

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?

Administrative environmental decisions falling outside the scope of the EIA [2] and IED [3] directives are subject to general administrative procedure rules included in the [Administrative Procedure Law](#), except where special sectoral rules provide for different regulation.

Regarding standing, as in other environmental law sectors, *actio popularis* applies. This means that persons have access to administrative authorities and courts not only to protect their own individual interests, but also to protect general environmental interests. According to Environmental Protection Law and the case-law of the Supreme Court, those rights are recognised both to natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. There are no specific conditions for non-governmental organizations to have a right to go to the court. The only prerequisite for standing is a genuine environmental interest (see 1.4.1. for more detailed information on legal standing).

If the person is not satisfied with the environmental administrative decision of the competent administrative authority, he/she can appeal it to a superior administrative authority within one month after this decision comes into effect. The procedures and time limits for appeal must be stated in the administrative decision, otherwise the addressee of the decision enjoys longer terms (one year) for the appeal. An administrative decision comes into effect at the moment the addressee is notified of it, except when the decision or the law regulates otherwise. The Law on Notification contains detailed rules regarding notifying the addressee in different manners (mail, electronic mail etc.) and rules about when the document is deemed to have been notified.

Persons who are not the direct addressees of the administrative decision but whose rights or legal interests are affected by that decision, may dispute the decision within a one-month period from the day when this person becomes informed of it, but not later than within a one-year period from the day the decision comes into effect.

Important special rules exist regarding construction permits. According to Sect.15(4) of the Construction Law a decision on a construction permit must enter into effect from the moment it has been notified to the addressee, and at this moment the time limit for contesting the construction permit begins, also for other persons, regardless of the moment those third parties acknowledged the existence of the permit. Only if the mandatory rules on informative measures have not been observed properly may the third parties rely on the time limits counting from the moment those persons become informed of the fact that the permit has been issued. The informative measures include making public the decision on a [Construction Information System](#), and there are also rules on informative measures regarding public discussions and submissions to change the initially proposed building design. In cases regulated by the Cabinet regulations, it is a responsibility of the initiator of the construction to place a construction board on the respective plot of land and to provide information to owners of immovable properties adjacent to the respective plot of land.

The general time limit for appealing administrative decision of a superior administrative authority before the administrative court is one month. If the superior administrative authority has failed to clarify the procedure for appealing its decision, the time limit extends to one year. Also, if the superior administrative authority has not issued its decision at all after the person has filed the complaint regarding a decision or an omission of a lower administrative authority, the person may file his/her appeal before the administrative court within one year after the addressing the superior administrative authority.

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?

A superior administrative authority is entitled to perform a full review of the contested administrative decision including the efficiency of the decision using the discretionary power of administration. The only exemption exists in cases where a superior administrative authority carries out a supervision in a form which includes the review of the legality but does not include a right to review the discretionary decisions on efficiency.

The court will revise both procedural and substantive legality of administrative decisions:

1. whether the essential procedural rules are followed in relation to persons affected and persons having an interest in environmental issues, with special emphasis on the access to the environmental information and rights to participate in the decision-making, including the possibility to submit information, to express views and proposals, and sufficiently serious attitude of the institution towards those views and proposals,
2. whether the administrative procedure has been conducted in a way which provides a sufficient possibility to gather all the relevant information,
3. whether the decision is based on correct findings and whether it lays down sufficient and clear written reasons. Expert opinions may be used as evidence to clarify scientific and technical issues.

In administrative cases, the court has full jurisdiction over factual and legal issues. This means that the court may review any question of facts or law. An exemption exists only where the administrative authority has a discretionary power (for example, where the authority decides on the means and scale of penalty) or has some space for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority. If the court lacks technical or scientific knowledge, the fact assessment can be done by the support of forensic expertise.

The court cannot replace the decision of an administrative authority or issue a decision itself; however, the court can find factual errors and consideration errors which have led, or may have led, to an erroneous final decision, and to annul unlawful decisions. Also, the court can impose an obligation on the respective administrative authority to issue a decision with a certain operative part or pointing to certain considerations to be taken into account. The court can impose an obligation on the respective administrative authority to carry out certain actual measures or to stop any ongoing activities and measures.

In environmental cases initiated by an applicant based on an *actio popularis* approach (in order to defend public interests in environmental protection) the scope of a court review has been limited by the Supreme Court in its judgment delivered in 2018. The Court stated that to assess a complaint that has been submitted to protect the environment, the legality of a decision (construction permit) must be assessed focusing only on the existence of a threat to the environment or a possible breach of the requirements of environmental legislation that might be directly linked to the development under the dispute, rather than *any* facts or illegality a claimant might refer to.^[4] Accordingly, this statement of the Supreme Court indicates that the scope of review for appeals based on environmental exception clause might be restricted to the infringement of legal provisions that are related to the environment. This applies to both procedural and substantive issues.

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

Generally, it is not possible to challenge the first level administrative decision directly before court. As a general rule, an administrative act, actual measures or omission are subject to appeal to a superior administrative authority, which is a mandatory pre-trial stage. Exemptions exist only where there is no superior authority or the superior authority is the Cabinet of Ministers, then a person has a choice to appeal the decision to the same administrative authority or to submit the application directly to the administrative court.

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.?

It is not a prerequisite for a court action in the administrative court.^[5]

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

As is explained in 2.1.2., an exemption to a full review only exists where the administrative authority has a discretionary power (for example, where the authority decides on the means and scale of the penalty) or has some scope for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority, as far as it concerns environmental interests.

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

The principle of procedural fairness is recognised as a general principle of law and a prerequisite of fair trial. It is mentioned, inter alia, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.¹ of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and give proper opportunities to every participant to proceedings to explain their opinion and to submit evidence.

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

As in other administrative law sectors, administrative authorities must observe time limits set in the law for taking decisions, i.e. one month as a general term. Specific provisions may exist in sectoral regulations.

In case of an administrative appeal against environmental decision, a superior administrative authority must deliver its decision within one month from the receiving of the appeal of the person. In urgent cases, the person may request the institution to issue the decision immediately. According to Administrative Procedure Law, due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.

If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.

There are no time limits set for hearing the case at the court. Cases are administered according to the case load of a specific court. Environmental matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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?

As a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision. I.e., it is forbidden to begin operation of the intended activity, to begin construction works, or to issue new decisions based on the contested one.

The same general rule applies to the appeal to the court (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this).

Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision if there has been no suspensive effect on its operation. On the other hand, the addressee of the decision (for example, a person carrying out environmentally hazardous activity) may ask the court for an injunctive relief if the operation of the decision has not been granted or fully granted by the decision of the superior administrative authority. The court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the

interests involved, including environmental.

The participants to the proceedings may request the provisional protection at any stage of the procedure, also in the appellate court instance and cassation court instance, when they consider that provisional protection is urgently needed. No formal deadlines are applied. The exercising of the rights to request provisional protection may not cause, in itself, any unfavourable consequences, including those falling under the private law. This means that the person will not be liable for financial loss caused to another person by the court's decision.

The participant to the proceedings requesting provisional protection (injunctive relief) must pay a deposit payment to the State budget, the amount 15 EUR defined by law. A natural person may ask the court to relieve him/her from the paying of deposit fully or partially. The deposit payment is returned if the request for provisional protection is successful.

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?

General rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

If the person submits an appeal to the administrative court, he/she should take account of state fees.

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

The amount of the state fee is the same for all categories of administrative cases. The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.

Administrative Procedure Law does not prescribe any other fees or deposit payments.

Both in administrative and court procedures, the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

Expenses related to legal aid or private expert examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.

In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or de novo review) is successful.

The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But, if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisor or experts.

Accordingly, the overall process at both levels (public authority and administrative court) is not expensive with respect to state fees and other statutory payments. The principle protecting an applicant from paying other party expenses (state or municipality) functions as a safeguard against excessive costs.

The legislation does not include express statutory reference to a requirement that costs should not be prohibitive.

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[6]

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 law [On Environmental Impact Assessment](#) stipulates for strategic environmental assessment (SEA) of planning documents concerning the environment if the expected impact of the proposed plan on the environment is *substantial*. The expected impact of the planning document is considered to be substantial if it is mentioned as such in the Cabinet Regulation (Regulation No. 157 of 23.03.2004.) or is considered to be substantial on an individual basis by the Environmental State Bureau.

The law On Environmental Impact Assessment includes a regulation on involving the public in the decision-making, the obligation to take into account the opinions expressed, and also on informing measures regarding the final decision. Sectoral regulation (for example, the [Spatial Development Planning Law](#)) contains specific rules regarding the procedures where final planning, normative or administrative decisions are taken according to the results of the SEA procedure.

The possibilities of contesting and appealing any final plan and decision which is based (or should be based) on the SEA depends on the type of document and its legal status. As a rule, planning documents lacking individual legal settlement are not considered to be administrative acts, and there is no possibility to contest such documents in the administrative court. Planning documents embodied in normative legal acts (regulations, and this is the case also for spatial plans of local government) may be contested in the Constitutional Court only (see 2.5.1. on constitutional complaint for further information).

Only decisions having direct legal consequences to individual persons (or individual objects) may be considered to be administrative acts contestable in the administrative court. Detailed spatial plans are the most common planning documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.

If the appeal to the administrative court is allowed, the same rules apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person. This means that persons have access to administrative authorities and court not only to protect their own individual interests, but also to protect general environmental interests.

The same general procedural rules apply to administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).

A general one-month time limit applies to both administrative and judicial appeal. The time limit for appealing a detailed spatial plan of the local government is one month from a public notification about the final decision on the adoption of the plan.

In addition, there is a special mechanism, an immediate measure to rectify errors in public participation or dissemination of information during any SEA procedure regardless of the form of the final decision (Sect.26(2) of the law On Environmental Assessment). During the SEA procedure, any person may submit a complaint to a competent administrative authority (Environmental State Bureau) against the person developing the plan, if this person ignores or infringes the right of public to environmental information or public participation. If the decision of the competent authority does not satisfy the person, he/she may submit a complaint to the Ministry of Environmental Protection and Regional Development.

The courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it seems possible also on its own motion. Participants can also plead for reference for a preliminary ruling to be submitted to

the CJEU.

Taking into account the existence of *actio popularis* and its broad application in Latvian courts, and also the wide application of the EU law and thorough review of the administrative decisions, the Latvian court system provides for rather effective access to the court in environmental matters. Still, the overall length of court proceedings, especially in the cassation instance court, could be improved.

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 court reviewing the lawfulness of the appealed final administrative planning decision will revise both procedural and substantive legality of the final decision involving the SEA:

1. whether the essential procedural rules are followed in relation to persons affected and persons having an interest in environmental issues, with special emphasis on the access to the environmental information and rights to participate in the decision-making, including the possibility to submit information, to express views and proposals, and sufficiently serious attitude of the institution towards those views and proposals,
2. whether the SEA has been conducted in a way which provides a sufficient possibility to gather all the relevant information on the possible impact of the intended activity to the environment,
3. whether the final decision is based on correct findings and whether it lays down sufficient and clear written reasons.

If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act.

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

Procedures regarding spatial plans.

1. Sect.27 of the [Spatial Development Planning Law](#) specifically addresses the procedure for contesting spatial plans or local plans of the local government. Since such plans are adopted as local governments regulations (normative acts), the competent court in this case is the Constitutional Court. Before lodging a constitutional complaint, a person must address the competent administrative authority, i.e., the ministry responsible for spatial development planning (at the moment – the Ministry of Environmental Protection and Regional Development). The appeal must be submitted within two months after the respective regulation comes into effect. After this administrative pre-trial stage, a person can submit a constitutional complaint (i.e., to the Constitutional Court) regarding the conformity of the local government regulations with the norms of superior legal force. A constitutional complaint must be lodged before the Constitutional Court within six months after the respective regulation comes into effect (Sect.19.3(2) of the Constitutional Court Law).
2. Detailed spatial plans are adopted as administrative acts according to Sect.30 of the Spatial Development Planning Law. In this case, the respective detailed plan may be appealed to the administrative court. Since there is no superior administrative authority for local government, an appeal must be lodged before Administrative district court, and the time limit is one month after the local government has published a notice on the adoption of the plan. The appeal to the administrative court suspends the effect of the detailed plan, but the operative effect can be renewed by injunctive relief.

Procedures for contesting plans adopted are as for other normative acts. A person may contest normative acts (other than spatial plans and local plants) in the Constitutional Court. See 2.5.1. for a detailed information on the procedure.

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.?

It is not a prerequisite for a court action in administrative court.[7] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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?

In the case of detailed plans: the appeal to the administrative court suspends the effect of the detailed plan, but the operative effect can be renewed by injunctive relief (Sect.30 of Spatial Development Planning Law). A request for injunctive relief may be submitted at any stage of the procedure, also in the appellate court instance and cassation court instance. No formal deadlines are applied.

In case of planning documents adopted in the form of normative acts.

1. for spatial and local plans, the competent ministry receiving administrative appeals (see 2.2.3.a) will decide on the possibility to give operational effect on all or part of the plan according to the appeals received; the operational effect will be renewed if the appeals continue to be considered unfounded (Sect.27 of Spatial Development Planning Law).
2. no provisional protection exists in the procedure of the Constitutional Court, and this applies to any plan (normative act) contested in the Constitutional Court.

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?

General rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

If the person submits an appeal to the administrative court, he/she should take account of state fees.

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

The amount of the state fee is the same for all categories of administrative cases. The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.

The Administrative Procedure Law does not prescribe any other fees or deposit payments.

Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

Expenses related to the legal aid or private expert examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.

In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or de novo review) is successful.

The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisor or experts.

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[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?

As explained in 2.2.1., the law [On Environmental Impact Assessment](#) stipulates for strategic environmental assessment (SEA) of planning documents concerning the environment, if the expected impact of the proposed plan on the environment is *substantial*. If the proposed planning intention or any plan or programme developed by the state (including local governments and other public institutions) is not expected to have a substantial impact on the environment, but still relates to the environment, the drafting of the planning document or programme must follow procedural rules incorporated in the respective sectoral regulation. For example, according to the [Spatial Development Planning Law](#) and the respective Cabinet regulations, a detailed spatial plan of the local government might include the proposed development having a substantial impact on the environment or NATURA 2000 territory, and if such is the case, the SEA procedure is mandatory. However, if the proposed development does not have a substantial environmental impact, the drafting of the detailed spatial plan must follow the same planning procedure without the SEA.

Although the SEA is not carried out, sectoral regulation of planning procedures for environmentally relevant plans provides for the involvement of the public in the decision-making, the obligation to take into account the opinions expressed, and also for the informing measures regarding the final decision. It should be reminded that Aarhus Convention, ratified by Latvia and requesting public participation in planning procedures related to the environments, is applicable in administrative authorities and courts.

The possibilities of contesting and appealing any final plan and decision having an impact on the environment depend on the type of the planning document and its legal status. As a rule, planning documents lacking individual legal settlement regarding individual person or object (direct effect on a person or an object) are not considered administrative acts, and there is no possibility to contest such documents at the administrative court. Usually, a plan as such will not have such a binding nature (direct effect) on any individual. In this case, it is not contestable in any court.

Planning documents embodied in normative legal acts (laws, regulations) may be contested in the Constitutional Court only (see 2.5.1 for more detailed information about the procedure).

Only decisions having a direct legal effect on individual persons (or individual objects) may be considered to be administrative acts contestable at the administrative court. Detailed spatial plans are the most common planning documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.

If the appeal to the administrative court were allowed, the same rules would apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person, and the same general procedural rules apply for administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).

Administrative courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it deems possible also on its own motion. Participants can also plead for a reference for a preliminary ruling to be submitted to 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?

If a plan is adopted in the form of administrative act, the scope of the administrative review is the same as in other administrative cases. The court would revise both procedural and substantive legality of the final decision confirming the planning document.

If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act (see 2.5.1. for information).

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

In general, there should be at least one level appeal to a superior administrative authority as a mandatory pre-trial stage in case of an administrative decision, except where there is no superior administrative authority or where the Cabinet of Ministers is the only superior authority to the given lower authority. Since, usually, the local government would be the authority adopting the plan as an administrative decision (detailed spatial plans), there is no superior administrative authority and an appeal must be submitted directly to administrative court.

The administrative authority issuing the decision must state the appeal procedures in the same decision.

In cases where the planning document is adopted as a normative act, a person must exhaust general remedies before the submitting a constitutional complaint, if there are any (for example, contesting an administrative act based on the respective normative act, if this was the case). In case of spatial plans and local plans, a person must address the Ministry of Environmental Protection and Regional Development before submitting a constitutional complaint. A constitutional complaint must be lodged before the Constitutional Court within six months after the respective regulation comes into effect.

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.?

It is not a prerequisite for the court action in administrative court.^[9] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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?

As a general rule in administrative procedure, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this). Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision in case there has been no suspensive effect on its operation. The court will decide the provisional protection, considering both the lawfulness of the decision and possible damage to the interests involved, including environmental.

The participants to the proceedings may request the provisional protection at any stage of the procedure, also in the appellate court instance and cassation court instance. No formal deadlines are applied.

There is no provisional protection in the Constitutional Court procedure.

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?

General rules of administrative appeal procedures apply if the decision adopting a plan is an administrative act and thus subject to the jurisdiction of administrative courts.

Administrative procedures in administrative institutions are free of charge.

If the person submits an appeal to the administrative court, he/she should take account of state fees.

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

The amount of the state fee is the same for all categories of administrative cases. The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.

The Administrative Procedure Law does not prescribe any other fees or deposit payments.

Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the has person involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

Expenses related to the legal aid or private expert-examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.

In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or de novo review) is successful.

The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But, if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisor or experts.

Regarding the procedure of constitutional complaint, it does not involve state fees.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation^[10]

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?

The possibilities of contesting and appealing any plan or programme having an impact on the environment depend on the type of the planning document and its legal status.

The possibilities of contesting and appealing any final plan and decision having an impact on the environment depend on the type of the planning document and its legal status. As a rule, planning documents lacking individual legal settlement regarding individual person or object (direct effect on a person or an object) are not considered administrative acts, and there is no possibility to contest such documents at the administrative court. Usually, a plan as such will not have such binding nature (direct effect) on any individual. In this case, it is not contestable in any court.^[11]

Planning documents embodied in normative legal acts (laws, regulations) may be contested in the Constitutional Court only (see 2.5.1. for a detailed information about the procedure).

Only decisions having direct legal effect on individual persons (or individual objects) may be considered to be administrative acts contestable in the administrative court. Detailed spatial plans are the most common planning

documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.

If the appeal to the administrative court were allowed, the same rules would apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person, and the same general procedural rules apply for administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).

Administrative courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it seems possible also on its own motion. Participants can also plead for the reference for a preliminary ruling to be submitted to the CJEU.

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)?

As explained in 2.4.2., only planning decisions embodied in administrative decisions directly effecting individuals, or into normative acts, are possible to contest in the administrative or the Constitutional Court. Plans and programs lacking direct legal effect (individual or normative) are not possible to challenge in the court.

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?

If a plan is adopted in the form of administrative act, the scope of the administrative review is the same as in other administrative cases. The court would revise both procedural and substantive legality of the final decision confirming the planning document.

If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act (see 2.5.1. for a detailed information).

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

In general, there should be at least one level appeal to a superior administrative authority as a mandatory pre-trial stage in case of administrative decision, except where there is no superior administrative authority or where the Cabinet of Ministers is the only superior authority to the given lower authority. Since, usually, the local government would be the authority adopting a plan as an administrative decision (detailed spatial plans), there is no superior administrative authority and an appeal must be submitted directly to administrative court.

The administrative authority issuing the decision must state the appeal procedures in the same decision.

In cases where the planning document is adopted as a normative act, a person must exhaust general remedies before the submitting a constitutional complaint, if there are any (for example, contesting an administrative act based on the respective normative act, if this was the case).

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.?

It is not a prerequisite for the court action in administrative court.^[12] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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

In administrative procedure, an exemption to a full judicial review exists only where the administrative authority has a discretionary power or has some scope for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority.

It is not clear how far the Constitutional Court will look into considerations of the legislator. As it can be inferred from the judgments of the Constitutional Court, there is a margin of appreciation reserved for the legislator. The Constitutional Court uses opinions of professionals to have an insight into planning considerations.

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

In the administrative court, the principle of procedural fairness is recognised as a general principle of law and a prerequisite of a fair trial. It is mentioned, *inter alia*, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.¹ of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and give proper opportunities to every participant to a proceedings to explain their opinion and to submit evidence.

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

Regarding administrative procedure, administrative authorities must observe time limits set in the law for taking decisions, i.e. one month as a general term. Specific provisions may exist in sectoral regulations.

In the case of an administrative appeal against an environmental decision, a superior administrative authority must deliver its decision within one month from receiving the appeal of the person. In urgent cases, the person may request the institution to issue the decision immediately. According to Administrative Procedure Law, due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.

If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.

There are no time limits set for hearing the case at the court. Cases are administered according to the case load of a specific court. Environmental matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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?

As a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this). Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision in case there has been no suspensive effect on its operation. The court will decide the provisional protection, considering both the lawfulness of the decision and possible damage to the interests involved, including environmental.

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?

In the case of administrative procedure, general rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

If the person submits an appeal to the administrative court, he/she should take account of state fees.

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance’s judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters *de novo* in connection with newly-discovered facts is 15 EUR.

The amount of the state fee is the same for all categories of administrative cases. The court, taking into account

the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.

Administrative Procedure Law does not prescribe any other fees or deposit payments.

Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

Expenses related to legal aid or private expert examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.

In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or de novo review) is successful.

The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But, if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisor or experts.

A constitutional complaint procedure does not involve state fees.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[13]

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?

Normative legal acts or legislative acts (legislation) implementing EU environmental legislation usually take the form of laws enacted by the Parliament (the Saeima) or Cabinet regulations. On the basis of laws and Cabinet regulations, local government regulations also include rules according to the EU law.

There are two ways in which individuals can manage to verify if the national legislative acts are consistent with the Constitution or the EU law:

1. direct application to the Constitutional Court strictly on the condition that it is allowed by the [Constitutional Court Law](#) and according to the provisions of this law;
2. submitting arguments and plea to the administrative or general jurisdiction court reviewing a certain case to submit an application to the Constitutional Court or to make a referral for a preliminary ruling to the Court of Justice of the European Union (the CJEU).

A constitutional complaint (application) may be submitted to the Constitutional Court by any person who considers his/her fundamental rights infringed by norms of law, Cabinet regulations or regulations of local government. The Constitutional Court has maintained an approach under which an alleged infringement of rights guaranteed by the Constitution is a prerequisite to have legal standing in the court, including in environmental matters. On the other hand, since Art.115 of the Constitution guarantees a right to a benevolent environment, and this right is quite broadly characterized by the Constitutional Court[14], it does not preclude individuals and environmental NGOs from bringing actions in environmental interests. The case law of the Constitutional Court shows that applications protecting general environmental interests are allowed from NGOs and also from individuals (see, for example, the

judgment of 06.10.2017. in case No. 2016-24-03 as an example of challenging spatial plan in environmental interests).

However, this approach, unlike that taken by administrative courts, has led to setting criteria for legal persons to have a legal standing. To conclude that the right to a benevolent environment of a certain legal person has been infringed it must be seen that (a) the objective of the legal person's activities is environmental protection, (b) the legal person is founded according to the law,[15] (c) the legal person has participated in the development and adopting of the contested normative act as far as such participation has been granted by law and has been practically feasible.[16]

A constitutional complaint is allowed only after ordinary legal remedies are exhausted (recourse to the competent administrative authorities, courts of general jurisdiction or the administrative court). For example, if an administrative decision is based on the respective normative act, a person should at first appeal the administrative decision to the administrative court where the court may consider the constitutionality of the legal norm and submit an application to the Constitutional Court.

If a person has exhausted ordinary legal remedies, or there are no such remedies available, the constitutional complaint must be lodged before the Constitutional Court within six months after the last decision in the case has come into effect. Only in exceptional individual cases may the recourse to ordinary legal remedies be skipped, i.e., if the reviewing of the constitutional complaint is generally important or if the ordinary legal remedies cannot prevent substantial damage to the complainant.

However, special procedural rules exist for contesting spatial plans and local spatial plans of local governments (as they are enacted in the form of local government's regulations). An application to the Constitutional Court has to be submitted within six months after the respective regulation of the local government has come into effect. In addition, a person must exhaust the specific administrative review procedure: to submit an appeal to the Ministry of Environmental Protection and Regional Development within two months after the spatial plan or local spatial plan of the local government has come into effect.

The Constitutional Court reviews the complaints taking into account EU law and ratified international law. This means the case law of the Court of Justice of the European Union is also relevant. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). Participants can also plead for a reference for a preliminary ruling to be submitted to the CJEU.

Taking into account the broad legal standing of natural and legal persons in environmental matters, stemming from the rather broad scope of Art.115 of the Constitution, , and also the approach of the Constitutional Court to interpret the Constitution in tune with international and EU law, the recourse to the Constitutional Court can be regarded as an effective legal remedy. The judgment is usually delivered in about one year after the complaint is submitted to the Court.

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?

Administrative review (applicable if the spatial plans or local spatial plans of local governments are contested) and constitutional review cover both procedural and substantive legality of the contested legal act:

1. if, in the given case, there is a specific procedure involving public consultations, the competent administrative authority and, subsequently, the Constitutional court will verify whether the essential procedural rules are followed in relation to persons affected and persons having an interest in environmental issues, with special emphasis on the access to the environmental information and rights to participate in the decision-making (if applicable in the given situation), including the possibility to submit information, to express views and proposals, and sufficiently serious attitude of the administrative authority towards those views and proposals;
2. whether the procedure has been conducted in a way that guarantees sound legislative decisions;
3. whether the legislative act is based on correct fact-findings.

The Constitutional Court may request expert opinions.

The Constitutional Court will always scrutinise the contested legal norms in the light of their conformity with the Constitution, EU law and international law, taking into account the borders of claim set in the constitutional complaint.

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

As explained in 2.5.1., a constitutional complaint is allowed only after ordinary legal remedies are exhausted (recourse to the competent administrative courts, courts of general jurisdiction or the administrative court). The application (complaint) must be lodged before the Constitutional Court within six months after the last decision in the case has come into effect. Only in exceptional individual cases may the recourse to ordinary legal remedies be skipped, i.e., if the reviewing of the constitutional complaint is generally important or if the ordinary legal remedies cannot prevent substantial damage to the complainant.

However, special procedural rules exist for contesting spatial plans and local spatial plans of local governments (if they are enacted in the form of local government's regulations). An application to the Constitutional Court has to be submitted within six months after the respective regulation of the local government has come into effect. Besides, a person must exhaust specific administrative review procedure: to submit an appeal to the Ministry of Environmental Protection and Regional Development within two months after the spatial plan or local spatial plan of the local government has come into effect. An administrative appeal is a mandatory pre-trial stage in this case.

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 Constitutional Court has set criteria for legal persons to have legal standing. To conclude that the right to a benevolent environment of a certain legal person has been infringed, it must be seen that, inter alia, that the legal person has participated in the development and adopting of the contested normative act as far as such participation has been granted by law and has been practically feasible.^[17]

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 procedure of constitutional review does not provide for suspensive effect of the constitutional complaint. The Constitutional Court Law allows the Court to decide to suspend the effect of the judgment of the general (or administrative) jurisdiction court if the constitutional complaint is related to one. According to the case law of the Constitutional Court, the legislator has not allowed other measures of provisional protection in the case of constitutional complaint (the [decision](#) of the Constitutional Court of 04.02.2015 in case No. 2015-03-01).

The only occasion when administrative review exists, i.e., if the spatial plan or local spatial plan of the local government is contested to the Ministry of Environmental Protection and Regional Development, the Ministry has discretionary power to impose restrictions for execution of the contested plan until the final administrative decision is delivered.

No other means of provisional protections exist against legislative acts.

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?

Administrative appeal against spatial plans or local plans of local governments is free of charge.

There is no state fee for submitting a constitutional complaint to the Constitutional Court.

The participants to the procedure bear their own expenses, including hiring of an interpreter if one is needed at the court. The Constitutional Court does not decide on the reimbursement of those costs.

A natural person may ask for legal aid financed from the state budget according to the [State Ensured Legal Aid Law](#). The court administrator will grant and administer legal aid if the Constitutional Court has already refused to accept a person's complaint due to manifestly insufficient legal grounds as the sole reason. Within the time limits set for submitting the constitutional complaint, the person may then again apply to the Constitutional Court with

the aid of state financed lawyer.

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^[18]?

In the same way as it is possible to plead for a referral for a preliminary ruling on the interpretation of EU law. There are no obstacles to raise the issue of the validity of acts of the institutions of the EU, as is provided in Art.267 of the TFEU, and to request a preliminary ruling of the CJEU. To date, the Constitutional Court has not exercised this possibility and has requested preliminary rulings only on the interpretation of EU law.

[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, see as described under the [Commission Notice C/2017/2616](#) on access to justice in environmental matters

[2] Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

[3] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).

[4] Supreme Court, decision of 25.03.2019, case No. SKA-796/2019 (A420358914) referring as well to the judgment of the Supreme Court of 27.06.2018. in case No. SKA-306/2018 (A4201811715).

[5] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.

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

[7] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.

[8] 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.](#)

[9] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.

[10] 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.

[11] See, for example, the order of the Cabinet of 16.04.2020 No. 197 „On the plan of the decreasing of the air pollution for 2020-2030”

[12] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.

[13] 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

[14] „The infringement of the right to a benevolent environment is to be broadly interpreted so as to include activities actually taking place and creating an imminent threat to human health or to the environment, as well as activities expected to take place in the future.” The Constitutional Court, judgment of 17.01.2008. in case No. 2007-11-03, para. 13.1.

[15] The Constitutional Court, judgment of 17.01.2008. in case No. 2007-11-03, para. 13.1.

[16] Ibid, para. 13.2.

[17] Ibid, para. 13.2.

[18] For an example of such a preliminary reference see Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774

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