Access to justice at Member State level

# 1.1. Legal order – sources of environmental law

1) General introduction to the system of protection of environment and procedural rights of persons (natural, legal, NGOs) in the specific national order

Articles 53 and 54 of the Constitution and the Law on Environmental Protection set out basic requirements which must be fulfilled. The purpose of the Law on Environmental Protection is to regulate public relations in the field of environmental protection, establish the principal rights and duties of legal and natural persons in preserving the biodiversity, ecological systems and landscape characteristic of the Republic of Lithuania, ensuring a healthy and clean environment, rational utilisation of natural resources in the Republic of Lithuania, the territorial waters, continental shelf and economic zone thereof (Article 2 of the Law on Environmental Protection). Environmental protection is a public interest (Constitutional Court's rulings of 29 October 2003, of 9 May 2014, of 5 March 2015).

A person whose constitutional rights or freedoms are violated shall have the right to apply to a court (Article 30 (1) of the Constitution). One or more natural or legal persons and the public concerned[1] have the right to file, in accordance with the procedure laid down by laws of the Republic of Lithuania, a complaint/application demanding that appropriate action be taken to prevent or minimise environmental damage or restore the environment to its baseline condition, and that the persons guilty of causing a harmful effect to the environment and the officials whose decisions or acts/failure to act have violated the rights of citizens, the public concerned, other legal and natural persons, or the interests protected under the law be punished; as well as to refer, in accordance with the procedure laid down by laws of the Republic of Lithuania, to court where they believe that their application filed in accordance with the procedure laid down by the legal acts regulating the right to obtain information on the environment has been unlawfully dismissed, has been provided with a partially or completely inappropriate response or has not been given proper regard in compliance with the legal acts regulating the right to obtain information on the environment (Article 7 (1) of the Law on Environmental Protection). The public concerned has the right to refer to court for defence of public interest challenging the substantive or procedural legality of decisions, acts or omissions in the area of the environment and environmental protection as well as utilisation of natural resources (Article 7 (2) of the Law on Environmental Protection).

The state administration of environmental protection shall be carried out by the Government of the Republic, the Ministry of Environment and other institutions under the Ministry of Environment (e.g. the Department of Environmental Protection, the Environmental Protection Agency, the State Territorial Planning and Construction Inspectorate, the General Forest Enterprise, the State Protected Areas Service), other special state authorities (e.g. National Parks Directorates) and institutions of local self-government.

2) Constitution – main (content of + including references) provisions on environment and access to justice in the national constitution (if applicable) including procedural rights

There is no right to a clean, healthy, favourable, etc. environment directly enshrined in the Constitution. But this right can be derived from other Articles of the Constitution[2]. The concept of environmental protection is mentioned in several Articles of the Constitution: "The State and each individual must protect the environment from harmful influence" (Article 53 (3)); "The State shall concern itself with the protection of the natural environment, its fauna and flora, separate objects of nature and particularly valuable districts, and shall supervise the moderate utilization of natural resources, as well as their restoration and augmentation. The exhaustion of land and elements of the earth, water and air pollution, the production of radiation, as well as the impoverishment of fauna and flora, shall be prohibited by law" (Article 54). The Constitution guarantees access to justice: "Any person whose constitutional rights or freedoms are violated shall have the right to appeal to court" (Article 30 (1)).

Text of the Constitution (English and Lithuanian)

3) Acts, Codes, Decrees, etc. - main provisions on environment and access to justice, national codes, acts

According to the Law on Administrative Proceedings, any interested person can apply to a court for protection of their infringed right, contested right or interest protected under law. Any applicant who challenges an administrative act has to demonstrate a particular interest in the annulment of this act. Only applications to protect an individual's infringed or protective right to an administrative court are admissible (Article 5 of the Law on Administrative Proceedings). These main rules are applicable for different types of procedures and different actors. However, it is possible to bring a complaint in order to protect the State or other public interest. The actors for this possibility include the prosecutor, entities of administration, state control officers, other state institutions, agencies, organisations or natural persons. But this possibility can be used only in the cases prescribed by law (Article 55 of the Law on Administrative Proceedings). E.g., according to the Law on Environmental Protection the public concerned, one or more natural or legal persons, have the right to bring a claim before the courts, and in addition the public concerned has the right to refer to court for defence of public interest challenging the substantive or procedural legality of decisions, acts or omissions in the area of the environment and environmental protection as well as utilisation of natural resources. So if there were a complaint in order to protect the public interest connected with the protection of the environment, this complaint should be admissible because it is prescribed by the Law on Environmental Protection. This rule is used for all matters (not only environmental matters). According to Article 7 (8) of the Law on Environmental Protection, one or more natural or legal persons and the public concerned have the right to file a complaint/application demanding that appropriate action be taken to prevent or minimise environmental damage or restore the environment to its baseline condition, and that the persons guilty of causing a harmful effect on the environment and the officials whose decisions or acts/failure to act have violated the rights of citizens, the public concerned, other legal and natural persons or the interests protected under law be punished.

There are specific rules regarding the possibility for the public concerned to bring a claim before the courts in the case of environmental impact assessment (Article 15 of the Law on Environmental Impact Assessment of the Proposed Economic Activity), integrated pollution prevention and control permits (Article 124 of Rules on issuance, renewal and cancellation of IPPC permits, approved by the Ministry of Environment of Lithuania - Order Number D1-528 in 2013), as well as territory planning (Article 49 of the Law on Territory Planning).

4) Examples of national case-law, role of the Supreme Court in environmental cases

The Supreme Administrative Court develops uniform practice of administrative courts in the interpretation and application of laws and other legal acts. The Supreme Court, as a court of cassation, ensures uniform court practice of courts of general jurisdiction.

There is a distinction between cases about protection of the private interest and the public interest respectively. The protection of the private interest is guaranteed under the Constitution (Article 30). The protection of the public interest is possible only in the cases prescribed by law (Article 55 of the Law on Administrative Proceedings) (Supreme Administrative Court's judgment of 23 September 2013 in case no. A520 - 211/2013). The Law on Environmental Protection foresees the possibility to protect the public interest in environmental matters (Article 7). The Supreme Administrative Court applies the Aarhus Convention directly and decides about the legal status of the person according to the Aarhus Convention (Supreme Administrative Court's judgment of 29 May 2013 in case no. A602 -186/2013). The Supreme Administrative Court decided about the requirements for NGOs: they should be active in the area of environment and environmental protection and should fulfil other requirements under the national law (Supreme Administrative Court's judgment of 23 September 2013 in case no. A520 - 211/2013). The status of "public concerned" can be qualified according to the Law on Environmental Protection and other laws, for example according to the Law on Environmental Impact Assessment of the Proposed Economic Activity (Supreme Administrative Court's judgment of 29 May 2013 in case no. A602 -186/2013).

5) Can the parties to the administrative procedure directly rely on international environmental agreements, or can only the national and EU transposing legislation be referred to?

The international treaties ratified by the Parliament (Seimas) are a constituent part of the legal system (Article 138 (3) of the Constitution). In cases of dispute, international agreements have primacy over national law (Article 11 (2) of the Law on International Treaties). Parties can rely directly on international law. The Aarhus Convention is effective without any additional national legislation. Administrative bodies and courts have to implement this

treaty. The Aarhus Convention is implemented in national legislation.

## 1.2. Jurisdiction of the courts

1) Number of levels in the court system

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2) Rules of competence and jurisdiction – how is it determined if there is jurisdiction of the court, cases of conflict between different national tribunals (in different Member States)?

Lithuania has a dual judicial system with ordinary courts of general jurisdiction and administrative courts of special jurisdiction. The courts of general jurisdiction, dealing with civil and criminal matters, are the Supreme Court of Lithuania (1), the Court of Appeal of Lithuania (1) and, at first instance level, the regional courts (5) and the district courts (12). District courts also hear some cases of administrative offences from within their jurisdiction by law. The regional courts, the Court of Appeal and the Supreme Court of Lithuania have a civil division and a criminal division. The Supreme Court of Lithuania is the court reviewing judgments, decisions, rulings and orders of the other courts of general jurisdiction. It develops uniform court practice in the interpretation and application of laws and other legal acts. The Supreme Administrative Court of Lithuania (1) and the regional administrative courts (2) are courts of special jurisdiction hearing disputes arising between citizens and administrative bodies from administrative legal relations. The Supreme Administrative Court is a first and final instance court for administrative cases assigned to its jurisdiction by law. It is an appeal instance court for cases concerning decisions, rulings and orders taken by regional administrative courts, as well as for cases involving administrative offences decided by district courts. The Supreme Administrative Court is also an instance Court for hearing, in cases specified by law, petitions on the reopening of completed administrative cases, including administrative offences. The Supreme Administrative Court develops uniform practice of administrative courts in the interpretation and application of laws and other legal acts. There are no specialised courts competent to hear specific types of administrative dispute.

3) Specialities as regards court rules in the environmental sector (special environmental tribunals), laymen contributing, expert judges

There are no special court rules in the environmental sector. The Administrative Dispute Commission of Lithuania and the administrative courts carry out full review of all administrative acts, including acts in environmental matters. The courts of general jurisdiction deal with environmental damage cases.

4) Level of control of judges in case of administrative appeals, concept of own motion, what are its limits? Rules on court action on its own motion.

The administrative court can quash the contested administrative act (sometimes part thereof). The court can also obligate the appropriate entity of administration to remedy the committed violation or carry out other orders of the court (Article 88 of the Law on Administrative Proceedings). The administrative court cannot change the administrative act, but it can obligate the state institution to elaborate (pass) a new administrative act. The decision of the court may contain this new administrative act. There are no special rules in the Law on Administrative Proceedings about cases in environmental matters. There is a possibility of petition for the protection of the State or other public interests, including environmental matters (Article 55 of the Law on Administrative Proceedings).

With regard to the preparation for the hearing of the case in the court, the judge shall issue the orders necessary for preparing the hearing without notifying the participants in the proceedings (asking for evidence, appointing witnesses, etc.), except when deciding the issue of ordering the expert examination (Article 67 of the Law on Administrative Proceedings). In a court hearing, the judge can “actively” participate in the proceeding too by asking for evidence, appointing witnesses, experts, etc. The court can apply to the Constitutional Court requesting that it determine whether the law or other legal act adopted by the Seimas applicable in the case is in conformity with the Constitution, and whether the acts adopted by the President of the Republic or the Government applicable in the case are in compliance with the Constitution and laws. The court can also apply to a competent judicial authority of the European Union for the prejudicial decision on the issue of interpretation or validity of the laws of the European Union on its own motion.

## 1.3. Organisation of justice at administrative and judicial level

1) System of the administrative procedure (ministries and/or specific state authorities)

The state administration of environmental protection shall be carried out by the Government of the Republic, the Ministry of Environment and other institutions under the Ministry of Environment (e.g. the Department of Environmental Protection, the Environmental Protection Agency, the State Territorial Planning and Construction Inspectorate, the General Forest Enterprise, the State Protected Areas Service), other special state authorities (e.g. the National Parks Directorates) and institutions of local self-government. The administrative procedure is regulated by the Law on Public Administration for all matters of administrative law. There are no specific rules for environmental matters. The administrative procedure shall be completed and the decision on the administrative procedure shall be adopted within 20 working days from the beginning of the procedure. This term can be extended for a period not longer than 10 working days (Article 10 (4) of the Law on Public Administration).

The Lithuanian legal system provides for both mandatory and optional pre-litigation procedures. According to the Law on Administrative Proceedings, before application is made to the administrative court individual legal acts adopted by public administration entities provided for by law, as well as their acts/omission may be, and in the cases established by the law must be, contested by applying to the institution for preliminary extrajudicial investigation of disputes (Article 26 (1) of the Law on Administrative Proceedings). In cases of mandatory pre-litigation procedures, a certain body of pre-trial investigation generally belongs to the internal organisational system of particular institutions of public administration and the examination of administrative disputes is one of its functions. In cases of optional pre-litigation procedures, the individual is given the freedom of choice. An appeal may be lodged before the body for preliminary extrajudicial investigation or directly before the administrative court. The key authority of such pre-trial investigation is the Lithuanian Administrative Disputes Commission. The Lithuanian Administrative Disputes Commission is composed by the Government of the Republic of Lithuania for the period of 4 years. This commission consists of members having higher legal education (Article 3 of the Law on Pre-trial Administrative Disputes Settlement Procedure).

2) How can one appeal an administrative environmental decision before court? When can one expect the final ruling?

A person shall have the right to appeal against a decision on the administrative procedure adopted by an entity of public administration, at his own choice, either to an administrative disputes commission or to an administrative court in accordance with the procedure set out in law (Article 14 of the Law on Public Administration).

The administrative court can revoke the decisions made by competent authorities (or part thereof) or obligate the competent authority to remedy the committed violation or carry out other orders of the court (Article 88 of the Law on Administrative Proceedings). There are no specific rules concerning environmental matters for the procedure before administrative courts.

The ordinary courts deal with cases concerning environmental liability. The possibility to claim compensation for damage is foreseen in Articles 32-34 of the Law on Environmental Protection. There are several possibilities for enforcing environmental liability. Each possibility is based on specific conditions.

The person can ask the competent authority to act if the environment is damaged. The decision made by the competent authority can be appealed before the administrative court.

Legal and natural persons whose health, property or interests have been damaged can make direct claims for damages before ordinary courts. Competent officers can make such claims when damage has been done to the interests of the State.

Complaints (applications) lodged with the administrative disputes commission must be considered and a decision thereon must be taken within 20 working days after receipt thereof (this term can be extended for a period not longer than 10 working days) (Article 12 of the Law on Pre-trial Administrative Disputes Settlement Procedure). The decision should be taken within 3 working days upon completion of the hearing of the case (Article 19 of the Law on Pre-trial Administrative Disputes Settlement Procedure).

The decision of the court shall be drawn up and announced, as a rule, on the same day after the hearing of the case (Article 84 (3) of the of the Law on Administrative Proceedings). After hearing the case, the court can defer

adoption of the court decision and publication for no longer than 20 working days, and, after hearing the case regarding the legitimacy of a regulatory administrative act, for no longer than one month. In the case of important reasons, at the reasoned request of the judge hearing the case or the member(s) of the chamber of judges hearing the case, the president of the court or their appointed judge may extend such time limits by a reasoned ruling for no more than ten working days. In the event of illness of the judge hearing the case or all members of the chamber of judges hearing the case, the president of the court or a judge appointed by them, or inability to participate for any other objective reason, or in the event of illness of one or several members of the chamber of judges examining the case, or inability to participate for any other objective reason, the remaining (participating) member(s) of the chamber of judges may extend this time limit by means of a ruling until the objective reason no longer applies (Article 84 (5) of the Law on Administrative Proceedings).

There is no regulation in the law of how much time it should take between lodging a complaint and its hearing. There are several terms foreseen for the preparation of the case and of the hearing (as a rule the preparation of administrative cases for hearing in the court must be completed within one month from the day of acceptance of the complaint/application/petition (Article 64 (2) of the Law on Administrative Proceedings); the ruling to assign the case to be examined in the court hearing usually has to be adopted no later than one month before the day of the court meeting (Article 64 (3) of the Law on Administrative Proceedings).

3) Existence of special environmental courts, main role, competence

There are no special courts, tribunals or environmental boards in Lithuania. The Administrative Dispute Commission of Lithuania and the administrative courts carry out full review of all administrative acts, including acts in environmental matters.

4) Appeal against environmental administrative decisions delivered by competent authorities and appeal against Court orders and decisions (levels)

According to the Law on Administrative Proceedings, any interested person can challenge an administrative act before a regional administrative court. Applications to an administrative court to protect an individual’s infringed or protective right (Article 5) are admissible, as are applications to protect the state or other public interest (Article 55).

The decisions of regional administrative courts, adopted when hearing the cases in the first instance, may be appealed to the Supreme Administrative Court of Lithuania within 30 days from the pronouncement of the decision (Article 132 (1) of the Law on Administrative Proceedings).

5) Extraordinary ways of appeal. Rules in the environmental area. Rules for introducing preliminary references.

All court proceedings are likely to be applied in all matters. There are no specific rules in the environmental area.

The court shall suspend the hearing of the case when it applies to a competent judicial authority of the European Union for the preliminary ruling on the issue of interpretation or validity of the laws of the European Union (Article 100 (1(9)) of the Law on Administrative Proceedings). The ruling to suspend the hearing of the case regarding the application to a competent judicial authority of the European Union cannot be appealed (Article 100 (3) of the Law on Administrative Proceedings).

6) Are there out of court solutions in the environmental area as regards solving conflicts (mediation, etc.)?

There is a possibility to settle administrative disputes (including environmental disputes) by judicial mediation. The court asks the parties for their opinion regarding the intention and possibilities to resolve the dispute by judicial mediation (Article 71 of the Law on Administrative Proceedings).

7) How can other actors help (ombudsperson (if applicable), public prosecutor), accessible link to the sites?

The Ombudsman cannot bring a claim before the administrative court against the individual administrative decision. But he can apply to the administrative court with a request to investigate conformity of an administrative regulatory enactment (or part thereof) with the law or Government resolution (Article 19 (1(10)) of the Law on the Seimas Ombudsmen). He can recommend that the prosecutor apply to the court according to the procedure prescribed by law for the protection of public interest (Article 19 (1(16)) of the Law on the Seimas Ombudsmen). The public prosecutor can defend the public interest before administrative courts (Article 55 of the Law on

Administrative Proceedings). Other state institutions have legal standing to act before administrative courts either when it is in their own interest to claim or to defend, or when they are defending the public interest.

The Seimas Ombudsmen's Office

The protection of public interest by the public prosecutor

## 1.4. How can one bring a case to court?

1) Who can challenge an environmental administrative decision (relevance of the concept of concerned public and NGOs)?

Any applicant who challenges an administrative act has to demonstrate a particular interest in the annulment of this act. Only application to an administrative court as an individual in order to protect their own infringed or contested right or interest is admissible (Article 5 of the Law on Administrative Proceedings). It is possible to bring a complaint to protect the State or other public interest laid down for the prosecutor, entities of administration, state control officers, other state institutions, agencies, organisations or natural persons, but only in the cases prescribed by law (Article 55 of the Law on Administrative Proceedings). A complaint/petition may be filed with the administrative court within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission), within two months from the day of expiry of the time limit set by a law or any other legal act for compliance with the demand. If the public or internal administration entity delays consideration of a certain issue and fails to resolve it by the due date, a complaint about the failure to act (in such delay) may be lodged within two months from the day of expiry of the time limit set by a law or any other legal act for the settlement of the issue. No time limits shall be set for the filing of petitions for the review of the lawfulness of administrative legal acts by the administrative courts (Article 29 of the Law on Administrative Proceedings).

NGOs can bring a complaint in order to protect their own and their members' infringed or contested rights or interests, or to protect the State or other public interest in the cases prescribed by law. The public concerned, as defined is Article 7 (2) of the Law on Environmental Protection, has the right to bring a complaint to protect the State or other public interest.

2) Are there different rules applicable in sectoral legislation (nature conservation, water management, waste, EIA, IPPC/IED, etc.)?

There are additional rules regarding the possibility for the public concerned to bring a claim before courts in the case of environmental impact assessment (Article 15 of the Law on Environmental Impact Assessment of the Proposed Economic Activity) and integrated pollution prevention and control permits (Article 124 of Rules on issuance, renewal and cancellation of IPPC permits, approved by the Ministry of Environment of Lithuania - Order Number D1-528 in 2013), as well as territory planning (Article 49 of the Law on Territory Planning).

3) Standing rules applicable for NGOs and individuals (in administrative procedure and at judicial level, for organisations with legal personality, ad hoc groups of representatives of the public, standing for foreign NGOs, etc.)

According to the Law on Administrative Proceedings, any interested person (individuals, NGOs) can apply to a court for protection of their infringed right, contested right or interest protected under law. Any applicant who challenges an administrative act has to demonstrate a particular interest in the annulment of this act. Only applications to an administrative court to protect an individual's infringed or protective right are admissible (Article 5 of the Law on Administrative Proceedings). These main rules are applicable for different types of procedure (first instance, appeal instance) and different actors (individuals, NGOs).

However, it is possible to bring a complaint in order to protect the State or other public interest. The actors for this possibility include the prosecutor, entities of administration, state control officers, other state institutions, agencies, organisations or natural persons. But this possibility can be used only in the cases prescribed by law (Article 55 of the Law on Administrative Proceedings). E.g., according to the Law on Environmental Protection the public concerned, one or more natural or legal persons, have the right to bring a claim before the courts, and in addition the public concerned has the right to refer to court for defence of public interest challenging the substantive or procedural legality of decisions, acts or omissions in the area of the environment and environmental

protection as well as utilisation of natural resources. So if there were a complaint in order to protect the public interest connected with the protection of the environment, this complaint should be admissible because it is prescribed by the Law on Environmental Protection. This rule is used for all matters (not only environmental matters).

4) What are the rules for translation and interpretation if foreign parties are involved?

Article 9 of the Law on Administrative Proceedings provides that, in the process of administrative cases, decisions should be made and published in the Lithuanian language. All documents submitted to the court must be translated into Lithuanian. Where the participant in the proceedings to whom the procedural documents shall be served in a foreign state does not know the Lithuanian language, the administrative court shall be presented with translations of such documents into the language they understand or the official language of the country where such documents have to be served, or, in the event that said country has several official languages, into one of the official language used at the place of delivery. Where the judicial procedural documents have to be sent to the participant in the proceedings who does not know the Lithuanian language and resides in a foreign state, the court shall translate them into one of the languages they understand or the official language of the country where such documents have to be served. Upon the resolution of the judge who is preparing the case for hearing or of the court hearing the case, a document drawn up in another language may be translated at the court session by a translator. Persons who have no command of the Lithuanian language shall be guaranteed the right to have the assistance of an interpreter. The services provided by the interpreter at the court session shall be paid for from the State budget.

Administrative procedures shall be conducted in the official language, namely Lithuanian (Article 28 of the Law on Public Administration). When a person in whose respect the administrative procedure has been initiated or other interested persons do not speak or understand Lithuanian or are unable to make themselves understood because of a sensory or speech disorder, an interpreter must be present at the administrative procedure. An entity of public administration that has initiated the administrative procedure or a person in whose respect the administrative procedure has been initiated shall invite an interpreter at their own initiative.

## 1.5. Evidence and experts in the procedures

*Overview on specific rules in administrative environmental matters, control of judge, calling for an expert in the procedure*

1) Evaluation of evidence – are there any limits in obtaining or evaluating evidence, can the court request evidence on its own motion?

Parties and other persons present the evidence for the proceedings. The parties must prove the circumstances on which they base their claims and responses. In administrative and civil proceedings, the evidence includes: explanations of the parties and third parties (given directly or through representatives), witness evidence, written evidence, real evidence, statements of examination, expert evidence. The parties and other participants submit evidence to the court. If necessary, the court can allow those persons to submit additional evidence at the person's request or may, on its own initiative, demand the necessary documents or request submissions from the officials. In civil proceedings, the court has the right to collect evidence on its own initiative only in exceptional cases prescribed by the law, such as in family cases and labour cases. The court may also demand and obtain evidence from the other party or third parties at another party’s request.

No evidence before the courts has a predetermined value. The court evaluates the evidence according to its own inner conviction based on a thorough, comprehensive and objective examination of the facts in accordance with the law, as well as justice and reasonableness criteria. Judges must actively participate in the collection of evidence, in the establishment of all significant circumstances of the case, and must make a comprehensive and objective examination thereof.

In the administrative review procedure, the entity of public administration may demand only such documents and information as is not available in the state registers and other state or municipal information systems, except for cases where such documents and information must be provided under laws. The deadline must be set for the provision of the documents and information. It shall be allowed to make a repeated demand for documents and information from the persons in respect of whom the administrative procedure has been initiated only in

exceptional cases and with proper substantiation of the necessity for such documents and information. An entity of public administration may request the assistance of another entity of public administration in adopting the decision on the administrative procedure. Where institutional assistance can be rendered by several entities of public administration, the entity of public administration of the lower level shall first be addressed. Institutional assistance rendered by one entity of public administration to another entity of public administration shall be free of charge (Article 12 of the Law on Public Administration).

2) Can one introduce new evidence?

In administrative proceedings, parties can introduce new evidence up to the end of the hearing on merits. In civil proceedings, parties can introduce new evidence up to the end of the preparation for the hearing on the merits.

3) How can one get expert opinions in the procedures? Publicly available lists and registries of experts

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3.1) Is the expert opinion binding on judges, is there a level of discretion?

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3.2) Rules for experts being called upon by the court

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3.3) Rules for experts called upon by the parties

Parties can submit expert opinions with other evidence to the court. Specialist explanations, opinions or conclusions gathered by the parties to the proceedings on their own initiative are not admitted as expert evidence. They are regarded as pieces of written evidence. The court decides either on its own initiative or at the request of the parties whether to order an expert examination in the proceedings. Usually an expert is ordered to examine certain issues arising in the case when the court needs special scientific, medical, artistic, technical or professional knowledge.

There is publicly available list of experts.

Expert opinions, like other evidence, do not have a predetermined value for the court. They are not binding on judges.

The amounts payable to experts and organisations of experts shall be paid in advance by the party which made a request for experts (Article 39 of the Law on Administrative Proceedings). If the request has been made by both parties, or if the experts are summoned or the examination is carried out on the initiative of the court, the required amounts shall be paid in by the parties to the proceedings in equal amounts. The specified amounts shall be paid into a special bank account of the court. Having regard to the property status of the natural person or group of natural persons, the administrative court may fully or in part exempt them from payment into the special court account of the amounts specified in this Article. The request for exemption from payment into the account of the said amounts must be justified and substantiated by relevant evidence. The aggrieved party may also be exempted from payment into the account of the amounts indicated in this Article.

3.4) What are the procedural fees to be paid and when in relation to expert opinions and expert witnessing?

The Forensic Science Centre of Lithuania (FSCL) is a governmental institution of public administration whose main task is to carry out forensic examinations required by courts and other pre-trial investigation institutions. The fees are regulated by the normative acts of this institution.

The fees of private experts are not regulated. No procedural fees exist.

The amounts payable to witnesses, specialists, experts and organisations of experts shall be paid in advance by the party which made a request to summon witnesses, specialists or experts (Article 39 (3) of the Law on Administrative Proceedings). If the requests have been made by both parties, or if the witnesses, specialists and experts are summoned or the examination is carried out on the initiative of the court, the required amounts shall

be paid in by the parties to the proceedings in equal amounts (Article 39 (4) of the Law on Administrative Proceedings).

## 1.6. Legal professions and possible actors, participants to the procedures

1) Role of lawyers, compulsory or not, how to contact, publicly accessible internet link to registry or website of the bar, perhaps of specialised lawyers in the environmental field

Parties can represent their interests in administrative courts themselves or through representatives. In administrative courts, the participation of lawyers is not compulsory in judicial procedures (including in environmental matters). A lawyer is compulsory before the cassation court (the Supreme Court of Lithuania) (e.g. in cases of environmental damage or in criminal cases). Generally, compulsory participation is required in criminal proceedings in all courts of general jurisdiction.

Lists of lawyers can be found on the following websites:

https://www.advokatura.lt/savitarna

https://www.advokatura.lt/irasai/advokatu-paieska

https://www.infolex.lt

A list of lawyers specialising in environmental matters can be found here.

1.1 Existence or not of pro bono assistance

An advocate can provide legal services free of charge, i.e. as legal aid (Article 4 (5) of the Law on the Bar). An advocate decides if they will provide legal services free of charge. This service is pro bono assistance and not necessarily legal aid.

All citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union, and other persons specified in international treaties of the Republic of Lithuania are eligible for primary legal aid (Article 11 (1) of the Law On State-Guaranteed Legal Aid). The secondary legal aid is foreseen only for natural persons who prove their right to receive secondary state-guaranteed legal aid (Articles 11 (2) and 12 of the Law On State-Guaranteed Legal Aid). The following persons are eligible for secondary legal aid:

1. citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union whose property and annual income do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid;
2. citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union as specified in Article 12 of this Law; these persons are eligible for secondary legal aid regardless of property and income levels;
3. other persons specified in international treaties of the Republic of Lithuania.

1.2 If pro bono assistance does exist, what are the main elements of the procedure to receive it (perhaps links to forms, court or agency in charge, address, telephone, email, ways to contact, etc.)?

The procedure for pro bono assistance provided by an advocate is not regulated. There are several advocates who declare on their websites that they provide pro bono assistance.

The procedure for receiving state-guaranteed legal aid is regulated by the Law On State-Guaranteed Legal Aid.

The costs of primary legal aid shall comprise the costs related to legal information, legal advice and drafting of the documents to be submitted to state and municipal institutions, drafting of procedural documents specified in paragraph 7 of Article 15 of this Law, as well as the costs related to advice on the out-of-court settlement of disputes and to actions for the amicable settlement of a dispute and drafting of a settlement agreement. The State shall guarantee and cover 100 per cent of the costs of primary legal aid and the costs of conciliation mediation

(Article 14 (1)(6) of the Law On State-Guaranteed Legal Aid).

1.3 Who should be addressed by the applicant for pro bono assistance?

There is a list of civil servants of the municipal administrations who provide primary legal aid:

Information about primary legal aid is provided by the State-guaranteed Legal Aid Service.

Vilnius University Legal Clinic is a non-governmental organisation that provides free legal aid. Legal consultations are provided by law students of Vilnius University.

2) Expert registries or publicly available websites of bars or registries that include the contact details of experts

There is a publicly available list of experts.

3) List of NGOs who are active in the field, links to sites where these NGOs are accessible

The list of NGOs who declare themselves to be environmental NGOs (NGOs do not have an obligation to be entered on this list, which is therefore not exhaustive) is found here.

## 1.7. Guarantees for effective procedures

### 1.7.1. Procedural time limits

1) Time limit to challenge an administrative environmental decision (not judicial) by an administrative body (either superior or same level).

The general timeframe for challenging an administrative decision is one month. There are several kinds of environmental decision which have to be challenged by the administrative body within 10 working days after receipt thereof (e.g. a mandatory instruction according to Article 25 of the Law on State Control of Environmental Protection).

2) Time limit to deliver decision by an administrative organ

An administrative body shall complete the administrative procedure and adopt the decision of the administrative procedure within 20 working days from the beginning of the procedure. The public entity initiating the administrative procedure may extend the period by up to 10 working days where, for objective reasons, the administrative procedure cannot be completed within the set time limit. A person shall be notified about the extension of the time limit for the administrative procedure in writing or by e-mail (where the complaint has been received by e-mail) and the reasons for the extension (Article 10 (4) of the Law on Public Administration).

Special rules apply regarding complaints challenging a mandatory instruction. A complaint regarding a mandatory instruction submitted to the head of the state environmental control institution or a person authorised by them shall be examined within 10 working days (Article 25 of the Law on State Control of Environmental Protection).

3) Is it possible to challenge the first level administrative decision directly before court?

According to Article 26 of the Law on Administrative Proceedings, before application is made to the administrative court, individual legal acts adopted by public administration entities, as well as their acts/omission, may be, and in cases established by law must be, contested by applying to the institution for preliminary extrajudicial investigation of disputes. There is no general rule in Lithuania that administrative acts must be challenged before a higher administrative authority or an independent dispute body before applying to the court. However, in certain kinds of administrative disputes the internal control of administrative acts/omission is compulsory (e.g. social security disputes, tax disputes). There are several kinds of environmental decision where internal control is compulsory (e.g. mandatory instructions). In other cases, the applicant, as a general rule, is entitled to have recourse to the court directly.

4) Is there a deadline set for the national court to deliver its judgment?

The decision of the court shall be drawn up and announced, as a rule, on the same day after the hearing of the

case (Article 84 (3) of the Law on Administrative Proceedings). After hearing the case, the court can defer adoption of the court decision and publication for no longer than 20 working days, and after hearing the case regarding the legitimacy of a regulatory administrative act, for no longer than one month. In the case of important reasons, at the reasoned request of the judge hearing the case or the member(s) of the chamber of judges hearing the case, the president of the court or their appointed judge may extend such time limits by means of a reasoned ruling for no more than ten working days. In the event of illness of the judge hearing the case or all members of the chamber of judges hearing the case, the president of the court or a judge appointed by them, or inability to participate for any other objective reason, or in the event of illness of one or several members of the chamber of judges examining the case, or inability to participate for any other objective reason, the remaining (participating) member(s) of the chamber of judges may extend this time limit by means of a ruling until the objective reason no longer applies (Article 84 (5) of the Law on Administrative Proceedings).

5) Time limits applicable during the procedure (for parties, submitting evidence, other possible deadlines, etc.)

The procedural actions in the court shall be performed within the time limits set by the Law on Administrative Proceedings. Where the time limits have not been set by law, they shall be set by the court. The court may grant an extension of the time limits it has set (Article 64 of the Law on Administrative Proceedings). The main time limits according the Law on Administrative Proceedings are:

1. the claimant has a right to specify, change the basis of complaint/application/petition or the subject matter within fourteen calendar days from the day of receipt of the replies from the parties to the proceedings (Article 50 (3));
2. the respondent and the third interested person have to present to the court their opinions within the specified time limit, which is usually at least fourteen calendar days from the day of receipt of a transcript (digital copy) of complaint/application/petition (Article 67 (1(3)) and Article 71);
3. the decisions of regional administrative courts, adopted when hearing cases in the first instance, may be appealed to the Supreme Administrative Court of Lithuania within thirty days from pronouncement of the decision (Article 132 (1));
4. the parties have to submit their detailed replies to the appeal within fourteen calendar days from receipt of a transcript of the appeal and annexes thereto (Article 139 (2));
5. a petition for renewal of the proceedings may be filed within three months from the day when the entity who filed it learned or should have learned of the circumstances furnishing grounds for renewal of the proceedings (Article 159 (1));
6. the parties have a right to submit a response to the petition on the renewal of proceedings within fourteen calendar days from the day of receipt of a copy of petition on the renewal of proceedings (Article 161 (2));
7. if an appeal has been filed against an order made in the manner prescribed by law when hearing a case in the absence of the parties, a separate appeal may be filed within seven days after delivery of a transcript (copy) of the order (Article 152 (3)).

The procedural actions for the administrative review before the competent authority shall be performed within the time limits set by the competent authority (Article 12 (3) of the Law on Public Administration).

### 1.7.2. Interim and precautionary measures, enforcement of judgments

1) When does the appeal challenging an administrative decision have suspensive effect?

The appeal or action submitted to the court against the administrative decision does not have a suspensive effect except in respect of certain decisions (e.g. tax decisions, decision on deportations or returns). Only the court can suspend the administrative decision by means of applying interim measures. Usually, administrative decisions can be immediately executed after their adoption (enforcement), irrespective of an appeal.

In certain kinds of administrative dispute, the internal control of administrative acts/omission is compulsory (e.g. social security disputes). In these cases, an administrative decision of the first competent authority is not implemented before the decision of the second authority.

2) Is there a possibility for an injunctive relief during the administrative appeal by the authority or the superior authority?

Only the court can apply interim measures. The authority shall suspend execution of the decision until any errors

are corrected where such errors may have a significant influence on the execution of the decision (Article 15 (2) of the Law on Public Administration).

3) Is there a possibility to introduce a request for such a measure during the procedure and under what conditions? Possible deadline to submit this request?

The claim shall be secured at any stage of the proceedings if the participant in the proceedings reasons the claim and failure to take provisional measures might lead to irreparable damage or damage that would be difficult to repair. Provisional measures may also be applied in cases where temporary regulation of the situation related to the disputed legal relations is needed (Article 70 of the Law on Administrative Proceedings).

4) Is there immediate execution of an administrative decision irrespective of the appeal introduced? Under what conditions?

It is not regulated under what conditions an administrative decision can be immediately executed.

5) Is the administrative decision suspended once challenged before court at the judicial phase?

The administrative decision is not suspended, but in practice a lot of challenged decisions are not executed.

6) Is there a possibility for the national tribunals to provide injunctive relief (conditional upon a financial deposit)? Is there separate appeal against this order on the injunctive relief or the financial deposit?

Appeal against rulings of the court regarding interim measures is possible. Only in civil cases does the court have a right to require a deposit from the applicant for applying interim measures (Article 146 of the Code of Civil Procedure). The deposit is intended to protect the defendant against losses incurred as a result of the interim measures applied to them. The deposit could also be the bank guarantee.

### 1.7.3. Costs - Legal aid - Pro bono assistance, other financial assistance mechanisms

1) How can one calculate what costs will be involved when one intends to initiate a procedure - administrative costs, judicial costs, costs for filing a case, experts' fees, lawyers' fees, cost of appeal, etc.

In administrative courts, the applicant should pay a court fee (30 EUR in the first instance administrative court and 15 EUR in the appeal instance). There are exemptions, however, in cases of complaint in order to protect the State or other public interests, in cases concerning compensation for material and moral damages inflicted by unlawful acts or omission in the sphere of public administration, for example. Other litigation-related costs include:

1. costs paid to witnesses, interpreters, specialists, experts and organisations of experts;
2. costs for payment of legal services of the lawyer or assistant lawyer (costs of consultations of the lawyer and assistant lawyer, assistance with the preparation and submission of procedural documents and participation in the court proceedings);
3. other necessary and reasonable expenses.

In civil courts, applicants have to pay a court fee. There are exemptions in cases concerning compensation for material and moral damage in relation to a physical personal injury or death, in cases concerning the defence of the public interest under the claim of the prosecutor, public institutions or other persons. Other litigation-related costs include:

1. costs paid to witnesses, experts, authorities and interpreters, and costs associated with on-site inspections;
2. costs of searching for the defendant;
3. costs associated with the service of delivery of documents;
4. costs related to enforcement of judgments;
5. costs related to the salary of the curator;
6. costs for lawyers or lawyers' assistants;
7. costs associated with the application for interim relief;
8. other necessary and reasonable expenses.

2) Cost of injunctive relief/interim measure, is a deposit necessary?

There are differences between administrative and civil proceedings. In administrative proceedings, in the case of an injunctive relief or interim measure a deposit (cross-undertaking in damages) is not needed (it is not foreseen in the Law on Administrative Proceedings). The Code of Civil Procedure establishes the court's right to require a deposit from the applicant for applying the interim measures (Article 146 of the Code of Civil Procedure). The deposit is intended to protect the defendant against losses incurred as a result of the interim measures applied to them. The deposit could also be the bank guarantee. The amount of the deposit depends on the case and is quite difficult to evaluate generally.

3) Is there legal aid available for natural persons?

All citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union, and other persons specified in international treaties of the Republic of Lithuania shall be eligible for legal aid (Article 11 of Law on State-Guaranteed Legal Aid).

4) Is there legal aid available for associations, legal persons, NGOs with legal personality and without legal personality? If yes, how to request legal aid? Is there pro bono assistance?

State-guaranteed legal aid is not foreseen for associations, legal persons and NGOs. Pro bono assistance is possible for all persons (including legal persons and NGOs). The procedure of pro bono assistance is not regulated by law. It is a voluntary decision of the advocate.

Primary legal aid for NGOs is available from the Vilnius University Legal Clinic.

5) Are there other financial mechanisms available to provide financial assistance?

There are no other financial mechanisms available.

6) Does the 'loser party pays' principle apply? How is it applied by courts, are there exceptions?

The general rule is that the losing party has to bear all costs, including stamp duties and costs related to initial court proceedings. The party shall also be obliged to remunerate the costs of the winning party. Stamp duty, expert costs and other costs are usually paid in full, but the costs for legal representation are reduced as recommended by the Minister of Justice and the Chairman of the Bar. However, these amounts are only recommended and depend on the complexity of the court proceedings, case material and other factors. Nevertheless, in the absolute majority of civil and administrative cases state courts reduce parties' requested legal expenses for their legal assistance according to the recommended amounts and reasonableness.

7) Can the court provide an exemption from procedural costs, duties, filing fees, taxation of costs, etc.? Any other national characteristics linked to this topic?

Complaints/petitions shall be received and heard by the administrative courts only after payment of the stamp duty prescribed by the law. Several exemptions from the stamp duty are foreseen in Article 36 of the Law on Administrative Proceedings, e.g.:

- complaints/petitions relating to delay by entities of public administration in performing actions assigned within the remit of their competence,
- awarding of or refusal to award pensions,
- violations of election laws and the Law on Referendum,
- petitions by state servants and municipal employees where such concern legal relations in the Office,
- compensation for damage inflicted upon a natural person or organisation by unlawful acts/omissions in the sphere of public administration, and
- complaints relating to the protection of public interests and some other complaints/petitions.

Having regard to the property status of a natural person or group of natural persons, the administrative court may grant full or partial exemption from stamp duty. The petition for exempting the natural person from stamp duty must be justified and substantiated by appropriate evidence (Article 37 of Law on Administrative Proceedings).

## 1.7.4. Access to information on access to justice - provisions related to Directive 2003/4/EC

1) Where are the national rules on environmental access to justice available? Internet link to be provided. Are there other forms of structured dissemination?

Information about access to environmental information is provided on the website of the Ministry of Environment.

The procedure for access to information is regulated by the Order on Public Access to Environmental Information, approved by Government Resolution Number 1175 of 1999, with subsequent ammendments.

The request can be made in writing or verbally. The information can be given verbally only if the applicant does not ask for a written answer. The requirements for the written request are: name, contact details, requested information, form of giving the information.

The applicant does not have to state an interest. If an applicant requests that information be made available in a specific form (including in the form of copies), the public authority shall make it so available (there are some exceptions foreseen in Articles 16 and 18 of the Order on Public Access to Environmental Information). The information shall be made available to an applicant within 14 calendar days after receipt of the request by the public authority. This term can be extended to at least 14 calendar days.

An applicant who considers that their request for environmental information has been ignored, wrongfully refused or inadequately answered has access to a review procedure before an administrative disputes commission or an administrative court. Alongside the establishment of administrative courts, the general procedure of pre-litigation of complaints (applications) contesting the adopted individual administrative acts in the sphere of public administration was established by

the Law on Pre-Trial Resolution of Administrative Disputes. The law provides for the establishment of the Lithuanian Administrative Dispute Commission.

The Order on Public Access to Environmental Information is applicable for all state institutions, other persons performing the functions of public administration, and other persons who are controlled by the state institutions whose activity has an impact on the environment.

The Order on Public Access to Environmental Information is not applicable to information about the air, water and waste management plans and programmes.

2) During different environmental procedures how is this information provided? From whom should the applicant request information?

Taking into consideration that the procedure on access to environmental information set out in the Order on Public Access to Environmental Information essentially does not differ from the general procedure on access to information from public administration entities, general regulations apply. According to Article 7 (8) of the Law on Environmental Protection, the public concerned, one or more natural or legal persons, have the right to bring a claim before courts.

The applicant should request information from any public administration entity. Different environmental procedures set obligations event for the private actors to provide information for the public (e.g. EIA procedure).

A general provision applies that the appeal (access to justice) procedure should be described in every written answer provided by the public administration entity where the written request to provide information is rejected or partly rejected.

3) What are the sectoral rules (EIA, IPPC/IED, regarding plans and programmes, etc.)?

These are the sectoral rules regarding the access to information:

1. regarding EIA: in the course of a screening for environmental impact assessment and an environmental impact assessment, the public concerned shall have the right to obtain information on the potential environmental impact of the proposed economic activity from other participants in the processes of screening for environmental impact assessment and environmental impact assessment (Article 13 of the

Law on Environmental Impact Assessment of the Proposed Economic Activity (EIA)).

2. regarding IPPC/IED: the Environmental Protection Agency is responsible for providing the information and is obliged to ensure the availability of information on access to justice (Article 69 and 125 of the Rules on Issuance, Renewal and Cancellation of IPPC Permits, approved by Ministry of Environment of Lithuania Order Number D1-528 in 2013; Article 3.2.4 and 57 of the Rules on Issuance, Renewal and Cancellation of Pollution Permits, approved by Ministry of Environment of Lithuania Order Number D1-259 in 2016).
3. regarding territorial planning documents: the publicity of territorial planning is ensured by the organiser of planning (Article 31 of the Law on Territorial Planning; Article 8.3 of the Rules on Strategic Impact Assessment of Plans and Programmes, approved by Government Order Number 967 of 2004). The general and simplified procedure for territorial planning document publicity procedures is based on the type and level of territorial planning documents, as established in the Regulations on the Provision of Information to the Public, Public Consultation and Participation in Adopting Decisions Relating to Territorial Planning approved by Government Order Number 1079 of 1996);
4. regarding air protection: according to Article 16 of the Law on Ambient Air Protection, persons have the right to obtain correct information from state administration and self-government institutions concerning the condition of ambient air, normative standards of allowable pollution and the effect of planned economic activities;
5. regarding water protection: according to Article 27 of the Law on Water, the Ministry of the Environment and other institutions and persons who have information about river basins are obliged to provide this information to the public; according to Article 4 of the Law on Drinking Water, the municipal institutions are responsible for providing information about the quality of drinking water.

4) Is it obligatory to provide access to justice information in the administrative decision and in the judgment?

According to Article 10 (5) of the Law on Public Administration, an individual administrative act must contain clearly formulated established or granted rights and duties, and specify the appeal procedure.

According to Article 87 (3) of the Law on Administrative Proceedings, the appeal procedure and timeline for appeal should be provided in the judgement.

5) Is translation, interpretation provided to foreign participants? What are the rules applicable?

Administrative procedures shall be conducted in the official language, namely Lithuanian (Article 28 of the Law on Public Administration). When a person in whose respect the administrative procedure has been initiated or other interested persons do not speak or understand Lithuanian or are unable to make themselves understood because of a sensory or speech disorder, an interpreter must be present at the administrative procedure. An entity of public administration that has initiated the administrative procedure or a person in whose respect the administrative procedure has been initiated shall invite an interpreter at their own initiative.

# 1.8. Special procedural rules

## 1.8.1. Environmental Impact Assessment (EIA) - provisions related to Directive 2003/35/EC

*Country-specific EIA rules related to access to justice*

1) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

EIA screening decisions are administrative decisions and can be reviewed by administrative courts. The conditions regarding legal standing, rules of evidence, rules on hearing or extent of review by the court are not specific for these cases.

According to Article 15 of the Law on EIA, the public has the right to refer to court if it considers that its application filed in accordance with the procedure laid down by the legal acts governing the processes of screening for environmental impact assessment and environmental impact assessment has been unlawfully dismissed, has been provided with a partially or completely inappropriate response or has not been given proper regard in accordance with the legal acts governing the processes of screening for environmental impact assessment and environmental impact assessment. The public concerned has the right to refer to court disputing the substantive or procedural legitimacy of decisions, acts or omissions in the areas of screening for environmental impact assessment and environmental impact assessment.

Natural or legal persons have the right to lodge a complaint (application) concerning an administrative act if their rights have been infringed upon. In the cases prescribed by law, it is possible to bring a complaint in order to protect the state or another public interest (including environmental interest). Agencies, organisations and groups may lodge an appeal against measures affecting their own interests (existence, estate, activity, operating conditions) as well as asking for damages for the material and moral damage they suffer. But they may also go to court to defend the public interest of those they represent insofar as the regulatory or individual disputed measure harms this public interest.

2) Rules on standing relating to scoping (conditions, timeframe, public concerned)

The public concerned has the right to refer to court disputing all decisions, acts or omissions in the areas of environmental impact assessment. The scoping decisions are included.

3) At what stage(s) can the public challenge the administrative decisions on environmental projects? Deadline to challenge decisions?

A complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission), within two months from the day of expiry of the time limit set by a law or any other legal act for compliance with the demand (Article 29 of the Law on Administrative Proceedings).

4) Can one challenge the final authorisation? Under what conditions, if one is an individual, an NGO, a foreign NGO?

All decisions in the area of environmental impact assessment, including the final EIA decision, can be challenged. A foreign NGO has the same rights to lodge a complaint concerning a final EIA decision as a national NGO.

5) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion?

The administrative courts review the procedural legality and also the substantive legality of all administrative decisions. The courts study the material, technical findings and calculations when they are considered as belonging to the decision. The court is obliged to “actively” participate in the proceedings by asking for evidence, appointing witnesses, experts, etc. The court has no limitation on its control. It can review all aspects of the contested decision.

6) At what stage are decisions, acts or omissions challengeable?

According to Article 29 of the Law on Administrative Proceedings, the basic rule is that a complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission). There are no special rules regarding decisions in the areas of screening for environmental impact assessment and environmental impact assessment.

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

All decisions in the areas of screening for environmental impact assessment and environmental impact assessment can be challenged directly before the court.

8) 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., not meaning the requirement determined under point 12?

The requirement of a necessary interest to have the power to act is at the very head of the conditions for an appeal’s admissibility. It is not necessary to participate in the public consultation phase of the EIA procedure or to make comments to have standing before administrative courts. The public concerned has the right to lodge a complaint (application) concerning an EIA administrative act in order to protect the public interest (Article 15 of the Law on EIA).

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

According to the Law on Administrative Proceedings, each party has equal rights in the procedure.

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

The Law on EIA sets out the terms for particular actions in the areas of screening for environmental impact assessment and environmental impact assessment, e.g.: a screening conclusion on whether an environmental impact assessment is obligatory shall be submitted in writing to the organiser (developer) of the proposed economic activity within 20 working days from receipt of the screening information (Article 7 (7)); the competent authority shall, within 10 working days from receipt of the programme, approve the programme or submit reasoned requests to the drafter of environmental impact assessment documents to supplement or revise the programme (Article 8 (9)); the public concerned has the right to submit to the competent authority; within 10 working days from publication of the notice, written proposals on the environmental impact assessment of the proposed economic activity and the report (Article 10 (9)); the competent authority shall, within 25 working days from receipt of the report, adopt a decision regarding the environmental impact of the proposed economic activity (Article 11 (1)).

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

Injunctive relief is available in administrative cases in all matters. According to Article 70 of the Law on Administrative Proceedings, the court or the judge may, upon a motivated petition of the participants in the proceedings or upon their own initiative, take measures with a view to securing a claim. The claim may be secured at any stage of the proceedings if failure to take provisional measures to secure a claim may lead to irreparable damage or damage that would be difficult to repair. There are no special rules applicable to EIA procedures.

### 1.8.2. Integrated Pollution Prevention and Control (IPPC)/Industrial Emissions Directive (IED) - provisions related to Directive 2003/35/EC

1) Country-specific IPPC/IED rules related to access to justice

The public concerned and NGOs have the right to lodge a complaint (application) concerning a final administrative act in the area of the IPPC (Article 124 of the Rules on issuance, renewal and cancellation of IPPC permits, approved by Ministry of Environment of Lithuania Order Number D1-528 in 2013 (IPPC rules)).

2) Standing rules, at what stages can one challenge decisions (if one is an NGO, a foreign NGO, a citizen)? Is the final decision challengeable?

A complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission), within two months from the day of expiry of the time limit set by a law or any other legal act for compliance with the demand.

The public concerned has the right to receive information about the application for a permit, to submit proposals regarding the application and permit, and to receive an answer regarding their proposals from the competent authority.

The public concerned and NGOs have the right to challenge a final IPPC decision. A foreign NGO has the same rights to lodge a complaint concerning an IPPC decision as a national NGO.

3) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

There are no screening and scoping phases in the IPPC procedure. The IPPC procedure has two stages: approval of the application for a permit and adoption of the final IPPC decision. The EIA procedure is considered as a separate procedure. The public concerned has the right to lodge a complaint (application) concerning a final administrative act in the area of the IPPC.

4) Rules on standing relating to scoping (conditions, timeframe, public concerned)

There are no screening and scoping phases in the IPPC procedure.

5) At what stage(s) can the public challenge the administrative decisions on environmental projects? Is there a deadline to challenge decisions?

In Article 29 of the Law on Administrative Proceedings, the basic rule is that a complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission). There are no special rules regarding decisions in the area of IPPC.

6) Can the public challenge the final authorisation?

According to Article 124 of the IPPC rules, the public concerned has the right to lodge a complaint (application) concerning a final administrative act in the area of the IPPC. According Article 92 of the Rules on Issuance, Renewal and Cancellation on Emissions Permits, approved by Ministry of Environment of Lithuania, Order No D1-259 in 2014 (EP rules) the decisions in the area of the emissions permits can be challenged alternatively before the administrative dispute commission or before the administrative court. According to the Law on Administrative Proceedings and the Law on Environmental Protection, the public has the right to challenge the final emissions permit decision.

7) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion? Is it possible to challenge decisions, acts or omissions?

The administrative courts review the procedural legality and also the substantive legality of all administrative decisions. The courts study the material, technical findings and calculations when they are considered as belonging to the decision. All information related to the application for a permit can be controlled by the court. The court is obliged to “actively” participate in the proceedings by asking for evidence, appointing witnesses, experts, etc. The court has no limitation on its control. It can review all aspects of the contested decision.

8) At what stage are these challengeable?

According to Article 29 of the Law on Administrative Proceedings, the basic rule is that a complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission). There are no special rules regarding decisions in the area of the IPPC.

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

There is no requirement for exhaustion of administrative review procedures prior to recourse to judicial review procedure. Decisions in the area of IPPC can be challenged before the administrative court (Article 124 of the IPPC rules). Decisions in the area of emissions permits can be challenged before the administrative dispute commission or before the administrative court (Article 92 of the EP rules).

10) 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., not meaning the requirement determined under point 12?

The requirement of a necessary interest to have the power to act is at the very head of the conditions for an appeal’s admissibility. It is not necessary to participate in the public consultation phase of the IPPC or EP procedure or to make comments to have standing before administrative courts. The public concerned has the right to lodge a complaint (application) concerning an IPPC administrative act in order to protect the public interest (Article 124 of the IPPC rules).

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

According to the Law on Administrative Proceedings, each party has equal rights in the procedure.

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

The IPPC rules and the EP rules set out the terms for particular actions in the areas of IPPC permit procedure and EP procedure, e.g.: the authority shall, within 30 working days from receipt of the application, take a decision accepting or rejecting the application (Article 36-2 of the IPPC rules); the authority shall, within 20 working days from accepting the application, take a permit decision (Article 83 of the IPPC rules); the operator has a right to receive a draft of the permit decision and to comment on it no later than 5 working days before the competent authority reaches a decision (Article 87 of the IPPC rules); the competent authority shall, within 20 working days from accepting the application, adopt a permit decision (Article 65 of the EP rules).

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

Injunctive relief is available in administrative cases in all matters. According to Article 70 of the Law on Administrative Proceedings, the court or the judge may, upon a motivated petition of the participants in the proceedings or upon their own initiative, take measures with a view to securing a claim. The claim may be secured at any stage of the proceedings if failure to take provisional measures to secure a claim may lead to irreparable damage or damage that would be difficult to repair. There are no special rules applicable to IPPC and EP procedures.

14) Is information on access to justice provided to the public in a structured and accessible manner?

According to Article 10 (5) of the Law on Public Administration, an individual administrative act must contain clearly formulated established or granted rights and duties, and specify the appeal procedure. According to Article 125 of the IPPC rules, the authority is obliged to ensure the availability of information on access to justice.

### 1.8.3. Environmental liability[3]

*Country-specific legal rules relating to the application of the Environmental Liability Directive 2004/35/EC, Articles 12 and 13*

1) Which requirements need to be fulfilled for natural or legal persons (including environmental NGOs) to have the decision taken on environmental remediation by the competent authority reviewed by a court or another independent and impartial body in accordance with Article 13(1) ELD?

According to Article 7 (8) of the Law on Environmental Protection, one or more natural or legal persons and the public concerned have the right to file a complaint/application demanding that appropriate action be taken to prevent or minimise environmental damage or restore the environment to its baseline condition, and demanding that the persons guilty of causing a harmful effect on the environment and the officials whose decisions or acts/failure to act have violated the rights of citizens, the public concerned, other legal and natural persons or the interests protected under law be punished.

According to Article 54 (1) of the Law on State Control of Environmental Protection, natural and legal persons have a right to challenge the decisions or acts/failure to act of officials and environmental authorities. The common requirements are set out in the Law on Administrative Proceedings. There are no special requirements regarding decisions taken on environmental remediation.

2) In what deadline does one need to introduce appeals?

According to Article 29 of the Law on Administrative Proceedings, the basic rule is that a complaint may be filed within one month from the day of publication of the contested act, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission).

There are several kinds of environmental decision which have to be challenged by the administrative body within 10 working days after receipt thereof (e.g. a mandatory instruction according Article 25 of the Law on State Control of Environmental Protection). Only the person against whom the decision has been taken has the right to challenge such decisions.

3) Are there requirements for observations accompanying the request for action pursuant to Article 12(2) ELD and if yes, which ones?

The applicant should deliver all relevant information and data which are available to them supporting the observations submitted in relation to the environmental damage in question. There is no need to deliver the scientific data and evidence.

4) Are there specific requirements regarding 'plausibility' for showing that environmental damage occurred, and if yes, which ones?

If the applicant demands that the competent authority take action to prevent or minimise environmental damage or restore the environment to its baseline condition, there is no requirement regarding 'plausibility' for showing that environmental damage occurred.

The ordinary courts deal with cases concerning environmental damage. The possibility to claim compensation for damage is foreseen in Article 32-34 of the Law on Environmental Protection. According to Article 33 of the Law on Environmental Protection, the following persons shall have the right to file claims regarding the damage caused:

1. the persons whose health, property or interests have been impaired;
2. officials of the Ministry of Environment, other officials authorised by law, where damage to the interests of the State has been caused.

In civil cases, the claimant should provide the evidence regarding the 'plausibility' for showing that environmental damage occurred. The basic rules of the civil procedure are applicable. There is no special regulation regarding environmental damage.

5) Is a certain manner required and/or time limits set, and if yes, which ones, as regards the notification of the decision by the competent authority to the entitled natural or legal persons (including the entitled environmental NGOs)?

There are no special requirements regarding decisions in the area of environmental damage. A person in whose respect the administrative procedure has been initiated shall, within 3 working days, be notified about the adopted decision on the administrative procedure, the factual circumstances determined during the consideration of the complaint, the legal acts based on which the decision on the administrative procedure has been adopted, as well as the procedure for appealing the decision. The decision on the administrative procedure shall be delivered or sent to the person with respect to whom the procedure is initiated (Article 13 of the Law on Public Administration).

Special procedure and time limits for decision-making (5 working days) are set out in the Description of the procedure for the selection of environmental remediation measures and obtaining prior approval, approved on 16 May 2006, by order No. D1-228 of the Minister of Environment.

6) Does the MS apply an extension of the entitlement to request action by competent authority from damage to the environment in cases of imminent threat of such damage?

In the presence of an imminent threat of environmental damage, an economic entity must, without delay, take all necessary preventive measures. Where, despite the preventive measures taken by the economic entity, the imminent threat of environmental damage is not dispelled, the economic entity must immediately inform the Ministry of Environment or an institution authorised by it (Article 32-1 of the Law on Environmental Protection).

The Ministry of Environment or an institution authorised by it shall have the right and duty at any time:

1. to require an economic entity to supply all information on any situation in the course of which damage was caused to the environment, or a threat thereof occurred, or in suspected cases that such a situation might occur;
2. to require an economic entity to take necessary preventive and/or remedial measures;
3. to require an economic entity to take or issue the appropriate entity instructions concerning all actions to collect contaminants and/or remove, control or otherwise manage other factors having a damaging effect on the environment in order to prevent or limit environmental damage and adverse effects on human health;
4. to give compulsory instructions to an economic entity regarding the application of preventive and/or remedial measures;

5. to take, at its own discretion, the necessary preventive and/or remedial measures (Article 32-1 of the Law on Environmental Protection).

7) Which are the competent authorities designated by the MS?

The competent authority is the Environmental Protection Department under the Ministry of Environment.

8) Does the MS require that the administrative review procedure be exhausted prior to recourse to judicial proceedings?

There is no requirement in environmental damage cases concerning the prior administrative review procedure.

### 1.8.4. Cross-border rules of procedures in environmental cases

1) Rules on involving other countries? At which stage of the procedure is there a possibility to challenge environmental decisions?

Article 34 of the Law on Environmental Protection provides that disputes between legal and natural persons of the Republic of Lithuania and foreign states shall be settled in the manner established by the law of the Republic of Lithuania, unless international agreements of the Republic of Lithuania provide otherwise. The admissibility of an action before a court is possible under the general conditions set out in the Law on Administrative Proceedings or in the Code of Civil Procedure. There are no specific rules regarding EIA, IPPC, etc.

2) Notion of public concerned?

The concept of public concerned is not specific in a transboundary context. The general rules are applicable (especially concerning the admissibility of requests through the concept of legal interest).

3) Do NGOs of the affected country have standing? When and to what court should they submit their appeals? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

Lithuanian administrative law recognises equal access to administrative courts for NGOs residing abroad on the same basis as applicants residing in Lithuania. There is no difference regarding the procedural rights of national NGOs and NGOs residing abroad.

There is no secondary legal aid for NGOs in Lithuania.

4) Do individuals of the affected country have standing? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

Lithuanian administrative law recognises equal access to administrative courts for persons residing abroad on the same basis as applicants residing in Lithuania. There is no difference regarding the procedural rights of the parties.

Citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union, and other persons specified in international treaties of the Republic of Lithuania shall be eligible for primary and secondary legal aid (Article 11 of the Law on State-Guaranteed Legal Aid).

There are no legal requirements regarding pro bono assistance provided by advocates.

5) At what stage is the information provided to the public concerned (including the above parties)?

*Regarding EIA:*

Where the proposed economic activity is subject to procedures of transboundary environmental impact assessment, a competent institution shall inform the drafter of environmental impact assessment documents requesting that they prepare and submit to the competent authority a summary of the screening information or a programme which must include information on the proposed economic activity and its potential significant transboundary impact in a bilateral agreement, if available, in the specified language, or in other cases in English and, where requested by an affected state, also in its national language (Article 9 (2) of the Law on EIA). An

institution shall dispatch a notice to an affected state accompanied by a description of the proposed economic activity, the available information on the potential significant transboundary impact of the proposed economic activity on the environment, the information on the nature of possible solutions, specify a time period (not less than 25 working days) for submission of a notice of the willingness of the affected state to participate in the process of transboundary environmental impact assessment, and request that the affected state inform the competent authorities and the public of the state (Article 9 (3) of the Law on EIA). A competent institution shall, upon receiving a reply from an affected state concerning its participation in the process of the transboundary environmental impact assessment of the proposed economic activity, inform the organiser (developer) of the proposed economic activity and the drafter of environmental impact assessment documents, who shall be instructed to submit a report, a summary of the relevant information about the proposed economic activity and its potential significant transboundary environmental impact in a bilateral agreement, if available, in the specified language, or in other cases in English and, where requested by the affected state, also in its national language (Article 9 (5) of the Law on EIA).

*Regarding IPPC:*

If the operation of the installation may have significant impact on the environment of another EU Member State, the drafter of documents should prepare and submit to the competent institution the documents regarding the application for a permit in English (Article 78 of the IPPC rules). The competent institution shall provide the documents to an affected state at the same time as the documents are provided to the public concerned and request that information be provided to the public and the competent authorities of this state, indicating a period of not less than 40 working days from receipt of such information within which the affected state may submit its proposals to the competent institution; this information shall be published on the website of the Environmental Protection Agency (Article 79 of the IPPC rules).

6) What are the timeframes for public involvement including access to justice?

*Regarding EIA:*

A competent institution provides the documentation of an environmental impact assessment to an affected state together with information on the environmental impact assessment procedures, the proposed transboundary consultations and the duration thereof, and a request that information be provided to the public and the competent authorities of this state, indicating a period of not less than 30 working days from the date of dispatch within which the affected state may submit its proposals to the competent institution (Article 9 (6) of the Law on EIA). The appeal against a decision may be filed within one month from the day of publication of the decision, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission), within two months from the day of expiry of the time limit set by a law or any other legal act for compliance with the demand (Article 29 of the Law on Administrative Proceedings). There are no special rules for an affected state to appeal against a decision.

*Regarding IPPC:*

The competent institution shall provide the documents to an affected state at the same time as the documents are provided to the public concerned and request that information be provided to the public and the competent authorities of this state, indicating a period of not less than 40 working days from receipt of such information within which the affected state may submit its proposals to the competent institution (Article 79 of the IPPC rules). The appeal against a decision may be filed within one month from the day of publication of the decision, the day of delivery of the individual act to the party concerned, the notification of the party concerned of the act (or omission), within two months from the day of expiry of the time limit set by a law or any other legal act for compliance with the demand (Article 29 of the Law on Administrative Proceedings). There are no special rules for an affected state to appeal a decision.

7) How is information on access to justice provided to the parties?

*Regarding EIA:*

Where the proposed economic activity has been subject to transboundary environmental impact assessment procedures, the competent authority shall provide information on the EIA decision to an affected state participating in the process of transboundary environmental impact assessment (Article 11 (12) of the Law on EIA). According to

Article 10 (5) of the Law on Public Administration, the EIA decision should specify the appeal procedure.

*Regarding IPPC:*

There is no special regulation. According to Article 10 (5) of the Law on Public Administration, the IPPC decision should specify the appeal procedure.

8) Is translation, interpretation provided to foreign participants? What are the rules applicable?

Article 9 of the Law on Administrative Proceedings provides that, in the process of administrative cases, decisions are made and published in the Lithuanian language. All documents submitted to the court must be translated into Lithuanian. Where the participant in the proceedings to whom the procedural documents shall be served in a foreign state does not know the Lithuanian language, the administrative court shall be presented with translations of such documents into the language they understand or the official language of the country where such documents have to be served, or, in the event that said country has several official languages, into one of the official language used at the place of delivery. Where the judicial procedural documents have to be sent to the participant in the proceedings who does not know the Lithuanian language and resides in a foreign state, the court shall translate them into one of the languages they understand or the official language of the country where such documents have to be served. Upon the resolution of the judge who is preparing the case for hearing or of the court hearing the case, a document drawn up in another language may be translated at the court session by a translator. Persons who have no command of the Lithuanian language shall be guaranteed the right to have the assistance of an interpreter. The services provided by the interpreter at the court session shall be paid for from the State budget.

Administrative procedures shall be conducted in the official language, namely Lithuanian (Article 28 of the Law on Public Administration). When a person in whose respect the administrative procedure has been initiated or other interested persons do not speak or understand Lithuanian or are unable to make themselves understood because of a sensory or speech disorder, an interpreter must be present at the administrative procedure. An entity of public administration that has initiated the administrative procedure or a person in whose respect the administrative procedure has been initiated shall invite an interpreter at their own initiative.

9) Any other relevant rules?

No additional information.

[1] The Law on Environmental Protection defines public concerned as one or more natural or legal persons affected or likely to be affected by, or having an interest in, the taking of decisions, acts or omissions in the field of the environment and protection thereof as well as utilisation of natural resources. For the purposes of this definition, the associations and other public legal persons (with the exception of the legal persons established by the State or a municipality or institutions thereof) established in accordance with the procedure laid down by legal acts and promoting environmental protection shall in any case be deemed the public concerned.

[2] See for example, the ruling of the Constitutional Court of the Republic of Lithuania of 1 June, 1998.

[3] See also case C-529/15.

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