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

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

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

There are no different rules applicable in sectoral or procedural legislation for any actor (individuals and NGOs). Article 24 of the Constitution (after the 2001 revision) underlines that "the protection of natural and cultural environment is an obligation of the State and everyone's right". That means that any individual or group of people has the right to appeal before the administrative authorities and the courts in order to protect the environment, subject to a legitimate interest regarding their case.

Any individual who disagrees with the administrative decisions may file an appeal to the competent authority and file a request for remedy or a special administrative appeal. NGOs may appeal before the administrative authorities.

Concerning NGOs, in most cases the Greek courts have considered that the protection of the environment must be generally described in the statutory objective of the legal entities without being the sole or predominant purpose.

In Greece, the judicial system conforms to the principles of the Aarhus Convention, as it ensures judicial protection for environmental cases, whether the dispute concerns an act or omission challenged by individuals or NGOs and whether it concerns averting environmental harm or restoring damage or claiming compensation.

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

Concerning the administrative review, the remedy from the quasi-judicial action - provided by a special legal provision - reviewing not only the legality but also the substance of the case. Courts can check procedural and substantive legality according to the general provisions. Courts do not check beyond the administrative decisions. Material or technical findings, calculations and technical assessments are beyond the jurisdiction of the courts.

3) 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 such requirement, except if a quasi-judicial action is expected. In this case, the administrative review appeal has to be lodged before filing a court action.

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

It is not necessary to participate in the public consultation phase to make comments, participate in a hearing etc. in order to have standing before the courts. Citizens can invoke their constitutional right to the environment directly in the judicial procedures independently of their participation in the public consultation etc.

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

There are not.

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

Article 4 (1) of the Greek Constitution underlines that Greek citizens are equal before the law, establishing the principle of equality of arms between the parties. The right to a fair trial, as provided by Article 6 (1) of the ECHR, ratified by the legislative decree 53/1974, reinforced by Article 47 of the Charter of Fundamental Rights of the European Union and Article 14 (1) of the International Covenant on Civil and Political Rights, ratified by Law 2467/1997, constitutes a fundamental right which has been incorporated into the Greek law, in accordance with Article 28 (1) of the Constitution.

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

Sanctions against administrative organs for non-timely response are applied according to the Public Servants Code (Law 3528/2007). Concerning judicial procedures for environmental cases, both for the court and the parties, there are no time limits provided by law.

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

During the special procedure of injunctive relief, courts in urgent cases, or in order to prevent imminent danger, can order interim measures to secure or preserve a right or to regulate a situation and to reform, or to withdraw. The right may be subject to a condition or deadline (e.g. the issuance of a final decision, a compromise on the main case or a deadline of 30 days after the end of the trial or the termination of the trial in another way). The injunction may also be ordered during the trial concerning the main case. If the provisional measures have been ordered before filing the claim for the main case, the applicant shall, within thirty days from the decision that ordered the provisional measure, sue for the main action, unless the court specified a longer period for filing the claim at its own discretion. If the deadline expires, the interim measure shall be lifted automatically, unless the applicant within this period obtained the summary judgment.

The execution of an administrative act until a court decision is published on the appellant may cause significant and often irreparable effects on the environment. The interim measures are provided by the administrative judge either in the form of a suspension of execution of the administrative act or by any other means that the judge deems appropriate in that case in accordance with the conditions laid down in Article 52 of Presidential Decree 18/1989 on environmental disputes, which are generally annulled before the Council of State. General rules are applicable.

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

The fees to the Council of State are 1300 euros. The minimum costs at the lower courts are approximately 500 euros and for the Supreme Administrative Court, 2000 euros.

According to Art. 58 of Law 4194/2013 (Lawyers’ Code), the lawyer’s fees shall be freely determined by a written agreement with his client or his representative. Expert fees depend on the case and the specification you may need. For more complex cases, they can be 10,000-30,000 euros. For less difficult cases, fees are lower. Lawyer’s fees depend on the specification of the case. There are no safeguards against prohibitive costs.

1.2. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with national implementing legislation for the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[2]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a)

an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

There are no different rules applicable in sectoral or procedural legislation for any actor (individual and NGOs). Article 24 of the Constitution (after the 2001 revision) underlines that "the protection of natural and cultural environment is an obligation of the State and everyone's right". That means that any individual or group of people has the right to appeal before the administrative authorities and the courts in order to protect the environment subject to a legitimate interest regarding their case.

Any individual who disagrees with the administrative decision has the right to appeal and file a request for remedy or a special administrative appeal. NGOs may appeal before the administrative authorities.

Concerning NGOs, in most cases the Greek courts have considered that the protection of the environment must be generally described in the statutory objective of the legal entities without being the sole or predominant purpose.

In Greece, the judicial system conforms to the principles of the Aarhus Convention, as it ensures judicial protection for environmental cases, whether the dispute concerns an act or omission challenged by individuals or NGOs and whether it concerns averting environmental harm or restoring damages or claiming compensation.

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

Concerning the administrative review, the remedy of the quasi-judicial action -provided by a special legal provision – reviews not only the legality but also the substance of the case. Courts can check procedural and substantive legality according to the general provisions. Courts do not check beyond the administrative decisions. Material or technical findings, calculations and technical assessments are beyond the jurisdiction of the courts.

3) 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 such requirement, except if a quasi-judicial action is expected. In this case, the administrative review appeal has to be lodged before filing a court action.

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

It is not necessary to participate in the public consultation phase, to make comments, participate at hearing etc. in order to have standing before the courts. Citizens can invoke their constitutional right to the environment directly in the judicial procedures independently of their participation in the public consultation etc.

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

During the special procedure of injunctive relief, courts in urgent cases, or in order to prevent imminent danger, can order interim measures to secure or preserve a right or to regulate a situation and to reform, or to withdraw. The right may be subject to a condition or deadline. The injunction may also be ordered during the trial concerning the main case.

If the provisional measures have been ordered before filing the claim for the main case, the applicant shall, within thirty days from the decision that ordered the provisional measure, sue for the main action, unless the court appointed specified a longer period for filing the claim at its own discretion. If the deadline expires the interim measure shall be lifted automatically, unless the applicant within this period obtained the summary judgment.

The execution of an administrative act until a court decision is published on the appellant may cause significant and often irreparable effects on the environment. The interim measures are provided by the administrative judge either in the form of a suspension of execution of the administrative act or by any other means that the judge deems appropriate in that case in accordance with the conditions laid down in Article 52 of Presidential Decree 18/1989 on environmental disputes, which are generally annulled before the Council of State. General rules are

applicable.

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

The fees at the Council of State are at least 331 euros. The minimum costs in the lower courts are approximately 200 euros and for the Supreme Administrative Court, 500 euros.

According to Art. 58 of the law 4194/2013 (Lawyers' Code), the lawyer's fees shall be freely determined by a written agreement with his client or his representative. Expert fees depend on the case and the specification you may need. For more complex cases, they may be 10,000-30,000 euros. For less difficult cases, fees are lower. Lawyer's fees depend on the specification of the case. There are no safeguards against prohibitive costs.

1.3. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with the public participation requirements of Article 7 of the Aarhus Convention in respect of plans and programmes not submitted to the procedures set out in the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[3]

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

There are no different rules applicable in sectoral or procedural legislation for any actor (individual and NGOs). Article 24 of the Constitution (after the 2001 revision) underlines that “the protection of natural and cultural environment is an obligation of the State and everyone's right”. That means that any individual or group of people has the right to appeal before the administrative authorities and the courts in order to protect the environment subject to a legitimate interest regarding their case.

Any individual who disagrees with the administrative decisions has the right to appeal and file a request for remedy or a special administrative appeal. NGOs may appeal before the administrative authorities.

Concerning NGOs, in most cases the Greek courts have considered that the protection of the environment must be generally described in the statutory objective of the legal entities without being the sole or predominant purpose.

In Greece, the judicial system conforms to the principles of the Aarhus Convention, as it ensures judicial protection for environmental cases, whether the dispute concerns an act or omission challenged by individuals or NGOs and whether it concerns averting environmental harm or restoring damages or claiming compensation.

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

Concerning administrative review, the remedy of quasi-judicial action - provided by a special legal provision – reviews not only the legality but also the substance of the case. Courts can check procedural and substantive legality according to the general provisions. Courts do not check beyond the administrative decisions. Material or technical findings, calculations and technical assessments are beyond the jurisdiction of the courts.

3) 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 such requirement, except if a quasi-judicial action is expected. In this case, the administrative review appeal has to be lodged before filing a court action.

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

It is not necessary to participate in the public consultation phase, to make comments, participate at hearing etc. in order to have standing before the courts. Citizens can invoke their constitutional right to the environment directly in the judicial procedures independently of their participation in the public consultation etc.

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

During the special procedure of injunctive relief, courts in urgent cases, or in order to prevent imminent danger, can order interim measures to secure or preserve a right or to regulate a situation and to reform, or to withdraw. The right may be subject to a condition or deadline. The injunction may also be ordered during the trial concerning the main case.

If the provisional measures have been ordered before filing the claim for the main case, the applicant shall, within thirty days from the decision that ordered the provisional measure, sue for the main action, unless the court specifies a longer period for filing the claim at its own discretion. If the deadline expires the interim measure shall be lifted automatically, unless the applicant within this period obtained the summary judgment.

The execution of an administrative act until a court decision is published on the appellant may cause significant and often irreparable effects on the environment. The interim measures are provided by the administrative judge either in the form of a suspension of execution of the administrative act or by any other means that the judge deems appropriate in that case in accordance with the conditions laid down in Article 52 of Presidential Decree 18/1989 on environmental disputes, which are generally annulled before the Council of State. General rules are applicable.

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

The fees at the Council of State are at least 331 euros. The minimum costs at the lower judiciary are approximately 200 euros and, for the Supreme Administrative Court, 500 euros.

According to Art. 58 of Law 4194/2013 (Lawyers' Code), the lawyer's fees shall be freely determined by a written agreement with his client or his representative. Expert fees depend on the case and the specification you may need. For more complex cases, they may be 10,000-30,000 euros. For less difficult cases, fees are lower. Lawyer's fees depend on the specification of the case. There are no safeguards against prohibitive costs.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[4]

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

There are no different rules applicable in sectoral or procedural legislation for any actor (individual and NGOs). Article 24 of the Constitution (after the 2001 revision) underlines that "the protection of natural and cultural environment is an obligation of the State and everyone's right". That means that any individual or group of people has the right to appeal before the administrative authorities and the courts in order to protect the environment subject to a legitimate interest regarding their case.

Any individual who disagrees with the administrative decisions has the right to appeal and file a request for remedy or a special administrative appeal. NGOs may appeal before the administrative authorities.

Concerning NGOs, in most cases the Greek courts have considered that the protection of the environment must be generally described in the statutory objective of the legal entities without being the sole or predominant purpose.

In Greece, the judicial system conforms to the principles of the Aarhus Convention, as it ensures judicial protection for environmental cases, whether the dispute concerns act or omission challenged by individuals or NGOs and whether it concerns averting environmental harm or restoring damages or claiming compensation.

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

The form in which the plan or programme is adopted does not make a difference in terms of legal standing.

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

Concerning the administrative review, the remedy of quasi-judicial action - provided by a special legal provision – reviews not only the legality but also the substance of the case. Courts can check procedural and substantive legality according to the general provisions. Courts do not check beyond the administrative decisions. Material or technical findings, calculations and technical assessments are beyond the jurisdiction of the courts.

4) 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 such requirement, except if a quasi-judicial action is expected. In this case, the administrative review appeal has to be lodged before filing a court action.

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

It is not necessary to participate in the public consultation phase, to make comments, participate at hearing etc. in order to have standing before the courts. Citizens can invoke their constitutional right to the environment directly in the judicial procedures independently of their participation in the public consultation etc.

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

There are no arguments precluded.

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

Article 4 (1) of the Greek Constitution underlines that Greek citizens are equal before the law, establishing the principle of equality of arms between the parties. The right to a fair trial, as provided by Article 6 (1) of the ECHR, ratified by the legislative decree 53/1974, reinforced by Article 47 of the Charter of Fundamental Rights of the European Union and Article 14 (1) of the International Covenant on Civil and Political Rights, ratified by Law 2467/1997, constitutes a fundamental right which has been incorporated into the Greek law, in accordance with Article 28 (1) of the Constitution.

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

Sanctions against administrative organs for non-timely response are applied according to the Public Servants Code (Law 3528/2007). Concerning judicial procedures for environmental cases, both for the court and the parties, there are no time limits provided by law.

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

During the special procedure of injunctive relief, courts in urgent cases, or in order to prevent imminent danger, can order interim measures to secure or preserve a right or to regulate a situation and to reform, or to withdraw. The right may be subject to a condition or deadline. The injunction may also be ordered during the trial concerning the main case.
If the provisional measures have been ordered before filing the claim for the main case, the applicant shall, within thirty days from the decision that ordered the provisional measure, sue for the main action, unless the court specified a longer period for filing the claim at its own discretion. If the deadline expires the interim measure shall be lifted automatically, unless the applicant within this period achieved the summary judgment.

The execution of an administrative act until a court decision is published on the appellant may cause significant and often irreparable effects on the environment. The interim measures are provided by the administrative judge either in the form of a suspension of execution of the administrative act or by any other means that the judge deems appropriate in that case in accordance with the conditions laid down in Article 52 of Presidential Decree 18/1989 on environmental disputes, which are generally annulled before the Council of State. General rules are applicable.

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

The fees to the Council of State are at least 331 euros. The minimum of costs at the lower courts are approximately 200 euros and, for the Supreme Administrative Court, 500 euros.

According to Art. 58 of Law 4194/2013 (Lawyers' Code), the lawyer's fees shall be freely determined by a written agreement with his client or his representative. Expert fees depend on the case and the specification you may need. For more complex cases, they may be 10,000-30,000 euros. For less difficult cases, fees are lower. Lawyer's fees depend on the specification of the case. There are no safeguards against prohibitive costs

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[5]

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

There are no different rules applicable in sectoral or procedural legislation for any actor (individual and NGOs). Article 24 of the Constitution (after the 2001 revision) underlines that "the protection of natural and cultural environment is an obligation of the State and everyone's right". That means that any individual or group of people has the right to appeal before the administrative authorities and the courts in order to protect the environment subject to a legitimate interest regarding their case.

Any individual who disagrees with the administrative decisions has the right to appeal and file a request for remedy or a special administrative appeal. NGOs may appeal before the administrative authorities.

Concerning NGOs, in most cases the Greek courts have considered that the protection of the environment must be generally described in the statutory objective of the legal entities without being the sole or predominant purpose.

In Greece, the judicial system conforms to the principles of the Aarhus Convention, as it ensures judicial protection for environmental cases, whether the dispute concerns act or omission challenged by individuals or NGOs and whether it concerns averting environmental harm or restoring damages or claiming compensation.

The right to judicial protection is based on article 20 par. 1 of the Constitution.

Effective judicial protection is provided:

1. in the field of public law, specifically of environmental law, in order to control its implementation by the judge and ensure environmental protection
2. in the field of private law, with the possibility to appeal to the civil courts for the protection of the affected person's living space and his personal property from harmful impacts on the environment.

An admissible remedy is one that meets all the procedural requirements of the trial, mainly, that is at the same time: substantial, addressed to the proper jurisdiction and to a competent Court, it is introduced on the basis of the required written pretrial. It is introduced by a party having legal standing and a direct legal interest, there is no pending trial and it is not in its entirety in conflict with a precedent ruling.

Generally, the deadline for filing a legal remedy is 60 days starting:

1. in the case of an explicit act: from its service or from a proven complete knowledge of its content
2. in case of omission: from its completion (Art. 66 of Administrative Procedure Code)

The deadlines within which the legal remedies are filed in accordance with the special provisions for them, are extended by sixty (60) days in the cases in which the legalized persons reside abroad.

Finally, Law 4727/2020 on Digital Governance (transposition into the Greek Legislation of Directive (EU) 2016/2102 and Directive (EU) 2019/1024) - Electronic Communications (transposition into the Greek Law of Directive (EU) 2018/1972) and other provisions, as well as the new strategy for digital justice, which aims to improve the efficiency and quality of services provided by the justiciar system, gradually enhances the efficiency of the system, the main manifestation of which is undoubtedly the speed of its delivery, judicial transparency through digital services, its independence and finally, quality. Particular goals set in the implementation of this strategy are the speed of completion of cases, the improvement of the quality of decisions with respect to the independence of the judiciary and transparency for all (businesses, citizens, professionals, etc.), the improvement of the conditions for the Justice officials, but also of the professionals and citizens involved, the consolidation, defence and diffusion of the "value" of human rights.

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

Concerning the administrative review, the remedy of quasi-judicial action - provided by a special legal provision – reviews not only the legality but also the substance of the case. Courts can check procedural and substantive legality according to the general provisions. Courts do not check beyond the administrative decisions. Material or technical findings, calculations and technical assessments are beyond the jurisdiction of the courts.

3) 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 such requirement, except if a quasi-judicial action is expected. In this case, the administrative review appeal has to be lodged before filing a court action.

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

It is not necessary to participate in the public consultation phase, to make comments, participate at hearing etc. in order to have standing before the courts. Citizens can invoke their constitutional right to the environment directly in the judicial procedures independently of their participation in the public consultation etc.

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

During the special procedure of injunctive relief, courts in urgent cases, or in order to prevent imminent danger, can order interim measures to secure or preserve a right or to regulate a situation and to reform, or to withdraw. The right may be subject to a condition or deadline. The injunction may also be ordered during the trial concerning the main case.

If the provisional measures have been ordered before filing the claim for the main case, the applicant shall, within thirty days from the decision that ordered the provisional measure, sue for the main action, unless the court specified a longer period for filing the claim at its own discretion. If the deadline expires the interim measure shall be lifted automatically, unless the applicant within this period achieved the summary judgment.

The execution of an administrative act until a court decision is published on the appellant may cause significant and often irreparable effects on the environment. The interim measures are provided by the administrative judge either in the form of a suspension of execution of the administrative act or by any other means that the judge deems appropriate in that case in accordance with the conditions laid down in Article 52 of Presidential Decree 18/1989 on environmental disputes, which are generally annulled before the Council of State. General rules are applicable.

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

The fees to the Council of State are at least 331 euros. The minimum costs at the lower courts are approximately 200 Euros and, for the Supreme Administrative Court, 500 euros.

According to Art. 58 of Law 4194/2013 (Lawyers' Code), the lawyer's fees shall be freely determined by a written agreement with his client or his representative. Expert fees depend on the case and the specification you may need. For more complex cases, they may be 10,000-30,000 euros. For less difficult cases, fees are lower. Lawyer's fees depend on the specification of the case. There are no safeguards against prohibitive costs.

7) Is it possible to bring a legal challenge before a national court concerning any related EU regulatory act with a view to a validity reference under Article 267 TFEU, and if so how[6]?

As Article 267 TFEU determines that the courts whose judgments are not subject to further legal remedies must apply to the European Court of Justice for a preliminary ruling, the Supreme Administrative Court, the Council of State, must apply for this if there is a question of interpretation of European law in the case (see e.g. Case C-81/15). The first instance courts may, if such an issue [interpretation of EU law] arises, if they deem that a decision on the matter is necessary for issuing their own decision, refer the matter to European Court of Justice to rule on it (see case C-689/18: Order of the Court (Sixth Chamber) of 7 March 2019 (request for a preliminary ruling from the Dioikitiko Protodikeio Patron the First Instance Administrative Court of Patras — Greece — XT v Elliniko Dimosio).

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

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

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

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

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

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

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