Access to justice falling outside of the scope of EIA, IPPC/IED, access to information and ELD

1.1. Decisions, acts or omissions concerning specific activities falling within the scope of EU environmental legislation outside the scope of the EIA and IED Directives[1]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission and its content (in particular, the conditions to be fulfilled and any time-limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

According to the case law of the CJEU,[2] access to justice must be granted also to challenge certain decisions related to specific activities and projects that do not fall within the scope of the EIA or IED Directives. For example, access to justice should be granted to challenge decisions adopted in violation of the Habitats Directive (Directive 92/43/CEE), the Water Framework Directive (Directive 2000/60/EC), or the Seveso III Directive (Directive 2012/18/EU.

According to the general rules set forth in section 1.4.2, in order to have standing, natural and legal persons need to prove that their rights or legitimate interests may be infringed by the decision, act, or omission. Recognised environmental NGOs are considered to have a legitimate interest. These administrative decisions are appealable before the body that is hierarchically superior to the one that issued the decision within 30 days from notification of the decision affecting his or her interest, or directly before the TAR within 60 days.

As discussed in section 1.4.2, tribunals, on a case-by-case basis, can also grant standing to associations or ad hoc groups. As far as individuals are concerned, it has been noted that the case law of administrative tribunals on standing seems to rely on the vague and flexible concept of '*vicinitas*'. To this extent, reports indicate that access to justice overall is effective enough to comply with the case law of the CJEU.[3] For example, in the case of a permit decision concerning an industrial activity not covered by the IED, participants have the right of access to related documents and may submit documents and briefs which must be considered when deciding on the application (Art. 10 of Law 241/1990).[4] The decision may be challenged before the hierarchically superior administrative body or administrative tribunals within 30 or 60 days from the moment the interested parties may be expected to have known that the permit had been granted. It must be noted, however, that given its inherent flexibility, the *vicinitas* concept allows for a case-by-case approach to standing for individuals, which at times may be considered somewhat restrictive by tribunals.[5]

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The administrative appeal reviews not only the legality, but also the merits – the appropriateness – of the decision. The administrative tribunals may verify both the procedural and the substantive legality of the decision.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Administrative remedies do not have to be exhausted before taking a case to Tribunal (Art. 20 of Law 1034/1971).

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

In order to have standing before the administrative tribunals it is not necessary to have participated in the public consultation phase. Legal standing is in fact granted to any party whose interest is affected by the decision (Art. 7 CAP).

5) Are there some grounds/arguments precluded from the judicial review phase?

There are no grounds/arguments precluded from the judicial phase.

6) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

In the Italian system, administrative jurisdiction is informed by the adversarial principle, equal standing of the parties, and due process (Art. 2 CAP.), in conformity with Art. 111 of the Constitution and the case law of the ECtHR[6] and CJEU. Parties, according to Art. 2 and Art. 111 of the Constitution, must be in a position of equality. When challenging an environmental administrative decision, parties can therefore ask the judge to appoint an expert, to inspect persons or things, to request the presentation of documents or other objects, or to hear witnesses.

7) How is the notion of "timely" implemented by the national legislation?

Art. 111 of the Constitution requires judicial proceedings to be completed within a reasonable time. Nevertheless, an average of three years is needed by the administrative tribunal to decide.[7]

8) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The injunctive relief is available according to the general rules set forth in section 1.7.2.

9) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive, and do these include express statutory reference to a requirement that costs should not be prohibitive?

In Italy, there is no statutory clause requiring the courts to avoid prohibitive costs. Nevertheless, Art. 1 and Art. 7 CAP refer to the principle of due process, which is interpreted the avoidance of prohibitive costs. Costs of access to justice in these areas can be estimated according to the rules set forth in 1.7.3. The Italian legal system applies the loser pays principle (Art. 91 of the Code of Civil Procedure). If it loses, the applicant will therefore bear the costs. Nevertheless, the judge can limit the losing party's liability for costs if he or she finds that the costs incurred by the winning party are excessive or unnecessary. The judge can also rule that each party has to bear their own costs: when one party won on one controversial point whereas the other party succeeded on another, or for "other exceptional reasons set forth in the judgment" (Art. 92 of the Code of Civil Procedure).

1.2. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with national implementing legislation for the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[8]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

The SEA (*Valutazione Azione Strategica - VAS*) is a procedure through which the PA approves strategic plans and programmes in order to preserve the environment. This procedure includes: determining the need for an environmental impact assessment (screening); preparing an "environmental report"; consulting the applicant, the PA and the interested public; examining the "environmental report" and the results of the consultations; deciding on the release of the *VAS* authorisation; informing the public of the decision and monitoring the environmental

effects of the authorised activity (Title II of the EC). This procedure applies, for example, to plans/programmes which are prepared for: agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use and plans and programmes listed in Annex II, II-bis, III e IV (Art. 6(2)EC).

According to the general rules on legal standing set forth in section 1.4.2, individuals and NGOs who have a legitimate interest, or whose rights may be infringed, can resort to both judicial and non-judicial remedies to challenge the decision, act or omission. The SEA screening decision can be challenged according to the general rules of administrative procedure. The SEA environmental report can only be reviewed together with the final decision on the SEA procedure. These administrative decisions are appealable before the body that is hierarchically superior to the one that issued the decision within 30 days from notification of the decision affecting his or her interest. This procedure has to be concluded within 90 days with the final adoption of a new administrative decision appealable before the TAR and the Council of State (Art. 20 of Law 1034/1971). Applicants can appeal directly to the TAR within 60 days from notification of the decision to the affected party or from the date of publication of the decision (Art. 2 and 21 of Law 1034/1971 as subsequently amended).

As discussed in section 1.4.2, recognised NGOs are considered to have a legitimate interest in environmental decisions. Administrative tribunals, on a case-by-case basis, can also grant standing to associations or ad hoc groups. As far as individuals are concerned, it has been noted that the case law of the administrative tribunals on standing seems to rely on the vague and flexible concepts, such as that of '*vicinitas*'. Access to justice to challenge SEA decisions is therefore flexible enough to comply with the case law of the CJEU.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The administrative appeal reviews not only the legality, but also the merits – the appropriateness – of the decision. The administrative tribunals may verify both the procedural and the substantive legality of the decision.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Administrative remedies do not have to be exhausted before taking a case to Tribunal (Art. 20 of Law 1034/1971).

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

The SEA procedure for public consultation is similar to the EIA procedure: the notice is published in the GU or BUR and the public has 60 days to comment. Comments from the public are taken into consideration for the final decision, which must be accompanied by a motivated opinion. To be an Italian citizen is not a prerequisite for participating in the consultation in accordance with the principle of non-discrimination.

In order to have standing before the administrative tribunals, it is however not necessary to have participated in the public consultation phase. Legal standing is in fact granted to any party whose interest is affected by the decision (Art. 7 CAP).

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The injunctive relief is available according to the general rules set forth in 1.7.2.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

Costs of access to justice in these areas can be estimated according to the rules set forth in 1.7.3.

1.3. Decisions, acts or omissions concerning the administrative procedures

to be followed to comply with the public participation requirements of Article 7 of the Aarhus Convention in respect of plans and programmes not submitted to the procedures set out in the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[9]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

Art. 7 of the Aarhus Convention requires public participation concerning plans, programmes and policies relating to the environment to the extent appropriate. In Italy, public participation to decision-making on plans and programmes is guaranteed mainly through the application of the SEA procedure. An important recent practice followed by public authorities is indeed to apply the SEA procedure, including public participation requirements, even in situations where discretion is still available.[10] Furthermore, in Italy public participation in plans and programmes has been developed with particular relevance at the local level even in situations where the SEA procedure is not applied. By way of example:

- Local Agenda 21: the participatory Agenda 21 process follows two main steps: a) the creation of a dedicated 'local forum for Agenda 21' which provides for the involvement of local territorial stakeholders interested in pursuing a specific 'Agenda 21 local project'; b) the drawing up of an Agenda 21 Action Plan: a strategic document targeting all parties involved (Local Authorities, enterprises, organisations, associations, schools, media).
- Law 394/1991 on natural protected areas (parks established at the national, regional or local level) provides for public participation in the plan to establish and manage parks.
- Legislative Decree 267/2000 (on local administration) states that municipalities and provinces are obliged to promote public participation and access to information through their statutes.

Public participation is also envisaged in local decision-making on draft plans, e.g. on waste-water management, water protection plans (*Piani di tutela delle acque*) prevention of noise or air pollution, town planning, structural interventions, land-use, river-basin management and local/regional development.[11]
In addition, it should be noted that Art. 7 of the Aarhus Convention can also encompass plans that, like the ones listed here, do not pass through a SEA procedure, but unlike these, are not (at least in principle) related to the environment. By way of example, the Italian Ministry of University and Research has recently opened a call for public consultation regarding the National Research Programme 2021-2027 (NRP). With the NRP 2021-2027, the Ministry of University and Research intended to set in motion a participatory strategic planning process to contribute to the sustainable development of society and respond to emergency requests.[12]

As regards access to justice, the public with a legitimate interest in an administrative decision (individuals and associations) can not only participate in the decision-making but also challenge before administrative tribunals any unlawful decision adopted by a public authority (Law 1034/1971 and Law 241/1990). Only political acts cannot be challenged before the administrative judge. The public can also resort to administrative review (Decree of the President of the Republic no 1199/1971). Indeed, a decision can be considered to be unlawful when it is inconsistent with legal provisions regulating the way the discretionary power of the administration should be exercised, including those on public participation.[13] These administrative decisions are appealable before the body that is hierarchically superior to the one that issued the decision within 30 days from notification of the decision affecting his or her interest. This procedure has to be concluded within 90 days with the final adoption of a new administrative decision appealable before the TAR and the Council of State (Art. 20 of Law 1034/1971). Applicants can appeal directly to the TAR within 60 days from notification of the decision to the affected party or from the date of the publication of the decision (Art. 2 and 21 of Law 1034/1971 as subsequently amended).

It is difficult to establish with certainty with the resources allocated for this work whether or not access to justice is in this instance effective. Nevertheless, the requirements to be granted standing set forth in section 1.4.2. could be considered flexible enough as to comply with the case law of the CJEU. It must be noted, however, that given its inherent flexibility, the *vicinitas* concept allows for a case-by-case approach which at times may be considered somewhat restrictive by administrative tribunals.[14]

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The administrative appeal reviews not only the legality, but also the merits – the appropriateness – of the decision. The administrative tribunals may verify both the procedural and the substantive legality of the decision.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Administrative remedies do not have to be exhausted before taking a case to Tribunals (Art. 20 of Law 1034/1971).

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

In order to have standing before the administrative tribunals it is not necessary to have participated in the public consultation phase. Legal standing is in fact granted to any party whose interest is affected by the decision (Art. 7 CAP)

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The injunctive relief is available according to the general rules set forth in section 1.7.2.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

Costs of access to justice in these areas can be estimated according to the rules set forth in 1.7.3.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[15]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the content of the plan (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

Each person or group of persons, whose right or legitimate interest has been breached by a public authority's decision act or omission concerning plans and programmes required to be prepared under EU environmental legislation has legal standing to resort to both judicial and non-judicial remedies according with the general rules of administrative procedure. These administrative decisions are appealable before the body that is hierarchically superior to the one that issued the decision within 30 days from notification of the decision affecting his or her interest. This procedure has to be concluded within 90 days with the final adoption of a new administrative decision appealable before the TAR and the Council of State (Art. 20 of Law 1034/1971). Applicants can appeal directly to the TAR within 60 days from notification of the decision to the affected party or from the date of publication of the decision (Art. 2 and 21 of Law 1034/1971 as subsequently amended).

As to whether or not access to justice is effective, the requirements to be granted standing set forth in section 1.4.2. should be flexible enough to comply with the case law of the CJEU. For example, if the competent authority for air quality legislation has failed to establish an air quality plan for a municipality in breach of EU air quality norms, a citizen or environmental NGO could submit a complaint to the Municipality (or to the local ombudsman where there is one).[16] If this is not effective, the concerned citizen or NGO can go before the TAR.

2) Does the form in which the plan or programme is adopted make a difference in terms of legal standing (see also Section 2.5 below)?

The form in which the plan or programme is adopted can make a difference in terms of legal standing. If a certain plan or programme is issued in the form of a measure of a general nature, private individuals cannot access to justice except for the parts in which the measure is immediately harmful to their legitimate interests or rights. In

this case, the generality of the prescriptions might make proof of standing more difficult.

If a certain plan or programme is issued in the form of a regulatory act, the recipients of these acts are easily recognisable, and the act can directly affect his/her subjective legal situation. For them, proof of standing can be easier.

3) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The administrative appeal reviews not only the legality, but also the merits – the appropriateness – of the decision. The administrative tribunals may verify both the procedural and the substantive legality of the decision.

4) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Administrative remedies do not have to be exhausted before taking a case to Tribunal (Art. 20 of Law 1034/1971).

5) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

In order to have standing before the administrative tribunals it is not necessary to have participated in the public consultation phase. Legal standing is in fact granted to any party whose interest is affected by the decision (Art. 7 CAP).

6) Are there some grounds/arguments precluded from the judicial review phase?

There are no grounds/arguments precluded from the judicial review phase.

7) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

In the Italian system, administrative jurisdiction is informed by the adversarial principle, equal standing of the parties, and due process (Art. 2 C.A.P), in conformity with Art. 111 of the Constitution and the case law of the ECHR[17] and the CJEU. Parties, according to Art. 2 and Art. 111 of the Constitution, must be in a position of equality. When challenging an environmental administrative decision, parties can therefore ask the judge to appoint an expert, to inspect persons or things, to request the presentation of documents or other objects, or to hear witnesses.

8) How is the notion of “timely” implemented by the national legislation?

Art. 111 of the Constitution requires judicial proceedings to be completed within a reasonable time. Nevertheless, an average of three years is needed by the administrative tribunal to decide.[18]

9) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The injunctive relief is available according to the general rules set forth in 1.7.2.

10) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

Costs on access to justice in these areas can be estimated according to the rules set forth in 1.7.3.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[19]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedure for adopting or the content of the decision, act or omission of the national regulatory act (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

EU legislation is mainly transposed in Italy through:

1. Primary law (‘*legge di rango ordinario’*,): e.g. Parliamentary law, Regional Law, D.lg, D.Lgs);
2. Secondary law: e.g. regional executive regulations.

It is important here to distinguish two different situations according to the kind of act used to transpose EU laws:

Primary law: natural and legal persons who have a legitimate interest, or whose rights might be infringed by an administrative decision taken on the basis of a primary law conflicting with EU Treaties, Regulations or *self-executive laws* law, can challenge the act and require the judge to disapply the administrative act in the specific case.

Primary laws conflicting with EU Treaties, Regulations or *self-executive laws* can also *per se* be challenged in courts of law. Natural and legal persons can require the judge to disapply the conflicting national law, to interpret the conflicting national law in conformity with EU law, or to refer the case to the Constitutional Court (the TAR, for instance, cannot disapply the conflicting Parliamentary law but can refer the case to the Constitutional Court). Applicants can also request the judge or the Constitutional Court to refer the case to the CJEU.

Secondary law: natural or legal persons who have a legitimate interest, or whose rights might be infringed from the measures, can challenge the secondary law according to the general principles of administrative procedure and request the judge to disapply the conflicting norm or to refer the case to the CJEU. The administrative act adopted on the basis of the conflicting secondary law will be totally or partially annulled by the judge.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The administrative tribunals may verify both the procedural and the substantive legality of the decision. The Constitutional Court may verify the constitutional legitimacy of the legislative or regulatory act used to implement or transpose the EU law.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Administrative remedies do not have to be exhausted before taking a case to Tribunals.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

In order to have standing before the administrative tribunals it is not necessary to have participated in the public consultation phase. Legal standing is in fact granted to any party whose interest is affected by the decision.

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

Before the administrative judge, injunctive relief is available according to the general rules set forth in section 1.7.2. Before the Constitutional Court, the request for injunctive relief is precluded.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

Costs of access to justice in these areas can be estimated according to the rules set forth in 1.7.3. Natural and legal persons do not have standing before the Constitutional Court, so they do not incur any costs.

7) Is it possible to bring a legal challenge before a national court concerning any related EU regulatory act with a view to a validity reference under Article 267 TFEU, and if so how[20]?

A preliminary reference under Art. 267 TFEU is possible according to the rules set forth in 1.3.5

[1] This category of case reflects recent case-law of the CJEU such as Protect C-664/15, the Slovak brown bear case C-240/09, as described under the Commission Notice C/2017/2616 on access to justice in environmental matters.

[2] See e.g. Protect C-664/15, the Slovak brown bear case C-240/09; 15, Lesoochranárske zoskupenie VLK v Obvodný úrad Trenčín (Slovak Bears II) C-243/15 and C-127/02, Waddenzee, paras 66 - 70.

[3] Institute for European Environmental Policy, 'Development of an assessment framework on environmental governance in the EU Member States. Environmental Governance Assessment Italy' (February 2019), 49 [accessed 09/04/20]; see also Caranta, R. (2013), *Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Italy*, 12; and Milieu Report, Study on EU implementation of the Aarhus Convention in the area of access to justice in environmental matters Final report. September 2019 .

[4] Caranta, R. (2013), *Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Italy*, 12.

[5] Caranta, R. (2013), *Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Italy*, 12.

[6] Please note, in this respect, that Italy has been found on several occasion to be in breach to Art 6.1 ECHR. See e.g. *Cocchiarella v. Italy*, application no 64886/01, judgment of 29/03/2006.

[7] See in this respect the 2018 EU Justice Scoreboard; see also CEPEJ Indicators on Efficiency.

[8] The SEA Directive relates to plans and programmes. These are also covered by Article 7 and Article 9(3) of the Aarhus Convention.

[9] See findings under ACCC/C/2010/54 for an example of a plan not submitted to SEA but subject to the public participation requirements of Article 7 of the Aarhus Convention.

[10] 4th Update National Implementation Reports, 28.

[11] 4th Update National Implementation Reports, 28.

[12] For further information visit "Programma Nazionale per la Ricerca 2021-2027".

[13] Ibid.

[14] Caranta, R. (2013), *Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Italy*, 12.

[15] These fall within the scope of both Article 7 and Article 9(3) of the Aarhus Convention. See also relevant case-law of the Court of Justice of the European Union such as Case C-237/97, Janecek and cases such as Boxus and Solvay C-128/09-C-131/09 and C-182/10, as referred to under the Commission Notice C/2017/2616 on access to justice in environmental matters.

[16] see Caranta, R. (2013), Study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Italy, 19.

[17] Please note, in this respect, that Italy has been found on several occasion to be in breach to Art 6.1 ECHR. See e.g. *Cocchiarella v. Italy*, application no 64886/01, judgment of 29/03/2006.

[18] See in this respect the 2018 EU Justice Scoreboard; see also CEPEJ Indicators on Efficiency.

[19] Such acts come within the scope of Article 8 and Article 9(3) of the Aarhus Convention. An example of such an act concerns the decision of the national administration that featured in Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774

[20] For an example of such a preliminary reference see Case C-281/16, *Vereniging Hoekschewaards Landschap*,

ECLI:EU:C:2017:774