Πρόσβαση στη δικαιοσύνη για περιβαλλοντικά θέματα

Κύπρος

Περισσότερες εθνικές πληροφορίες σχετικά με την πρόσβαση στη δικαιοσύνη για περιβαλλοντικά θέματα θα βρείτε σε έναν από τους παρακάτω συνδέσμους:

1. Πρόσβαση στη δικαιοσύνη σε επίπεδο κράτους μέλους
2. Πρόσβαση στη δικαιοσύνη που δεν εμπίπτει στο πεδίο εφαρμογής της εκτίμησης περιβαλλοντικών επιπτώσεων (ΕΠΕ), της ολοκληρωμένης πρόληψης και του ελέγχου της ρύπανσης (ΟΠΕΡ) / της οδηγίας για τις βιομηχανικές εκπομπές, πρόσβαση σε πληροφορίες και οδηγία για την περιβαλλοντική ευθύνη (ΟΠΕ)
3. Άλλοι σχετικοί κανόνες για τις προσφυγές, τα ένδικα μέσα και την πρόσβαση στη δικαιοσύνη για περιβαλλοντικά θέματα

Τελευταία επικαιροποίηση: 11/03/2024

Access to justice at Member State level

1.1. Legal order — Sources of environmental law

As will be seen immediately below (1.1.2), the Cyprus Constitution of 1960 was promulgated before environmental rights became generally recognized, so it has not been a direct source of environmental legislation. Legislation was nevertheless introduced, either in colonial times or after independence, affecting aspects of the environment such as the protection of forests, rivers, and the foreshore.

Reference to the environment in legislation, as a holistic concept requiring protection came after Cyprus joined the EU in 2004, within the framework of the Nature Directives and other relevant provisions. So, it would be fair to say that the EU has provided our most important source of environmental legislation. The Aarhus Convention and the Convention on Human Rights are potential sources of environmental rights which have not been much utilized so far.

Early attempts to introduce environmental protection in case law in the late 1990s came to a virtual halt for many years, for reasons that will be explained at para 1.1.2. below. Thus, case law as developed by Cypriot Courts has been a direct, but very limited, source of environmental law, and consequently the case law of the EUCJ on environmental matters has been rarely referred to or utilised.

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

Environmental legislation places responsibility primarily on the state to protect the environment. Two independent officials, the Ombudsperson and the Commissioner for the Environment may be petitioned by the public (viz. any natural or legal person), but their decisions/opinions are not legally binding on the offending department. The highest level of protection is provided by the courts of law. However, natural or legal persons may only pursue protection of the environment through court action if they are personally affected by the situation. In other words, their right is based on the principle of personal interest or 'legal proximity'. Environmental NGOs can only pursue redress through the court in a limited set of circumstances outlined in sectoral law.

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

As already mentioned, the Cyprus Constitution was drafted in the 1950s before environmental rights became popular. Consequently, there is no express provision in the Cyprus Constitution regarding protection of the environment, either as an obligation by the state or as a right towards nature or the individual. There is a right to life (Article 7) which has been interpreted by case law as a right of individuals, as represented by their local authority, to a healthy environment in their place of residence (Pyrga Community v. the Republic (1991) 4CLR). The importance of environment for a healthy life was re-affirmed in the appeal hearing in the above case (Cyprus v. Pyrga (1996) 3AAD 503), but its interpretation remained narrowly defined geographically to those within the area affected, and the court called upon the government to pass suitable legislation, a development which happened only after joining the EU and in a strictly limited way to accommodate certain directives, as will be seen further down. There is currently a proposal before the House of Representatives to amend Article 7(1) of the Constitution so as to recognize a right to health, environment and biodiversity.

Given that there is no environmental provision in the Constitution, the main provisions regarding access to justice on environmental matters are those that apply generally, and the Constitution's main provisions regarding access to justice are delineated in Articles 29, 30 and 146. Article 29 provides that every person (including non-Cypriots and legal persons) has a right individually or jointly with others to address any competent authority, to have their complaint attended to expeditiously and to receive a response within 30 days. (This refers to complaints addressed to civil service departments or other public authorities). Article 30 refers to the right of any person to seek legal redress and to be heard before a court. Article 146 prescribes who may apply to the Court against a decision, act, or omission of a public authority and this would, therefore, apply with respect to environmental issues. For such right to arise the complainant must have an existing, personal and legitimate interest which has been directly affected by a decision, act or omission exercised by a public authority in a manner which is contrary to the Constitution or to any other law, or represents an abuse of power, and must be exercised within 75 days of becoming aware of it.

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

The provisions for access to environmental justice were introduced when the Aarhus Convention was enacted into law (Law No 33(III)/2003), but without actively enhancing NGO rights, until the enactment of EU law made it imperative to do so. Even then, the focus was mainly on access to information (Access to Environmental Information Law, 119(I)2004). When the EIA and the IPPC Directives were enacted, legal provision was made within those laws to grant limited rights to NGOs for standing (*locus standi*) before the courts. Similarly, with the Directive on Environmental Liability that followed.

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

The Supreme Court has played both a positive and a negative role in furthering environmental rights. Following the Judgment of Pikis J. in Pyrga community v. the Republic (1991, see 1.1.2 above) it was accepted that citizens can invoke a right to life under the Constitution if threatened by an event with environmentally negative repercussions. It also highlighted the importance of the environment for the wellbeing of mankind, as well as the legitimate right - and indeed obligation - of a local authority to seek the protection of the law for the health of its residents, as against any other complainants, including local NGOs, who, despite geographical proximity, were deemed to have no legitimate interest under article 146 of the Constitution. The Pyrga case has made

legal history by broadening the interpretation of the constitutional right to life and extending it to encompass environmental considerations, which in the late 1990s emboldened NGOs and the Cyprus Technical Chamber (a body enacted by law), to initiate recourses against planning permits in or near the Akamas Peninsula, a nature reserve under threat from development. Although the claims succeeded at first instance, they were overturned by the Supreme Court in plenary, which did not recognize a legitimate interest of the applicants. It was further held that to allow these recourses would amount to an *actio popularis*, which is not recognised as a cause of action in the Cypriot legal system.

These decisions are now under question in academic circles, on the ground that the court gave an extremely narrow interpretation of legitimate interest, but they have not yet been superseded. One could add that they were based on an incomplete understanding at the time of the significance of environment as a science, and the global effects of biodiversity loss. Given the inherent nature of environmental impacts to manifest in an indirect, long-term manner, affecting a large number of people, the narrow interpretation of an existing, personal, and legitimate interest by the Supreme Court fails to account for the unique nature of environmental considerations.

Be that as it may, the restrictive decision in Thanos Hotels of 2000 has weighed down on legal thinking for the past two decades, and consequently, until recently, no NGO has dared to initiate action in court against environmentally harmful administrative decisions or actions. Meanwhile, jurisdiction to hear administrative recourses has since 2015 been transferred to the Administrative Court, a court of first instance. Two environmental cases are known to be in process, No-s 1929/2018 and 1768/2019) Friends of Akamas v. the Republic.

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

Parties to an administrative or judicial procedure can rely on international agreements only in so far as they have been transposed into Cyprus law. According to the Constitution, Article 169, legal rights derive from the Constitution or from legislation. International agreements which have been promulgated into law and published in the official gazette have primacy over national laws (but not over the Constitution)

1.2. Jurisdiction in the Courts

1) Number of levels in the court system

Generally, a two-tier court system applies with proceedings starting in a court of first instance and if the court decision is appealed, it will be heard by the Supreme Court.

Courts of first instance are:

The District Courts which have civil and criminal jurisdiction.

There are six District Courts, one in each of the six towns of the island. Two of them (the Famagusta and the Kyrenia District Courts) have ceased to function since the Turkish military occupation in 1974, and their jurisdiction has been taken over by the Nicosia and Larnaca Courts. Each District Court has jurisdiction to hear and determine all civil actions, where the cause of action has arisen wholly or in part within the limits of that district, or where the defendant at the time of filing the action resides or carries on business within the limits of the Court. A criminal offence may be tried by a President of the District Court, a Senior District Judge or a District Judge sitting alone or by an Assize Court. The case normally goes to an Assise Court if it carries a penalty of imprisonment over five years and/or a fine over €50,000.

The Assize Courts

An Assize Court (there are now four Assize Courts based at Nicosia, Limassol, Larnaca and Paphos) is composed of three judges and has jurisdiction to try all criminal offences punishable by the Criminal Code or any other law, carrying penalties higher than the ones imposed by the District Courts.

The Family Courts

There are three Family Courts, one for Nicosia and Kyrenia, one for Limassol and Paphos and one for Larnaca and Famagusta. There is also one Family Court for Religious Groups, based in Nicosia. The Family Court has jurisdiction to take up petitions concerning the dissolution of marriage as well as matters which relate to parental support, maintenance, adoption and property relations between spouses provided that the parties are residing in the Republic.

The Industrial Disputes Court

The Industrial Tribunal (there are now three Industrial Tribunals based at Nicosia, Limassol and Larnaca) has jurisdiction to entertain applications by employees for unjustified dismissal and redundancy payments. It is composed of a President (who is a judicial officer) and two lay members representing the employers and employees.

The Rent Control Tribunal

The Rent Control Tribunal (there are now three, in Nicosia, Limassol, and Paphos) has jurisdiction to try all the disputes which arise from the application of the Rent Control Laws, which include amongst other matters, the rent payable and recovery of possession. A Rent Control Tribunal is composed of a President (who is a judicial officer) and two lay members representing the tenants and the landlords.

The Military Court

The Military Court has jurisdiction to try military offences under the Criminal Code and any other crimes committed by members of the armed forces. It is composed of a President (who is a judicial officer) and two assessors who are appointed by the Supreme Council of Judicature from a list of military officers.

The Administrative Court

Sitting only in Nicosia, it adjudicates on any recourse filed against a decision, act, or omission of any organ of state, any authority or person exercising executive or administrative authority. Recourses are made on the ground that such decision, action, or omission violates the provisions of the Constitution or of any law or is in excess or in abuse of any power vested in such organ, authority, or person.

There are no special courts for environmental issues, so an action against any organ of state, authority or person exercising administrative or executive authority, will be brought before the Administrative Court.

In addition to the above-mentioned courts of first instance, the Supreme Court sits as a court of first instance when acting as an **Admiralty Court** or an **Electoral Court**.

Appellate Jurisdiction

The Supreme Court hears appeals from all courts of first instance and also has exclusive jurisdiction to issue the prerogative orders of *habeas corpus* (to release someone from detention) and orders instructing a party to do something or refrain from doing something or to correct a decision.

The Supreme Court sitting as a **Constitutional Court**, has jurisdiction to hear cases when the constitutionality of a law passed by Parliament is challenged by the President of the Republic (Article 140(1)), and may also adjudicate on whether there is a conflict of power or issue of competence between state organs or authorities (Article 139). This Court hears appeals against decisions of the Administrative Court, and under Article 144 examines the constitutionality of any law if raised at any time by an affected party during a legal process. Moreover, under Article 146, it will examine the claim of any legal or natural person with a legitimate interest, that he/she has been affected by an administrative act/decision which is incompatible with the Constitution.

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

The jurisdiction of first instance courts is sufficiently clear to determine which court has jurisdiction. In some circumstances a party may decide whether to bring an action e.g. in the District Court or in the Industrial Disputes Court depending on the level of damages sought (higher in the District Court though a much lengthier process), but normally proceedings should start in the right court and the right city. In relation to damages caused, as a result of violation of environmental legislation, an action by an individual affected can be filed in the District Court where the damage was caused. A criminal case may also be filed by the Attorney General based on a specific environmental law (e.g. protection of nature) or under the more recently enacted law for crimes against the environment, Law 22(I)/2012, in the court which has jurisdiction for the area involved.
There is no distinction between ordinary and extraordinary remedies before a court. Panels of three Judges decide finally on civil and criminal appeals in the Supreme Court. The Supreme Court may uphold, vary, set aside, or order the retrial of a case as they may think fit. It is, nevertheless, possible for the Attorney General to promote an extraordinary remedy such as a *nolle prosequi* which is an order to stop proceedings on grounds of public interest, or to make a recommendation for clemency.
A citizen wishing to challenge an administrative act, decision, or omission in Court, must apply to the Administrative Court in Nicosia, irrespective of where the offending act takes place. The Administrative Court will review the legality of the challenged act or decision, based on the information presented in the case file, but does not extend to the merits of the case (unless the recourse relates to tax or asylum). The Court may quash an administrative action in part of in full and remand the case to the authority issuing the decision. The authority is bound by the Court decision.

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

There are none and there are no expert judges. Recourse to the Administrative Court will be heard under the same conditions as any other recourse. Nevertheless, some environmental issues are decided under criminal or civil jurisdiction, e.g., the Law for Crimes against the Environment No 22(I)/2012 and the Law on Environmental Liability, No 189(1)/2007. In criminal procedures, everyone is entitled to report criminal acts (e.g., misuse of power by certain authorities) to the prosecutor. They can participate and bear witness at the proceedings. Remedies against court decisions are normally restricted to the prosecutor and the accused (although victims in crimes now have rights against perpetrators and failure to prosecute). In order to seek a judicial remedy, the complainant must have a legitimate interest as defined in Article 146 of the Constitution. This right must be exercised within 75 days of becoming aware of the event complained of.

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

In proceedings before the Administrative Court, the Court can, of its own motion, examine matters of general interest such as time limit, executory nature of the act, competence of the organ, legitimate interest of the complainant. The court cannot examine of its own motion constitutional issues and violation of fundamental rights. These constitutionality issues must be specifically pleaded. The presiding judge decides on such matters as the timing of the hearing, whether additional evidence can be admitted, or whether to grant injunctive relief, if raised by the applicant.

1.3. Organisation of justice at administrative and judicial level

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

Where the act or omission is committed by an administrative organ or authority, there are courses of action available at the judicial and non-judicial level. Parties must distinguish between hierarchical/administrative and judicial recourses. Hierarchical control is exercised by a supervisor or a director over subordinates. In specific legislation there is provision for review of executive acts by higher administrative authorities (hierarchical recourses), if requested by an affected party, i.e., a party that has legitimate interest, (which could be an NGO, if the act complained of relates to legislation that specifically grants rights to NGOs). For example, the Law on Access to Environmental Information 119(1)/2004, art. 10, provides that if the info requested by any citizen (including an NGO) is refused, or is incomplete, a hierarchical recourse may be made to the responsible Minister. Such recourse procedure, however, is not final or conclusive and does not bar the filing of a recourse to the Administrative Court. A hierarchical recourse has the advantages that a) the higher authority will examine issues both of procedure and substance, and b) the 75-day period for challenging the omission or action will be ‘frozen’, if so provided in the legislation or agreed by the parties, while the review process is being conducted.
In addition to hierarchical recourses mentioned above, other non-judicial remedies available in environmental matters include applications to either the Ombudsperson or the Environment Commissioner, though neither have executive power, so applying to either, even if they produce a favourable statement, might not produce a remedy. The range of non-judicial remedies includes:
Complaints to the Ombudsperson: The office of the Ombudsperson was established in 1992 to protect citizens’ rights when affected by public administration decisions which are contrary to the law, or not in accordance with the proper exercise of administrative authority, without requiring the time and expense of going to court. A complaint is made by letter attaching copies of any necessary documents. The Ombudsperson’s decision is not binding, but it will carry weight if the party later goes to court. The Ombudsperson, however, cannot consider a complaint if there is a case pending before the courts. When the institution of Ombudsman was introduced it was an inexpensive and speedy procedure. It is still inexpensive, but no longer speedy and could well take over a year to receive a reply.
Complaints to the Environment Commissioner who is appointed by, and reports to, the President of the Republic. The Commissioner may submit proposals and recommendations to the relevant Ministries for the implementation of environmental guidelines and may ask that a report be submitted. All citizens including NGOs can address the Commissioner, even though his/her recommendations are not binding, and the most one can expect is to secure the moral weight of the Commissioner’s support.
Complaints to the Minister: Article 29 of the Constitution regarding the right to petition official authorities, enshrines this right. The Minister has overview responsibility for an offending action/decision by any of his departments and he/she should be addressed by letter, either in the mode of a formal hierarchical appeal or less formally. The Minister will examine the procedural and substantive context of the complaint.
Complaints to the local authority: Any person, including non-Cypriots, residing in the Republic, or subjected to a negative incident within the competence of a local authority, may make a complaint as above, by letter sent individually or through a lawyer. If there is no response, and depending on the issue, it may be challengeable in the Administrative Court, in which case the 75-day rule applies for initiating a recourse.

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

Since there are no Environmental courts, appeals will be made to the Administrative Court in the same way that any other administrative decision would be challenged, and the process will take as long as any other recourse, viz. probably at least two years, more like four years. The requirements of Article 146 of the Constitution must be met concerning the legitimate interest of the applicant. In other words, the applicant, whether a natural or legal person, must have a personal, direct, existing, and legitimate interest which has been affected. This does not extend to interest groups, but in the case of an environmental NGO, legitimate interest, and consequently legal standing in a limited set of circumstances, may be recognised under laws that have been introduced as a result of transposing European directives.
They are:

The EIA law, as amended, No 127 (I)/2018, article 48; the IPPC law, now replaced by the Industrial Emissions Law, No 184(I)2013, article 42, and the Environmental Liability Law, No 189 (I)/2007, article 14 (I). Details are given in the appropriate sections below, see para 1.4.2. Additionally, the Freedom of Access to Information Law, 125(1)/2000, provides the right of any person, including NGOs to challenge an omission or refusal by an authority to provide information within its competence.

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

There is no special environmental court, hence the applicant will follow the procedure described above, viz. unless otherwise provided, redress will be sought through the Administrative Court.

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

Appeals against environmental decisions are governed by the situation described at 1.3.2) above. Appeals against court orders would be made to the Supreme Court if the order was made by a court of first instance. Therefore, under Article 146 of the Constitution, an appeal against the Administrative Court' s decision would be made to the Supreme Court and the deadline is 42 days. Appeals against intermediary decisions may only be allowed if they are considered decisive to the rights of the parties, and only within 15 days.

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

Rule 1/2008 of the Supreme Court applies for seeking guidance from the European Court of Justice on the interpretation of EU provisions through the preliminary ruling procedure (προδικαστική παραπομπή). The application may be made at any time during the proceedings by the parties or on the Court's own motion. The final decision as to whether a case will be referred to the CJEU remains with the national court. It is not frequently used in practice, and as already explained, there have not yet been instances of its use concerning environmental issues.

There are no extraordinary ways of appeal.

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

No formal solutions such as mediation exist. However, NGOs which consider legal action too costly or too cumbersome, might consider it more effective to raise the issue with the responsible Minister, or to bring it to the attention of the Parliamentary Committee for the Environment (where the issue will be aired, but not necessarily solved), or to make a formal complaint to DG Environment, Brussels. If successful in the latter, DG Environment will start a review procedure against the state, which may result in an infringement procedure under Article 258 TFEU. Also, NGOs can always raise cases at the Bern Convention for the Protection of Wildlife (Council of Europe) and if successful, a file is opened against the offending state which has a certain nuisance value, although penalties cannot be imposed.

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

As already mentioned above, complaints can be made to the Ombudsperson or to the Commissioner for the Environment, but their published position would not be binding on the authorities. Their position would however carry a certain weight, especially if the case goes before the court. Appealing to the Attorney General would not normally happen because the Attorney General's remit is to advise the government and defend the Government in court cases. The Attorney General would take action, however, at the initiative of the appropriate government department under the Law for Crimes against the Environment, No 22(I)2012. In recent years, environmental NGOs have been known to bring instances of maladministration to the attention of the Auditor General who, if he considers that public money is being wrongly spent, would make a relevant public statement and include it in his annual report.

1.4. How can one bring a case to court?

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

Any administrative decision, whether environmental or otherwise, can be challenged by any natural or legal person affected by the decision according to Article 146 of the Cyprus Constitution. Specifically, the decision must affect a complainant's direct, existing (i.e. current) legal interest, which is interpreted to mean that a legitimate interest is personal and refers to one's property, person, or occupation. This interpretation precludes NGOs or 'interested parties' on the ground that if a person would have no right individually because neither his property nor his person nor his health are directly affected, the decision in question does not become actionable simply because a number of persons seeks to question it. In other words, the courts have repeatedly ruled that the concept of *actio popularis* by concerned parties is not admissible and thus, a challenge by an NGO group falls into this category. In order to overcome this situation and to comply with the EU Directives regarding Integrated Pollution Prevention Control and Environmental Impact Assessment, laws were introduced in 2003 and 2005 respectively which partially address the *locus standi* of environmental NGOs (see question 1.4.2) below). Although these laws, and especially the EIA law, have given rise to recourses by individuals, recent cases by ENGOs relying on these rights have not yet been decided.

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

Differences refer to rights given to environmental NGOs incorporated as a legal entity. These limited rights arise from the EIA Law, the IPPC Law, and the Law on Environmental Liability, No 189(I)/2007. They are "new" rights so to speak, which NGOs would not have otherwise enjoyed, and recognise that under certain circumstances, environmental NGOs 'have legitimate interests' as defined in the Constitution.

EIA Law No 140(1)/2005 article 25(1), as amended by law No 127(I)/2018 article 48 (although these articles present some substantial differences between them). Article 25(I) of the 2005 law states that any NGO whose main purpose, according to its statutes, is the protection of the environment, is deemed to have a legitimate interest that could be affected by a planning permission issued by the Town Planning authority, an approval granted by the Environment authority, a decision of the Council of Ministers or other authority approving public works. In such case the NGO is deemed to have a direct legitimate interest and is therefore entitled to file a recourse to the Administrative Court on the basis Article 146 of the Constitution. It should be noted however, that when revised by article 48 of the amending EIA Law in 2018, the enabling provision for NGOs was restricted to challenging only the Environmental Authority responsible for granting environmental approvals, and only in specific cases: regarding the granting of an approval; against a negative screening decision (viz. concluding that no EIA study is necessary); for any decision or omission to hold a public consultation, or for preventing an interested party from participating. Under article 2 of the same law, the 'Environmental Authority' is the Director of the Environment Department.

IPPC Law No 56(I)/2003 as replaced by the Industrial Emissions Law 184(I)2013, which under article 42 provides access to information and consultation and the right of environmental NGOs to judicial recourse if the stipulations regarding provision of information and public participation, are not respected.

The Environmental Liability Law No 189(I)/2007, article 14(I) enables any natural or legal person who is affected or **could be** affected by environmental damage, to make a recourse to justice. The term 'legal person' includes any company or association whose main objective, according to its statutes includes environmental protection.

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

The following table explains who has legal standing and when. Basically, any person, whether natural or legal, whether a Cypriot or foreign, has the same right to ask for an administrative review, complain to the Ombudsperson, or go to court, if they are personally and directly affected in a legitimate right. NGOs have only the limited rights prescribed by the sectoral laws, already described above.

Legal Standing

	Admin. Procedure	Judicial Procedure	

Legal Standing	(ιεραρχική προσφυγή)	(Διοικητική Προσφυγή)	Complaint to Ombudsman or Environment Commissioner
Individuals	Only against decision addressed to them.	Need to show a legitimate interest as stated in Article 146 of the Constitution or under sectoral laws, whether or not a citizen of the republic	Any person with an interest that has been affected whether or not a citizen of the Republic.
NGOs	Normally need to show a public interest	Need to show legal standing which will be recognized on grounds of proximity under the Constitution, or if provided by law, viz. the EIA Law of 2018, the IPPC Law as amended by 184(I) /2013 or the Environmental Liability Law 189(I)/2007	Needs to show either a public service or a local authority mishandling, even if only loosely connected to the NGO.
Other legal entities	Local authorities directly affected or claiming a public interest for their inhabitants.	Local authorities and possibly other legally recognised entities (e.g. Parents Association, Church council) claiming a public interest under article 146 of the Constitution as interpreted by case law.	-as above-
Ad hoc groups	E.g. citizens groups. Need to show a justifiable interest.	No standing as a group, but members of the group as individuals would have standing if they satisfied the requirements of article 146 of the Constitution.	Need to show either a public service or a local authority mishandling affecting them.
Foreign NGOs	No specific provision. Probably accepted if NGO demonstrates either a global interest in the subject matter or if the impacts go beyond Cyprus.	The better view is that although no specific provision is made for foreign NGOs, they would not be excluded under the sectoral (EIA, IPPC, ELD) laws, if they were registered entities in their country, aiming at protection of the environment, and could demonstrate sufficient 'proximity'.	No reason why they could not complain against a Cypriot administrative act that affected their subject of interest.

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

Translation of legal documents is not provided by the courts and will be done at the party's expense. Interpretation of proceedings is provided in all criminal cases and in other cases by application to the court if a party does not speak one of the country's official languages (Greek and Turkish), on payment of the translator. When parties are legally represented, their lawyers are assumed to speak Greek. Pleadings (i.e. the formal documents used for the court process) can only be submitted in the official languages. A foreigner may make a sworn declaration (affidavit) in his/her language, accompanied by an approved translation.

1.5. Evidence and experts in the procedures

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

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

In a recourse to the Administrative Court, the case is conducted on the basis of written submissions, including sworn affidavits by any party if necessary. The administrative department against which the recourse is made must provide the full file(s) relating to the case for examination by the Court. The file(s) provide the main evidence. The Court may review the legality of the challenged act or omission but does not extend to the scientific or other merits of the case. it will, however, extend to whether the department in question examined the impacts of its decision as fully as it should have done. On its own motion, the court can examine matters of general concern such as time limits, the executory nature of an act, the competence of an organ and the legal interest of the complainant. Constitutional issues or violation of fundamental rights need to be pleaded. The applicant must prove his/her case, and the weight of evidence is, as in civil proceedings, on the balance of probabilities.

2) Can one introduce new evidence?

New evidence cannot normally be introduced since the contents of the case files are deemed to contain all relevant material. There are exceptions only if the Court deems there is 'good reason' to do so, as established by case law., and then only if it relates to a period before the impugned decision. See case 651 /2019CLR, The Church of Ayios Nicolaos, Pano Deftera v. the Republic (2019).

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

With the exception of faculty lists produced by universities (referred to elsewhere in this text), there are no published lists of experts at present. Since expert opinion would usually relate to material facts and the Administrative Court does not examine issues of substance, the use of expert evidence is limited. If expert opinion were necessary to support a claim for annulment or to claim damages in the Civil Court, the lawyer handling the case would normally advise the client and suggest an expert. The Court's permission would be a prerequisite to adducing expert opinion.

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

In line with the normal practice of the Administrative Court, as per 1.5.3. above, experts would not be called, but if they were, exceptionally, their evidence would not be binding. It is up to the Court to assess its weight and credibility.

3.2) Rules for experts being called upon by the court

Since Cyprus follows the adversarial system, the court would not call upon experts.

3.3) Rules for experts called upon by the parties

As mentioned, expert evidence is not normally admitted in administrative cases, except as stated at 1.5.3. The general court rules as to expert testimony apply.

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

Not applicable.

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

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

Legal Representation:

Representation by legal counsel is not compulsory for individuals. An applicant may present his/her case in person, but, given that administrative law is complex and dependent on case law, this is unlikely. In Cyprus, lawyers are entitled to deal with any legal matter and do not have formal specialisations, although several lawyers choose particular types of cases, or choose not to undertake pleading in court. The list of registered practicing lawyers is placed on the site of the Cyprus Bar Association and is updated regularly. There are no law firms specializing in environmental matters and according to the general code of conduct it is not allowed to advertise. Consequently, and until this rule changes, there could not be a published list. A person wishing to initiate proceedings on an environmental issue would be well advised to seek a lawyer with experience in Constitutional /Administrative law since the proceedings

will most likely be conducted on the basis of Article 146 of the Constitution. Given that Cyprus is a small place, information travels by recommendation. Legal entities such as NGOs, can only go to court if represented by counsel.
There are no NGOs giving public consultation on environmental/legal matters.

1.1) Existence or not of pro bono assistance

There is no practice of pro bono assistance since it is prohibited under the Advocates Law. There may have been instances when a lawyer has waived his /her fee — not in environmental cases so far, since they have not appeared before the courts -- but this would be done entirely privately.

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

Not applicable.

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

Not applicable.

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

The University of Cyprus provides a list of experts which is in effect, a list of its faculty staff and their specializations (see ucy.ac.cy/list of experts). It has been known, in non- environmental cases, e.g. in a recent extradition case tried in the District Court, for the defence lawyers to call upon experts from this UCy list. Other universities issue similar staff lists.

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

A public registry of environmental NGOs is available here.

NGOs who have taken legal action in the past are the Friends of Akamas and the Laona Foundation for the Conservation and Regeneration of the Cypriot Countryside. Friends of Akamas has renewed its efforts with a recent recourse, still before the court. Two other NGOs interested in legal issues are Terra Cypria- the Cyprus Conservation Foundation and the Πρωτοβουλία για τη διάσωση των φυσικών ακτών (Cyprus Initiative For The Protection of the Natural Coastline), but they have not been involved in actions so far.

4) List of international NGOs, who are active in the Member State.

International NGOs with branches in Cyprus (but which have not started legal recourses so far) are Friends of the Earth-Cyprus and Birdlife Cyprus (a member of Birdlife International).

1.7. Guarantees for effective procedures

1.7.1. Procedural time limits

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

In general, (if not taking the matter to court), a non-judicial administrative decision, whether environmental or otherwise, may be challenged by making a written complaint to the minister responsible or to a relevant superior official. There is no specific time limit, it depends on the case and circumstances. In the case of a formal hierarchical recourse to a minister, specifically provided in legislation, the relevant law will also specify the time limit within which the recourse should be made.

If the law provides that the decision or act must be published in the official gazette the time limit starts from the date of publication.

2) Time limit to deliver decision by an administrative organ

Under Article 29 of the Cyprus Constitution any person addressing a public authority should receive a response within 30 days. The response, however, is often no more than an acknowledgement informing the claimant that further time will be necessary in order to reply fully. A claimant could go to Court, if the reply would lead to an executory act, challengeable under Article 146 of the Constitution.

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

It is possible to challenge the first level administrative decision directly before court, a recourse to justice would be made, provided the complainant met the prerequisites of Article 146 of the Constitution, including the time limit of 75 days.

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

An environmental court case would be treated as any other and the duration is on average 12-16 months for a first instance liaising and at least two years for completion, possibly four. An appeal could last much longer. According to the Procedural Rules 11/1986 judgments from first instance courts must be delivered within six months of hearing final arguments. There is no deadline for the Supreme Court. In practice all types of procedure take a very long time except in rent tribunals and in family courts concerning the interests of minors. If a judgment in the lower courts is not delivered within six months of closing arguments, explanations may need to be given and the parties can seek redress from the Supreme Court. There have been instances of recourse to the European Court of Human Rights against the Cyprus Republic because of court delays, and it was found that such delays are in themselves a denial of justice. Law N.2(1)/2010, based on Article 6 of the European Convention on Human Rights, provides a cause of action to seek compensation for an unreasonably delayed court decision. A Supreme Court decision of 2019, M.D. Cyprus Soya v Attorney General, case no. 1/2018, suggests that it would also apply to delays in adjudication on appeal.

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

The time limits may be found in the Procedural rule 6/2005 (in Greek) which also contains the forms to be filled in by the applicant and the respondent, including individuals appearing without a lawyer. Very briefly within 45 days from receiving notice of the recourse, the respondent must file a reply, and an interested party must do so within 21 days. Exchange of pleadings in writing with arguments in ‘skeleton form’ must be done within 30 days. This process and the dates are specified by the judge hearing the case and it is usual for extensions to be given and for this process to take much longer.

1.7.2. Interim and precautionary measures, enforcement of judgments

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

There is no automatic suspensive effect for a judicial recourse or appeal, nor is it possible to simply seek an injunction. An injunction would be part of the recourse against the validity of the decision or action. Regarding an administrative appeal to a higher non-judicial authority, please see 1.7.2.2 below.

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

In an administrative/hierarchical appeal to a superior authority, it is normal for the administrative act/decision to be suspended while the review is taking place and, if the review finds in favour of the complainant, the process will be discontinued. If the review confirms the action/decision taken, it will be implemented and appealing to the court will not automatically arrest the process.

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

Unless provided in sectoral laws, there is no general provision for granting injunctions in environmental matters. The normal judicial procedure would need to be followed and satisfied. Requests coming from individuals or groups are very rarely granted and often with considerable financial undertakings as to cross-damages. Such conditions apply so that injunctions are more easily granted to a government department seeking to prevent an illegal act (e.g. to stop an individual from demolishing a building under preservation order). There is an appeal against a decision to refuse an injunction which is made to the Supreme Court.

4) Is there immediate execution of an administrative decision irrespective of the appeal introduced? Under what conditions?
Normally there is an immediate execution of an administrative decision irrespective of the appeal introduced, unless a deadline is provided for responses by the affected party. If an administrative appeal is made to a higher authority (ιεραρχική προσφυγή), i.e. to the relevant minister, execution would be suspended, pending his/her decision, as mentioned at 1.7.2.2) above. This presupposes that the offending department has also been kept informed by copy of the complaint made.
5) Is the administrative decision suspended once challenged before court at the judicial phase?
It is not automatically suspended. See answer 1.7.2.1) and 1.7.2.3) above.
6) Is there a possibility for the national tribunals to provide injunctive relief (conditional upon a financial deposit)? Is there separate appeal against this order on the injunctive relief or the financial deposit?
There is a possibility for the national tribunals to provide injunctive relief under very strict criteria, and the amount sought is often too high for an ordinary citizen or an NGO to meet. See answer to 1.7.2.1) and 3) above. However, in the recent case of the Church of Ayios Nicolaos v. the Republic 651/2019CLR, injunctive relief without demanding a financial deposit was granted against the construction of a gas station less than 200 m from a church, which is the accepted Town Planning limit for protection of the vicinity. It was raised within the recourse itself and only granted as it was clear that the complainants, which was a church council and nine other residents of the vicinity, were shown to have *locus standi*. In the recent case of Demetriou v Limassol Municipality, no 746/2019, the Admin Court denied an injunction against the builders of a skyscraper in a residential neighbourhood, re-iterating the established principles that injunctions are granted with considerable caution and only where there is either flagrant illegality or threat of irretrievable damage. In this case the builders were deemed to be carrying out only preliminary work, and it was held that the issues raised by the complainant, which included references to EU law and the Aarhus Convention, would be better addressed in the recourse itself.
An appeal against a refusal to issue an injunction would be made to the Supreme Court
1.7.3. Costs - Legal aid - Pro bono assistance, other financial assistance mechanisms
1) How can one calculate what costs will be involved when one intends to initiate a procedure - administrative costs, judicial costs, costs for filing a case, experts' fees, lawyers' fees, cost of appeal, etc.
An outline of costs can be offered by practicing lawyers. The main cost in any judicial action would be lawyers' fees. Additionally, stamps would be affixed to the action filed (court fees). In civil cases the court fees depend on the amount of damages claimed. In recourses to the Administrative court the average lawyer´s fees granted by the court are €1,500 for first instance cases and the stamp plus service amounts to €300. For revisional appeals the cost for stamps and service amount to approximately €450 whereas in civil appeals the stamp depends on the amount claimed. Expert fees for a report could be anything from €500 upwards depending on the report to be prepared, plus a fee for the number of days spent by the expert in Court, but as mentioned elsewhere, expert witness would not normally be introduced in the Administrative Court. If there is no agreement between the lawyer and the client, then the minimum fees apply, and the cost calculation should also include the costs of the other party if the complainant loses the case. However, these costs would be calculated according to the court schedule, which does not necessarily cover actual legal costs.
2) Cost of injunctive relief/interim measure, is a deposit necessary?
A deposit is not obligatory, and the Court has a wide discretion on this matter. There have been cases when the deposit payable ran into thousands of euros, depending on the amount which the other side claims they will lose by not being allowed to proceed (e.g., if a construction is stopped, the estimation will include the days when the labour force will be off the site, the compensation if the work does not finish on time, etc.). But see also the case quoted at para 1.7.2.6.
3) Is there legal aid available for natural persons?
Legal aid is not available to complainants in the Administrative Court, except in the case of asylum seekers.
4) Is there legal aid available for associations, legal persons, NGOs with legal personality and without legal personality? If yes, how to request legal aid? Is there pro bono assistance?
Legal aid is only available to natural persons, as above.
5) Are there other financial mechanisms available to provide financial assistance?
There are no other financial mechanisms available to provide financial assistance.
6) Does the 'loser party pays' principle apply? How is it applied by courts, are there exceptions?
The loser pays principle is prevalent, although the Court has the discretion not to allow all costs or to order each party to bear its own costs, but this will not be known in advance.
7) Can the court provide an exemption from procedural costs, duties, filing fees, taxation of costs, etc.? Any other national characteristics linked to this topic?
The court cannot provide exemptions from the procedural costs of the applicant whatever their legal status. Yet, as stated immediately above, it can decide not to order the loser to pay the legal costs of the other side. This might be done in particular if the loser is a not-for-profit organisation appealing a government decision, and the decision is a matter of public interest. However, the case will first have to be heard, and the Court will use its discretion, it will not be known in advance.
1.7.4. Access to information on access to justice - provisions related to Directive 2003/4/EC.
1) Where are the national rules on environmental access to justice available? Internet link to be provided. Are there other forms of structured dissemination?
Access to information is provided under the Freedom of Access to Environmental Information Law, No 119(I)2004. Its provisions are available in English and Greek. Article 12 of the Law provides that every public authority must organise environmental information within its competence in a way that is accessible to the public. For details, please see the para immediately below. Information concerning access to environmental justice is published on the website of the Department of Environment, with reference to the specific (and limited) legislation that grants legal rights to NGOs. There is no specific site where national rules on access to justice are available.
2) During different environmental procedures how is this information provided? From whom should the applicant request information?
Under Article 3 of the Access to Environmental Information Law No 119(I)/2004, any person can apply to the relevant Ministry/Department by letter, either to the officer responsible for the information required, to his/her Head of Department or to the Director General of the Ministry and does not need to show cause or 'proximity' for the information requested, provided the question is clear and specific. If a large number of documents is requested, there may be a charge for supplying them. Environmental information should also appear on a Ministry's or Department's website, as per article 12 of the Law.
A hierarchical appeal may be made (by letter) within 30 days to the Minister of a department which has failed to respond or responded inadequately. This does not preclude the claimant from exercising his/her rights under the Constitution (Article 146) or from applying to the Ombudsperson for a statement of opinion. Refusal of requests for information must be justified and in writing (Article 8(8) of the Law) and must include information regarding the hierarchical or judicial review procedures provided for in Articles 10 and 11, respectively.
3) What are the sectoral rules (EIA, IPPC/IED, regarding plans and programmes, etc.)?

The above-mentioned sectoral laws all require that information be published on applications made for projects or plans. The detailed provisions are those mentioned at para 1.4.2 above, and can be found on the website of the Environment Department, in English and Greek. The full text of the Aarhus Convention as transposed into Cyprus law can be found here in the English version.

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

The administrative decision will carry a standard statement saying that if a party is not satisfied, they may initiate a recourse within the time prescribed.

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

It is not usual, should translations be necessary, they will be charged.

Article 30 of the Cyprus Constitution provides that any person can go to court and is entitled to interpretation if unable to follow the language of the proceedings, but this applies to criminal and similar offences and only to individuals. In an administrative review, the department would probably concede to using English. Pleadings and hearings before the Administrative Court will be conducted in Greek. If the applicant requires translation or interpretation, this will be arranged privately and paid by the applicant. Since an NGO is a legal person, and can only be represented by an advocate, it will presumably be represented by an advocate who speaks the local language.

1.8. Special procedural rules

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

Country-specific EIA rules relating to access to justice

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

The EIA directive has been transposed by the Environmental Impact Assessment of Certain Projects Law, as amended, No. 127(I)2018, and makes provision for screening under articles 22 to 24. According to these provisions, following an application for directions from the operator of the project, the Director of the Environment Department decides whether an EIA is mandatory according to Annex I of the law, or will undergo a screening process as per Annexes II an IV, and the Director will issue a justified conclusion which will appear on the department's website. A decision by the Director may be challenged by a party with a legitimate right under Article 146 of the Constitution. In a case against the Town Planning Department, no 46/2017CLR, Taramounta and Stephanou v. the Republic (decided in 2019), a permit for a petrol station was quashed on the ground that the Town Planning Dept had not sought an EIA from the Environment Department, nor was there any justification in the file for not doing so. This was a recourse by two individual residents in the vicinity. It remains to be seen if an NGO could raise a similar challenge.

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

Under article 25(4), the director of the Environment Department decides with the party responsible for the project or installation about the scope of the EIA. There are no particular provisions in the law for judicial or other review of scoping decisions which, in any case, would form part of the process, not a final decision. As preparatory acts, both screening and scoping cannot normally be challenged separately, but can be reviewed as part of a final decision. Nevertheless, it would be possible for any member of the public, including an NGO, to raise a scoping issue at the public consultation stage, article 26, which must take place before the EIA is formally submitted, and it is incumbent on the Director to take into account comments made within 30 days of publication of the process, and if justified to order that the EIA be amended. An amendment is currently under review to strengthen the consultation process (see para immediately below).

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

Preparatory and intermediary acts cannot normally be challenged, until the decision is completed and published, and must be challenged within 75 days thereof. However, Article 48(c) provides the possibility for a recourse in matters concerning (an unsatisfactory) public participation, which procedurally precedes the final decision and could be regarded by the Court as a 'preparatory action'. In the recent case of Demetriou v. Limassol Municipality, 746/2019 seeking an injunction, issues of proper public participation were raised, and the decision of the Administrative Court referred to them but without taking a position on them. It is unlikely, that one would go directly to court on the strength of Article 48(c) alone (i.e., if it were not part of a number of supporting arguments) without first filing a complaint to the Department or to the Minister, bearing in mind that redress through the court could take too long to be effective. Nevertheless, following EU criticism, an amendment to article 48 has been drafted (but not yet enacted at the time of writing), specifically to strengthen the consultation process in favour of individuals and NGOs. The right of appeal as per Article 146 of the Constitution for individuals and NGOs is re-iterated. The other two instances in which an environmental NGO would be deemed to have a legitimate interest to appeal with reference to Article 146 of the Constitution would be under Article 48 (a) or (b) of the Law, if challenging the environmental permit granted by the Environmental Authority, or the Environmental Authority's conclusion that an EIA is not necessary.

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

An affected individual can challenge the final authorisation if he/she meets the requirements of Article 146 of the Constitution of having a direct, existing and legitimate interest. This can include a duly registered environmental NGO acting under Article 48 of the EIA Law, if the authorization emanates from the Environment Department. It is uncertain, given the restricted wording of article 48 of the amended EIA Law (compared to article 25 (I) of the previous Law), whether an authorisation which emanates from a department or authority other than the Environment Department, could be challenged by an NGO. There is no provision extending this right to foreign NGOs, nor does the article specifically exclude them. If a foreign NGO could demonstrate "proximity", i.e. the likelihood to be affected by the authorisation, in, for example, a cross-border situation, it is probable that such NGO could file a challenge under the provisions of article 146 of the Constitution.

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

As already explained elsewhere, the jurisdiction of the Administrative Court in Cyprus is nullifying (or confirmatory). It considers whether the procedures have been correctly followed and interpreted by the offending administrative organ either to confirm the decision/action in whole or in part, or to cancel it in whole or in part, or, in the case of an omission, to order that it should be performed. The grounds on which annulment may be justified include lack of competence, error or misconception of law or fact, lack of proper enquiry, lack of due reasoning, failure to comply with the rules of natural justice and good administration (see Sigma Radio v. Cyprus, ECHR, 21.02.11). If the court finds in favour of the applicant, it cannot go into the merits of the case and substitute its own decision, nor can the court invite a scientific expert, since it does not examine the substance of a case, although it could allow a party to present scientific evidence if it concerned a claim for annulment.

If the court finds in favour of the applicant, the matter is automatically remitted to the administrative authority or organ for re-examination.

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

Decisions are challengeable when they are published. Acts or omissions which are not published may be challenged as soon as they become apparent to the affected party.

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

Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, unless specifically provided by law.

8) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

Participation is not a prerequisite for legal standing. Such standing derives from the legitimate interest of the party, as per Article 146 of the Constitution.

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

Both the Constitution and the Court Procedural Rules confirm that anyone can go to court. They are entitled to a fair trial and to interpretation if unable to understand the language of the court. Article 30 of the Constitution is the equivalent of Article 6 of the European Convention on Human Rights and is interpreted in much the same way. Article 30 applies to all types of cases, civil, criminal and administrative. Although there is no specific reference to 'equality of arms' as such in the Constitution, it is encapsulated in the concept of fair trial, and there is considerable case law on the matter, often with reference to ECHR decisions. The principles have been recently restated in a decision relating to a criminal appeal case delivered in 2020: Republic v. Stavrinou, no 266 /2018. The concept is based on the principle that neither party should be put at a disadvantage, and that this should be determined not by particular incidents during the trial or hearing, but by an overall assessment thereof. Nevertheless, in the case of Marangos v. Cyprus, 4.12.08, which related to an administrative appeal, the ECHR found that the complainant's rights had not been affected by a denial of legal assistance by the Cyprus government, nevertheless, three ECHR judges issued a concurrent decision expressing the view that limiting legal assistance to civil and criminal cases and excluding administrative cases amounts to a lack of equality of arms. Since that time, financial assistance has become available in administrative recourses filed by asylum seekers.

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

Timeliness with reference to the applicant means challenging a decision/act/omission within 75 days of its publication/authorisation or of becoming apparent. Timeliness also refers to the duration of a court case. If a hearing is completed and a decision is not delivered within six months, questions will be asked and the interested party may complain to the Supreme Court. In practice, all types of procedure take a very long time (except in Rent Tribunals and Family Courts concerning the interests of minors). There have been instances of recourse to the ECHR against the Cyprus Republic because of court delays, and it was held that such delays are in themselves a denial of justice and fines were imposed. Law N.2(1)/2010, based on Article 6 of the European Convention on Human Rights, provides a cause of action to seek compensation for an unreasonably delayed court decision. A Supreme Court decision of 2019, *M.D. Cyprus Soya v Attorney General, case no. 1/2018*, suggests that it would also apply to delays in adjudication on appeal.

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

Article 46(2)(a) of the Law provides that an application for an interim order may be made in case of major threat to human health or the environment. This includes an *ex parte application* made by one party (usually the government) in the District Court where the danger is taking place. The application is governed by the Civil Procedure Rules, and it has already been explained elsewhere that financial guarantees could normally be required of an individual applicant and that injunctive remedies are granted with considerable caution on the basis of long-established case law. For further information, please see par 2.1.8.

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

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

The IPPC/IED Directives have been transposed to Cyprus Legislation by Law No 184(1)2013 as amended by 131(1)2016.

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

An affected citizen can legally challenge a license issued under the IPPC/IE Law when it is published. Under article 42, environmental NGOs can challenge the application of provisions on public consultation and access to information, but no other aspects of the decision. Foreign NGOs are not referred to but would have no more rights than a local NGO.

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

There are no specific provisions on screening under this law, unless, as provided by article 32(4) issuance of a license for an installation fell within the ambit of the EIA Law, in which case articles 12, 13, 17, 21, 23, 24 and 27 of that law would apply.

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

There are no particular provisions in the law for scoping.

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

Normally preparatory and intermediary acts cannot be challenged, but only when the decision is completed and published and within 75 days thereof. However, Article 42 provides the possibility for a recourse in matters concerning public participation, which procedurally precedes the final decision and could be seen as a 'preparatory action' by the court. It is unlikely nevertheless, that one would go directly to court on the strength of Article 42 alone, without first filing a hierarchical complaint to the Department or to the Minister, bearing in mind that redress through the court might take too long to be effective. It should be noted that whereas the right of a party directly affected by a decision/action/omission may touch upon all aspects of legality, as long as the requirements of Article 146 of the Constitution are met, the wording of article 42 of the Law regarding environmental NGOs seems to recognise their legitimate right to challenge a decision/action/omission only with regard to public participation, articles 36-41, and not with reference to the license as such.

6) Can the public challenge the final authorisation?

An affected individual can challenge the final authorisation if he/she meets the requirements of Article 146 of the Constitution of having a direct, present and legitimate interest. So can an environmental NGO, acting under Article 42 of the IPPC/IE Law, only with regard to articles 36-41 of the Law, as mentioned at 1.8.2.3) above. There is no provision extending this right to foreign NGOs, but it is unlikely that they could be excluded if the foreign NGO was acting within the framework of a cross-border interest.

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

As already explained elsewhere, the jurisdiction of the Administrative Court in Cyprus is nullifying (or confirmatory). It considers whether the procedures have been correctly followed and interpreted by the offending administrative organ either to confirm the decision/action in whole or in part, or to cancel it in whole or in part, or, in the case of an omission, to order that it should be performed. The grounds on which annulment may be justified include lack of competence, error or misconception of law or fact, lack of proper enquiry, lack of due reasoning, failure to comply with the rules of natural justice and good administration (see Sigma Radio v. Cyprus, ECHR, 21.02.11). If the court finds in favour of the applicant, it cannot go into the merits of the case and substitute its own decision, nor can the court invite a scientific expert (since it does not review the substance). If the applicant succeeds, the administrative decision/action is considered null and void, and the matter is automatically remitted to the administrative authority or organ for re-examination.

8) At what stage are these challengeable?

Decisions are challengeable when they have been notified or published. Acts or omissions which are not published may be challenged as soon as they become apparent to the affected party.

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

Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures (unless a hierarchical review is specifically provided for).

10) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

Participation is not a prerequisite for legal standing. Legal standing derives from the legitimate interest of the party, as per Article 146 of the Constitution.

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

Both the Constitution and the Court Procedural Rules confirm that anyone can go to court. They are entitled to a fair trial and to interpretation if unable to understand the language of the court. Article 30 of the Constitution is the equivalent of Article 6 of the European Convention on Human Rights and is interpreted in much the same way. Article 30 applies to all types of cases, civil, criminal and administrative. Although there is no specific reference to 'equality of arms' as such in the Constitution, it is encapsulated in the concept of fair trial, and there is considerable case law on the matter, often with reference to ECHR decisions. The principles have been recently restated in a decision relating to a criminal appeal case delivered in 2020: Republic v. Stavrinou, no 266 /2018. The concept is based on the principle that neither party should be put at a disadvantage, and that this should be determined not by particular incidents during the trial or hearing, but by an overall assessment thereof. Nevertheless, in the case of Marangos v. Cyprus, 4.12.08, which related to an administrative appeal, the ECHR found that the complainant's rights had not been affected by a denial of legal assistance by the Cyprus government, nevertheless, three ECHR judges issued a concurrent decision expressing the view that limiting legal assistance to civil and criminal cases and excluding administrative cases amounts to a lack of equality of arms. Since that time, financial assistance has become available in administrative recourses filed by asylum seekers.

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

Timeliness with reference to the applicant means challenging a decision/act/omission within 75 days of its publication/authorisation or of becoming apparent. Timeliness also refers to the duration of a court case. If a hearing is completed and a decision is not delivered within six months, questions will be asked, and the interested party may complain to the Supreme Court. In practice, all types of procedure take a very long time (except in Rent Tribunals and Family Courts concerning the interests of minors). There have been instances of recourse to the ECHR against the Cyprus Republic because of court delays, and it was held that such delays are in themselves a denial of justice and fines were imposed. Law N.2(1)/2010, based on Article 6 of the European Convention on Human Rights, provides a cause of action to seek compensation for an unreasonably delayed court decision. A Supreme Court decision of 2019, M.D. Cyprus Soya v Attorney General, case no. 1/2018, suggests that it would also apply to delays in adjudication on appeal.

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

Under article 88 of the Law, injunctive relief through an interim order is available against any licensee who disobeys the license conditions. An application for such order will be applied for by the Attorney-General or the local authority to the appropriate District Court. There is no specific provision for affected parties to seek injunctive relief, but presumably the Civil Procedure Rules apply. For further details, please see par 2.1.8.

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

The most comprehensive guidance is offered on the website of the Environment Department, quoted above, see 1.7.4.

1.8.3. Environmental liability[1]

Country-specific rules relating to Environmental Liability Directive 2004/35/EC, articles 12 and 13

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

The ELD was transposed into Cyprus law by the Environmental Liability concerning Prevention and Remediation of Damage Law No 189(1)2007. Article 14 (1) of the Law provides that any natural or legal person affected or likely to be affected by environmental damage, or having a legitimate interest in the decisions to prevent damage may notify the Environment Department or other competent authority, of the damage, in writing and outlining the pertinent details. The term 'legal person' includes any (registered) company or association whose objective, according to its statutes, is the protection of the environment. Article 17 specifies in unusually broad terms that the natural or legal persons mentioned in article 14(1) of the Law (see above) who are affected by **any** decision of the responsible authority may initiate a recourse to justice under Article 146 of the Constitution. Article 146 requires that any applicant must have a direct, existing and legitimate interest and, as already mentioned, article 14(1) of the Law recognizes such an interest in environmental NGOs.

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

The deadline is 75 days as with all recourses to the Administrative Court.

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

Article 14(2) of the Law requires that the request for action must be accompanied by all information that justifies the claim made, and article 14(5) states that the provisions of this Law do not apply to impending damage but only to environmental damage which has occurred. There is no specification regarding the scientific evidence that has to be supplied.

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

Article 2 of the Law defines damage as quantifiable. Appendix II gives a list of criteria that would be considered in quantifying damage. This list is intended more as a guide to the Department for assessment of damage (and the action to be taken), but presumably could assist a complainant in preparing a claim for action.

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

There is no precise manner or time limit. Under article 14(3), the law provides that the competent authority must notify the operator responsible for the damage allowing a period of not more than 30 days for the operator to respond. Having assessed the response, the competent authority must assess within a maximum of 30 days what the course of action should be, and the complaining party must be notified as soon as possible thereafter. This would imply that the entitled person might not have a formal notification for two months or so.

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

The provisions of article 14 regarding a request for action do not apply in cases of imminent environmental damage (article 14(5)).

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

In principle the Department of Environment is the competent authority, unless the Minister of Agriculture and Environment appoints another authority.

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

The MS does not require that the administrative review procedure be exhausted prior to recourse to judicial proceedings.

1.8.4. Cross-border rules of procedures in environmental cases

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

As a general comment, it should be borne in mind that Cyprus is an island state separated from its nearest European neighbour (the island of Rhodes) by about 300 km. So, the likelihood of transboundary environmental damage emanating from acts or omissions is limited and although relevant provisions exist in the laws implementing EIA, SEA, IPPC and ELD, there has only been one case of transboundary damage (involving Greece).
The EIA Law No 104(1)2005 as amended by 127(1)2018 under article 21; the SEA Law No 105(1)2005 under articles 19 and 22, and the IPPC Law No 184 (1)2013 under article 43, all provide that prior to issuing a permit/license/decision, if the competent authority becomes aware that the action in question may impact on the environment of a member state (MS) or if a MS makes such a claim to the Cyprus Government, then the MS must be provided with all relevant information no later than when the public of Cyprus is informed. Also, sufficient time must be allowed for the relevant information to be published by the state concerned and to receive comments from the public of that country. These must be taken into account by the competent Cypriot authority together with locally made observations in reaching a decision. It is incumbent on the Cypriot competent authority to publish the decision reached, with all justifying explanations, on its website and to communicate the same to the MS which will in turn notify its own public.

2) Notion of public concerned?

The definition is the same as for local public viz. one or more persons who are, or may be, affected by the decision/permit/license.

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

With the caveat that this is, as yet, an untried procedure, one could assume that if the NGO has legal standing in its own country it might fall within the definition of those parties with a legitimate interest under the Cyprus Constitution. The recourse would be made either for an administrative review to the department responsible for the decision, or to the Administrative Court in the case of a legal challenge, within 75 days of publication of the decision. The provisions would be the same as for a local applicant, viz. no legal aid, no pro bono, and injunctive relief only in the face of flagrant illegality or major irreversible damage, possibly on payment of a substantial financial guarantee.

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

An individual would only have rights under the same conditions as apply to a Cypriot individual, viz. if a direct, existing, personal right were affected. The provisions for aid, injunctive relief, etc, would be as stated above, in 1.8.4.3), the only difference would be that an individual could appear in person before a court, whereas a legal entity cannot.

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

At the same time as it is publicised in Cyprus.

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

The time frame for the public in an affected country to respond/make observations on the proposed permit/license, etc., during the public consultation procedure is agreed between Cyprus and the affected country and published in the notice to concerned public. The time frame for a recourse to justice is 75 days.

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

The relevant articles in each of the three Laws do not specify this information, but presumably it would be included in the information sent to the affected MS, since there is a responsibility on the Director of the Environment Department to ensure that relevant information reaches the affected public.

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

It is not usual, should translations be necessary, they will be charged.
Article 30 of the Cyprus Constitution provides that any person can go to court and is entitled to interpretation if unable to follow the language of the proceedings, but this applies to criminal and similar offences and only to individuals. In an administrative review, the department would probably concede to using English. Pleadings and hearings before the Administrative Court will be conducted in Greek. If the applicant requires translation or interpretation, this will be arranged privately and paid by the applicant. Since an NGO is a legal person, and can only be represented by an advocate, it will presumably be represented by an advocate who speaks the local language.

9) Any other relevant rules?

There are no other relevant rules.

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

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, but outside the scope of the EIA and IED Directives

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?

As already explained in Part 1, the legal rights of natural or legal persons to obtain an administrative or judicial review for an act/decision/omission are the same for an environmental issue as for any other claim. Access to justice is delineated in Articles 29 and 146 of the Constitution. Article 29 provides that every person (including non-Cypriots and legal persons) has a right individually or jointly with others to address any competent authority, to have their complaint attended to expeditiously and to receive a response within 30 days. (This refers to complaints addressed to civil service departments or other public authorities). Article 146 prescribes who may apply to the Court against a decision, act or omission of a public authority and this would, therefore, apply with respect to environmental issues. For such right to arise, the complainant must have an existing, personal and legitimate interest which has been directly affected by a decision, act or omission exercised by a public authority in a manner which is contrary to the Constitution or to any other law, or represents an abuse of power, and must be exercised within 75 days of the event being publicised.

Under current legislation and Cypriot case law, unless the interpretation were broadened, ENGOs would have no legal standing outside the provisions of the EIA, IPPC/IED and ELD Laws. So in effect, NGOs or individuals who do not live or own property in the vicinity of the offending act would have difficulty in challenging environmental decisions, even though this goes against ACCC guidance and the case law of the CJEU which requires national courts to interpret national procedural rules in light of the Aarhus Convention and in light of Article 47 of the EU Charter in order to grant wide access to justice.
The CJEU case law on environmental issues is not known to have been quoted or referred to in court decisions, since, as already stated in Part 1 (1.1.), NGOs have seldom made judicial recourses after it was held by the Supreme Court in 1999 that they had no legal standing. Therefore, it could be said that CJEU decisions have not had a substantial effect. It has to be added that it is not just the absence of legal provisions or case law which has contributed to the cautionary approach of NGOs in utilizing legal measures. The lack of funding support, the uncertainty arising from the conservative court interpretation, and the consequent lack of experienced lawyers in this field of law, have all discouraged NGOs.

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?

An administrative review would cover all aspects of the issue under review. A recourse to the Administrative Court would normally review the procedural legality, unless there were an issue of error in law or violation of constitutional rights, in which case the substantive legality would also be reviewed.

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 a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures in cases where an administrative review is specifically required in the legislation. In such cases the 75-day time-limit for going to court will be suspended during the review.

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

In order to have standing before the national courts it is not necessary to participate in the public consultation phase of the administrative procedure. Legal standing derives from having a legitimate right of recourse under the Constitution.

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

The Administrative Court will base its decision on the files of the case regarding the decision/act/omission, which must be presented to the Court in full. Any factual matters other than those in the file cannot be introduced, unless in exceptional circumstances and with the leave of the court. See also response to 1.5.1

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

Both the Constitution and the Court Procedural Rules confirm that anyone can go to court. They are entitled to a fair trial and to interpretation if unable to understand the language of the court. Article 30 of the Constitution is the equivalent of Article 6 of the European Convention on Human Rights and is interpreted in much the same way. Article 30 applies to all types of cases, civil, criminal and administrative. Although there is no specific reference to 'equality of arms' as such in the Constitution, it is encapsulated in the concept of fair trial, and there is considerable case law on the matter, often with reference to ECHR decisions. The principles have been recently restated in a decision relating to a criminal appeal case delivered in 2020: Republic v. Stavrinou, no 266 /2018. The concept is based on the principle that neither party should be put at a disadvantage, and that this should be determined not by particular incidents during the trial or hearing, but by an overall assessment thereof. Nevertheless, in the case of Marangos v. Cyprus, 4.12.08, which related to an administrative appeal, the ECHR found that the complainant's rights had not been affected by a denial of legal assistance by the Cyprus government, nevertheless, three ECHR judges issued a concurrent decision expressing the view that limiting legal assistance to civil and criminal cases and excluding administrative cases amounted to a lack of equality of arms. Since that time, financial assistance has become available in administrative recourses filed by asylum seekers.

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

Timeliness with reference to the applicant means challenging a decision/act/omission within 75 days of its publication/authorisation or of becoming apparent. Timeliness also refers to the duration of a court case. If a hearing is completed and a decision is not delivered within six months, questions will be asked and the interested party may complain to the Supreme Court. In practice, all types of procedure take a very long time (except in Rent Tribunals and Family Courts concerning the interests of minors). There have been instances of recourse to the ECHR against the Cyprus Republic because of court delays, and it was held that such delays are in themselves a denial of justice and fines were imposed. Law N.2(1)/2010, based on Article 6 of the European Convention on Human Rights, provides a cause of action to seek compensation for an unreasonably delayed court decision. A Supreme Court decision of 2019, M.D. Cyprus Soya v Attorney General, case no. 1/2018, suggests that it would also apply to delays in adjudication on appeal.

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?

Unless provided in sectoral laws, there is no particular provision for granting injunctions in environmental matters. The normal judicial procedure would need to be followed and satisfied. In administrative recourses an application may be made for an interim judgment suspending the effect of the administrative decision. This may be granted only under exceptional circumstances, if there is flagrant illegality or irreparable damage. In general, such conditions apply that injunctions are more easily granted to a government department seeking to prevent an illegal act (e.g. to stop an individual from demolishing a building under preservation order). See also para 1.7.2.6 regarding guarantees.
There is an appeal against a decision to refuse an injunction which is made to the Supreme Court.

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 costs are principally the lawyer's fees and would be the same as for any other recourse to justice, around €1,500 plus stamps depending on the complexity. While there are no specific safeguards against prohibitive costs, the issue does not actually arise, because the costs awarded by the court against a party are determined on the basis of the established judicial scales and do not necessarily represent the full fee paid by the party to his/her lawyer. They represent what the courts consider appropriate, and quite often this is less than what has been agreed between a party and his/her lawyer. The losing side will normally be ordered to pay the costs of the other side according to the scales, or such part of them as the Court decides. In cases involving a private person or a non-profit organisation suing the state, Courts have decided that each side should pay its own costs. So, it is largely up to the court and will not be known in advance.

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[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 (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

The SEA directive has been transposed to Cyprus law under Law No 102(1)2005. It makes no specific provision concerning rights of individuals or legal persons to challenge decisions/acts/omissions within the ambit of their constitutional rights (see 2.1.1. above re Article 146 of the Cyprus Constitution).

Whether such rights exist in law will depend on the form in which the plans have been adopted, and if such rights exist there is no need for them to be reiterated in sectoral laws. Therefore, any legal or natural person whose legitimate rights are affected can, within 75 days of publication of the offending event, request an administrative review or file a recourse to justice. As case law stands at present, however, this will not apply to NGOs unless a law specifically grants them the right to be included in the ambit of Article 146 of the Constitution (as applies with respect to the EIA, IPPC and ELD Laws). The recognition given to environmental NGOs in the SEA Law concerns the right to be invited to participate in a public consultation. The definition of 'public' at article 2 of the Law is a broad one involving natural or legal persons, organisations or groups, and article 15(b) specifies environmental NGOs amongst them. What has been known to happen is that ENGOs have gone directly to Brussels, to DG Environment, to express their disagreement with decisions taken at an SEA, or to call attention to the fact that an SEA process has not been implemented.
CJEU case law on environmental issues is not known to have received judicial notice in any deliberations before the court. So at this point it would be fair to say that it has had little effect. It should be clarified that although Common Law applies in Cyprus, in matters of Administrative and Constitutional Law we follow the theory and practice of Greece, so Greek case law is often quoted in administrative cases, even though it has only an advisory effect.

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?
An administrative review is not specifically provided for, but should it be granted it will examine both the procedural and substantive legality of a decision/act /omission. A judicial review in the Administrative Court will normally consider matters of procedural legality and competence of the offending executory organ, but also of substantive legality if the question refers to error in law, violation of the constitution etc., or to errors within the files.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?
Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures under the SEA Law.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?
In order to have standing before the national courts it is not necessary to participate in the public consultation phase of the administrative procedure, the legal standing of an applicant is derived from meeting the Constitutional provisions.

5) Is injunctive relief available? If yes, what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?
There are no special rules, see comments under 2.1.8.

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 costs are principally the lawyer's fees and would be the same as for any other recourse to justice, around €1,500 plus stamps depending on the complexity. While there are no specifically expressed safeguards against prohibitive costs, the issue does not actually arise because the costs awarded by the court against a party are determined on the basis of the established judicial scales and do not necessarily represent the actual costs paid by the party to his/her lawyer. The *loser pays* principle generally applies, but the losing side will pay the costs of the other side according to the scales, or such part of them as the Court decides. Nevertheless, in cases involving a private person or a non-profit organisation suing the state, Courts have decided that each side should pay its own costs. So, it is largely up to the court and will not be known in advance.

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 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?
Cyprus has adopted Article 7 of the Aarhus Convention by including a regulatory framework for public participation in a number of environmentally related laws dealing, e.g., with water pollution, wastes, industrial emissions, atmospheric waste, etc. The relevant provisions are quite similar and define the 'public' to be consulted or invited to comment as 'natural or legal persons affected, or likely to be affected' by the act or license issued, including environmental NGOs. If the legitimate rights of legal or natural persons are affected, the remedies are as stipulated under Article 29 of the Constitution concerning complaints to public authorities, in cases where the specific legislation does not provide for an administrative review. In cases of a legal challenge by recourse to justice the provisions of Article 146 of the Constitution apply. So far, defects in a consultation procedure have been raised by individuals with a legitimate interest to have a decision nullified. Whether an NGO would be legitimized to challenge the legitimacy of an action on the grounds of an improper participation procedure has not been tested. The government is currently taking measures to strengthen public participation, but the initiative concerns only consultations carried out under the EIA Law.

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?
An administrative review, if granted, will examine both the procedural and substantive legality of a decision/act/omission, and while the review is in process the 75-day deadline will be suspended, if so provided, or may be suspended by agreement between the parties. A judicial review in the Administrative Court will, as in all cases, consider matters of procedural legality and competence of the offending executory organ, but also of substantive legality if the question refers to error in law, violation of the constitution, etc.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?
Before filing a court action, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, unless the right for an administrative review is specifically provided in the legislation.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?
In order to have standing before the national courts it is not necessary to participate in the public consultation phase of the administrative procedure. Legal standing derives from having a legitimate right of recourse under the Constitution.

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?
Unless provided in sectoral laws, there is no general provision for granting injunctions in environmental matters. The normal judicial procedure would need to be followed and satisfied. In administrative recourses, an application may be made for an interim judgment suspending the effect of the administrative decision. This may be granted only in exceptional circumstances, if there is flagrant illegality or irreparable damage. Concerning guarantees please see para 2.1.8.

There is an appeal against a decision to refuse an injunction which is made to the Supreme Court.

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

The costs are principally the lawyer's fees and would be the same as for any other recourse to justice, around €1,500 upwards (plus stamps) depending on the complexity. While there are no specifically expressed safeguards against prohibitive costs, the issue does not actually arise, because the costs awarded by the court against a party are determined on the basis of the established judicial scales and do not necessarily represent the actual costs paid by the party to his/her lawyer. Thus, the losing side, according to the *loser pays* principle, will normally pay the costs of the other side according to the scales, or such part of them as the Court decides. Nevertheless, in cases involving a private person or a non-profit organisation suing the state, Courts have decided that each side should pay its own costs. So, it is largely up to the court and will not be known in advance.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[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 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 specific rules for challenging plans and programmes required to be prepared under EU legislation, so the general rules of standing would apply as described under the provisions for the SEA Law. The strongest position of any applicant would concern a denial of access to information or a denial to facilitate public participation in the process, since both of these rights are enshrined in a generally applicable legislation (concerning the right to environmental information) and in specific sectoral laws (concerning the right to participation), so they do not depend on demonstrating the existence of constitutional rights.

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 makes a difference in terms of legal standing, it can only be challenged if it is an administrative act.

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?

An administrative review would cover all aspects of the issue under review. A recourse to the Administrative Court would normally review the procedural legality, unless there were an issue of error in law or violation of constitutional rights, in which case the substantive legality would also be reviewed.

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

Only if specified in the legislation concerned.

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.?

In order to have standing before the national courts it is not necessary to participate in the public consultation phase of the administrative procedure.

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

The Administrative Court will base its decision on the files of the case regarding the decision/act/omission, which must be presented to the Court in full. Any factual matters other than those in the file cannot be introduced, unless in exceptional circumstances and with the leave of the court.

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

Both the Constitution and the Court Procedural Rules confirm that anyone can go to court. They are entitled to a fair trial and to interpretation if unable to understand the language of the court. Article 30 of the Constitution is the equivalent of Article 6 of the European Convention on Human Rights and is interpreted in much the same way. Article 30 applies to all types of cases, civil, criminal and administrative. Although there is no specific reference to 'equality of arms' as such in the Constitution, it is encapsulated in the concept of fair trial, and there is considerable case law on the matter, often with reference to ECHR decisions. The principles have been recently restated in a decision relating to a criminal appeal case delivered in 2020: Republic v. Stavrinou, no 266 /2018. The concept is based on the principle that neither party should be put at a disadvantage, and that this should be determined not by particular incidents during the trial or hearing, but by an overall assessment thereof. Nevertheless, in the case of Marangos v. Cyprus, 4.12.08, which related to an administrative appeal, the ECHR found that the complainant's rights had not been affected by a denial of legal assistance by the Cyprus government, nevertheless, three ECHR judges issued a concurrent decision expressing the view that limiting legal assistance to civil and criminal cases and excluding administrative cases amounts to a lack of equality of arms. Since that time, financial assistance has become available in administrative recourses filed by asylum seekers.

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

Timeliness with reference to the applicant means challenging a decision/act/omission within 75 days of its publication/authorisation or of becoming apparent. Timeliness also refers to the duration of a court case. If a hearing is completed and a decision is not delivered within six months, questions will be asked and the interested party may complain to the Supreme Court. In practice, all types of procedure take a very long time (except in Rent Tribunals and Family Courts concerning the interests of minors). There have been instances of recourse to the ECHR against the Cyprus Republic because of court delays, and it was held that such delays are in themselves a denial of justice and fines were imposed. Law N.2(1)/2010, based on Article 6 of the European Convention on Human Rights, provides a cause of action to seek compensation for an unreasonably delayed court decisions. A Supreme Court decision of 2019, M.D. Cyprus Soya v Attorney General, case no. 1/2018, suggests that it would also apply to delays in adjudication on appeal.

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?

General national rules would apply and an injunction is granted only in very exceptional circumstances (see 2.1.8).

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 costs are principally the lawyer's fees and would be the same as for any other recourse to justice, around €1,500 depending on the complexity. While there are no specific safeguards against prohibitive costs, the issue does not actually arise, because the costs awarded by the court against a party are determined on the basis of the established judicial scales and do not necessarily represent the actual costs paid by the party to his/her lawyer. So the losing side will normally pay the costs of the other side according to the scales, or such part of them as the Court decides. In cases involving a private person or a non-profit organisation suing the state, Courts have decided that each side should pay its own costs. So, it is largely up to the court and will not be known in advance.

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

Although the Aarhus Convention has been transposed into law, no specific piece of legislation has been passed regarding public participation, as has been the case with access to information. The practice of involving the public in law-making by enabling the participation of interest groups/ENGOs in parliamentary discussion or at the administrative level of preparing legislation or regulations is less formal. There is a published guide on good public participation practice which is used by government departments, but it is not a legal document so it would not give rise to rights unless specifically provided by enabling legislation.

It could be argued that since the Aarhus Convention is part of the Cypriot legislation, the relevant articles concerning participation apply ipso facto. This position was argued by the complainants' lawyer in case no 746/2019 Demetriou et al v. Limassol municipality, but the Administrative court considered the evidence conflicting and did not base its decision on this issue.

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

[2] 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.

[3] 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.

[4] 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.

Other relevant rules on appeals, remedies and access to justice in environmental matters

Mention should be made of the Law for Crimes against the Environment, No 22(I)2012 which is tried in a criminal court. In a criminal procedure everyone is entitled to report criminal acts to the prosecutor, they can participate and bear witness, but remedies are between the prosecutor and the court.

Beyond the provisions of Article 146 of the Constitution and the remedies it provides to those directly affected, there are no specific penalties imposed on public administration for failing to provide access to justice, e.g. by keeping silent. There is no law or practice to hold individual technocrats responsible for decisions/acts/omissions, although there would be personal responsibility in the case of committing a crime, e.g., under the Law of 2012 above.

For persons who disobey court judgments there are contempt of Court proceedings. They result in immediate imprisonment. They are rarely applied when a public authority fails to comply with a court decision.