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]

There is broad access to justice beyond EIA and IED based on effective judicial protection.

The following legal acts fall within the scope of EU environmental legislation outside the scope of EIA and IED Directives:

- Decree-Law no. 140/99 of 24 April 1999 regulating Natura 2000 Network, as last amended by Decree-Law no. 156-A/2013 of 8 November 2013 (DL 140/99)[2], transposing Habitats Directive 92/43/EEC[3];
- Law no. 58/2005 of 29 December approving the Water Law, as last amended by Law no. 44/2017 of 19 June 2017[4], transposing Water Framework Directive 2000/60/EC; the Water Law is implemented by Decree-Law no. 226-A/2007 of 31 May 2007 approving the Water Resources Use Regime, as last amended by Decree-Law no. 97/2018 of 27 November 2018 (DL 226-A/2007)[5];
- Decree-Law no. 150/2015 of 5 August 2015 establishing the regime of prevention of major accidents involving dangerous substances and limitation of their consequences for human health and the environment (DL 150/2015)[6], transposing Directive 2012/18/UE (Seveso III);
- Decree-Law no. 178/2006 of 5 September 2006 approving the Waste Management Regime, as last amended by Decree-Law no. 152-D/2017 of 11 December 2017 (DL 178/2006)[7], transposing Directive 2008/98/EC;
- Noise Regulation, consisting of both Decree-Law no. 9/2007 of 17 January 2007 approving the General Noise Regulation, as last amended by Decree-Law no. 278/2007 of 1 August 2007 (DL 9/2007)[8], and Decree-Law no. 146/2006 of 31 July 2006 regulating assessment and management of environmental noise, as last amended by Decree-Law no. 136-A/2019 of 6 September (DL 146/2006)[9], which transpose Directive 2002/49/EC and Directive (EU) 2015/996.

Other environmental regimes not transposing Directives:

- Decree-Law no. 142/2008 of 24 July 2008 approving the Nature and Biodiversity Conservation Regime, as last amended by Decree-Law no. 42-A/2016 of 12 August 2016 (DL 142/2008)[10], and Decree-Law no. 166/2008 of 22 August 2008 approving the National Ecological Reserve Regime, as last amended by Decree-Law no. 124/2019 of 28 August 2019 (DL 166/2008)[11];
- Law no. 17/2014 of 10 April 2014 approving the Sea Management and Planning Law[12].

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?

The general statutory rules of the CPA and the CPTA apply to the legal instruments identified in the previous section, namely 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). As replied above to Question 1.4, 2), in this regard there are no different or special rules applicable in sectoral legislation, since the general rules stated above apply to all sectoral legislation. Those general rules

concerning who can challenge an environmental administrative decision and standing rules applicable for NGOs and individuals and on procedural time limits are described above in Questions 1.4, 1) and 3) and 1.7.1.

Law 58/2005 (the Water Law transposing Water Framework Directive 2000/60/EC) establishes that an interested party (that is, an applicant for a water use permit) has the right to request prior information from the national water authority (APA) concerning the possibility of use of water resources for the intended purpose, but the information given only constitutes legally protected rights or interests (that is, that are able to give legal standing to holders of such rights or interests) inasmuch as it is recognised by DL 226-A/2007, which implements the Water Law (Article 56 of Law 58/2005).

The provisions of DL 150/2015 (transposing Directive 2012/18/UE on the control of major accident hazards involving dangerous substances) on access to justice are in line with Article 23 of the Directive and expressly ensure to the public the right to seek a review, in accordance with the rules on environmental access to justice[13], and to administratively challenge, through optional administrative complaint or hierarchical appeal, any acts or omissions of a competent authority, respectively, in relation to the request for information provided in Article 31 and to the public participation provided in Article 11(1)[14] (Article 34 of DL 150/2015). Such rights derive from the general rules of the CPA and the CPTA.

The definition of public concerned is in conformity with the Directive: it means the public affected or likely to be affected by, or having an interest in, the taking of a decision on any of the matters covered by Articles 8 and 11[15], and, for the purposes of this definition, environmental non-governmental organisations (ENGOs) are deemed to have an interest (Article 3 subpar. q) of DL 150/2015).

DL 146/2006 ensures the right to public information: The noise strategic maps and action plans shall be disseminated by electronic means and physically by the competent authorities, such as the municipal authority and the APA (Article 13).

DL 142/2008 does not regulate what information to the public or the right to challenge comprise, but expressly regulates the intervention of ENGOs in the process of collection and treatment of wild animals and the cooperation of public and private authorities with ENGOs for the development of captive breeding programmes (Articles 33 and 34).

Regarding the effectiveness of the level of access to national courts in light of the CJEU case-law and any related national case-law, the following examples show that national case-law refers to community law (Directives) rather than to CJEU case-law[16]:

Reference number and date	Issues addressed
Case-law concerning DL 140/99 and Directive 92/43	
STA 0996/06 25 September 2012[17]	Development plan of the Natural Park Sintra-Cascais; principle of trust; principle of proportionality; land use plan; right to participation
STA 047310 15 February 2007[18]	Expropriation of public utility; highway; waters; Natura Network; aquifer
STA 46273A 6 July 2000[19]	Suspension of the effects of administrative acts; serious injury of public interest; environmental law; environmental protection
STA 031535 14 October 1999[20]	Transposition of Directive; immediate effect; preliminary ruling; protection area; Vasco da Gama bridge
Case-law concerning Law 58/2005 and Directive 2000/60	
STA 0458/15 17 February 2016[21]	Water resources fees; principle of tax legality; organic unconstitutionality
STA 0848/08 7 January 2009[22]	DL 226-A/2007; summons to provide information; environmental protection; community law
Case-law concerning DL 9/2007 and Directive 2002/49	
STA 01273/13 3 December 2014[23]	Administrative complaint; tacit rejection; fees; wind farms; municipal orders

In administrative appeals and applications for judicial review, the judges have a large degree of discretion, since there are no clear criteria defined in the legislation or case-law. The judge has to balance the public and private conflicting interests. There is a general requirement in the general system for administrative and judicial procedures that court procedures should be timely. There is no general or specific environmental requirement that

the administrative/judicial procedures should be effective. There are no specific safeguards to ensure that frivolous applications are not considered[24].

According to Article 2 of the CPTA, the principle of effective judicial protection includes the right to obtain, within a reasonable time, a judicial decision that is considered *res judicata* deciding on the claims presented before the court, as well as the possibility to obtain interim measures, be it anticipatory or protective, to ensure the effectiveness of the decision. For promotion of access to justice, all procedural rules should be interpreted in order to promote the emission of substantial judgments on the merits of the claims (Article 7 of the CPTA). This means an obligation on the judge to ensure that the judicial procedures proceed quickly.

However, there are studies that address the question of slowness of justice and length of court proceedings in Portugal[25].

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 scope of the administrative review and the judicial review cover both procedural and substantive legality.

The scope of trials before administrative courts is not mere legality control. Every legally protected right or interest must have adequate protection from the administrative courts[26] (Article 2 par. 2 of the CPTA).

All administrative acts with external effects are subject to appeal, regardless of their legal form, mainly when they are likely to affect the rights or interests protected. The appeal does not aim solely at declaring the act void on the basis of its illegality, but should also aim at the condemnation of the administration to practise the due act (Article 51 of the CPTA). In the final ruling, the court gives the administration a deadline to issue the act which was illegally omitted or denied, and may in some cases impose additionally, in the same final ruling of condemnation, the payment of a progressive fine designed to prevent any delay in the enforcement of the final ruling (Article 66 of the CPTA).

The applicant may request the declaration of nullity or of illegal omission of an administrative act due simultaneously with a second request for condemnation of the Administration to adopt the acts and operations needed to reconstruct the situation that would have existed if the contested measure had not been practised. If the due act that the administration is condemned to adopt involves the formulation of pure administrative opinions or typically administrative judgments, then the court cannot determine the precise content of the action to be taken but must clarify the guidelines and the obligations to be observed by the administration (Article 95 par. 5 of the CPTA).

Failure to exercise the right to challenge a measure contained in a statute or regulation does not preclude the right of appeal of its implementing acts or application. Failure to exercise the right to challenge a measure not individually identifying its addressees does not prevent appeal against implementing acts or application acts whose recipients are individually identified (Article 52 of the CPTA). Even confirmative acts can be challenged as long as the former act has not been contested or notified (even if it has been published) (Article 53 of the CPTA).

In an *actio popularis* judgment, the powers of the judge are quite far reaching, namely in collecting evidence and suspending the effects of the refuted act. The judge is not bound by the evidence presented by the parties but can collect further evidence on their own initiative (Article 17 of APL).

In Portugal the scope of review is very broad as the courts can look at all aspects of legality of the decisions challenged.

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

Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures. On the contrary, the CPTA establishes that the use of means of administrative review suspends the deadline for introducing judicial review of the challenged administrative decision. Such deadline only continues to run after notification of the decision issued on the administrative review or after the legal deadline has terminated. Such suspension of the deadline does not prevent the interested party from introducing a judicial review even if the administrative review is already ongoing neither from requiring

injunctive relief (Article 59 pars. 4 and 5 of the CPTA).

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 necessary to participate in the public consultation phase of the administrative procedure in order to have standing before the national courts.

The Water Law transposing Water Framework Directive 2000/60/EC ensures participation of the interested parties in the process of planning (Article 26 of Law 58/2005), establishing the principle of participation and the right of access to information. The national water authority must promote the active participation of both natural and legal persons (Article 84 of Law 58/2005). Within administrative proceedings relating to water, all natural and legal persons have the right to procedural information according to the CPA and the legislation concerning environmental information. All natural and legal persons have the right to access information on water originated or held by competent authorities, which may be subject to a fee to cover the costs of making the information available (Articles 86 and 88 of Law 58/2005).

The right to public participation in the decision-making process is also ensured in the following regimes: prevention of major accidents (Article 11 of DL 150/2015 in line with Article 15(2) of Directive 2012/18/EU); waste management (Article 18-A of DL 178/2006); plans of action concerning environmental noise (Article 14 of DL 146/2006); nature and biodiversity conservation (Article 14 of DL 142/2008).

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

There is a case similar to preclusion worth mentioning: appeal to the Constitutional Court is only possible if, in the previous judicial procedures, the argument of unconstitutionality of a legal rule was raised (Article 70 par. 1 indents (b) and (f) of Law no. 28/82 of 15 November 1982, as last amended by Organic Law no. 4/2019 of 13 September 2019).

Insofar as concerns the general rules applicable to judicial administrative reviews (Articles 37 et seq. of the CPTA), the following restrictions apply:

- In the context of civil liability of the Public Administration for unlawful administrative acts, the court can decide if a certain act is illegal, even if such act does not meet the challengeable requirements, i.e. if an unchallengeable act is at stake (this means even if such act is not an administrative act with external effects, because only administrative acts with external effects can be subject to administrative appeal). Without prejudice to this possibility, the effect of annulment of the unchallengeable act cannot be obtained through judicial review (Article 38 of the CPTA). An act is unchallengeable when it is not substantiated in a unilateral decision of the public authority, not directed at generating a consequence and not creating, modifying or extinguishing a right or duty or making a legal determination (this derives *a contrario* from the legal notions of administrative act in Article 148 of the CPA and challengeable acts in Article 51 of the CPTA[27]);
- The condemnation to refrain from practising certain acts can only be requested if it is likely that the acts issued would harm the legally protected rights or interests and that the use of such means of challenge is indispensable (Article 39 of the CPTA).

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

The constitutional right is implemented through the principle of effective judicial protection, which includes the right to a fair trial (Article 2 of the CPTA).

The principle of equality must also be observed in the relations of the Public Administration with individuals (Article 6 of the CPA).

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

The constitutional principle of effective judicial protection, implemented by Article 2 of the CPTA, applies, including the right to obtain a judicial decision within a reasonable timeframe (see questions 1.3, 1) and 1.7.1, 4) above).

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?

General administrative rules apply. See question 1.7.2 above.

In the noise regulations, the competent authorities may determine urgent injunction measures deemed indispensable to avoid serious damage to human health and to the well-being of the populations resulting from activities that violate the noise regulations (Article 27 of DL 9/2007).

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?

The cost rules on bringing a challenge on access to justice in these areas are the same as replied above to Question 1.7.3., as general rules apply.

The following legal regimes implement the provisions on access to justice and effective judicial protection set out it Articles 20 and 268 of the CRP: cost of access to justice, protection from justice and protection from acts of the Public Administration. Justice shall not be denied to a person not having sufficient economic means, which is implemented by the legal mechanism of legal aid[28]. The Public Administration is subject to the principle of proportionality (Article 266 of the CRP and Article 7 of the CPA), which in this context means that proportionality is a general safeguard against prohibitive costs.

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[29]

In transposing Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, DL 232/2007 addresses the need for better use of the EIA mechanism *a priori* before submitting certain projects to a prior EIA regulated by DL 151-B/2013 (see question 1.8.1 above), allowing for EIA of such projects at a time when the options for the decision-making process are less restricted.

The scope of DL 232/2007 includes plans and programmes:

(a) which relate to agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning, or land use and which set the framework for future development consent of projects subject to EIA listed under Annexes I and II of DL 151-B/2013;

(b) which, in view of the likely effect on a site included on the national list of sites, a site of community interest, a special area of conservation or a special protection area, have been determined to require an assessment pursuant to Article 10 of Decree-Law no. 140/99 (Natura 2000 network);

(c) other than those referred to in subparagraphs (a) and (b) which set the framework for future development consent of projects, which are likely to have significant environmental effects.

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 applicable national statutory rules on standing for both individuals and NGOs are the same as described above in questions 1.4, 1) and 3) and 1.7.1.

Article 68 of the CPA states that citizens, civil organisations that defend environmental rights and local authorities have legal standing for protecting diffuse interests regarding acts or omissions of the Public Administration that cause relevant damage to fundamental assets such as the environment. NGOs may be involved in administrative proceedings (Article 68 par. 2 of the CPA).

Anyone who claims to be the holder of a direct and personal interest, in particular those who have been harmed in their rights or legally protected interests by the challenged act, has standing in judicial administrative reviews, as well as any public or private person regarding their statutory rights and interests (Article 55 and 68 of the CPTA). In administrative courts, as well as in civil courts, *actio popularis* extends the legal standing to any person, association or foundation for protection of the interests at stake, regardless of personal interest in the demand. Legal standing is granted on the grounds of their qualification as an environmental NGO; they do not need to claim 'sufficient interest' or any 'rights capable of being impaired'.

There is a general requirement in the general system for administrative and judicial procedure that court procedures should be timely. There is no general or specific environmental requirement that the administrative/judicial procedures should be effective. There are no specific safeguards to ensure that frivolous applications are not considered[30].

According to Article 2 of the CPTA, the principle of effective judicial protection includes the right to obtain, within a reasonable time, a judicial decision that is considered *res judicata* deciding on the claims presented before the court, as well as the possibility to obtain interim measures, be it anticipatory or protective, to ensure the effectiveness of the decision.

The level of access to national courts in light of the CJEU case-law and any related national case-law is not very effective. The main indicators summarised by Prof. Aragão are:

- the low numbers of environmental cases (low litigation rates) brought before the courts, demonstrating lack of citizen trust in the courts;
- the time required to obtain a final court decision;
- the number of "development projects/plans/programmes/activities" challenged in court and the number effectively prevented.

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 scope of the administrative review and the judicial review is provided in general administrative rules of the CPA and the CPTA, as replied above to Question 2.1, 2). It covers both procedural and substantive legality.

Under DL 232/2007, the following examples of acts can be challenged: if the authority responsible for developing the plan or programme fails to request the opinion from the authorities that can have an interest in the environmental effects of the plans or programmes (Article 5 of DL 232/2007). Also, if the competent authority fails to issue the environmental report on plans or programmes that are subject to environmental assessment (Article 6 par. 1 of DL 232/2007).

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

Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures. See question 2.1, 3) above.

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 national courts it is not necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.

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?

Concerning the transposition of SEA, there are no special rules on this. General administrative rules apply. See question 1.7.2 above.

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?

The cost rules to bring a challenge on access to justice in these areas are the same as replied above to Question 1.7.3., as general rules apply. Also see question 2.1, 9) above.

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[31]

The following plans and programmes are examples of opportunities provided for public participation in the preparation of policies relating to the environment, pursuant to Article 7 of the Aarhus Convention[32]. These include procedures with reasonable timeframes for the different phases, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making (Article 6 par. 3), or provide for early public participation where all options are open and effective public participation can take place (Article 6 par. 4), or ensure that due account is taken of the outcome of the public participation in the decision (Article 6 par. 8):

- Climate change: The Action Program for Adaptation to Climate Change[33], the Strategic Framework for Climate Policy, the National Program for Climate Change 2020-2030 and the National Strategy for Adaptation to Climate Change 2020[34];
- Waste: PERSU 2020+ adjusting the Strategic Plan for Urban Waste (PERSU 2020)[35], the National Plan on Waste Management (PNGR) 2014-2020[36];
- Other plans/strategies: The National Strategy for Environmental Education for 2017-2020 (ENEA 2020)[37]; the National Air Strategy 2020[38]; the National Action Plan for Energy Efficiency 2013-2016 and the National Action Plan for Renewable Energy[39]. Other examples of plans and programmes subject to public consultation concerning requirements of Article 7 of the Aarhus Convention can be found and are extensively described in the 5th National Report on Implementation of the Aarhus Convention – 2017 from the APA[40].

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 applicable national statutory rules on standing for both individuals and NGOs are the same as described above in questions 1.4, 1) and 3) and 1.7.1.

Article 68 of the CPA states that citizens, civil organisations that defend environmental rights and local authorities have legal standing for protecting diffuse interests regarding acts or omissions of the Public Administration that cause relevant damage to fundamental assets such as the environment. NGOs may be involved in administrative proceedings (Article 68 par. 2 of the CPA).

Anyone who claims to be the holder of a direct and personal interest, in particular those who have been harmed in their rights or legally protected interests by the challenged act, have standing in judicial administrative reviews, as well as any public or private person regarding their statutory rights and interests (Article 55 and 68 of the CPTA). In administrative courts, as well as in civil courts, *actio popularis* extends the legal standing to any person, association or foundation for protection of the interests at stake, regardless of personal interest in the demand. Legal standing is granted on the grounds of their qualification as an environmental NGO; they do not need to claim 'sufficient interest' or any 'rights capable of being impaired'.

There is a general requirement in the general system for administrative and judicial procedure that court procedures should be timely. There is no general or specific environmental requirement that the administrative/judicial procedures should be effective. There are no specific safeguards to ensure that frivolous

applications are not considered[41].

According to Article 2 of the CPTA, the principle of effective judicial protection includes the right to obtain, within a reasonable time, a judicial decision that is considered *res judicata* deciding on the claims presented before the court, as well as the possibility to obtain interim measures, be it anticipatory or protective, to ensure the effectiveness of the decision.

The level of access to national courts in light of the CJEU case-law and any related national case-law is not very effective. The main indicators summarised by Prof. Aragão are:

- the low numbers of environmental cases (low litigation rates) brought before the courts, demonstrating lack of citizen trust in the courts;
- the time required to obtain a final court decision;
- the number of "development projects/plans/programmes/activities" challenged in court and the number effectively prevented.

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 scope of the administrative review and the judicial review is provided in general administrative rules of the CPA and the CPTA, as replied above to Question 2.1, 2). It covers both procedural and substantive legality.

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

Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures. See question 2.1, 3) above.

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 necessary to participate in the public consultation process in order to have legal standing before the courts.

None of the plans/programmes referred to above establish such requirement, nor the general applicable administrative rules. There is no administrative procedure before the adoption of a plan or programme, but, as referred to at the beginning of this section 2.3, there is a procedure where participation opportunities are given:

- The Action Program for Adaptation to Climate Change was subject to public consultation up to 28 November 2018 that was taken into consideration in the final document;
- The Strategic Framework for Climate Policy, the National Program for Climate Change 2020-2030 and the National Strategy for Adaptation to Climate Change 2020 were subject to public consultation from 22 May to 5 June 2015, resulting in 60 contributions which were all thoroughly taken into consideration in the final documents of the climate policy. The report on the public consultation is available online on the APA portal.
    - The PERSU 2020+ adjusting the Strategic Plan for Urban Waste (PERSU 2020) takes into account the report on the public consultation, including the summary of 33 contributions collected through the available channels, the Portal *Participa* and the APA;
    - The National Plan on Waste Management (PNGR) 2014-2020: pursuing the objective of Directive 2008/98/EC, this plan was accompanied by EIA proceedings. Both the plan itself and the environmental report resulting from the EIA proceedings were subject to public consultation for about one and a half months, with contributions from individuals, associations and public and private authorities, which were taken into consideration[42];
    - The National Strategy for Environmental Education for 2017-2020 (ENEA 2020) was subject to a process of participation aimed at promoting effective ownership of the civil society substantiated in a first stage of public participation with 49 contributions from private and public entities and a second stage of public consultation with 35 contributions;
    - The National Air Strategy 2020: according to information from the APA, the public discussion took place from 20 April to 11 May 2015, and the collected comments and suggestions, which were included in the public consultation report, were taken into consideration for the corrections and

improvements made in the final documents.[43][44]
- The National Action Plan for Energy Efficiency 2013-2016 and the National Action Plan for Renewable Energy were subject to public consultation[45].

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?

There are no special rules on this, as general administrative rules apply. See question 1.7.2 above.

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?

The cost rules to bring a challenge on access to justice in these areas are the same as replied above to Question 1.7.3., as general rules apply. Also see question 2.1, 9) above.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[46]

Since national SEA procedures and the adjacent administrative or judicial review procedures were referred to above in Question 2.2, the following plans and programmes are specifically required to be prepared by the EU legislation:

The basic guidelines of waste management policy are laid down in the following plans: the waste management national plan, waste management specific plans and action plans at municipal level. Prior to the approval of such plans, there is a mandatory phase of hearing the Association of Portuguese Municipalities and the Minister of Environment's local waste authorities (Articles 12, 13, 14, 15 and 16 of DL 178/2006). The waste management plans and preventive waste programmes are subject to public consultation prior to the approval, which shall be conducted according to rules set out in DL 232/2007, which were addressed in question 2.2.

Another set of rules implementing the legal regime of environmental evaluation of plans and programmes, together with DL 232/2007, is laid down within the context of the land management system by Decree-Law no. 80/2015 of 14 May 2015 (DL 80/2015) in order to take into account the environmental effects in the proceedings of development, monitoring, public participation and approval of the land management instruments. It is ensured that there is participation of the organisations representing private interests in the periods intended for public participation.

Directive 2003/35/CE providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment is transposed in various legal acts, namely in the national EIA legislation regarding EIA (DL 151-B/2013), IPPC (DL 127/2013), strategic environmental assessment (DL 232/2007) and water framework (Law 58/2005), and by the CPA itself[47], all addressed respectively in the above questions 1.8.1, 1.8.2, 2.2, 2.1 and 1.4 to 1.7.

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 applicable national statutory rules on standing for both individuals and NGOs are the same as described above in questions 1.4, 1) and 3) and 1.7.1.

Article 68 of the CPA states that citizens, civil organisations that defend environmental rights and local authorities have legal standing for protection of diffuse interests regarding acts or omissions of the Public Administration that cause relevant damage to fundamental assets such as the environment. NGOs may be involved in administrative proceedings (Article 68 par. 2 of the CPA).

Anyone who claims to be the holder of a direct and personal interest, in particular those who have been harmed in their rights or legally protected interests by the challenged act, has standing in judicial administrative reviews, as well as any public or private person regarding their statutory rights and interests (Article 55 and 68 of the CPTA). In

administrative courts, as well as in civil courts, *actio popularis* extends the standing to any person, association or foundation for protection of the interests at stake, regardless of personal interest in the demand. Legal standing is granted on the grounds of their qualification as an environmental NGO; they do not need to claim 'sufficient interest' or any 'rights capable of being impaired'.

In the context of the land management system, the following rights are guaranteed in line with the general guarantees of the administered[48] established in the CPTA: popular action and complaint both to the Ombudsperson and the Public Prosecutor. Specifically, the municipal land management plans and special land management plans recognise the right to directly challenge such plans through administrative review (Article 7 of DL 80/2015).

There is a general requirement in the general system for administrative and judicial procedure that court procedures should be timely. There is no general or specific environmental requirement that the administrative/judicial procedures should be effective. There are no specific safeguards to ensure that frivolous applications are not considered[49].

According to Article 2 of the CPTA, the principle of effective judicial protection includes the right to obtain, within a reasonable time, a judicial decision that is considered *res judicata* deciding on the claims presented before the court, as well as the possibility to obtain interim measures, be it anticipatory or protective, to ensure the effectiveness of the decision.

The level of access to national courts in light of the CJEU case-law and any related national case-law is even less effective than stated in questions 2.2 and 2.3 above. In Prof. Aragão's words, "the SEA directive was transposed late (after the deadline) and before the transposition occurred the municipalities started a review procedure of many territorial management plans throughout the country. The territorial plans were reviewed and approved without an SEA when they should already have been submitted to SEA"

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)?

There are no different *locus standi* conditions if the plan or programme is adopted by legislation, by an individual resolution of a legislative body, or by a single act of an administrative body, etc.

The only difference resides in the kind of judicial action that can be taken (Article 37 of the CPTA):

- A plan or programme adopted by an act of administrative bodies can be challenged through: condemnation to practise due administrative acts; condemnation to refrain from practising certain acts;
- A plan or programme adopted by legislation or a legislative body can be challenged through the rules issued under administrative law and condemnation to emit rules due under provisions of administrative law.

It should be highlighted that that rules on legal standing are uniform for every kind of process.

On the other hand, within the administrative proceedings the interested parties have two means at their disposal: to request that the competent bodies develop, amend or revoke regulations during the public hearing of the interested parties, provided this is justified by the high number of interested parties (Articles 97 to 101 of the CPA); to request that the competent body issues an administrative act, in which case there is a hearing of the interested party prior to the final decision (Articles 102 to 134 of the CPA).

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 scope of the administrative review and the judicial review is provided in general administrative rules of the CPA and the CPTA, as replied above to Question 2.1, 2). It covers both procedural and substantive legality.

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

Before filing a court action, is there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures. See question 2.1, 3) above.

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 necessary to participate in the public consultation phase of the administrative procedure in order to have standing before the national courts.

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

There is a case similar to preclusion: appeal to the Constitutional Court is only possible if, in the previous judicial procedures, the argument of unconstitutionality of a legal rule was raised (Article 70 par. 1 indents (b) and (f) of Law no. 28/82 of 15 November 1982, as last amended by Organic Law no. 4/2019 of 13 September 2019).

The following restrictions apply to the general rules applicable to judicial administrative reviews (Articles 37 et seq. of the CPTA):

- In the context of civil liability of the Public Administration for unlawful administrative acts, it is possible for the court to decide if a certain act is illegal, even if such act does not meet the challengeable requirements, i.e. if an unchallengeable act is at stake (see question 2.1, 5) above). Without prejudice to this possibility, the effect of annulment of the unchallengeable act cannot be obtained through judicial review (Article 38 of the CPTA);
- The condemnation to refrain from practising certain acts can only be requested when it is likely that the acts issued would harm the legally protected rights or interests and that the use of such means of challenge is indispensable (Article 39 of the CPTA).

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

The constitutional right is implemented through the principle of effective judicial protection, which includes the right to a fair trial (Article 2 of the CPTA).

The principle of equality must also be observed in the relations of the Public Administration with individuals (Article 6 of the CPA).

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

The constitutional principle of effective judicial protection, implemented by Article 2 of the CPTA, applies, including the right to obtain a judicial decision within a reasonable time (see questions 1.3, 1) and 1.7.1, 4) above).

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?

There are no special rules on this, as general administrative rules apply. See question 1.7.2 above.

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?

The cost rules to bring a challenge on access to justice in these areas are the same as replied above to Question 1.7.3., as general rules apply. Also see question 2.1, 9) above.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[50]

Decree-Law no. 127/2008 of 21 July 2008 implementing Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register (DL 127/2008)[51].

Regional Legislative Decree no. 19/2010/A of 25 May 2010 regulating the elaboration and dissemination of reports on the state of the environment and the support to the ENGO, as amended by Regional Legislative Decree no.

12/2019/A of 30 May 2019 (DLR 19/2010/A)[52], was adopted under the premises of the three Aarhus pillars.

Executive regulations and generally applicable instruments can be subject to administrative challenge in the same way as individual legal acts. The concept of administrative regulation[53] includes general and abstract legal rules which aim at producing legal external effects within the exercise of administrative legal powers (Articles 135 and 147 par. 3 of the CPA).

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?

The applicable national statutory rules on standing for both individuals and NGOs are the same as described above in questions 1.4, 1) and 3) and 1.7.1.

Article 68 of the CPA states that citizens, civil organisations that defend environmental rights and local authorities have legal standing for protection of diffuse interests regarding acts or omissions of the Public Administration that cause relevant damage to fundamental assets such as the environment. NGOs may be involved in administrative proceedings (Article 68 par. 2 of the CPA).

Anyone who claims to be the holder of a direct and personal interest, in particular those who have been harmed in their rights or legally protected interests by the challenged act, has standing in judicial administrative review, as well as any public or private person regarding their statutory rights and interests (Article 55 and 68 of the CPTA). In administrative courts, as well as in civil courts, *actio popularis* extends the standing to any person, association or foundation for protection of the interests at stake, regardless of personal interest in the demand. Legal standing is granted on the grounds of their qualification as an environmental NGO; they do not need to claim 'sufficient interest' or any 'rights capable of being impaired'.

There is a general requirement in the general system for administrative and judicial procedure that court procedures should be timely. There is no general or specific environmental requirement that the administrative/judicial procedures should be effective. There are no specific safeguards to ensure that frivolous applications are not considered[54].

According to Article 2 of the CPTA, the principle of effective judicial protection includes the right to obtain, within a reasonable time, a judicial decision that is considered *res judicata* deciding on the claims presented before the court, as well as the possibility to obtain interim measures, be it anticipatory or protective, to ensure the effectiveness of the decision.

Insofar as concerns the level of access to national courts in light of the CJEU case-law and any related national case-law, the question of the direct effect of the SEA directive has not been raised before the courts[55].

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 scope of the administrative review and the judicial review is provided in general administrative rules of the CPA and the CPTA, as replied above to Question 2.1, 2). It covers both procedural and substantive legality.

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

Before filing a court action, is there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures. See question 2.1, 3) above.

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 necessary to participate in the public consultation phase of the administrative procedure in order to have standing before the national courts.

DL 127/2008 was approved within the framework of both Aarhus and the United Nations Protocol on Pollutant Release and Transfer Registers, aiming at facilitating access to environmental information and a higher level of public participation.

Regulation of DLR 19/2010/A on reports on the state of the environment aims at ensuring the right to public participation in environmental matters and also support for ENGOs that are dedicated to the same objective of promotion of public participation in environmental matters. The competent authority for issuing the reports and other documents required to ensure public participation in the Autonomous Region of Azores is the regional body of autonomous administration responsible for environment, which must issue every three years a report on the state of the environment in Azores. Such regional body shall maintain technical and financial support for ENGOs that are deemed to develop activities of relevant public interest. Such support aims at ensuring actions of public participation.

For the purposes of the above-mentioned regulation applicable to the Autonomous Region of Azores, public concerned means the affected public or the public likely to be affected by or interested in the decision-making process, including the ENGO (Article 3 subpar. e) of DLR 19/2010/A).

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?

There are no special rules on this, as general administrative rules apply. See question 1.7.2 above.

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?

The cost rules to bring a challenge on access to justice in these areas are the same as replied above to Question 1.7.3., as general rules apply. Also see question 2.1, 9) above.

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[56]?

The request for preliminary ruling before the CJEU is voluntary for first instance courts, where an interpretation question is at stake. It is mandatory for: i) courts whose decisions cannot be appealed against if one of the parties requests it (that includes the defendant in a criminal procedure); ii) where a question of invalidity of an act is at stake; iii) where questions on validity and interpretation of framework decisions are at stake and of decisions on interpretation of conventions established under areas of police and judicial cooperation in criminal matters and on validity and interpretation of its implementing measures[57].

As mentioned above (see question 1.5, 3), the request for preliminary ruling is mandatory for the high courts, namely the STJ and the STA, when the interpretation of EU law is required to decide a question brought before the national courts[58]. However, these courts do not comply, as is clearly evident in the statistics (per capita, per number of courts/judges, per number of years in the EU) on European preliminary rulings[59]. The fact that there are low numbers of actual preliminary rulings under Article 267 TFEU brought by Portuguese courts indicates that there are upstream problems in regard to access to justice.

The OA makes available a short summary on the practical issues of Article 267 TFEU. Further information on the OA can be found in question 1.6, 1) above.

[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 Commission Notice C/2017/2616 on access to justice in environmental matters.*

[2]*Decreto-Lei n.º 140/99, de 24 de Abril*, na última redacção dada por Decreto-Lei n.º 156-A/2013, de 8 de Novembro (Rede Natura 2000). Consolidated text to be updated. Article 10 of DL 140/99 transposes Article 6 of the Habitats Directive.

[3] Article 10 of DL 140/99 transposes Article 6 par. 3 of Directive 92/43, which is one of the provisions analysed in the cited CJEU case-law C-664/15.

[4]*Law No 58/2005 of 29 December 2005, as amended most recently by Law No 44/2017 of 19 June 2017* (consolidated text).

[5]*Decree-Law No 226-A/2007* of 31 May 2007 'System for the use of water resources', as amended most recently by Decree-Law No 97/2018 of 27 November 2018 (full consolidated text).

[6]*Decree-Law No 150/2015, of 5 August*

[7]*Decree-Law No 178/2006* of 5 September 2006 'General waste management system', as amended most recently by Decree-Law No 152-D/2017 of 11 December 2017 (full consolidated text).

[8]*Decree-Law No 9/2007* of 17 January 2007 'General Noise Regulation', as amended most recently by Decree-Law No 278/2007 of 1 August 2007 (full consolidated text).

[9]*Decree-Law 146/2006* of 31 July 2006 'Assessment and management of ambient noise', amended by Decree-Law No 136-A/2019 of 6 September 2019 (full consolidated text).

[10]*Decree-Law No 142/2008* of 24 July 2008 'Legal framework for nature conservation and biodiversity', as amended most recently by Decree-Law No 42-A/2016 of 12 August 2016 (full consolidated text).

[11]*Decree-Law No 166/2008*, of 22 August 2008 'Legal framework for the National Ecological Reserve', as amended most recently by Decree-Law No 124/2019 of 28 August 2019.

[12]*Law No 17/2014* of 10 April 2014 establishing the basis for national policy on maritime spatial planning and management.

[13] National rules on environmental access to justice are provided by Law no. 26/2016 transposing Directive 2003/4/EC, as stated above in question 1.7.4, 1).

[14] Articles 31 and 11(1) of DL 150/2015 transpose Articles 22 and 11 of the Directive.

[15] The exact wording of Article 3 subpar. q) of DL 150/2015 cross-references Article 8 and 10. However, it is understood that the cross-reference to Article 10 is a typo and should actually be a cross-reference to Article 11, which transposes Article 15(2) of Directive 2012/18/UE. Article 3 par.18 of the Directive refers to "matters covered by Article 15(1)".

[16] No case-law was found in the national data base of IGFEJ concerning Directive 2008/98.

[17]*Acórdão do STA n.º 0996/06 de 25/09/2012*.

[18]*Acórdão do STA n.º 047310 de 15/02/2007*.

[19]*Acórdão do STA n.º 06/07/2000 de 06/07/2000*.

[20]*Acórdão do STA n.º 031535 de 14/10/1999*.

[21]*Acórdão do STA n.º 0458/15 de 17/02/2016*.

[22]*Acórdão do STA n.º 0848/08 de 07/01/2009*.

[23]*Acórdão do STA n.º 01273/13 de 03/12/2014*.

[24] Source: Aragão, 2012, page 20.

[25] For example, as addressed in the Study "Effective access to justice" of the DGIP.

[26] A comprehensive list of the rights with granted administrative protection includes: "the recognition of subjective legal situations arising directly from administrative or legal acts; the recognition of individual qualities or fulfilment of conditions; the recognition of the right to refrain from behaviours and, in particular, to refrain from adopting administrative acts in the case of threat of future injuries; the annulment or declaration of nullity or inexistence of administrative acts; the condemnation of the administration to pay, to deliver things or perform

facts; the condemnation of the administration to repair damages (*in natura* or by monetary compensation); the resolution of disputes concerning the interpretation, validity or enforceability of administrative contracts; the declaration of illegality of administrative norms; the condemnation of the administration to practise administrative acts, material acts or operations due according to the law or necessary to restore subjective legal situations; the injunction to provide information, allow access to documents or issue certificates; or the adoption of appropriate interim measures to ensure the effectiveness of the decision. Source: Aragão, 2012, page 15.

[27] Cristiana Maria Pina Alves Moreira, A aceitação do ato administrativo [Acceptance of the administrative act], Master's in Law (Specialisation in Legal and Administrative Sciences), Faculty of Law of the University of Porto, p. 17: 'Administrative acts open to challenge are any legal acts consisting of unilateral decisions of a public authority which seek to bring about the consequence of creating, modifying or removing a right or duty or of determining the legal nature of a given thing.'

[28]Case-law from the Constitutional Court of 20 November 1996 in process 606/95

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

[30] Source Aragão, 2012, page 20.

[31] 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.

[32] Source: 5th National Report on Implementation of the Aarhus Convention - 2017 (*5º Relatório Nacional de Implementação da Convenção de Aarhus – NIR 2017*). APA. Page 40 *et seqs*.

[33] Approved by Resolution 130/2019 of 2 August 2019, *Resolução do Conselho de Ministros n.º 130/2019, de 2 de Agosto, aprova o Programa Programa de Ação para a Adaptação às Alterações Climáticas - P-3AC*.

[34] Approved by Resolution 56/2015 of 30 July 2015. *Resolução do Conselho de Ministros n.º 56/2015 de 30 de Julho, Aprova o Quadro Estratégico para a Política Climática (QEPiC), o Programa Nacional para as Alterações Climáticas (PNAC 2020/2030) e a Estratégia Nacional de Adaptação às Alterações Climáticas (ENAAC 2020)*.

[35] Approved by Order n.º 241-B/2019 of 31 de July 2019. *Portaria n.º 241-B/2019, de 31 de Julho, Aprova o PERSU 2020+, que constitui um ajustamento às medidas vertidas no Plano Estratégico para os Resíduos Urbanos (PERSU 2020).*

[36] Approved by Resolution 11-C/2015 of 16 March 2015. Resolução do Conselho de Ministros n.º 11-C/2015, de 16 de Março, Aprova o Plano Nacional de Gestão de Resíduos para o horizonte 2014-2020.

[37] Approved by Resolution 100/2017 of 11 July 2017. *Resolução do Conselho de Ministros n.º 100/2017, de11 de Julho, Aprova a Estratégia Nacional de Educação Ambiental para 2017-2020 (ENEA 2020)*.

[38] Approved by Resolution 46/2016 of 26 de Agosto 2016. *Resolução do Conselho de Ministros n.º 46/2016, de 26 de Agosto, Aprova a Estratégia Nacional para o Ar (ENAR 2020).*

[39] Approved by Resolution 20/2013 of 10 April. Resolução do Conselho de Ministros n.º 20/2013, de 10 de Abril, Aprova o Plano Nacional de Acção para a Eficiência Energética para o período 2013-2016 e o Plano Nacional de Acção para as Energias Renováveis para o período 2013-2020.

[40]*5º Relatório Nacional de Implementação da Convenção de Aarhus – 2017 (NIR 2017).* APA. Page 52 et seq.

[41] Source Aragão, 2012, page 20.

[42] Sources https://apambiente.pt/residuos/antecedentes-0; NIR 2017, page 56.

[43]Information from APA on the ENAR 2020

[44] Source NIR 2017, page 56. Also Paragraph 7 of ENAR 2020 on public consultation.

[45] According to Resolution 20/2013, the public consultation was made available through the document «*Linhas*

estratégicas para a revisão dos Planos Nacionais de Ação para as Energias Renováveis e Eficiência Energética».

[46] 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 Commission Notice C/2017/2616 on access to justice in environmental matters.

[47] NIR 2017, APA, page 4.

[48] The administered means all the addressees of the acts practised by the Public Administration.

[49] Source Aragão, 2012, page 20.

[50] Such acts fall 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

[51]Decree-Law No 127/2008, of 21 July 2008 regulating implementation in national law of Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register, as amended by Decree-Law No 6/2011 of 10 January 2011. Consolidated text not available.

[52]Decreto Legislativo Regional n.º 19/2010/A, de 25 de Maio, Regulamenta a elaboração e disponibilização de relatórios e informação pública sobre o estado do ambiente, regula o apoio às organizações não governamentais de ambiente, alterado pelo Decreto Legislativo Regional n.º 12/2019/A, de 30 de Maio (full consolidated text).

[53] For further developments see Blanco de Morais, Carlos, Novidades em matéria da disciplina dos regulamentos no código de procedimento administrativo, p. 4.

[54] Source Aragão, 2012, page 20.

[55] See for instance main online tools for case-law searching referred to in question 1.7.4, 2) above and Gomes' e-book referred in question 1.8.1, 2) above.

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

[57] The problematics of preliminary rulings are presented on the website of the Law Bar *A problemática do reenvio prejudicial* Ramos, Vânia Costa. Procedural rights in criminal proceedings giving opinion on practical utility of preliminary ruling within ECHR: Forum Direitos Fundamentais nos Processos Penais na Europa.

[58] Source of information: Questões prejudiciais

[59] See tables concerning references for preliminary rulings by Member States (2015-2019) on page 163 of "*Statistics concerning the judicial activity of the Court of Justice*".

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