

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 .

² In addition, you also may consult the Resolution 2015/248 adopted by the United Nations Economic and Social Council on 21 July 2015 promoting the gradual adoption of the UNODC International Classification of Crime for Statistical Purposes with respect to acts against the natural environment available from <https://www.unodc.org/unodc/en/data-and-analysis/statistics/iccs.html> .

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 2022³ 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](mailto: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

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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 .

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.

³ More information is available from <https://unece.org/environmental-policy/events/fourteenth-meeting-task-force-access-justice-under-aarhus-convention>

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 interpreters 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 (*^Tribunalul⁴ 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).

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

⁴ 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.

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 (‘Judecatoria⁵ 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:

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 psychological 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.

⁵ According to article 94 of Law no. 134/2010 on the Code on Civil Procedure, this type of court called ‘**judecatorie**’ 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 Slatina Court (Judecatoria Slatina) answered that public access to environmental information held by public authorities is guaranteed without any constraints 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 take 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 extends 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, ethnical 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, ethnical 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 dissolution 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 conditions for offering public legal aid are regulated by GEO 51/2008 and are applicable to any person requesting aid.

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)⁶
- 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, and is smaller than 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

⁶ 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 488¹-488⁶ 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).

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>

The dossiers pending at the High Court of Cassation and Justice are accessible at <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> 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/>) 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.