Latvija

Access to justice in environmental matters - Latvia

I. Constitutional Foundations

According to the Constitution of Latvia (*Satversme*), the state protects the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment. The constitutional right includes:

1) the procedural aspect: a right of the public to access environmental information, to participate in decision-making in environmental matters;

2) the substantial aspect: a right of public to request that the public authorities or private persons terminate such acts or omissions which negatively affect the quality of the environment, cause damage or threat of damage to human health or life, or other legal interests.

The constitutional provisions can be applied directly both in administrative procedures and at the court. Citizens can invoke the provisions at any stage in administrative or judicial procedures.

International law, including the Aarhus Convention, can also be applied directly by administrative bodies and by the court. If a conflict between a legal norm of international law and a norm of Latvian law of the same legal force is determined, the legal norm of international law shall be applied.

II. Judiciary

There is a three level court system in Latvia.

The first level consists of 34 district (city) courts for civil and criminal cases and one administrative district court, consisting of 5 courthouses in different cities and covering entire territory of Latvia, for administrative cases.

The second level consists of 5 regional courts for civil and criminal cases and one regional administrative court for administrative cases. The regional courts are courts of appeal for civil, criminal and administrative cases that have already been heard in district courts. The regional courts have jurisdiction as first-instance courts in certain categories of cases listed in procedural law.

The Supreme Court is the third level court. It is made up of:

1) the Chamber of Civil Cases and the Chamber of Criminal Cases, functioning as the court of appeal for civil and criminal cases which have been adjudicated by regional courts as courts of first instance;

2) the Senate, divided in three departments and functioning as the cassation instance for all civil, criminal and administrative cases.

As a general rule, civil, criminal and administrative cases may be reviewed in all three court instances. However, only two court instances are allowed for certain categories of civil and administrative cases. Those exceptions are set out in Civil Procedure Law for small civil claims, as well as in several special laws determining administrative procedure, for example, concerning citizens' information requests or public procurement. There are several types of issues dealt in only one instance (for example, cases of asylum seekers).

Under Latvian law, procedures concerning administrative offences (violations) exist. If a person commits a petty offence listed in the Administrative Offences Code, the penalty is imposed by an administrative body. Penalties imposed by administrative bodies can be appealed to the district (city) courts – i.e., common courts for civil and criminal cases. Cases adjudicated by judges of the district (city) courts can be appealed to regional courts. The judgments of regional courts are final and cannot be appealed.

Cases are adjudicated by professional judges, which are independent and subject only to law. The adjudicating of cases is open to the public with exceptions only in interests of the protection of private life or other significant values protected by law. If the court, in accordance with the law, conducts the written proceedings, court decisions are open to the public.

The language of the courts is Latvian. Participants lacking fluency in the official language can participate in proceedings with the aid of an interpreter. The court provides an interpreter on the occasions prescribed by the procedural law.

There are no specialized courts in Latvia.

Cases concerning the compliance of laws with the Constitution or compliance of other normative acts with the norms of higher legal rank are reviewed by the Constitutional court. The constitutional petition is allowed, i.e., the citizens can lodge a petition if they consider that a normative act infringes their fundamental rights protected by the Constitution. The constitutional petition is allowed only after the ordinary remedies (administrative institutions, courts of general jurisdiction) are exhausted.

There is no specialized court or quasi-court dealing with **environmental matters**.

If a person considers that an administrative decision or action, as well as omission, violates the law protecting environment and nature, or can create threats of damage or damage to environment, he/she can apply to the administrative court. Since environmental issues on most occasions are settled by administrative decisions (building permits, water use permits, pollution permits etc.), those disputes are mostly reviewed by the administrative court. The exercising of the rights to apply to court may not cause, in itself, any unfavourable consequences, including those falling under the private law, to the applicant.

In civil procedure, a citizen can seek damages caused by any person, if this person has infringed, among others, regulations concerning environmental issues and thus caused damage to the claimant. Public authorities, acting on behalf of the State, can claim damage caused to environment.

Citizens possessing information about criminal offences possibly causing damage to environment should inform any official or institution who is authorised to perform criminal proceedings (the police, the prosecutor's office).

Forum shopping is not allowed in administrative courts. There is a possibility to choose the court in civil cases: generally, an action should be brought in a court in accordance with the place of residence of the defendant (for natural persons) or the legal address of the defendant (for legal persons); however, Civil Procedure Law in specific cases provides alternative jurisdiction in accordance with the choice of the plaintiff or in accordance with the contractual provisions, if such exist (see Territorial jurisdiction).

When appealing administrative decisions to the administrative court, the person can claim:

1) to annul or declare invalid (completely or in part), or to declare unlawful the disputed decision; if the appeal is successful, the court may also, where necessary, obligate the administrative institution to rectify the consequences of the administrative decision;

2) to declare real actions already done, or planned in future, to be unlawful and to rectify their consequences;

3) to obligate the administrative institution to issue a favourable decision;

4) to state as existing or non-existing certain disputable legal relations;

5) to obligate to enter into public contract, to terminate such contract, to fulfil obligations arising from such contract, or to declare obligations thereof fulfilled.

It is possible to appeal against the violation of procedural rules, even when the applicant is satisfied with the final decision, but, in this specific case, person must prove a substantial infringement of his/her rights to have standing in the court.

If a person considers that the administrative decision, action or omission has caused financial loss or personal harm (including moral harm), he/she can claim due compensation in administrative court. The claim can be included in the written appeal against the administrative decision, or, if compensation has not been claimed concurrently with the appeal of the administrative decision, a separate claim for compensation can be submitted after the final judgment on the unlawfulness of the decision (action) has been delivered.

Administrative court can annul the appealed decision (completely or in part), but it has no competence to amend content of the decision on court's own account, for example, to change the conditions of the building permit. In specific cases the law may authorize the court to amend the appealed decision, but there are no such provisions in environmental regulations.

Environmental cases are examined according to the same procedural rules as other administrative cases. However, some normative acts concerning environment issues prescribe specific rules for appealing particular environmental decisions. For example, citizens can appeal the conditions of the permit for polluting activities during all the period of its validity, which significantly differs from the general rule to appeal any decision within one month from the day of its coming into effect.

The administrative court examines the case strictly within the boundaries set by the applicant. The court may not alter the claim or examine decisions not appealed in written form by the applicant on its own motion. However, within those formal limits, the court is free to examine the decision in full: verifying a factual basis for the issuance of a particular decision and applying the law correctly is, according to the principle of objective investigation, within the competence of the court. Also, the court may, on its own motion, submit an application to the Constitutional court or request the Court of Justice of the European Union to give a preliminary ruling.

A court may take the so-called ancillary decision, if during the adjudicating of the case it finds out facts about a possible violation of the law, which was not directly examined in the given case. Such a decision is then addressed to the responsible institution, or the prosecutor's office. Occasionally, courts use the ancillary decisions to inform the Parliament or executive branch (ministries, the Cabinet) about the lack of legal regulation or other issues to be resolved by legislation.

III. Access to Information Cases

Every person who has requested environmental information from a state authority and considers the request for information has been ignored or rejected (partially or completely), or an appropriate answer has not been received, or rights to environmental information have been otherwise violated, is entitled to appeal such omission to the administrative court.

If the authority rejects to disclose the requested information, it should give written reasons for this decision and includes the information on the remedies in the given situation, i.e., to which institution and within what time limits the person can submit an appeal.

According to Freedom of Information Law, the answer of the institution or the failure to give any answer may be appealed to a superior administrative institution and, subsequently, to the Administrative district court.

An appeal should be submitted within one month from the issue of the answer, or within one year in cases when the answer has not been given at all or when the procedure of submitting an appeal has not been clarified in the written answer. If there is a superior administrative institution, it is mandatory to appeal to that institution. The appeal should be submitted in writing or orally to the institution that has issued (or had an obligation to issue) the answer. If the application is submitted orally, the institution shall immediately draw it up in writing and the applicant shall sign it. Such application will be forwarded for examination to a superior institution. If there is not such an institution or it is the Cabinet, the answer (or failure to give any answer) may be immediately appealed to the Administrative district court.

The appeal may also be submitted electronically by e-mail, but then it must be signed with electronic signature.

The state fee of 20 LVL (app. 29 EUR) must be paid before submitting an appeal to the Administrative district court. This can be done at a bank. The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.

Every person has the right to participate in the proceedings with the assistance of representative or through representative. There are no rules on mandatory counsel for judicial proceedings (including cassation).

In the course of the examination of the case, the court, if necessary, has access to the information the accessibility of which is disputed.

The court will oblige the institution to disclose the requested information to the applicant if it would not find the institution's reasons for refusal well grounded. If there is a reason to restrict the access to certain part of the requested information, still, the institution will be obligated to disclose those parts of information which can be disclosed.

IV. Access to Justice in Public Participation

The examination of environmental matters in administrative institutions is conducted following the same procedural rules as in other administrative cases. The Administrative Procedure Law regulates the procedure, taking into account exceptions and different rules contained in Environmental Protection Law or special normative acts concerning environmental matters, for example, the Law on Environmental Impact Assessment.

The proceedings in administrative institutions are conducted in Latvian, with possible exceptions for submitting an application in foreign language in emergency situations only.

Administrative procedures are free of charge, with exceptions prescribed by law. If the institution (or the court consequently) finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may take a decision that remuneration to a representative of this person, within regulated frameworks, shall be paid from the State budget.

The right to take part in administrative procedures is recognized to natural and legal persons (including non-governmental organizations), as well as associations of such persons. A person has the right to participate in the proceedings personally or with the assistance of representative or through representative.

It is an obligation of the competent administrative institution to gather all information relevant to the case. However, a person is required to supply information and evidence which is in his/her possession.

Participants to the administrative procedure have a right to get acquainted with the documents of the file and a right to be properly heard by the decision maker. In environmental matters, these procedural rights are regulated by detailed procedural rules in Environmental Protection Law (for environmental matters in general) and in other normative acts concerning specific environmental law issues, for example, environmental impact assessment procedure.

Generally, administrative institutions must decide cases within a month from the receiving of an application from a person. But it must be noted that several normative acts concerning the environment may set different deadlines. The institution is allowed to extend the deadline if it is necessary for making a correct final decision. In urgent cases, the person may request the institution to issue the decision immediately.

If the person considers the decision of the administrative institution unlawful or otherwise unsatisfactory, the decision may be appealed to a superior administrative institution within one month from the coming into effect of the decision, or within one year from the coming into effect of the decision if an information on the procedures applied to appeals has not been included in the written decision. The appeal should be submitted in writing or orally to the institution that has issued the decision, and it will be forwarded for examination to a superior institution.

An appeal to a superior administrative institution is mandatory, except in cases where there is no superior institution or it is the Cabinet. The court will refuse to accept direct appeals if the person did not prove that he/she has tried to submit an appeal to a superior institution.

In the course of examining the case, the court will review both procedural and substantive legality of the decision.

Under the procedural legality, the court can annul the decision when it comes to the conclusion that the administrative institution has made serious procedural mistakes. Particular attention usually is paid to following issues:

1) whether persons directly affected by the decision as well as persons demonstrating an interest in environmental matters were afforded with opportunity to participate in the decision-making (i.e., whether there was timely information available about the initiating of the decision-making, whether citizens had a possibility to get acquainted with the file, whether citizens had a possibility to be heard by the institution, which also includes a right to provide information to the institution and to express one's opinion and proposals);

2) whether the institution has acquired all necessary information (whether the institution has established all facts relevant to the case, whether it has considered and balanced interests of different persons and groups);

3) whether the institution has provided sufficient and clear reasons and legal grounds (with a reference to legal norms) for the decision.

Under substantive legality, the court will examine whether, taking into account the facts established, it was lawful to issue the disputed decision. For example, whether in particular circumstances it is allowed to issue a permit to operate a polluting installation characterized by a certain amount of certain emissions.

If the applicants have reasonable doubt about the material and technical findings, the court can verify those facts. Mostly, those issues are assigned to independent experts; expenses thereof are covered by the State budget. The participants to the procedure are, also, allowed to present their own expert opinions.

The court is limited in its review only in two occasions: when the institution has had the so called discretionary power (a power to choose which of more than one legally sound solutions would be the best), or, when the institution has given an evaluation that, by its nature, lies within its own competence and is not possible to be contested in the court.

The administrative court will not review appeals on normative acts, for example, zoning plans and land use plans of local governments. They may be contested in the Constitutional court (see Chapter II).

As of 2012, the administrative court is competent to review **detailed plans** which, if necessary, detail content of local government's zoning plans and land use plans (spatial plans and local plans) to the level of particular plots of land, since they are considered to be administrative decisions with a general nature. The detailed plans may be appealed within one month from the official publication on their approval. The detailed plans can be appealed by persons affected by the plan or by persons denied participation in the decision-making guaranteed by the rights of society, as well as persons who believe that the plan does not comply with the requirements of the law regarding the environment, creates environmental damage or threats of environmental damage. A written appeal stating the objections should be submitted to the Administrative district court, with all available evidence attached. The court can also, on its own motion, gather evidence necessary for the deciding of the case, including expert opinions. The cases are adjudicated in written proceeding. But the court will hold oral hearings, when the court decides so or the applicant, the third person involved in process or legal entities having the right to defend the rights and legal interests of private persons has requested oral proceeding. The administrative institution (the defendant) does not have a right to object to written proceeding.

In the **environmental impact assessment (EIA) procedure**, the administrative court can review EIA screening decisions. A decision declaring EIA necessary can be appealed by the person planning to perform the intended activity. A decision declaring EIA unnecessary cannot be appealed immediately to court, but may be examined during the reviewing of the act authorizing the intended project (for example, the building permit).

EIA scoping decisions and opinions of the competent authority regarding **EIA statement** (final EIA decision) cannot be reviewed by the court separately. But, the court can review the final authorization of the intended activity, and within this framework, the court is free to examine objections against the EIA procedure and final EIA decision.

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

1) whether the essential procedural rules are followed in relation to persons affected and persons having an interest in environmental issues, with special emphasis on the access to the environmental information and rights to participate in the decision-making, including the possibility to submit information, to express views and proposals, and sufficiently serious attitude of the institution towards those views and proposals;

2) whether EIA has been conducted in a way which provides a sufficient possibility to gather all the relevant information on the possible impact of the intended activity to the environment,

3) whether the final EIA decision is based on correct findings and whether it lays down sufficient and clear written reasons.

The court cannot decide and declare its own statements about the impact of the intended activity instead of the administrative institution. However, the court can find factual errors and consideration errors which have led, or may have led, to an erroneous final decision.

In order to have standing before the administrative court in final authorization matters, a person should point to the infringement of his/her own rights (for example, allegedly infringed property rights), or to environmental interest. A person submitting an appeal in the interests of environmental protection should explain the reasons why he/she believes that an authorization of the intended activity, possibly because of incorrect EIA procedure, does not comply with environmental law or can create threats of damage or environmental damage.

As a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court, it has a suspensive effect to the appealed decision. I.e., it is forbidden to begin an operation of the intended activity, to begin construction

works, or to issue new decisions based on the contested one. The law On Environmental Impact Assessment does not provide any exceptions thereof. A person who wants to begin the intended (now suspended) activity has a right to ask for resuming of the operational force of the decision. The court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved, including environmental.

The administrative courts can review **permits for industrial and agricultural activities with a high pollution (IPPC decisions)**. Any person (natural, legal, non-governmental organization) can appeal such decisions to the court. Inter alia, an appeal can be submitted if a person considers his right to environmental information or his right to participate in a decision-making violated.

The appeal should be submitted to a superior authority (Environment State Bureau). Subsequently, a written appeal stating the objections may be submitted to the Administrative district court, with all available evidence attached. The court can also, on its own motion, gather evidence necessary for the deciding of the case, including expert opinions. The court will adjudicate the case in a written procedure, with the exception of cases where participants to the proceedings (apart from the administrative institution, the defendant) have requested oral procedure.

The court will examine whether the permit has been issued according to the mandatory procedural rules, which includes access for persons having an interest to all relevant and clearly explained information, as well as the possibility of persons having an interest to lodge objections, proposals, as well as a proof that the institution has considered objections and proposals thereof.

The court is free to verify the facts justifying the issuance of the permit, for example, the court may verify data on the planned industrial activity, characteristics of the facilities, and data on existing environmental conditions.

In order to submit the appeal to the administrative court, it is not necessary for an applicant to participate in the public consultation phase of the IPPC procedure or to make comments during the public consultation.

As a general rule, the appeal to a superior administrative institution or to the administrative court has a suspensive effect to the IPPC permit, i.e., it is not allowed to start the operation of the polluting facility, unless the court resumes the operational force of the permit. Such rules apply when the applicant has submitted the appeal within one month of the day the decision comes into effect.

However, there is an exception regarding polluting activities requiring a category A or a category B permit. According to the Law on Pollution, any person can submit an appeal regarding the conditions of the permit at any time while the relevant permit is in effect. This kind of appeal is allowed when polluting activity may substantially negatively affect human health or the environment, or the environmental quality objectives specified in environmental law, or other requirements of normative acts. In this case, the appeal of the decision will not suspend the operation of the permit.

V. Access to Justice against Acts or Omissions

If a person considers that any other private individual or legal person causes threat of damage or damage to environment, she/he is not allowed to bring an action in the civil court or to lodge an appeal on its actions to the administrative court. The person can seek damages for injury caused to herself/himself, but is not allowed to seek damages for injury to the environment as such. Thus, if the person considers that any other person, with his planned or undertaken action, causes threat of damage or damage to environment, she/he can act in the following ways:

1) if the allegedly hazardous activity is carried out in accordance with the decision of an administrative institution, the person can appeal the decision to a superior administrative institution and, consequently, to the administrative court, or,

2) submit an application to the administrative institution competent to protect environment and to enforce appropriate actions to interrupt damage to the environment. If the competent administrative institution refuses to act, its decisions or omissions can be appealed to a superior administrative institution and, consequently, to the administrative court. In this case, the person may require the court to oblige the competent institution to take a decision aimed at the protection of environment. For example, if an individual has unlawfully, without a prior permit, built a road in the protected natural area, the person may require the competent administrative institution to oblige the person responsible to tear down the construction, to restore the previous situation and to compensate material damage caused to environment.

The State Environmental Service is the **competent institution** carrying out the state control of the environment protection and natural resources use. It realizes its duties through 8 territorially situated regional environmental boards, as well as Marine and Inland Waters Administration, and Radiation Safety Centre.

Generally, the decisions of regional environmental boards can be appealed to a superior administrative institution, which in most cases is Environment State Bureau.

A person can submit his/her complaint to the administrative institution both in written and in oral form. Oral complaints will be immediately written down by the civil servant of the institution. Written complaints and appeals, signed electronically, can be sent also by e-mail.

If the person is not satisfied with the decision or omission of the competent institution, he/she can appeal it to a superior administrative institution. The appeal should be submitted to the institution that has issued (or had an obligation to issue) the decision concerning the original complaint. The appeal will be forwarded for an examination to a superior institution. An appeal to a superior administrative institution is mandatory before going to the administrative court.

If the appeal to the administrative court is justified with environmental interest, it is sufficient to have standing in the court. The written appeal stating the objections should be submitted to the Administrative district court, with all available evidence attached.

VI. Other Means of Access to Justice

Apart from the administrative and judicial review of decisions or omissions of administrative institutions, there are other means of remedies available in environmental matters.

The protection of human rights, including right to live in a benevolent environment, falls under the competence of the **Ombudsman** (*Tiesībsargs*). The Ombudsman may:

1) examine complaints and proposals of private individuals, investigate the circumstances;

2) request that institutions clarify the necessary circumstances of the matter and inform the Ombudsman thereof;

3) upon or after the examination, provide the institution with recommendations and opinions regarding the lawfulness and effectiveness of their activities, as well as the compliance with the principle of good administration;

4) within the framework of law, resolve disputes between private individuals and institutions, as well as disputes in respect of human rights between private individuals;

5) facilitate conciliation between the parties to the dispute;

6) in resolving disputes, provide opinions and recommendations to private individuals regarding the prevention of human rights violations;

7) provide the Parliament, the Cabinet, local governments or other institutions with recommendations on the issuance of or amendments to the legislation;

8) provide persons with consultations regarding human rights issues;

9) conduct research and analyse the situation in the field of human rights, as well as provide opinions regarding the topical human rights issues.

The **prosecutor's office** is vested with a supervisory power, i.e., a prosecutor has a duty to take measures required for the protection of rights and lawful interests of persons and the State. This may include environmental protection interests, too. The measures taken by the prosecutor may be the initiating criminal investigation, but as well other means of action. The prosecutor may:

1) issue a **warning** to the persons if their actions show the possibility of a violation of law;

2) issue a **protest** to the Cabinet, ministries and other administrative institutions, local government institutions, inspections and state services, undertakings, institutions, organisations and officials, if their decisions do not comply with law; the particular institution or official must inform the prosecutor of the result of the protest within a 10-day period. The prosecutor may apply to the court if his protest is denied without basis or no reply to it is provided;

3) to submit a written **submission** to the relevant undertaking, authority, organisation, official, or person, if it is necessary to discontinue an illegal activity, rectify the consequences of such activity or to prevent a violation; if the requirements expressed in a submission are not complied with or no reply to it is provided, the prosecutor is entitled to submit to a court or any other competent institution an application requiring for respective liability measures.

In Latvia, there is no private criminal prosecution available. A person must submit his/her concerns on a possible criminal offence to the police or the prosecutor's office.

VII. Legal Standing

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals	environmental interest	environmental interest
NGOs	the same	the same
Other legal entities	the same	the same
Ad hoc groups	the same	the same
foreign NGOs	the same	the same
Any other#_ftn1	no	no

Everyone has a right to lodge a complaint to the responsible administrative institution or an appeal to the administrative court in environmental matters without any other specific conditions, i.e., a complaint may be lodged if a person considers that an administrative decision or a real action, as well as an omission, violates the law protecting environment and nature, or can create threats of damage or damage to environment.

The right to take part in administrative procedures or court procedures is recognized similarly to all persons: to natural and legal persons (including non-governmental organizations, national or foreign, of different kind; political parties, commercial organizations), as well as associations of persons, if such associations demonstrate sufficient organizational unity for achieving certain objectives. Generally, state and municipal institutions are not allowed to lodge appeals against each other to the administrative court. It is allowed only in exceptional circumstances when decisions or omissions of the administrative institution affect the state or municipality like any other (private) person.

This wide approach to the right to lodge complaints and to appeal is recognized similarly to all kind of environmental issues, including environmental impact assessment matters or IPPC permit procedures.

The right to lodge complaints and appeals purely in environmental interests is the only exception where the so-called *actio popularis* (right to defend common interests) is allowed in administrative institutions or at the court. In any other kind of legal disputes the person must prove the infringement of his/her own subjective rights in order to have a right to lodge a complaint or to appeal to the court.

According to Art.29 of Administrative Procedure Law, in cases provided for by law, public authorities have the right to submit a complaint to an administrative institution or an appeal to a court in order to defend the rights and legal interests of private persons. This may include also right of private person to live in a benevolent environment.

According to Ombudsman Law, the Ombudsman has the right, upon establishment of a violation, to defend the rights and interests of a private individual at the court, if it is necessary in the public interest.

Also, according the Office of the Prosecutor Law, the prosecutors have the right to lodge an appeal to the court if other measures, i. e., the warning or the protest, or the submission (see Chapter VI), has not been successful.

VIII. Legal Representation

As a rule, any person can go to the administrative institution or to the court personally, without a mandatory legal counsel. Taking into account that the administrative court is bound to the principle of objective investigation, the court may also on its own motion clarify any possible ambiguities in the written appeal, or to ask participants and other persons to submit the necessary evidence. This is a great advance for persons defending their rights or environmental interests in the administrative court. Nevertheless, a person may involve other person, lawyer or any other person, as his/her representative and/or legal counsel at the administrative or judicial procedures. There are no rules on mandatory legal counsel for judicial proceedings at the administrative court, not even at the Supreme Court.

The person in need of legal counsel may contact members of the Advocacy (sworn advocates) as well as other lawyers. They can provide legal consultations, prepare legal documents and perform other legal activities.

The list of sworn advocates

Latvian branch of the Transparency International *Delna* provides legal aid for citizens in building and land use matters. *Delna* will be ready to handle the case in situations when the case is of public importance, i.e., when a substantial damage is caused or may be caused to environment, or when the case can serve as a precedent and contribute to the improvement of law or legal practice.

IX. Evidence

When a person submits his/her appeal on a particular administrative decision to the court, all the evidence available to the applicants and justifying the applicant's objections should be attached to the written appeal. The administrative institution (the defendant) will, on its turn, attach to its explanations all the evidences necessary for justifying the institution's decision. Participants to the procedure may ask the court to gather other evidence, including oral testimonies and expert opinions. The court is free to request evidence on its own motion, since the court is bound by the principle of objective investigation and it is a duty of the court to evaluate the legality of the contested administrative decision. Participants to the procedure may also introduce new evidence during the court proceedings at the first instance court or even at the appellate court. The cassation instance court (the Supreme Court) does not accept new evidence since its task is to examine points of law only.

The administrative court may accept and evaluate all kind of evidence:

1) testimonies of witnesses,

2) documentary evidence (including written documents, audio, video and digital material),

3) material evidence,

4) expert opinions (usually produced during the court proceedings by experts selected by the court).

As a specific mean of acquiring information, the court may listen to the opinion of *amicus curiae* ("*the friend of the court"*): any association considered as representing the interests in a particular field and able to provide a competent opinion, may ask the court to allow expressing its view on the factual or legal circumstances.

The court may refuse to accept evidence not relevant to the case. Assessing the accepted and lawful evidence, the court will make its conclusions in accordance with its own convictions which shall be based on comprehensively, completely and objectively verified evidence, and in accordance with judicial consciousness based on laws of logic, findings of science and principles of justice.

If the participants to the court procedure have reasonable doubts about the facts on which the disputed administrative decision is based, they may ask the court to order an expert-examination. If the court will be convinced of the necessity of the expert-examination, it will select one or more experts, taking into account the views of the participants to the procedure. The participants have a right to propose questions which, in their opinion, require the opinion of an expert, but questions will be finally determined by the court.

The court will evaluate expert opinions in the same way as other evidence: the court is not bound by the opinion of the expert, but will make its own final conclusions after the evaluating the credibility of the opinion. In the judgment, the court is obliged to set out reasons why preference has been given to certain evidence in comparison with other, and why certain facts have been recognised as proven while other facts as not proven.

X. Injunctive Relief

When an administrative decision is appealed to the administrative court, the action submitted to the court generally has a **suspensive effect**, i.e., the operation of the administrative act is suspended from the day the application is submitted. For example, if a person submits an action against a building permit, the construction of the disputed building is not allowed.

However, Administrative Procedure Law sets out several exemptions when the contested administrative decision may be executed notwithstanding the appeal to the court. The main exemptions are as follows:

1) the administrative act imposes a duty to pay tax, duties or another payment into the State or a local government budget, except penalties;

2) it is provided for by other laws, for example, if a person has submitted an appeal against the conditions of the permit for polluting activities after the general one month deadline for appealing administrative decisions, the appeal will not suspend the operation of the permit;

3) the institution, setting out grounds for urgency of execution in respect of the specific matter, has specifically provided in the administrative act that it shall be executed without delay; or

4) an administrative act of the police, border guard, national guard, fire-fighting service and other officials authorised by law is issued with the aim of immediate prevention of direct danger to State security, public order, or the life, health or property of persons;

5) the contested administrative act establishes, amends or terminates institution's legal relations with a civil servant;

6) the contested decision is of general nature, for example, restricts the use of a municipal road;

7) the contested administrative act annuls or suspends licence or other special permit.

The participants to the procedure may ask the court for the provisional protection:

1) if the appeal has had a suspensive effect, the addressee of the contested decision may ask the court to resume the operational effect (the execution) of the decision, for example, to allow to begin the construction works or the operation of the power plant;

2) if the appeal has not had a suspensive effect, the person submitting an action against the decision may ask the court to suspend the operation of the contested decision.

In either of the above-mentioned cases, the court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved.

If there is a reason to believe that the contested administrative act or consequences of the non-issue of an administrative act might cause significant harm or damages, the prevention or compensation of which would be considerably encumbered or would require incommensurate resources, and if examination of information at disposal of the court reveals that the contested act is *prima facie* illegal, the court may, pursuant to the reasoned request of an applicant, take a decision on **injunctive relief**. As a means of injunctive relief, the court may issue:

1) a court decision which, pending judgment of the court, substitutes for the requested administrative act or real action of the institution;

2) a court decision which imposes a duty on the relevant institution to carry out a specific action within a specified time period or prohibits a specific action;

3) a court decision which assigns the Land Register to register restrictions on the owner's right of disposal with real property.

All of the above-mentioned rules are also applied in **environmental cases**.

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

The court's decision regarding injunctive relief can be appealed. Also, the participant to the procedure may request to replace or to revoke the imposed means of injunctive relief.

XI. Costs

Administrative procedures **in administrative institutions** are free of charge.

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

Both in administrative and court procedures the person has to cover his/her own expenses:

1) remuneration to a representative or legal advisor (has the person involved any); if the administrative institution (or the court consequently) finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may decide that remuneration to a representative of this person, within regulated frameworks, shall be paid from the State budget.

2) payment to experts (has the person involved any on his/her own motion); the State budget will cover the remuneration paid only to experts assigned by the court's decision.

State fees. When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 20 LVL (app. 29 EUR). The state fee for the appeal of the first court instance's judgement is 40 LVL (app. 57 EUR). A deposit payment for submitting a cassation complaint to the Supreme Court is 50 LVL (71 EUR) (starting from March 1, 2013). The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 10 LVL (app. 14 EUR). The deposit payment for matters *de novo* in connection with newly-discovered facts is 10 LVL (app. 14 EUR).

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

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

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

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

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

XII. Financial Assistance Mechanisms

A **natural** person appealing an administrative decision to the administrative court may ask:

1) for the decrease of the amount of the state fee or exemption from the obligation to pay the fee. The court will take into account this person's financial situation;

2) for the remuneration to his/her representative. If the court finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may decide that remuneration to a representative of this person, within regulated frameworks, shall be paid from the State budget.

Law on State Legal Aid guarantees financial support from the State budget for legal aid both in court proceedings and out-of-court settlements. It is a separate legal aid mechanism for civil, criminal and administrative matters, administered by the Legal Aid Administration. However, legal aid is provided only to those administrative matters which concern granting of asylum and no state-financed legal aid can be provided in environmental matters.

It is sometimes possible, on individual basis, to receive *pro bono* legal assistance in administrative matters. For example, if the outcome of the case or the interpretation of the legal provisions could be significant, the lawyers are sometimes ready to provide legal advice free of charge. Since 2010, four law firms have agreed to participate in a Soros Foundation project and to provide *pro bono* legal advice to NGOs through *Pro Bono Legal Advice Center* (tel. +371 67294646). Other law firms and lawyers can be contacted individually.

The legal clinic functioning at the University of Latvia is ready to provide legal advice to persons with low income. Usually legal advice provided by law students covers such branches as employment, rent of dwelling premises, or maintenance allowance for children.

Latvian branch of the Transparency International *Delna* provides legal aid for citizens in building and land use matters. *Delna* are ready to handle the case in situations when the case is of public importance, i.e., when a substantial damage is caused or may be caused to environment, or when the case can serve as a precedent and contribute to the improvement of law or legal practice.

XIII. Timeliness

Administrative institutions must deliver their decisions within one month from the day the person has lodged his/her application or complaint. In urgent cases, the person may request the institution to issue the decision immediately.

Due to objective reasons, the institution may **extend** the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year, with a prior permission of a superior administrative institution. The decision of the institution to extend the time limit may be appealed to a superior administrative institution or, consequently, to the court.

If there is a **delay** in delivering the decision, there are no immediate sanctions possible against the institution. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court and, besides the main matter, to ask the court to adjudicate on the fair compensation for financial loss or moral damage caused by the delay.

If the person decides to appeal the administrative decision to the administrative court, the appeal should be submitted within one month from the issue of the administrative decision, or within one year in cases when the answer has not been given at all or when the procedure of submitting an appeal has not been clarified in the written decision. The person who is not an addressee of the

decision and was not involved in the administrative procedure (for example, an environmental NGO) should submit its appeal to the court within one month from the day when the person become informed of it, but not later than within a one-year period from the day the decision comes into effect. The participants to the court proceedings will be informed of following mandatory procedural rules and time limits during the court proceedings. The time limit for appealing the first instance court judgement and for lodging a cassation complaint to the Supreme Court is one month. More important procedural decisions of the court, for example, the refusal of the court to accept the application, may also be appealed to a higher court, and it should be done within 14 days.

The court must follow time limits when:

1) deciding on the acceptance of the application to the court (7 days; the time limit may be extended till one month);

2) deciding on injunctive relief (in a reasonable time according to the urgency of the matter, but no longer than one month);

3) delivering the judgement after the court hearings (21 day for the first instance court and the appeal court, and 30 days for the Supreme Court; the latter may be extended to two more months).

Otherwise, the court is not bound to strict time limits and is not obliged to review cases in a certain period of time. But, of course, it is obliged to review cases and deliver the final decisions as soon as possible in consecutive order.

Those rules equally apply to all kinds of cases, including environmental.

The typical duration of an environmental court case is about 1 year for the district court, 1,5 year for the regional court and about 9 months for the Supreme Court.

Serious delay in delivering decisions and judgments or delays of other time limits set in law may be a basis for disciplinary measures against judges.

XIV. Other Issues

Only final decisions of certain administrative procedure (administrative acts, clear omissions) are usually allowed to be appealed to the administrative court. Thus the public usually appeals to the court such decisions as building permits, accepting decisions of the intended activities, permits for polluting activities, or water use permits, with a possibility to review previous procedural decisions. Appealing EIA screening decisions is a frequently used technique to enter the courts. It is not possible to ask solely for damages without previous disputing of the decision or omission causing the damages to the environment.

The public can access easy-to-understand information on environmental matters including different fields of government activities, and access to justice on the internet site: the Ministry of Environmental Protection and Regional Development, where one can find link to a brochure about access to justice in environmental matters.

The Internet portal to the judiciary provides information on administrative litigation, with templates of procedural documents.

There are no specific legal regulations on alternative dispute regulation (ADR) enacted. A draft law is proposed to the Cabinet of Ministers. Nevertheless, participants to the administrative or court proceedings, also in environmental matters, are free to deliberate and to conclude an administrative contract on the disputed matter and thus to settle the legal dispute before the court decision.

XV. Being a Foreigner

According to Law on Judicial Power all persons are equal before the law and the court. Cases are adjudicated irrespective of, among others, the origin, nationality, language or place of residence of a person.

The language of the courts is Latvian. Participants lacking fluency in the official language can participate in proceedings with the aid of an interpreter. The court provides an interpreter, paid by the government, for natural persons or their representatives in order to get acquainted with documents of the case and for the participation in the hearings. The court, at its own discretion, may provide an interpreter also for a legal person.

XVI. Transboundary Cases

Procedural rules are the same for all cases. Latvian law does not limit standing to the court according to the direct or indirect effects of the decision on individual persons applying to the administrative court. Thus any person, including NGOs, may apply to the administrative court if she/he can show reasonable motivation that the administrative decision or omission violates the law protecting environment and nature, or can create threats of damage or damage to environment. During the court procedure, the participants may ask for the same procedural solutions, including injunctive relief and interim measures.

Financial assistance for legal aid may be provided only to natural persons (addressees of the decision) in a difficult financial situation and only if the particular administrative matter is complicated. Thus, the possibility for the public or NGOs to obtain financial support from the state budget is almost excluded.

Obtaining *pro bono* legal assistance lies within participants own initiative to negotiate it with lawyers or law firms.

There are no legal provisions or court practice concerning choosing the court in Latvia or other country in case of trans-boundary effect of environmental decisions. Latvian courts have jurisdiction over the decisions of Latvian administrative institutions.

Related Links

- Latvijas Republikas Satversme (Constitution of the Republic of Latvia) with link to English version
- Vides aizsardzības likums (Environmental Protection Law) with link to English version
- Par ietekmes uz vidi novērtējumu (Law on Environmental Impact Assessment) with link to English version
- Par piesārņojumu (Law on Pollution) with link to English version
- Atkritumu apsaimniekošanas likums (Waste Management Law) with further link to English version
- Administratīvā procesa likums (Administrative Procedure Law) with link to English version
- Informācijas atklātības likums (Freedom of Information Law) with link to English version
- Prokuratūras likums (Office of the Prosecutor Las) with link to English version
- Tiesībsarga likums (Ombudsman Law) with link to English version
- Par tiesu varu (Law on Judicial Power) with link to English version
- Teritorijas attīstības plānošanas likums (Territorial Development Planning Law) with a link to English version
- Latvijas Administratīvo pārkāpumu kodekss (Latvian Administrative Violations Code)
- Register of nature experts
- List of sworn advocates
- Latvian branch of Transparency International Delna, legal aid project
- Soros Foundation in Latvia, information on pro-bono legal advice
- Society of Protection of Jurmala
- Latvian Ornithological Society
- Ombudsman
- Prosecutor's Office
- Courts, including information on procedures, and document templates
- Supreme Court, provides a case-law data base, including in the environmental sector
- Information on access to justice in environmental matters

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