court fees. According to § 4 (2) c) of the Act on Court Costs (zákon č. 71/1992 Zb. o súdnych poplatkoch a poplatku za výpis z registra trestov v znení neskorších predpisov), “(2) They are exempt from the fee: c) foundations and charitable organisations, humanitarian organisations, ecological organisations and consumer protection associations”.
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other: There is a variety of NGOs (e.g. Via Iuris, Ekopolis Foundation) providing legal assistance in environmental matters. The state’s system of legal aid is focused predominantly on persons in material need and does not focus specifically on cases with environmental implications. The purpose is mainly to provide aid in civil, commercial, labour and family law matters, but matters before administrative courts can be covered as well. Considering that many environmental disputes in the Slovak republic fall within the administrative law jurisdiction, the existence of cases with environmental implications cannot be excluded; however, there is no data available to validate this hypothesis. According to § 3 (1) c) of the Act no. 327/2005 Coll. on the provision of legal aid to persons in material need… “This Act applies to the provision of legal aid in civil cases, commercial law cases, labour law cases, family law cases, in proceedings for debt relief under a special regulation, in proceedings before the court in the administrative justice system and in these cases also in proceedings before the Constitutional

Question 3: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals – As part of the reform of the judicial map, separate administrative court were established in Slovakia. The previous competence of regional courts (krajské súdy) in administrative justice is exercised by administrative courts in Banská Bystrica, Bratislava and Košice. Their activity will start as of 1. January 2023 (Act no. 151/2022 Coll. on the establishment of administrative courts and on amendments and supplements to certain acts). The Supreme Administrative Court was established as the supreme body of the administrative justice system by Act no. 422/2020 Coll. amending the Constitution of the Slovak republic no. 460/1992 Coll. as amended with effect from 1. January 2021 and started its activities on 1. August 2021. The structure of the courts and the activities of the judges are regulated by Act no. 757/2004 Coll. on Courts and on Amendments and Additions to certain acts.
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other – Even though there are no explicit environmental courts or environmental law chambers in the courts, chambers dealing with administrative matters are usually composed by judges specialising in environmental law matters (considering that environmental cases fall within the administrative law jurisdiction and administrative courts). Administrative law cases are mainly dealt with the regional courts (see above) and the Supreme Administrative Court. Considering that also general and overarching laws such as the Administrative Court Procedure Act or the Criminal Procedure Code contains provisions relevant from environmental law perspective (for instance, the rights of the public to initiate the court proceedings in environmental law matters or the provisions on injunctive relief/suspensive effect of a decision provisions in Administrative Court Act or in criminal offences addressing environmental harm in the Criminal Code), judges and prosecutors need to have adequate knowledge basis and training in application of these provisions. In general, training for both judges and prosecutors at national level are organised by the Judicial Academy.

Question 4: Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts – The list of (forensic) experts is e. g. available on the website of the Ministry of Justice of the Slovak Republic (https://www.justice.gov.sk/sluzby/znalci/), however, it

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3 https://ja-sr.sk/
is a list sorted by field and sector, there is no record separately in relation to environmental matters, it is always necessary to into account the specific subject matter of the dispute.

- Other (e.g. judicial experts appointed by courts or experts contracted by parties):

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^4\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief – The provisions of the Administrative Court Procedure Act enable courts to suspend an effect of public authorities’ decisions in case their immediate implementation would cause severe environmental harm and such suspension does not violate public interest.\(^5\) The court may suspend an effect of a decision until its final decision in the pertinent matter.
- Special procedural rules for environmental cases – The administrative court shall decide on the applicant’s application for suspensive effect within 30 days of receipt of the defendant’s statement of defence to the application. In the cases described above, if a court suspends effect of a decision, it is obliged to decide the matter within 6 months.
- Measures to take in case judges exceed procedural deadlines
- Other – Judicial review of a decision or administrative measure takes different lengths of time depending on the action brought and the court’s work schedule (court proceedings can take up to 1 year or more). The judgement can be appealed by the opposing party, so the court proceedings can take even longer. In cases of disclosure of information after a decision of an administrative court, a new administrative procedure may be initiated, in which the authority may again refuse to disclose the information e. g. for another legal reason. In practice, therefore, the process of claiming information before the court may take several years (Implementation Report Aarhus Convention, Slovak Republic 2020).

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review - Ministry of Environment of the Slovak republic uses its website to inform the public about administrative procedures under its jurisdiction and under the jurisdiction of subordinate institutions through its official notice board: [https://minzp.sk/uradna-tabula/](https://minzp.sk/uradna-tabula/). A “Green Line” (Zelená linka)\(^6\) has also been set up to deal with complaints from citizens and to which, among other things, breaches of environmental laws can be reported anonymously.
  - Judicial review – Court decisions are available e. g. on the website of the Ministry of Justice of the Slovak republic\(^7\) or on the website of the Supreme Administrative Court.
- E-access to environment-related standards and legislation – In general, the website [www.slovensko.sk](http://www.slovensko.sk) serves as a source of information on the functioning of state institutions and the website on the electronic way of exercising public authority is available here [http://www.informatizacia.sk](http://www.informatizacia.sk).
  - E-access to case law on environmental matters
  - Collection of quantitative data on environmental cases

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\(^4\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).

\(^5\) § 185 a) of the Administrative Court Procedure Act: „správny súd môže na návrh žalobcu a po vyjadrení žalovaného uznesením priznať správnej žalobe odkladný účinok, ak by okamžitým výkonom alebo inými právnymi následkami napadnutého rozhodnutia orgánu verejnej správy alebo opatrenia orgánu verejnej správy hrozila [závažná ujma, značná hospodárska škoda či finančná škoda], závažná ujma na životnom prostredí, prípadne iný vážne nenapravitelný následok a priznanie odkladného účinku nie je v rozpore s verejným záujmom.”.

\(^6\) [https://www.minzp.sk/kontakty/](https://www.minzp.sk/kontakty/).

\(^7\) [https://obcan.justice.sk/infosud/](https://obcan.justice.sk/infosud/)

\(^8\) [https://www.nssud.sk](https://www.nssud.sk/).
Electronic submission and management of claims
  - For administrative review
  - For judicial review – Courts, including administrative courts, are switching to electronic court filing, details are available on the website: https://www.justice.gov.sk/agenda-ministerstva/nase-projekty/elektronicky-sudny-spis/#ele-sudny-spis and related link: https://obcan.justice.sk/ezaloby.

- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other – Information about access to justice in environmental matters can be found also on the website of the Ministry of Environment of the Slovak republic, which also includes the links to the relevant EU sources on access to justice in environmental matters. Relevant information guidelines for citizens on this topic might be found on the website of the NGO Via Iuris as well.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution – N/A at this time.

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9 https://minzp.sk/aarhus/.
10 https://viajuris.sk/obciansky-kompas/.
**QUESTIONNAIRE**

**Measures to enable effective access to justice in environmental matters**

**Response by Serbia**

**Question 1:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

- Article 24 of the Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia No. 120/04, 54/07, 104/09, 36/10 and 105/21) (LFAIPI) states that the Commissioner shall pass a decision without delay and within 30 days from the submission of the complaint at the latest, having first given the public authority, and where appropriate also the applicant, an opportunity to reply in writing. The proceedings before the Commissioner are governed by the provisions of the Law on General Administrative Procedure pertaining to the appellate decisions of second-instance bodies. Proceedings before the Commissioner is free of charge.

- Article 9 of the Law on General Administrative Procedure stipulates that the procedure shall be conducted without delay and at the lowest possible cost for the parties and other participants in the procedure, yet to ensure that the

- Article 89 of the Law on General Administrative Procedure states that the authority conducting the procedure may exempt a party from payment of costs, either in full or in part, if it finds that such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family, or if it is provided ratified international agreement. The party's request is decided by a decision. Please, refer also to Article 168 of the Civil Procedure Code specifying that the court shall exempt a party from the liability of paying the costs of the proceedings where that party's material situation does not allow them to bear such costs.

**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

- The Constitution of the Republic of Serbia guarantees everyone the right to legal assistance (Article 67). This is the first time in our legal system that this right has become guaranteed in the Constitution where it is stated that the right to legal assistance, including free legal assistance is exercised in accordance with the law.
- Provisions on legal assistance are incorporated in several laws, each regulating specific forms of legal aid. Law on Self-Government, Article 20, Item 11, specifies that the municipality organizes a legal assistance service available to the public. The Law on Lawyers, Article 66, stipulates that Bar Association can organize free legal aid on the territory of the first-instance court. In terms of criminal law protection, legal assistance, including free legal assistance is partially regulated by the Criminal Procedure Code and Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (Official Gazette of the Republic of Serbia No. 85/05). Free legal representation of parties in civil proceedings is regulated by Article 168-173 of the Civil Procedure Code. The provisions of Article 170 of the Civil Procedure Code stipulate that the court shall, during the whole proceedings, provide to the party the right of free representation when the party is completely exempted from payment of the costs of the proceedings (Article 168, Paragraph 2) if that is necessary for protection of rights of the party or if that is provided by a special law.

- One of the principles of the Law on General Administrative Procedure (Article 8) is the principle of assistance to the parties. Article 89 of the Law on General Administrative Procedure states that a party may be exempt from payment of costs, if such costs cannot be borne without prejudice to the necessary sustenance of the party or his/her family.

“The Law on Free Legal Aid (“Official Gazette of the RS”, No. 87/18), whose implementation started on 1 October 2019, regulates free legal aid for the citizens as its beneficiaries, as well as the manners of its execution and provision. The Law applies to citizens who have not exercised the right to free legal aid under other laws. In this manner, the provision of free legal aid is regulated in a comprehensive manner, with the aim of providing effective and equal access to justice to every person.”

- On October 24, 2022, at the Faculty of Law of the University of Belgrade, with the support of the OSCE Mission to RS, the Law Clinic for Environmental Law is opened for the eight generations of students. (https://www.linkedin.com/company/pravna-klinika-za-ekolosko-pravo-pfub/)

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other:

  - Judicial Academy in cooperation with European Institute of Public Administration (EIPA) in November 2017 organized training for the judges and prosecutors on the topic: „Law of the European Union in the field of environmental protection.”

  - Judicial Academy in cooperation with European Institute of Public Administration (EIPA) in April 2018 organized training for the judges and prosecutors on the topic: „Law of the European Union in the field of environmental protection – hazardous waste.”


  - In the period from March to June 2019, Judicial Academy organized 5 trainings for the total of 52 prosecutors on the implementation of the CITES Convention and the criminal offenses regarding Endangered Species of Wild Fauna and Flora.

  - In the period from June to October 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized 3 training for judges and prosecutors on the topic: "Introduction and basic environmental issues, the basic principles of environmental protection, protection of some parts of the environment in the legal system of Serbia.”
- In the period from June to October 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized 3 trainings for judges and prosecutors on the topic: "Civil Environmental Protection".
- In the period from June to October 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized 3 trainings for judges and prosecutors on the Draft Law on Environmental Liability.
- In the period from June to October 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized 3 trainings for judges and prosecutors on the topic: "Criminal protection of the environment and environmental crimes."
- In the period from June to October 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized 3 trainings for judges and prosecutors on the topic: "Economic offenses with an element of environmental protection."
- In December 2019, 2020, 2021 and 2022 the Judicial Academy in cooperation with OSCE organized training for the prosecutors on the topic: "Investigation in environmental matters - hazardous waste and providing professional information to the media related to environmental cases."

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g. judicial experts appointed by courts or experts contracted by parties):
  The Association of Judicial Experts "Vojvodina" has environmental protection as one of its areas of work. ([https://www.forensicexp-vojvodina.org.rs/clanovi-zastita-zivotne-sredine](https://www.forensicexp-vojvodina.org.rs/clanovi-zastita-zivotne-sredine))

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)
  - Defined by law
  - Defined by court
- Fast tracking/prioritization of environmental cases
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

The Law on the Protection of the Right to a Trial within a Reasonable Time ("Official Gazette of RS", No. 40/15) is adopted in 2015. This law regulates the protection of the right to a trial within a reasonable time. The purpose of this law is to provide judicial protection of the right to a trial within a reasonable time and thereby prevent violations of the right to a trial within a reasonable time. Every party in court proceedings has the right to a trial within a reasonable time. The legal remedies that protect the right to a trial within a reasonable time are: 1) objection to speed up the procedure; 2) appeal; 3) request for just satisfaction. The party does not pay the court fee in proceedings in which the right to a trial within a reasonable time is protected. They are urgent and have priority in decision-making.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims

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1 Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
- For administrative review
- For judicial review
  - E-access to case files at court for the parties
  - Remote court hearings
  - Data mining for processing environmental cases
  - Tools integrating spatial, environmental and case-management data
  - Other
The course of cases of basic and higher courts in Serbia: [https://tpson.portal.sud.rs/tposvs/](https://tpson.portal.sud.rs/tposvs/)

The course of cases of commercial courts in Serbia: [https://tpson.portal.sud.rs/tpprvs](https://tpson.portal.sud.rs/tpprvs)


The course of misdemeanor court cases in Serbia: [https://tpps.sipres.sud.rs/](https://tpps.sipres.sud.rs/)

Serbian Justice Portal: [http://www.portal.sud.rs](http://www.portal.sud.rs)

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

Mediation is used in practice as an alternative dispute resolution of environmental cases.
United Kingdom response to Survey on measures to enable effective access to justice in environmental matters:

**Question 1:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:

- Fully waiving the court fees
- Fully waiving the application of the loser pays principle
- Applying a protective cost order
- Fully waiving the recovery of costs incurred by public authorities
- Fully waiving the bonds or other security for injunction relief
- Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
- Other (e.g. measures to reduce costs, etc.):

The Administrative Court Judicial Review Guide, provides comprehensive information about judicial review procedure ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913526/HMCTS_Admin_Court_JRG_2020_Final_Web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913526/HMCTS_Admin_Court_JRG_2020_Final_Web.pdf)). Remedies for Judicial Review include a mandatory order, requiring a public body to take specific action; a quashing order setting aside a decision; a prohibiting order, restraining a body from a particular action; a declaration by the court as to the position in law and/or the status of the decision complained of; a declaration of incompatibility with ECHR; an injunction and, in certain circumstances, damages. Parties may apply for interim relief in the form of an injunction at any time – even before proceedings have been issued. The court has discretion in Aarhus Convention claims to award interim injunctive relief without requiring a cross undertaking in damages.

The Ministry of Justice has a court fees strategy that aims to deliver a fair system which makes best use of the taxpayers’ money and protects access to justice through a targeted system of remissions for the less well-off. Fee remissions are available to those whose disposable capital and gross monthly income are within the limits specified. A person who qualifies for help under the scheme may have the fee remitted either in part or in full. Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, legal aid is available for environmental cases and judicial review, subject to the statutory tests of the applicant’s means and merits of the case. Legal aid is available subject to the statutory means and merit of the cases. For example, Legal aid is available for advice and assistance to bereaved families with any work required in preparation for an inquest, or through the Exceptional Case Funding (ECF) scheme, statutory means and merits tests.

The Civil Procedure Rules (CPR) ([http://www.justice.gov.uk/courts/procedure-rules/civil](http://www.justice.gov.uk/courts/procedure-rules/civil)) in England and Wales provide considerable flexibility to enable the court to give balanced consideration to all the circumstances, to reach decisions on costs in individual cases which are fair, and to meet the overriding objective of the CPR of dealing with cases justly and at a proportionate cost. Similar flexibility is found in the provisions in Scotland and Northern Ireland. The Court of Appeal has given rulings and guidance in a range of cases relating to the interpretation of the CPR provisions.

In addition to these general provisions, there are a variety of ways in which the courts can take action to ensure that costs are proportionate and fairly allocated. The CPR provides the courts with extensive case management powers to control and direct the course of proceedings to ensure that these are conducted on as timely and efficient a basis as possible. The courts also have extensive powers to control costs at different stages of the proceedings. As well as detailed provisions which govern the assessment of costs at the conclusion of proceedings, the CPR sets out the powers of the court to make an order capping costs in an individual case at any stage of the proceedings.

Special provisions exist to limit the costs of judicial review proceedings. For example, the CPR provide that the courts will generally consider permission to proceed with judicial review proceedings without a hearing and that where there is a hearing, the court will not generally make an order for costs relating to that hearing. In addition, costs awarded against a claimant who fails to obtain permission are generally limited to the costs of the defendant’s acknowledgement of service.
Question 2: Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
  - Type of legal disputes covered (trial and non-trial matters)
  - Type of services covered
  - Criteria to apply for legal aid for natural persons
  - Criteria to apply for legal aid for NGOs
  - Providers
  - Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding
- Legal insurance
- Other:

Under Article 9, paragraph 2 of the Convention, NGOs which promote environmental protection and which meet requirements under national law are deemed to have “sufficient interest” to engage in review procedures. In England, Wales and Northern Ireland, if the interest of an applicant is not direct or personal, but is a general or public interest, it will be for the courts to determine whether or not the applicant has standing in accordance with a number of factors including the level of public importance of the issues raised and the applicant’s relationship to those issues. Section 31(3) of the Senior Courts Act 1981 and section 18(4) of the Judicature (Northern Ireland) Act 1978 provide that the court shall not grant leave for application for judicial review, “unless it considers that the applicant has a sufficient interest in the matter to which the application relates”. In determining whether public interest groups or NGOs specifically have sufficient interest to bring a challenge, the court will consider a number of factors including the merits of the challenge, the importance of upholding the rule of law, the importance of the issue raised, the likely absence of any other responsible challenger, the nature of the breach and the role played by the group or body in respect of the issues in question. The criteria have come to be applied liberally; if an applicant has insufficient private interest in bringing an application, provided he or she raises a genuine and serious public interest, he or she will have standing.

In Scottish law, title (to be heard by a court) and interest (in the subject matter) is subject to substantive law, not only procedural rules. Scottish Statutory Instruments 510/2005 and 614/2006 transposing EU Directive 2003/35/EC included in secondary legislation provision ensuring environmental NGO and community or resident organisations’ assured interest in all cases engaging the Directives covering pollution prevention and control, and strategic environmental assessments. However, the common law basis of standing has also been widened in Scotland following the judgement of the UK Supreme Court in AXA General Insurance Ltd & Others v Lord Advocate & Others (Scotland) [2011] UKSC 46, which indicated that an applicant for judicial review should have “standing”. Lord Hope stated: “As for the substantive law, I think that the time has come to recognise that the private law rule that title and interest has to be shown has no place in applications to the court's supervisory jurisdiction that lie in the field of public law. The word "standing" provides a more appropriate indication of the approach that should be adopted.”

The Government provides information and links (https://www.gov.uk/government/organisations/ministry-of-justice) on the provision of effective and accessible justice. Details regarding eligibility for publicly-funded advice services and information to help resolve problems in specific categories of law can be found via www.gov.uk/legal-aid. Here, members of the public have access to the online information tool ‘Can I get legal aid?’ (https://www.gov.uk/check-legal-aid). This supports members of the public to check whether they might be eligible for legal aid and to signpost them to other sources of information or advice to help people resolve their problems. Other services have been promoted as part of efforts to signpost potential assistance to citizens, such as the Citizens Advice Bureau which provides guidance and support on legal aid and representation across the United Kingdom (https://www.citizensadvice.org.uk/law-and-courts/legal-system/finding-free-or-affordable-
Information on applying for judicial review in Northern Ireland and on proceedings in the High Court in Northern Ireland is available at [http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx](http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx).

The UK has engaged in extensive activity to provide information to the public on accessing administrative and judicial review procedures, and to remove any unnecessary financial and other barriers to access to justice or to consider how they could be removed. These factors will be further considered in the upcoming Independent Review of Administrative Law (IRAL) chaired by Lord Faulks QC, as announced on 31 July 2020. The IRAL panel conducted a Call for Evidence from 9 September until 26 October, and further information will be provided once the report to Ministers is finalised and published following Government consultation.

The Government provides information and links ([https://www.gov.uk/government/organisations/ministry-of-justice](https://www.gov.uk/government/organisations/ministry-of-justice)) on the provision of effective and accessible justice. Details regarding eligibility for publicly-funded advice services and information to help resolve problems in specific categories of law can be found via [www.gov.uk/legal-aid](http://www.gov.uk/legal-aid). Here, members of the public have access to the online information tool ‘Can I get legal aid?’ ([https://www.gov.uk/check-legal-aid](https://www.gov.uk/check-legal-aid)). This supports members of the public to check whether they might be eligible for legal aid and to signpost them to other sources of information or advice to help people resolve their problems. Other services have been promoted as part of efforts to signpost potential assistance to citizens, such as the Citizens Advice Bureau which provides guidance and support on legal aid and representation across the United Kingdom ([https://www.citizensadvice.org.uk/law-and-courts/legal-system/finding-free-or-affordable-legal-help](https://www.citizensadvice.org.uk/law-and-courts/legal-system/finding-free-or-affordable-legal-help)).

Information on applying for judicial review in Northern Ireland and on proceedings in the High Court in Northern Ireland is available at [http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx](http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx).

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
- Established specialized prosecutor offices
- Established specialized departments within prosecutor offices
- Designation of prosecutors specialising in environmental cases
- Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  - Initial or Continuous
  - Optional or Mandatory
- Other

The role of the Information Commissioner in England, Wales and Northern Ireland provides the relevant facility for a review by an independent and impartial body established by law. The Information Commissioner examines complaints from members of the public who feel that their request for information has not been dealt with properly by the public authority. The First-tier Tribunal (Information Rights), Upper Tribunal and, ultimately, the Supreme Court give further and higher levels of appeal.

In Scotland, the Scottish Information Commissioner’s office promotes and enforces both the public’s right to ask for information held by Scottish public authorities, and good practice by authorities. The Commissioner is responsible for enforcing and promoting Scotland’s freedom of information laws, including the Environmental Information (Scotland) Regulations 2004.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
The Government publishes quarterly statistics which can be found on the Civil justice statistics quarterly page (https://www.gov.uk/government/collections/civil-justice-statistics-quarterly). These statistics provide information through a summary overview of the volume of civil and judicial review cases dealt with by the courts over time and the overall timeliness of these cases. They are also used to monitor court workloads, to assist in the development of policy and their subsequent monitoring and evaluation.

The Government provides information and links (https://www.gov.uk/government/organisations/ministry-of-justice) on the provision of effective and accessible justice. Details regarding eligibility for publicly-funded advice services and information to help resolve problems in specific categories of law can be found via www.gov.uk/legal-aid. Here, members of the public have access to the online information tool ‘Can I get legal aid?’ (https://www.gov.uk/check-legal-aid). This supports members of the public to check whether they might be eligible for legal aid and to signpost them to other sources of information or advice to help people resolve their problems. Other services have been promoted as part of efforts to signpost potential assistance to citizens, such as the Citizens Advice Bureau which provides guidance and support on legal aid and representation across the United Kingdom (https://www.citizensadvice.org.uk/law-and-courts/legal-system/finding-free-or-affordable-legal-help/).

Information on applying for judicial review in Northern Ireland and on proceedings in the High Court in Northern Ireland is available at http://www.courtsni.gov.uk/en-GB/Services/jr/Pages/default.aspx.

**Question 5:** Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^1\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

Adequate and effective remedies, including injunctive relief in appropriate cases, are available. The Administrative Court Judicial Review Guide, provides comprehensive information about judicial review procedure (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913526/HM_CTS_Admin_Court_JRG_2020_Final_Web.pdf). Remedies for Judicial Review include a mandatory order, requiring a public body to take specific action; a quashing order setting aside a decision; a prohibiting order, restraining a body from a particular action; a declaration by the court as to the position in law and/or the status of the decision complained of; a declaration of incompatibility with ECHR; an injunction and, in certain circumstances, damages. Parties may apply for interim relief in the form of an injunction at any time – even before proceedings have been issued. The court has discretion in Aarhus Convention claims to award interim injunctive relief without requiring a cross undertaking in damages.

Special provisions exist to limit the costs of judicial review proceedings. For example, the CPR provide that the courts will generally consider permission to proceed with judicial review proceedings without a hearing and that where there is a hearing, the court will not generally make an order for costs relating to that hearing. In addition, costs awarded against a claimant who fails to obtain permission are generally limited to the costs of the defendant’s acknowledgement of service.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:

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\(^1\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g. studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
The Digital Justice System (DJS) is the term we are using for the approach we are taking to increasing access to justice online. It refers to the online digital journey to resolving legal disputes in the Civil, Family and Tribunal (CFT) jurisdictions. We are looking at the way that technology can facilitate a user’s journey from when they first realise they may have a legal problem, through to resolving their case in court where necessary. There are a number of existing digital tools that would form part of the DJS, and are representative of the kind of resources we may consider developing in the future:

- An online signposting tool, available on GOV.UK, which helps users to understand their options for addressing housing disrepair issues in private rented accommodation, which is signposted to users by local authorities:
- The Child Arrangements Information tool;
- The Official Injury Claim (“Whiplash”) Portal;
- The Finding Legal Advice and Information page on Gov.uk

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

In addition to the procedures described above, the UK Government is also a strong supporter of alternative dispute resolution and has introduced initiatives to encourage and promote its use in all civil disputes. On environmental claims as well as Alternative Dispute Resolution (ADR), if the environmental claim is for compensation to the value of £10k, they will be offered a free mediation session with the Small Claims Mediation Service (SCMS). In principle, there would be no reason why such claims are not amenable to an ADR resolution rather than a judicial settlement.
At its seventh session\(^1\), the Meeting of the Parties to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/3 on promoting effective access to justice and requested the Task Force on Access to Justice to promote the exchange of information, experiences, challenges and good practices relating to the implementation of the third pillar of the Convention. Through this decision, the Meeting of the Parties also encouraged Parties to undertake further considerable efforts to improve the effectiveness of public access to justice in environmental matters, e.g., by removing, as the case may be, barriers with regard to costs, access to assistance mechanisms and timeliness. Objective 1.12 (c) of the Convention’s Strategic Plan for 2022-2030 also requires each Party to undertake genuine efforts to reduce and eliminate financial and other barriers that may prevent access to such review procedures and establishes, where appropriate, assistance mechanisms — also covering vulnerable and marginalized groups.

To support the implementation of the Convention’s Strategic Plan for 2022-2030 and decision VI/3, the Aarhus Convention Task Force on

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\(^1\) See para. 14(a) (i) of decision VII/3 of the Meeting of the Parties adopted at its seventh session (Geneva, 18-21 October 2021) available from: [https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7](https://unece.org/environmental-policy/events/Aarhus_Convention_MoP7)
Access to Justice will carry out a survey to collect good practices and challenges in implementing measures that aim to overcome the above-mentioned barriers and enable effective access to justice. The survey outcomes will lay the ground for advancing the implementation of article 9, paras. 4 and 5, of the Aarhus Convention and thereby support the attainment of SDG targets 16.3 “Promote the Rule of Law and Ensure Equal Access to Justice”.

The questionnaire below was prepared by the secretariat in consultation with the Chair. Each question identifies high impact measures that aim to significantly reduce or eliminate financial and other barriers for members of the public to access to justice and also provides a possibility to report on other measures that can contribute to this aim. Environmental cases are understood as cases falling within the scope of the Aarhus Convention².

When completing the questionnaire, please include a brief description of the measures taken in your jurisdiction and share the relevant references to the legislation and case law in English and if not available in the national language and links to the relevant webpages. Please report good practices and challenges related to the reduction of court fees and other legal costs, access to judicial experts appointed by courts or contracted by parties under “Other” measures as they can contribute partially to the resolution of the above-mentioned challenges.

The draft questionnaire was discussed at the fourteenth meeting of the Task Force on Access to Justice in Geneva on 27-28 April 2022¹ and

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finalized by the secretariat in consultation with the Chair in the light of the discussion at and after the meeting.

National focal points of the Convention, the network of judiciary, judicial training institutions and other review bodies in the pan-European region, non-governmental organizations and other stakeholders are invited to complete the questionnaire and submit their responses to the Aarhus Convention secretariat (aarbus.survey@un.org) by 1 November 2022.

The outcomes of the survey will be discussed at the next meeting of the Aarhus Convention Task Force on Access to Justice in April 2023 and further reported to the subsequent meeting of the Working Group of the Parties to the Aarhus Convention.

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<td>Please provide name and contact data of the person who filled in the questionnaire:</td>
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<tr>
<td>First name: Serhii</td>
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<tr>
<td>Position: Judge</td>
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<tr>
<td>Organization: Civil Cassation Court within the Supreme Court</td>
</tr>
<tr>
<td>Address: 28, Povtroflotskyi Avenue, Kyiv, 03043, Ukraine</td>
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<td>Tel: Fax:</td>
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<tr>
<td>E-mail: <a href="mailto:burlakov@supreme.court.gov.ua">burlakov@supreme.court.gov.ua</a> Website:</td>
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The completed questionnaires will be posted on the website of the meeting. Please tick the box if you prefer your reply not to be posted □.

CONTACT INFORMATION
Please provide name and contact data of the person who filled in the questionnaire:
First name: Hanna Last name: Vronska
Position: Judge
Organization: Commercial Cassation Court within the Supreme Court
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Tel: Fax:
E-mail: ganna.vronska@supreme.court.gov.ua
Website: https://supreme.court.gov.ua/

The completed questionnaires will be posted on the website of the meeting. Please tick the box if you prefer your reply not to be posted □.

**Question 1:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to reduce or remove financial barriers for members of the public to bring environmental cases, in particular with regard to:
o Fully waiving the court fees
o Fully waiving the application of the loser pays principle
o Applying a protective cost order
o Fully waiving the recovery of costs incurred by public authorities
o Fully waiving the bonds or other security for injunction relief
o Fully waiving the costs of experts involved in the court procedure contracted by parties or appointed by court
o Other (e.g. measures to reduce costs, etc.):

Answer to question 1:

1.1. There is no such legal category as "environmental cases" in the current legislation of Ukraine, including the civil procedural, commercial procedural and judicial systems.

The General Classifier of Judges' Specializations and Categories of Cases, approved by the Order of the State Judicial Administration of Ukraine dated 21.12.2018 No. 622 (https://zakon.rada.gov.ua/rada/show/v0622750-18#n19), provides for the following categories of cases in the specialization "Administrative Proceedings"

- cases on environmental protection, in particular on ensuring environmental safety, including the use of natural resources; environmental safety of waste management (code 110010000);

- cases on administration of taxes, fees, payments, as well as control over compliance with the requirements of tax legislation, in particular, on environmental tax (code 111030900).
In the section of the Classifier "Cases on the protection of political (excluding electoral) and civil rights" (code 102000000) the guarantees of Article 9 of the Aarhus Convention are met by such category of cases as "Ensuring the right of an individual to access public information" (code 102020000).

At the same time, the said classifier in the specialization "Civil proceedings" does not provide for such a separate category of cases as "environmental cases". Despite the presence in such section of this specialization as "Cases on compensatory damages in disputes on non-contractual obligations" (code 305010000) of the category of cases "Compensatory damages caused by violation of legislation on environmental protection" (code 305010500), disputes on the exercise of rights under Article 9 of the Aarhus Convention do not belong to this category of cases.

In addition, in the specialization "Commercial Litigation" there are also no separate categories of cases that relate to the general concept of "environmental cases", but the consideration of these cases is related to such categories: "Cases on compensatory damages" (code 210030000), "Cases in disputes arising from land relations, concerning which" (code 202000000).

1.2. In Ukraine, the system of taxation, taxes and fees are established exclusively by the laws of Ukraine (paragraph 1 of part 2 of Article 92 of the Constitution of Ukraine (https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text).

The legal framework of court fee collection, payers, objects and amounts of court fee rates, the procedure for payment, exemption from payment and refund of court fee are determined by the Law of Ukraine "On Court
According to part 1 of Article 3 of the Law No. 3674-VI the objects of court fee collection, in particular, are: a claim to the court and other application provided for by the procedural legislation; appeal and cassation complaints on court decisions, application for review of a court decision due to newly discovered circumstances; issuance of documents by the courts; adoption of a court decision provided for by this Law.

Part 2 of Article 3 of the Law No. 3674-VI, which provides for the cases of exemption from court fees in cases where the subject of the claim is the protection of environmental rights, does not contain any reservations regarding the mentioned objects of court fees collection. At the same time, a certain part of such cases may have preferential treatment on the basis of this provision, since it stipulates that the court fee is not charged for filing, in particular

- applications for review by the Supreme Court of Ukraine of a court decision in case of establishment by an international judicial institution, jurisdiction of which is recognized by Ukraine, of violation by Ukraine its international obligations in resolving the case by the court;

- applications for changing or establishing the method, procedure and term of execution of a court decision;

- applications for reversal of execution of a court decision;

- application for an additional court decision;

- a statement of claim for compensation for damage caused to a person by unlawful decisions, actions or omissions of a public authority, authority of the Autonomous Republic of Crimea or local self-government body,
their official or official representative, as well as by unlawful decisions, actions or omissions of bodies carrying out operational and investigative activities, pre-trial investigation bodies, prosecutor's office or court;

- applications, appeals and cassation appeals for the protection of the rights of minor children or minor adolescent;

- petition for recognition and enforcement of a foreign court decision in accordance with an international treaty of Ukraine, the consent to be bound by the Verkhovna Rada of Ukraine and which does not provide for a fee when applying to the court, filing an appeal and cassation appeal in such cases.

According to the provisions of paragraph 3 of part 1 of Article 85, part 1 of Article 93 of the Constitution of Ukraine, the adoption of laws belongs exclusively to the powers of the Parliament - the Verkhovna Rada of Ukraine. The right of legislative initiative in the Verkhovna Rada of Ukraine belongs to the President of Ukraine, people's deputies of Ukraine and the Cabinet of Ministers of Ukraine.

Taking into account the fact that the issues related to the normative regulation of the grounds for payment of court fees, in accordance with the current legal order in Ukraine, are determined at the level of law, the Supreme Court, not being a "public authority" within the meaning of paragraph 2 of Article 2 of the Aarhus Convention, is a law enforcement body acting in the judicial sphere, and by virtue of the provisions of part 2 of Article 6, part 2 of Article 19 of the Constitution of Ukraine has no competence to influence the process of such regulation in any way.

In civil proceedings, exercising the powers specified in parts 1, 3 of Article 136 of the Civil Procedure Code of Ukraine dated 18.03.2004 No. 1618-IV (https://zakon.rada.gov.ua/laws/show/1618-15#Text), the court, taking
into account the property status of the party, may by its decision postpone or defer payment of the court fee for a specified period in the manner prescribed by law, but not more than until the court decision in the case is made. On these grounds, the court, in the manner prescribed by law, may reduce the amount of court costs associated with the consideration of the case, or exempt them from payment.

**Question 2:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practice and challenges) to facilitate access to legal aid and other assistance mechanisms for members of the public to bring environmental cases, in particular with regard to:

- Access to legal aid services
- Type of legal disputes covered (trial and non-trial matters)
- Type of services covered
- Criteria to apply for legal aid for natural persons
- Criteria to apply for legal aid for NGOs
- Providers
- Procedural implications of being granted a legal aid
- Established an environmental law (legal aid) clinic and its procedural status
- Other pro bono services (please indicate type and provider)
- Public funds for litigation by natural persons and/or NGOs
- Financial support to non-governmental organizations
- Incentives to support crowdsourcing campaigns
- Incentives to support charitable funding

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3 More information is available from https://unep.org/environmental-policy/events/forteenth-meeting-task-force-access-justice-under-aarhus-convention
Answer to question 2:

2.1. In Ukraine, issues related to the organization of free legal aid fall within the competence of the Ministry of Justice of Ukraine.

Thus, according to the Regulation on the Ministry of Justice of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 02.07.2014 № 228 (https://zakon.rada.gov.ua/laws/show/228-2014-%D0%BF#Text), one of the main tasks of the Ministry of Justice of Ukraine is to carry out general management in the field of providing free primary legal aid and free secondary legal aid (subpara. 3, para. 3).

In accordance with this task, the Ministry: ensures coordination of the activities of central executive authorities on the implementation of state policy in the field of free legal aid, interacts with the central executive authorities on the implementation of the Law of Ukraine "On Free Legal Aid" (subparagraph 28, paragraph 4); approves regulations on the functioning of the system of free legal aid and the provision of such assistance in accordance with the law (subparagraph 29, paragraph 4); provides methodological assistance to the executive authorities and local self-government bodies on issues related to the provision of free primary legal aid (subpara. 30, para. 4); is responsible for the implementation and functioning of the system of free secondary legal aid (subpara. 35, para. 4); decides on the establishment of territorial branches of the Coordination Center for Legal Aid Provision (subpara. 36, para. 4); ensures the professional development of employees of the centers for the provision of free secondary legal aid (subpara. 37, para. 4); establishes the procedure for maintaining the Register of advocates providing free secondary legal
aid by the Coordination Center for Legal Aid Provision (sub-clause 38, clause 4); ensures that the main territorial departments of justice of the Ministry of Justice in the Autonomous Republic of Crimea, in the regions, cities Kyiv and Sevastopol to engage lawyers to provide free secondary legal aid (sub-clause 39(4)).

The Ministry of Justice of Ukraine exercises the powers of general management in the sphere of providing free primary legal aid and free secondary legal aid with the participation of the Coordination Center for Legal Aid Provision, which belongs to its sphere of management.

2.2. In Ukraine, the content of the right to free legal aid, the procedure for exercising this right, the grounds and procedure for providing free legal aid, state guarantees for the provision of free legal aid are determined by the Law of Ukraine "On Free Legal Aid" of 02.06.2011 № 3460-VI (https://zakon.rada.gov.ua/laws/show/3460-17#Text), which, in particular, provides for the following:

- free primary legal aid is a type of state guarantee, which consists in informing a person about his/her rights and freedoms, the procedure for their realization, restoration in case of their violation and the procedure for appealing against decisions, actions or omissions of state authorities, local self-government bodies, officials and officers.

Free primary legal aid includes the following types of legal services:

- providing legal information; providing advice and clarifications on legal issues; drafting applications, complaints and other legal documents (except for procedural documents); providing advice, clarifications and drafting land use agreements (lease, sublease, land servitude, emphyteusis, superficies) for rural population - land owners; providing assistance in ensuring a person's access to secondary legal aid and mediation (Art. 7);
- all persons under the jurisdiction of Ukraine have the right to free primary legal aid in accordance with the Constitution of Ukraine and this Law (Article 8);
- the subjects of providing free primary legal aid in Ukraine are: executive authorities; local self-government bodies; individuals and legal entities of private law; specialized institutions; centers for providing free secondary legal aid (Article 9);
- free secondary legal aid is a type of state guarantee, which consists in creating equal opportunities for access to justice, and includes the following types of legal services: protection; representation of the interests of persons entitled to free secondary legal aid in courts, other state bodies, local governments, before other persons; preparation of procedural documents (Article 13).

According to Article 14 of the said Law the right to free secondary legal aid in accordance with this Law and other laws of Ukraine have, in particular, the following categories of persons:
- persons under the jurisdiction of Ukraine, if their average monthly income does not exceed two subsistence minimums, calculated and approved in accordance with the law for persons belonging to the main social and demographic groups of the population, as well as persons with disabilities who receive a pension or assistance, which is appointed instead of a pension, in an amount not exceeding two subsistence minimums for disabled persons;
- children, including orphans, children deprived of parental care, children in difficult life circumstances, children affected by war or armed conflict;
- internally displaced persons;
- citizens of Ukraine - owners of land plots living in rural areas;
- citizens of Ukraine residing in the temporarily occupied territory - for certain legal services (on representing the interests of persons entitled to free secondary legal assistance in courts, other state bodies, local governments, before other persons, as well as on drawing up documents of procedural nature) on issues related to the protection of violated, unrecognized or disputed rights, freedoms or interests of individuals (including compensation for harm caused as a result of restriction in the exercise of ownership of real estate or its destruction, damage) with armed aggression of the Russian Federation and temporary occupation of the territory of Ukraine;

- war veterans and family members of deceased war veterans, family members of deceased Defenders of Ukraine, persons with special merits and special labor merits to the Motherland, persons who are among the victims of Nazi persecution;

- persons who have suffered from domestic violence or gender-based violence.

The right to free secondary legal aid is granted to citizens of states with which Ukraine has concluded relevant international treaties on legal aid, the consent to be bound by the Verkhovna Rada of Ukraine, as well as foreigners and stateless persons in accordance with international treaties to which Ukraine is a party, if such treaties oblige the state parties to provide certain categories of persons with free legal aid.

The subjects of providing free secondary legal aid in Ukraine are the centers for providing free secondary legal aid and advocates included in the Register of advocates providing free secondary legal aid (Article 15 of the Law).
2.3. During the work of the Commercial Cassation Court within the Supreme Court, enough cases were considered for the formation of judicial practice in disputes:

- arising in relations in the field of atmospheric air protection, in cases of disputes;

- arising in relations of conservation, use of water for the needs of the population and sectors of the economy, reproduction of water resources, protection of water from pollution, contamination and exhaustion, prevention of harmful effects of water and elimination of their consequences, improvement of the condition of water bodies, as well as protection of the rights of enterprises, institutions, organizations and citizens to water use;

- arising in relations of ownership, use and management of forests, ensuring protection, reproduction and rational use of forest resources; in the field of protection, use and reproduction of flora;

- arising in relations in the field of protection and use of territories and objects of the nature reserve fund, reproduction of its natural complexes;

- arising in mining relations (subsoil use).

**Question 3:** Please describe what measures are taken in accordance with law and practice in your respective jurisdiction (including good practices and challenges) to promote specialization and training of members of judiciary and other legal professionals in environmental law, in particular:

- Established specialized courts or tribunals
- Established specialized chambers within courts
- Designation of judges specialising in environmental cases
o Established specialized prosecutor offices
o Established specialized departments within prosecutor offices
o Designation of prosecutors specialising in environmental cases
o Established education and trainings programmes on the basis of developed environmental law curriculum for the judicial training institutions, prosecutors’ training, bar association training and law faculties:
  a. Initial or Continuous
  b. Optional or Mandatory
  c. Other

Answer to question 3:

3.1. According to the provisions of part 3 of Art. 17, part 1 of Art. 18, parts 1-3 of Art. 31 of the Law of Ukraine "On the Judicial System and Status of Judges" dated 02.06.2016 No. 1402-VIII (https://zakon.rada.gov.ua/laws/show/1402-19#Text), the judicial system consists of local courts, courts of appeal and the Supreme Court.

The courts specialize in the consideration of civil, criminal, commercial, administrative cases, as well as cases of administrative offences.

The higher specialized courts operate in the judicial system as courts of first and appellate instance for consideration of certain categories of cases in accordance with this Law.

The highest specialized courts are the High Intellectual Property Court and the High Anti-Corruption Court, which consider cases referred to their jurisdiction by the procedural law.

Thus, the Law in its current version does not provide for courts specializing in environmental cases in the judicial system of Ukraine.
3.2. According to part 2 of Art. 18, parts 2-7 of Art. of the Law of Ukraine "On the Judiciary and Status of Judges" dated 02.06.2016 No. 1402-VIII, in cases determined by law, as well as by the decision of the meeting of judges of the relevant court, specialization of judges for consideration of specific categories of cases may be introduced.

The Supreme Court consists of: the Grand Chamber of the Supreme Court; the Administrative Cassation Court; the Commercial Cassation Court; the Criminal Cassation Court; the Civil Cassation Court.

Each court of cassation consists of judges of the respective specialization. Each court of cassation shall establish judicial chambers for consideration of certain categories of cases taking into account the specialization of judges.

The number and specialization of judicial chambers shall be determined by the decision of the meeting of judges of the court of cassation, taking into account the judicial workload.

At the level of the said law (parts 5, 6 of Article 37), it is mandatory to create only such separate chambers for consideration of cases concerning:

- taxes, duties and other mandatory payments; protection of social rights; election process and referendum, as well as protection of political rights of citizens (in the Administrative Cassation Court);

- bankruptcy; protection of intellectual property rights, as well as related to antitrust and competition law; corporate disputes, corporate rights and securities (in the Commercial Cassation Court).

Other chambers in the cassation courts are established by the decision of the meeting of judges of the cassation court.
According to clause 1.3. of the Temporary Principles of Using the Automated Court Document Management System and Determining the Composition of the Court in the Supreme Court, approved by the Resolution of the Plenum of the Supreme Court No. 8 dated 14.12.2017 (as amended by the resolutions of the Plenum of the Supreme Court No. 10 dated 16.11.2018, No. 7 dated 24.05.2019), the determination of the specialization of judges in the consideration of specific categories of cases for the automated distribution of court cases among judges falls within the competence of the meeting of judges of the cassation court (https://supreme.court.gov.ua/supreme/pokazniki-diyalnosti/systema/).

In the Civil Cassation Court within the Supreme Court, the specialization of judges is currently not introduced (this applies to all categories of cases).

The decision of the meeting of judges of the Civil Court of Cassation within the Supreme Court No. 1 dated 01.02.2019 approved the composition of the working group on the formation of judicial chambers for consideration of certain categories of cases, taking into account the specialization of judges, which included the judges of the said court. Currently, the final decision on this issue has not been made.

3.3. According to parts 1, 2, 6 of Art. 7 of the Law of Ukraine "On Prosecution" of 14.10.2014 No. 1697-VII (https://zakon.rada.gov.ua/laws/show/1697-18#Text), the prosecution system of Ukraine consists of: Prosecutor General's Office; regional prosecutor's offices; district prosecutor's offices; Specialized Anti-Corruption Prosecutor's Office.

If necessary, specialized prosecutor's offices may be established by the decision of the Prosecutor General as a structural subdivision of the Prosecutor General's Office, as regional prosecutor's offices, as a
subdivision of the regional prosecutor's office, as district prosecutor's offices, as a subdivision of the district prosecutor's office.

The Prosecutor General shall determine the list, establishment, reorganization and liquidation of specialized prosecutor's offices, their status, competence, structure and staffing.

Specialization of prosecutors may be introduced in the prosecution system.

**Question 4:** Please describe, including good practices and challenges, access to independent environmental expertise during judicial and administrative review procedures, in particular:

- Established independent expert bodies
- Technical judges
- Technical experts in courts
- Publicly accessible lists of judicial experts
- Other (e.g., judicial experts appointed by courts or experts contracted by parties):

**Answer to the question 4:**

The organizational and financial basis of forensic expert activity in order to ensure the justice of Ukraine with independent, qualified and objective expertise, focused on the maximum use of science and technology, is determined by the Law of Ukraine "On Forensic Expertise" dated 25.02.1994 No. 4038-XII (https://zakon.rada.gov.ua/laws/show/4038-12#Text).
In Ukraine, the principles of forensic expert activity, guarantees of independence of a forensic expert and the correctness of his conclusion are enshrined at the legislative level.

Thus, according to Articles 3, 4 of the said Law, forensic expert activity is carried out on the principles of legality, independence, objectivity and completeness of the study.

The independence of a forensic expert and the correctness of his opinion are ensured by: the procedure for appointing a forensic expert determined by law; prohibition, under the threat of legal liability, to interfere with anyone in the conduct of a forensic examination; the existence of forensic examination institutions independent of the bodies carrying out operational-search activities, pre-trial investigation bodies, and the court; creation of the necessary conditions for the activities of a forensic expert, his material and social security; criminal liability of a forensic expert for providing a knowingly false opinion and refusal without good reason to perform the duties assigned to him; the possibility of appointing a repeated forensic examination; the presence of participants in the process in cases provided for by law during a forensic examination.

According to the provisions of Art. 7 of the said Law, forensic expert activity is carried out by state specialized institutions, their territorial branches, expert institutions of communal ownership, as well as forensic experts who are not employees of these institutions, and other specialists (experts) in the relevant fields of knowledge in the manner and on the conditions specified by this Law.

State specialized institutions include: scientific research institutions of forensic examinations of the Ministry of Justice of Ukraine; scientific research institutions of forensic examinations, forensic medical and forensic psychiatric institutions of the Ministry of Health of Ukraine; expert
services of the Ministry of Internal Affairs of Ukraine, the Ministry of Defense of Ukraine, the Security Service of Ukraine and the State Border Guard Service of Ukraine.

Forensic expert activities related to forensic criminal, forensic medical and forensic psychiatric examinations are carried out exclusively by state specialized institutions.

The grounds for conducting a forensic examination is the relevant court decision or decision of the pre-trial investigation body, or an agreement with an expert or expert institution - if the examination is carried out by order of other persons.

Forensic experts certified in accordance with this Law are included in the state Register of certified forensic experts, the maintenance of which is entrusted to the Ministry of Justice of Ukraine. A person or body that appoints or orders a forensic examination may entrust it to those forensic experts who are included in the State Register of Certified Forensic Experts or other specialists in the relevant fields of knowledge, unless otherwise provided by law.

Usually, the said Register is open for free public access by the following link: https://rase.minjust.gov.ua/.

During the martial law, access to the information of this Register was restricted. At the same time, it is possible for all the interested persons to obtain an extract.

At the request of individuals and legal entities, the Ministry of Justice of Ukraine provides (subject to the provisions of the legislation on citizens' appeals and access to public information) information from the Register in the form of an extract containing the following information

- last name, first name, patronymic (if any) of the court expert;
- name of the Expert Qualification Commission, date and number of its decision and its brief content (assignment / confirmation / advanced training of a forensic expert, extension of the validity of the certificate, bringing a forensic expert to disciplinary responsibility), information on the temporary suspension or resumption of forensic expert activity;

- number and validity period of the certificate or document confirming the qualification of a forensic expert (if the issuance of a certificate is not provided, a corresponding entry shall be made), information on the reissuance of the certificate of qualification of a forensic expert, invalidity and / or cancellation of the certificate;

- type of expertise, index and type of expert specialty;

- place of work, location, official e-mail address and telephone number of the court expert;

- date and number of the order on dismissal of the forensic expert of the state specialized institution.

The request can be sent to the postal address: 13, Architektora Gorodetskoho St., Kyiv, 01001 or by e-mail: callcentre@minjust.gov.ua; themis@minjust.gov.ua.

It should be noted that the institute of technical judges and technical experts in courts is not provided for by the current law of Ukraine.

The principles of financing of forensic expert activity are determined by the provisions of Article 15 of the Law of Ukraine "On Forensic Expertise" dated 25.02.1994 No. 4038-XII, which in particular provides for the following.

Conducting forensic examinations by research institutions of scientific developments on the organization and conduct of forensic examinations is financed by the State Budget of Ukraine.
Conducting forensic examinations by state specialized institutions in criminal proceedings on behalf of the investigator, coroner, prosecutor, court and in cases of administrative offenses shall be carried out at the expense of funds allocated to these expert institutions from the State Budget of Ukraine.

Forensic examinations, inspections and investigations by forensic medical and forensic psychiatric institutions shall be carried out at the expense of funds that are directly and purposefully allocated to these expert institutions from the state or local budget, except for cases provided for in part four of this Article.

Forensic examinations, inspections and investigations in criminal proceedings by state specialized institutions, forensic medical and forensic psychiatric institutions at the request of a suspect, accused, convicted, acquitted person, their defenders, legal representative, victim, his/her representative shall be carried out at the expense of the customer.

The costs of forensic examinations by research institutions of the Ministry of Justice of Ukraine and forensic medical and forensic psychiatric institutions of the Ministry of Health of Ukraine in civil and commercial cases shall be reimbursed in the manner prescribed by applicable law.

Conducting other expert studies and examinations by state specialized institutions is carried out at the expense of the applicant.

State specialized institutions, as well as specialists who are not employees of these institutions, perform other work on a contractual basis.

The legislation of Ukraine allows the possibility of attracting specialists from other countries for joint forensic examinations.

Thus, the heads of state specialized institutions conducting forensic examinations, if necessary, have the right, with the consent of the body or
person who appointed the forensic examination, to include leading experts from other countries in the expert commissions. These joint expert commissions carry out forensic examinations in accordance with the procedural legislation of Ukraine. Payment to foreign experts for participation in forensic examination and reimbursement of other expenses related to its conduct is carried out by agreement of the parties (Article 23 of the said Law).

**Question 5**: Please describe, including good practices and challenges, other measures that are taken to secure timeliness and reduce duration of judicial and administrative review of environmental cases:

- Case weighting (indicate what methodology is used)\(^4\)
- Fast tracking/prioritization of environmental cases
  - Defined by law
  - Defined by court
- Temporary injunctive relief
- Special procedural rules for environmental cases
- Measures to take in case judges exceed procedural deadlines
- Other

**Answer to question 5:**

5.1. In the Civil Cassation Court within the Supreme Court, as well as in the Commercial Cassation Court within the Supreme Court, the complexity of the case is not assessed during the automated distribution

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\(^4\) Case-weights assess the complexity of different case-types based on the amount of judicial time and effort required to be processed (e.g., studying the case, conducting court hearings, drafting orders and judgments and other case-related activities).
of cases among judges and, therefore, is not taken into account by the automated distribution system.

5.2. Since, as noted in the answer to "Question 1" (paragraph 1.1.), there is no separate legal category of "environmental cases" in the legislation of Ukraine, there are no legal grounds for introducing a special regime for organizing fast tracking/prioritization of environmental cases in the Civil Cassation Court.

The lack of regulation of this procedure at the level of law makes it impossible for a judge to resolve such issues on his or her own initiative, regardless of any good intentions. This is due to the fact that, taking into account the prescription of Part 2 of Article 19 of the Constitution of Ukraine, the court, as a public authority, and the judge, as an official of such an authority, are obliged to act only on the basis, within the powers and in the manner provided by the Constitution and laws of Ukraine.

At the same time, despite the absence of legislatively defined priorities for consideration of environmental cases and the extremely heavy workload of judges of the Civil Cassation Court within the Supreme Court and the Commercial Cassation Court within the Supreme Court, since the beginning of the activity of this court (15.12.2017), the authorized entities (in particular, the European Court of Human Rights, the High Council of Justice) have not recorded a single case of violation of reasonable terms of consideration of civil cases, including cases that can be classified as environmental.

5.3. As of the date of providing this information, the current versions of the Civil Procedure Code of Ukraine dated 18.03.2004 No. 1618-IV (https://zakon.rada.gov.ua/laws/show/1618-15#Text) and the Commercial Procedure Code of Ukraine dated 6 November 1991 No. 1798-XII (https://zakon.rada.gov.ua/laws/show/1798-12#Text) do not
contain any provisions that would provide for specifics of the procedure for consideration of environmental cases by the court.

5.4. In accordance with the provisions of subparagraphs "a" of paragraph 1, paragraph 2 of part 1 of Article 106 of the Law of Ukraine "On the Judiciary and Status of Judges" dated 02.06.2016 No. 1402-VIII (https://zakon.rada.gov.ua/laws/show/1402-19#Text), a judge may be brought to disciplinary responsibility in the disciplinary proceedings, in particular, on the following grounds:

- intentional or negligent unlawful denial of access to justice (including unlawful refusal to consider the merits of a claim, appeal, cassation appeal, etc.) or other significant violation of procedural law in the administration of justice, which made it impossible for participants in the trial to exercise their procedural rights and fulfil their procedural obligations or led to a violation of the rules of jurisdiction or composition of the court;

- unreasonable delay or failure by a judge to take measures to consider an application, complaint or case within the time limit established by law, delay in issuing a reasoned court decision, untimely provision by a judge of a copy of a court decision for its entry into the Unified State Register of Court Decisions.

**Question 6:** Please describe, including good practices and challenges, e-justice initiatives that can support access to justice in environmental cases, such as:

- E-access to information on review procedures:
  - Administrative review
  - Judicial review
- E-access to environment-related standards and legislation
- E-access to case law on environmental matters
- Collection of quantitative data on environmental cases
- Electronic submission and management of claims
  - For administrative review
  - For judicial review
- E-access to case files at court for the parties
- Remote court hearings
- Data mining for processing environmental cases
- Tools integrating spatial, environmental and case-management data
- Other

**Answer to question 6:**

6.1. Ukraine has introduced the institute of "electronic applications" addressed to public authorities and local self-government bodies, enterprises, institutions, organizations regardless of their ownership, associations of citizens or officials whose powers include resolving the issues raised in the applications.

According to Art. 5 of the Law of Ukraine "On Citizens' Appeals" dated 02.10.1996 No. 393/96-BP (https://zakon.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80#Text), a written appeal may also be sent using the Internet, electronic communication devices (electronic application). The use of an electronic digital signature when sending an electronic application is not required.
An electronic petition is a special form of collective application of citizens to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, local self-government body.

6.2. The official website "Ukrainian Judiciary" (https://court.gov.ua/) provides interested parties with the opportunity to obtain information on court cases scheduled for hearing (https://court.gov.ua/assignments/), as well as information on the status of court cases (https://court.gov.ua/fair/).

The same website has a link to the Unified State Register of Court Decisions (https://reyestr.court.gov.ua/), the functionality of which provides free round-the-clock electronic access to court practice, including on environmental issues.

In Ukraine, the procedure for access to court decisions in order to ensure transparency of the activity of courts of general jurisdiction, predictability of court decisions and facilitation of uniform application of legislation is defined by the Law of Ukraine "On Access to Court Decisions" dated 22.12.2005 No. 3262-IV (https://zakon.rada.gov.ua/laws/show/3262-15#Text).

6.3. The Supreme Court regularly publishes thematic reviews of its case law in the form of digests on its official website.

In the same manner, the Digest of the case law of the Supreme Court in disputes affecting the protection of duration and environmental rights was published in 2019 (https://supreme.court.gov.ua/userfiles/media/Daidjest_Ekologia.pdf).

The Review of the results of the study of the case law of the Commercial Cassation Court within the Supreme Court in disputes arising in the field of environmental protection and environmental rights

Claims and other statements, complaints and other procedural documents stipulated by law, which are submitted to the court and may be the subject of court proceedings, in the order of their receipt, are subject to mandatory registration in the Unified Judicial Information and Telecommunication System on the day of receipt of documents.

Determination of a judge or panel of judges (judge-rapporteur) for consideration of a particular case is carried out by the Unified Judicial Information and Telecommunication System in the manner prescribed by this Code (automated distribution of cases).

According to the law, the UJITS ensures the exchange of documents (sending and receiving documents) in electronic form between the courts, between the court and the participants of the trial, between the participants of the trial, as well as recording of the trial and participation of the participants of the trial in the court session in the videoconference mode.

The court shall send court decisions, court summonses, court summonses - notices and other procedural documents to the participants of the court proceedings to their official electronic addresses, perform other procedural actions in electronic form with the use of the UJITS in the manner prescribed by this Code, the Regulation
on the Unified Judicial Information and Telecommunication System and/or provisions that determine the procedure for the functioning of its individual subsystems (modules).

Attorneys, notaries, private executors, insolvency receivers, forensic experts, state bodies, local self-government bodies and economic entities of the state and municipal sectors of the economy shall register official e-mail addresses in the UJITS on a mandatory basis. Other persons register official e-mail addresses in the UJITS on a voluntary basis.

Persons who have registered official e-mail addresses in the UJITS shall be sent by the court any documents in cases in which such persons participate exclusively in electronic form by sending them to the official e-mail addresses of such persons, which does not deprive them of the right to receive a copy of the court decision in paper form upon a separate application.

Registration in the UJITS does not deprive a person of the right to submit documents to the court in paper form.

Persons who have registered official e-mail addresses in the UJITS may submit procedural and other documents, perform other procedural actions in electronic form exclusively through the UJITS using their own electronic digital signature equivalent to a handwritten signature in accordance with the Law of Ukraine "On Electronic Trust Services" dated 05.10.2017 No. 2155-VIII (https://zakon.rada.gov.ua/laws/show/2155-19#Text), unless otherwise provided by this Code.

The peculiarities of the use of electronic digital signature in the UJITS are determined by the Regulation on the Unified Judicial Information
and Telecommunication System and/or provisions governing the operation of its individual subsystems (modules).

The court shall consider the case on the basis of the court case materials in paper or electronic form in the manner prescribed by the Regulation on the Unified Judicial Information and Telecommunication System and/or provisions governing the functioning of its individual subsystems (modules).

Procedural and other documents and evidence in paper form shall be kept as an appendix to the case in the court of first instance and, if necessary, may be examined by the parties to the case or the court of first instance or requested by the court of appeal or cassation upon receipt of the relevant appeal or cassation appeal.

Unauthorized interference in the work of the UJITS and in the automated distribution of cases between judges entails liability established by law.

UJITS is subject to protection with the use of a comprehensive information security system with confirmed compliance.

Regulations on the Unified Judicial Information and Telecommunication System and/or provisions defining the procedure of functioning of its individual subsystems (modules) shall be developed by the State Judicial Administration of Ukraine and approved by the High Council of Justice after consultations with the Council of Judges of Ukraine.

6.5. The Civil Cassation Court within the Supreme Court has the subsystem "Electronic Court", which is a part of the Unified Judicial Information and Telecommunication System (hereinafter - UJITS).
The use of subsystems (modules) of the UJITS is carried out in accordance with the procedure determined by the Regulation on the procedure for the functioning of individual subsystems (modules) of the Unified Judicial Information and Telecommunication System, approved by the decision of the High Council of Justice of August 17, 2021 No. 1845/0/15-21 (https://zakon.rada.gov.ua/rada/show/v166_910-22#Text), and the rules of procedural law governing the procedure for such actions after the start of operation of the relevant subsystems (modules) of the UJITS.


Thus, the Civil Cassation Court accepts procedural documents created by users in the electronic cabinet of the "Electronic Court" subsystem.

This information is available on the official website of the Supreme Court (https://supreme.court.gov.ua/supreme/pro_sud/kcs_elektronnyj_sud/).

The website visitors are provided with an additional opportunity to get acquainted with instructions and recommendations on registration in the UJITS (https://wiki.court.gov.ua)

6.6. In Ukraine, all interested parties are provided with free electronic access to environmental standards and legislation on the official website of the Parliament - the Verkhovna Rada of Ukraine - in the section "Legislation", subsection "Regulatory and legal framework of Ukraine", which has a section "Search by attributes" (https://zakon.rada.gov.ua/laws/main/a#Find).
Another important information resource is the official website of the Ministry of Ecology and Natural Resources of Ukraine (https://mepr.gov.ua/).

The Ministry has an Aarhus Information and Education Centre, which was established in 2003 within the framework of the Ukrainian-Danish project "Assistance to Ukraine in the Implementation of the Aarhus Convention".

One of the activities of this institution is to provide information and communication opportunities for dialogue between the public and state authorities in the development of environmentally significant decisions.

**Question 7:** Please describe, including good practices and challenges, whether alternative dispute resolution of environmental cases is available and/or used in practice, in particular:

- Arbitration
- Negotiation
- Mediation
- Conciliation
- Operational-level grievance mechanism
- Indigenous law
- Other forms of dispute resolution

**Answer to question 7:**

7.1. As a general rule, in the civil and commercial proceedings of Ukraine the parties may reconcile, including through mediation, at any stage of the trial. The result of the parties' agreement may be formalized in the form of an amicable settlement agreement (part 7 of Article 49 of the Civil
Based on the provisions of parts 1, 2 of Article 42 of the said Code in such cases the court applies the incentive procedure for the distribution of court costs:

- in case of conclusion of a settlement agreement before the decision in the case is made by the court of first instance, the plaintiff's withdrawal of the claim, recognition of the claim by the defendant before the commencement of the consideration of the case on the merits, the court in the relevant ruling or decision in the manner prescribed by law, decides on the return to the plaintiff from the state budget of 50 percent of the court fee paid when filing a claim, and if the parties reached an agreement on the conclusion of a settlement agreement, the plaintiff's withdrawal of the claim or recognition of the claim by the defendant as a result of mediation - 60 percent;

- in case of conclusion of a settlement agreement, withdrawal of the claim, recognition of the claim by the defendant at the stage of reviewing the decision on appeal or cassation, the court in the relevant decision in the manner prescribed by law, decides on the return to the complainant (applicant) from the state budget of 50 percent of the court fee paid by him when filing the relevant appeal or cassation appeal, and if the parties reached an agreement on the conclusion of a settlement agreement, withdrawal of the claim or recognition of the claim by the defendant as a result of mediation.

Article 207 of the Civil Procedure Code of Ukraine dated 18.03.2004 No. 1618-IV regulates the procedure for concluding an amicable settlement agreement by the parties to a dispute:
- an amicable agreement shall be concluded by the parties in order to settle the dispute on the basis of mutual concessions and shall concern only the rights and obligations of the parties. In a settlement agreement, the parties may go beyond the subject matter of the dispute, provided that the settlement agreement does not violate the rights or legally protected interests of third parties;

- the parties may conclude an amicable settlement agreement and notify the court of this by making a joint written statement at any stage of the trial;

- before making a court decision in connection with the conclusion of a settlement agreement by the parties, the court explains to the parties the consequences of such a decision, checks whether the representatives of the parties are not restricted to take appropriate actions;

- the settlement agreement concluded by the parties is approved by a court ruling, the operative part of which specifies the terms of the agreement. By approving the settlement agreement, the court simultaneously closes the proceedings in the case.

- the court shall issue a ruling on refusal to approve the settlement agreement and continue the trial if: the terms of the settlement agreement contradict the law or violate the rights or legally protected interests of other persons, are unenforceable; or one of the parties to the settlement agreement is represented by its legal representative, whose actions contradict the interests of the person he represents.

7.2. In Ukraine, the legal basis and procedure for conducting mediation as an out-of-court procedure for resolving a conflict (dispute), the principles of mediation, the status of a mediator, requirements for his/her training and other issues related to this procedure are determined by the Law of
This Law applies to social relations related to mediation in order to prevent the emergence of conflicts (disputes) in the future or to resolve any conflicts (disputes), including civil, family, labour, economic, administrative, as well as in cases of administrative offenses and in criminal proceedings in order to reconcile the victim with the suspect (accused).

Mediation may take place before recourse to a court, arbitral tribunal, international commercial arbitration, or during pre-trial investigation, judicial, arbitral proceedings, or in the execution of a decision of a court, arbitral tribunal or international commercial arbitration.

At the same time, mediation shall not be conducted in conflicts (disputes) that affect or may affect the rights and legitimate interests of third parties who are not parties to this mediation.

The fundamental guarantee of the mediator's independence is the prohibition of interference of state authorities, local self-government bodies, enterprises, institutions, organizations regardless of ownership and subordination, public associations, officials and civil servants, individuals during the preparation and conduct of mediation (Part 3 of Article 7 of the said Law).