Teisė kreiptis į teismus aplinkosaugos klausimais

Vengrija

Daugiau šalių pateikiamos informacijos apie teisę kreiptis į teismus aplinkosaugos klausimais rasite spustelėję vieną iš toliau pateiktų nuorodų:

1. Teisė kreiptis į teismą valstybėje narėje
2. Teisė kreiptis į teismą, nepatenkanti į PAV (poveikio aplinkai vertinimo), TIPK/PITD (Taršos integruotos prevencijos ir kontrolės (TIPK) / Pramoninių išmetamųjų teršalų direktyvos (PITD)) taikymo sritį, galimybė susipažinti su informacija ir AAAD (Atsakomybės už aplinkos apsaugą direktyva)
3. Kitos svarbios taisyklės dėl apeliacinių skundų, teisių gynimo priemonių ir teisės kreiptis į teismą aplinkosaugos klausimais

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Access to justice at Member State level

1.1. Legal order – sources of environmental law

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

In Hungary, the regulation of environmental protection and overseeing of compliance therewith, as well as the planning and direction of environmental protection, are performed by state bodies and local governments. **The Parliament** enforces environmental interests in its legislative work, adopts the National Environmental Program, determines the environmental duties of the Government and the local governments, and approves the funds used to achieve environmental objectives and control the use thereof.

The Government directs the implementation of the state's responsibilities regarding environmental protection, and it determines and coordinates the environmental protection activities of the ministries and the bodies directly subordinate to the Government.

The minister with responsibility for environmental protection (at present the Minister for Agriculture) directs the environmental protection activities assigned to them and the administration of environmental protection within their jurisdiction. It should be noted that, with regard to water as an environmental medium, these tasks are carried out by the minister with responsibility for the protection of water as an environmental medium (the ‘Minister responsible for water protection’, at present the Minister for the Interior).

The activities of **environmental protection administration** directed by the Minister cover the activities of the environmental protection authority and, in particular, licensing of the use of the environment and enforcement of the administrative legal responsibility for the environment, data management and information tasks related to operation of the Environmental Information System, organisation of tasks aimed at averting environmental damage, and drawing up and monitoring of the execution of measures and programmes for the protection, improvement and restoration of the environment.

Natural and legal persons and unincorporated entities are entitled to participate in non-regulatory procedures concerning the environment, and everyone has the right to call the attention of users of the environment and the authorities to the fact that the environment is being endangered, damaged or polluted. The right to public participation may be exercised in person or through a representative, associations or municipal local governments respectively.

Although there are differences in the conditions relating to legal standing, in administrative proceedings and judicial procedures the legal standing is provided for anyone (natural or legal persons) directly affected by the case. Environmental associations fulfilling the requirements stipulated by law may act as a client (a person whose rights or rightful interests are affected by the case and who has legal standing) in the administrative proceedings and/or as a party in the judicial procedures aimed at reviewing the definitive decision of the environmental authority. Furthermore, environmental and nature conservation associations can bring to court an action against the polluter if the environment is threatened or damaged.

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

The **Fundamental Law of Hungary**[1] was adopted on 25 April 2011, replacing the former Constitution, which had been in force since 1949. Article XXI of the Fundamental Law lays down that Hungary recognises and implements the right of all to a healthy environment. This provision also stipulates the ‘polluter pays principle’, which provides that any person causing environmental damage shall be liable to take the necessary remedial actions and/or pay for remediation. Implementation of the right to a healthy environment is principally the obligation of the State, though this right can be relied on directly where the legislation or the state administration fails to enforce it.

According to Articles XXIV and XXV of the Fundamental Law, everyone shall have the right to have their affairs handled impartially, fairly and within a reasonable time by the authorities, and to submit – either individually or jointly with others – a written request, complaint or proposal to any organ exercising executive powers. The right to seek remedy against judicial, administrative or other official decisions is ensured by Article XXVIII.

The Fundamental Law also ensures the right to have access to and disseminate information of public interest (Article VI, Paragraph (3)). As explained below, the national legislation sets out that environmental information shall be regarded as data of public interest, therefore access to such information is ensured by the Fundamental Law and other national acts.

The Constitutional Court is the principal organ for the protection of the Fundamental Law, and the proceedings thereof are governed by the **Act on the Constitutional Court**[2].

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

Beyond the national provisions referred to in the previous section, the following pieces of legislation shall be considered as the most relevant in respect of environmental protection and access to justice in environmental matters in Hungary.

Act LIII of 1995 on the general rules of environmental protection (‘the Kvt.’)[3] lays down the fundamental principles of environmental protection, access to environmental information and participatory rights in environmental administrative proceedings. In accordance with the Kvt., specific pieces of legislation (acts, governmental and ministerial decrees) govern the protection of specific environmental elements, regulate certain activities impacting on the environment, and establish the system of environmental administration.

In its Article 98, the Kvt. ensures that environmental NGOs (determined by the Kvt. as 'associations formed to represent environmental interests') which are active in the impact area are entitled, in their area of operation, to the legal status of a client in environmental administrative procedures, in particular in environmental impact assessments, environmental audits, consolidated environment use permit procedures and procedures where the environmental authority acts as an expert authority[4]. In the event that the environment is being threatened or damaged, environmental associations are entitled to initiate the procedure of the competent authorities and/or bring to court an action against the polluter.
In line with the Kvt., environmental NGOs also have the right to cooperate in drawing up regional development plans, zoning plans and environmental protection programmes that affect their area of operation or activity, to give their opinion on legislative bills before Parliament and local government draft laws, and to opine on the draft version of plans and programmes that affect their area of operation and activity.
Act CL of 2016 on the General Public Administration Procedures ('the Ákr.')[5] governs administrative procedures in Hungary and its provisions also apply to environmental procedures. In applying the Ákr., based on its Article 10 a client is, inter alia, any natural or legal person, or other entity, whose rights or legitimate interests are directly affected by a case. In addition to this general rule, Paragraph (2) of Article 10 of the Ákr. sets out that an act or government decree may define the persons and entities who shall be treated as clients in connection with certain specific types of case. In environmental administrative procedures, Article 98 of the Kvt. provides participatory rights for environmental NGOs in accordance with Article 10(2) of the Ákr.
Governmental Decree No 314/2005 on environmental impact assessment and consolidated environmental use permits ('the Khvr.')[6] transposes into national law Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (the 'EIA Directive') and Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (the 'IED'). The Khvr. sets out the scope of activities subject to these EU Directives and the specific procedural requirements of environmental authorisation. As regards the scope of persons having participatory rights in the procedures conducted under this Decree, account shall be taken of the Khvr.'s term 'public concerned', which covers any natural person, legal person or organisation without a legal personality that is affected, or may be affected, by the decision of the environmental authority, or which otherwise has an interest, including environmental organisations specified in Article 98 (1) of the Kvt.
Act I of 2017 on the Code of Administrative Litigation (the 'Kp.')[7] lays down the rules concerning administrative lawsuits aimed at ensuring efficient legal protection against the violation of law through administrative activity or omission. In certain cases, the Kp. only orders application of the provisions of **Act CXXX of 2016 on the Code of Civil Procedures** (the 'Pp.')[8], which establishes the general framework of civil court proceedings.
With respect to access to environmental justice, points a) and d) of Article 17 of the Kp. must be mentioned. These provisions ensure the possibility of legal standing for any person whose rights or lawful interests are directly affected by the administrative activity and for any non-governmental organisation, in the cases specified in law or government decree, that has been pursuing its registered activity in order to protect any fundamental right or enforce any public interest in a geographical territory affected by the administrative activity for at least one year, if the administrative activity affects its registered activity; these persons and entities shall have the right to bring to court an action, i.e. to initiate an administrative lawsuit against the decision (or omission) of the competent administrative authority.
Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the 'SEA Directive') has been transposed into Hungarian legislation by amendment of the Kvt. and by adoption of **Governmental Decree No. 2/2005 on the Environmental Assessment of Certain Plans and Programmes** ('the Skvr.')[9]. The national legislation ensures the participation of the public in SEA proceedings, however it does not expressly provide for the administrative or judicial review of infringements of SEA requirements. The plans and programmes subject to an SEA can be adopted by various public bodies and by norms which can be legally non-binding or can have the force of law. Where the conditions stipulated by **Act CLI of 2011 on the Constitutional Court** ('Act CLI/2011')[10] are met, the legal review of laws and normative resolutions can be initiated before the Constitutional Court.
In Hungary, there are several acts regulating the issue of access to environmental information and access to justice in environmental matters. The basic rights are laid down by the Kvt. and **Act CXII of 2011 on Informational Self-Determination and Freedom of Information** (the Infotv.)[11], Governmental Decree 311/2005 on the rules governing public access to environmental information[12]. Mostly, these regulations have transposed into national law the requirements of Directive 2003/4/EC. In accordance with Article 12 of the Kvt., and under the specific conditions set out by Gov. Decree 311/2005, information relating to the environment shall be considered as data of public interest. As a main rule, Article 28(1) of the Infotv. stipulates that information of public interest (including environmental information) shall be made available to anyone upon a request presented verbally, in writing or by electronic means. In the event of failure to meet the deadline for compliance or refusal of compliance with a request for access to public information, or for having the fee charged for compliance with the request reviewed, the requesting party may bring the case before the courts.

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

The Curia (formerly the Supreme Court of Hungary) has the competence to decide on appeals filed against decisions of the general courts and courts of appeal, as well as motions for review. The Curia adopts uniformity decisions, which are binding upon all courts of law, and performs jurisprudence analysis of cases closed by final or definitive decision to examine and explore the judicial practice of courts. This body decides on the legality of municipal decrees and, where appropriate, annuls them. The Curia adjudicates on uniformity complaints, which will be a new instrument for legal remedy applicable in specific cases. Uniformity decisions are adopted where necessary for the development of, or to ensure the uniformity of, judicial practice. All uniformity decisions are published in the Official Journal (the '*Magyar Közlöny*'). As regards the legal standing of environmental associations in environmental administrative and judicial proceedings, administrative uniformity decision KJE 4/2010 (X.20.) of the Supreme Court states that such associations may act as clients in environmental administrative procedures, where the main decision-making body is the environmental authority or where that authority proceeds as an expert authority. The practical ramification of this statement is that e.g. the proceedings of the water management authority or the forest authority are not regarded as environmental administrative proceedings unless the environmental authority appointed by Gov. Decree 71/2015 is participating as an expert authority providing its opinion on environmental questions specified by law.

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

The parties to the administrative procedure cannot directly rely on international environmental agreements. National administrative authorities exercise their powers within the framework of the national law. Likewise, the courts shall in principle interpret the national laws in accordance with their objective and with the Fundamental Law. In the case of administrative court proceedings (judicial review of administrative decisions), the provisions of Article 34 of the Kp. provide that the court may, ex officio or upon petition, ask the Court of Justice of the European Union to provide a preliminary opinion, or the Constitutional Court to commence its proceedings for declaring that a legal regulation, statutory provision, means of regulation of public-law organisations or uniformity decision is contrary to the Fundamental Law and contrary to international agreements.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

Justice is administered by the following courts in Hungary:
the Curia;

the courts of appeal;
the general courts;
the district courts and Budapest district courts (collectively ‘district courts’); and
administrative and labour courts.
After 31 March 2020, administrative and labour courts will be integrated and operated within the structure of general courts.
The Constitutional Court of Hungary is the supreme organ for the protection of the Fundamental Law. The Constitutional Court is entitled to examine whether the acts adopted by the Parliament are in accordance with the Fundamental Law (ex-ante examination). On the basis of a constitutional complaint, the Constitutional Court reviews laws to be applied in a specific case or a judicial decision with regard to its conformity with the Fundamental Law. This body performs the ex-post review of laws at the initiative of the Government, one fourth of all Members of Parliament, the President of the Curia, the Prosecutor General or the Commissioner of Fundamental Rights. It also examines the conformity of national legislation with international treaties.

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)?

As a main rule, district courts shall proceed in the first instance. Administrative and labour courts shall proceed in the first instance in cases of the judicial review of administrative decisions, in actions relating to contracts of employment and other similar relationships, and in other cases delegated to it by law. Administrative colleges functioning within the general courts shall proceed in the first instance in the judicial review of administrative decisions after 31 March 2020.
The general courts proceed in the first instance in cases defined by law, and in the second instance they hear appeals lodged against decisions of the district courts and administrative and labour courts.
The Curia is the first instance in the review of certain administrative decisions and the second instance in the review of decisions taken by the administrative colleges of the general courts in the first instance.
According to the provisions of the Kp., if there is not another court with exclusive jurisdiction, the court having jurisdiction is determined based on
the location of the immovable property in question in the case of any right or obligation relating to immovable property or a legal relationship with the immovable property;
the place where the activity is or is planned to be exercised in the case of notification or authorisation of an activity;
with the exception of the cases set out above, the permanent residence, habitual residence or registered office of the plaintiff in the case of an authority acting with administrative competence covering more than one county;
with the exception of the cases set out above, the seat of the administrative body in the case of omission;
or the place where the administrative action was realised.
In the event that the administrative activity was realised abroad, the Capital Administrative and Labour Court (after 31 March 2020, the Capital General Court) exercises exclusive jurisdiction to proceed.
If the claim was submitted jointly and more than one court proceeding in administrative cases has the competence and jurisdiction to petition, the higher-level court or, in the case of courts of identical level, the court having exclusive jurisdiction over a certain petition of claim, shall proceed.
In the event of any conflict of competence or jurisdiction, or if the competent court cannot be identified or is disqualified, the court has to be delegated within thirty days. If the competent court cannot be identified, the party may submit a request for delegation at any administrative and labour court; otherwise the court proceeding in the action shall present a motion for the delegation ex officio. The court having competence and jurisdiction will be delegated and instructed to conduct the proceedings by the Curia.
The general rules on competence and jurisdiction in civil court procedures are laid down by the Pp. The court in whose area of jurisdiction the defendant’s home is located has to proceed. In the event that the defendant has no permanent residence in Hungary, jurisdiction shall be determined according to the defendant’s habitual residence in Hungary. Where the defendant’s habitual residence is not known, or if it is located abroad, the last-known domestic residence shall apply or, if this cannot be identified or if the defendant has never had a permanent residence in Hungary, jurisdiction shall be based on the plaintiff’s home address in Hungary or, failing this, on the plaintiff’s habitual residence in Hungary or, if other than a natural person, on the plaintiff’s Hungarian registered office.
In actions against entities other than natural persons, general jurisdiction is based on the place where the entity’s representative body appointed for the case in dispute or department operates in addition to the registered office of the entity. If the legal entity has no registered office in Hungary in an action where the plaintiff is a resident legal person, jurisdiction is determined based on the plaintiff’s registered office or its place of operation. Jurisdiction of a court is established based on the time when the statement of claim is submitted.
The court takes into consideration its lack of jurisdiction ex officio. Furthermore, in the event of any conflict of competence or jurisdiction where the competent court cannot be identified or is disqualified, priority is given to designating the court of competent jurisdiction.
In the matter of designation, the decision lies with the general court if the conflict occurs between district courts within its territorial jurisdiction, and, if a district court is disqualified within its territorial jurisdiction, another district court can be appointed. In other cases, the decision lies with the court of appeal if the conflict occurs between district courts and general courts within its territorial jurisdiction, and, if the district court or the general court is disqualified within its territorial jurisdiction, another district court or general court can be appointed. In further cases, the Curia shall designate the court which is to conduct the proceedings.
For cases in connection with private law relationships containing a foreign component, the provisions of Act XXVIII of 2017 on Private International Law (Nmjt.)[13] apply. This Act lays down that where proceedings between the parties are pending – at the time the proceedings are instituted – before a foreign court brought for the same subject under the same cause of action, the Hungarian court may suspend its proceedings of its own motion or upon request, provided that recognition of the foreign court’s judgment in Hungary is not precluded. The Hungarian court continues the proceedings that were terminated by a foreign court without a decision on the merits. If the foreign court has adopted a decision on the merits of the case, and such decision can be recognised in Hungary, the Hungarian court shall terminate its proceedings.
In the case of administrative court proceedings, the national legislation does not provide rules for determining the court having jurisdiction where there is conflict between different national tribunals in different Member States. Administrative lawsuits can be initiated against the administrative actions (or omissions) of national authorities. In the case of activities having transboundary environmental impacts, the specific legislations on environmental assessments – covering the rules on consultations with other Member States concerned – shall apply.

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

There are no special provisions on court proceedings regarding the environmental sector.

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

The court has to judge the dispute within the framework of the petition of claim, the applications and legal statements submitted by the parties. The court will take account of the applications and statements in accordance with their content and not in accordance with their specification in terms of form. The court may order an examination or taking of evidence ex officio only in cases specified by law.
Several requirements of the Kp. provide for own motion of the court, e.g. the court may, upon request or ex officio, bring any person into the action as a person concerned whose rights or lawful interests are affected by the judgment to be passed in the action if the court deems that their involvement in the action is necessary in order to resolve the dispute.
The court may, ex officio or upon petition, ask the Court of Justice of the European Union to provide a preliminary opinion, or request the Constitutional Court to commence its proceedings for declaring that a legal regulation, statutory provision, means of regulation of public-law organisations or uniformity decision is contrary to the Fundamental Law and contrary to international treaties.
Furthermore, the court may order the taking of evidence ex officio with respect to evidence to support any fact or circumstance that must be taken into consideration ex officio, or in the case of reference made to legal injury jeopardising the interests of a minor or a person entitled to disability benefit, or if the law so provides.
The court examines the lawfulness of the administrative activity within the limits of the petition of claim; however, the court must ex officio take into consideration the grounds for nullity or other legally stipulated grounds for invalidity of the disputed administrative act and any material deficiency in formal requirements owing to which the administrative act is to be considered as non-existing, the fact that the administrative act is based on a legal regulation that is not applicable in the case, and other facts and circumstances stipulated in law.
Where the legal injury is declared, the court shall ex officio require the administrative body to eliminate the consequences of the activity that injures rights.

1.3. Organisation of justice at administrative and judicial level

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

Governmental Decree 71/2015 on the appointment of public administrative authorities of environmental and nature protection (Gov. Decree 71/2015)[14] sets out the structure and competences of environmental authorities and the competences and jurisdiction thereof in Hungary. The minister with responsibility for environmental and nature protection (the 'Minister'), County Government Offices, district environmental authorities, the National Meteorological Service, mayors and notaries are appointed as having competences in environmental administration. County Government Offices proceed as territorial environmental authorities in most environmental administrative cases. In specific cases stipulated by law, the Government Office of Pest County or the Minister shall proceed as the environmental authority of nationwide competence.

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

Administrative decisions of the environmental authority are taken in single-instance proceedings, i.e. the decision of the environmental authority is definitive (there is no administrative review procedure) and can be challenged before the court in accordance with the provisions of the Ákr. and the Kp.
An action can be initiated by lodging a statement of claim, the content of which is provided by Article 37 of the Kp. The documents, or a copy thereof, which are referred to by the plaintiff as evidence supporting the claim, or which are required to verify the facts and circumstances to be taken into consideration by the court ex officio, have to be enclosed with the claim. Several petitions of claim may be submitted jointly if they arise from the same legal relation or legal relations connected on the basis of facts and legal basis.
In the claim, the plaintiff may request abrogation, annulment or changing of the administrative act, declaration of omission of the administrative act, prohibition of realisation of the administrative act, obligation to fulfil the duty arising from administrative legal relation, obligation to reimburse the damage caused in relation to an administrative contract legal relation or civil service legal relation or the declaration of the fact of legal injury brought about by the administrative activity or ascertainment of other facts essential in terms of the administrative legal relation.
The statement of claim shall be lodged with the administrative body realising the disputed act within thirty days from disclosure of the disputed administrative act. The administrative body forwards the statement of claim to the court. Unless otherwise provided by law, the statement of claim shall have no suspensive effect on the administrative act taking effect.
A specific rule on environmental fines is provided by Article 96/C of the Kvt., which stipulates that the lodging of a statement of claim against a resolution of the authority on imposing a fine shall have suspensive effect on enforcement. In other environmental cases, lodging a statement of claim against the decision of the environmental authority does not have suspensive effect.
Based on the principle of concentration of actions laid down by the Pp. as well as the Kp., the court and the parties shall aim to ensure that all facts and evidence are made available within such a timeframe that a judgment in the dispute can be delivered after one hearing only. The national acts do not stipulate an exact time limit for adopting a decision in the court proceedings, the duration of which depends on several factors (e.g. obtaining the opinion of judicial experts). The official website of the Hungarian Courts provides a calculator for determining the length of court proceedings which can be reasonably expected.

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

There are no special environmental courts in Hungary.

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

Anyone having the legal status of a client in the administrative procedure is entitled to bring to court an action against definitive decisions of the authority.
Administrative decisions of the environmental authority are taken in single-instance proceedings, i.e. the decision of the environmental authority is definitive (and enforceable) and can be challenged before the general court in accordance with the provisions of the Ákr. and the Kp.
For any appeals against first-instance decisions taken by the general court, the second instance is the Curia. In administrative lawsuits, in most cases there is no appeal against the first-instance judgement, only petition for review before the Curia, which is an extraordinary remedy.

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

Based on the provisions of the Kp., extraordinary forms of legal remedy are the review procedure of the Curia and retrial. A motion for the review of a final judgment and a final ruling for rejecting the statement of claim or for dismissal of the proceedings may be submitted – with reference to violation of law – by the party, the person concerned and any person to whom any provision of the decision may be of concern, against the appropriate section. The petition for review has to be submitted to the court that rendered the decision in the first instance within thirty days from service of the final decision through a legal representative.
The Curia admits the petition for review if the examination of the violation of law affecting the merits of the case is justified owing to ensuring the uniformity or improvement of the practice of law, the special weight or social significance of the legal issue raised, the necessity of the proceedings of the Court of Justice of the European Union to provide a preliminary opinion, or any provision of judgment different from the published practice of judgment of the Curia.
Submission of the petition for review shall have no suspensive effect on the court decision and the underlying administrative decision. Simultaneously with the petition for review, a request for immediate legal protection may also be submitted. The Curia shall adopt a decision on the request for immediate legal protection no later than adopting the ruling on admittance.

If the decision requested for review is unlawful to the extent that it affects the merits of the case, the Curia shall abrogate the final decision in whole or in part and, if necessary, instruct the court of the first or second instance proceeding in the case to conduct new proceedings and adopt a new decision.
A motion for retrial may be submitted against a final judgment and a decision on the merits concluding the proceedings within six months; this time limit shall begin from the date when the contested judgment becomes final, or, if the party gained knowledge of the reason for retrial subsequently, or had the opportunity to lodge a motion for retrial thereafter, at that time. The retrial can be based on the following reasons:
the party presents any fact or evidence, or any final court or other official decision that the court did not take into consideration during the action, provided that it would have resulted in a more favourable decision for them had it been considered originally;
the party lost the action as a consequence of any crime committed by a judge who took part in giving the judgment, or by the opposing party or any other person, contrary to the law;
the party refers to a judgment of the European Court of Human Rights given in their own case establishing an infringement of any right provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms, if the final judgment given in their case is based on the same infringement and the party received no satisfaction from the European Court of Human Rights, or the injury cannot be remedied by indemnification;
a final judgment has previously been adopted relating to the same right before adoption of the judgment concerned;
the statement of claim or any other document was delivered to the party by way of public notice in violation of the provisions on service of process by public notification.

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

The provisions of the Kp. lay down that – if rendered possible by the subject of the legal dispute and not precluded by legal regulations – the court may attempt to reach a settlement between the parties if there is any chance of it within a reasonable time on the basis of the circumstances of the case. However, according to Article 96/D of the Kvt., no settlements are allowed in actions related to environmental administrative proceedings.

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

The Ombudsman for Future Generations is appointed by the Parliament and may initiate and participate in examinations conducted by the Ombudsman for Fundamental Rights ('General Ombudsman'). The Ombudsman for Future Generations is entitled to propose that the General Ombudsman turn to the Constitutional Court or the Curia if there is a strong belief that a national or local legislation infringes the Fundamental Law. The Ombudsman for Future Generations has the right to participate – as a person concerned – in administrative court cases regarding environmental protection. In the course of these procedures, Ombudsman for Future Generations has access to all relevant information.
Article 29(2) of the Fundamental Law stipulates that the Prosecutor General and the Prosecution Service must, as a guardian of public interest, exercise their functions and powers laid down in the Fundamental Law or in another act. Act CLXIII of 2011 on the Prosecution Service[15] provides the right to initiate action and to file lawsuits. Prosecutors exercise their powers in an attempt to eliminate non-compliance primarily by initiating judicial and extrajudicial proceedings at court, by launching administrative authority proceedings, and by pursuing legal remedy.
Prosecutors shall review the legality of individual decisions and administrative measures of administrative authorities or other bodies applying the law other than courts, whether binding or final, provided that a court has not overridden such decision. For the protection of the public interest and in order to restore legality, prosecutors shall take actions in the event of serious legal violations.
Prosecutors have the right to seek redress against decisions made in judicial and extrajudicial proceedings in cases defined by law, and the right to seek redress even if they were not party to the proceedings.
Priority areas of a prosecutor's activities in the field outside the criminal law include environmental protection, and the Act on the Prosecution service provides the right to file lawsuits regarding the protection of nature, the environment and arable land. Prosecutors have to contribute to ensuring the legality of the proceedings and decisions of environmental administrative authorities, and the Kvt. lays down that if the environment, nature conservation values or areas are endangered or get damaged, prosecutors may also file lawsuits seeking a ban on the action or compensation for damages caused by the action.

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)?

In this respect, the provisions of the Ákr. and the Kp. shall be taken into consideration. According to the Kp., the judicial review of administrative decisions and omissions is provided for those having the legal status of a client in the administrative proceedings. In addition, the Kp. stipulates that any person whose rights or lawful interests are directly affected by the administrative activity can institute an action against the administrative act.
In the terminology of the Ákr., a client is any natural or legal person, or other entity, whose rights or legitimate interests are directly affected by a case. In certain specific cases provided by law, the rights of clients may also be vested upon other persons or organisations. The Kvt. ensures that associations formed to represent environmental interests, other than political parties, and interest representations which are active in the impact area are entitled, in their areas of operation, to the legal status of a party in the case in environmental administration procedures. Therefore, environmental associations meeting the requirements provided by the Kvt. can bring an action to the courts.
The concept of public concerned is provided by the sectoral environmental legislations. Article 2(1) of the Khvr. – transposing correctly the concept of public concerned as set out by the EIA Directive and the IED – read together with Art. 10 of the Ákr. ensures that members of public concerned can have the legal status of a client, and thereby exercise the right to judicial review.

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

In administrative proceedings, the provisions of the Ákr. and the Kp. – explained under point 1.4.1. – shall apply.
In addition, the sectoral legislations may designate the personal scope of the public concerned. As mentioned above, in EIA and IED proceedings, environmental associations and members of the public concerned can have the legal status of a client and initiate a judicial review (bring an action) against the definitive decision of the environmental authority.
As regards nature conservation cases, the provisions of Act LIII of 1996 of Nature Conservation[16] and Governmental Decree 275/2004 on the nature conservation areas with European Community Importance[17] must be taken into account. In this case, the term "public concerned" does not explicitly cover nature conservation associations, however it does cover any natural and legal persons likely to be concerned by the decision of the nature protection authority.
In the case of administrative proceedings – e.g. in the field of water management or waste – where the sectoral legislation does not provide a specific definition of public concerned and/or does not specify the term client, the definition of client set out by the Ákr. and the provisions of the Kp. on legal standing must be taken into account.

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.)

In administrative proceedings, according to Article 10(1) of the Ákr. the term “client” covers any natural or legal person, or other entity, whose rights or legitimate interests are directly affected by a case, who is the subject of any data contained in official records and registers, or who is subject to regulatory inspection. Furthermore, an act or government decree may define the persons and entities who are to be treated as clients in connection with certain specific types of case.
In environmental administrative proceedings, the above-mentioned provision of the Ákr. ensure the legal standing of individuals whose legal interests are affected, and Article 98 of the Kvt. provides that environmental associations can also participate as clients. Other legal entities, members of ad hoc groups and foreign NGOs may be treated as clients if the conditions laid down by Article 10(1) of the Ákr. are met.
As regards judicial proceedings, the Kp. lays down the requirements for legal standing of the plaintiff, who can be
any person whose rights or lawful interests are directly affected by the administrative activity (i.e. the decision),
the public prosecutor’s office or
the body exercising regulatory supervision or legal control,
any administrative body that did not take part in the prior proceedings if its competence is affected by the administrative activity,
any non-governmental organisation, in the cases specified in law or government decree, that has been pursuing its registered activity in order to protect any fundamental right or enforce any public interest in a geographical territory affected by the administrative activity for at least one year, if the administrative activity affects its registered activity,
any interest-representation organisation or body whose activity is affected by the administrative activity. These parties have the right to institute an action.
Any person whose rights or lawful interests are directly affected by the disputed administrative activity, or might be directly affected by the judgment, may have the legal standing of “person concerned”. Furthermore, any person who took part in the prior proceedings as a client who did not bring the action to court, may join the action as a person concerned. As a main rule, the person concerned shall be entitled to, and bound by, the same rights and obligations as the party and is entitled to take any legal action without prejudice to the parties’ right of disposal, which shall also be effective if it is contrary to the parties’ acts.

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

Court proceedings are conducted in the Hungarian language. Furthermore, submissions addressed to the court shall be made out, and the court shall deliver such submissions and its decision, in Hungarian.
However, the Pp. provides that, in court proceedings, including those conducted under the Kp., all parties are entitled, in oral communications, to use their native language, the language of their respective nationality, or the language of their region or nationality to the extent provided for by international agreement.
Further, any person who is hearing impaired or deafblind may use sign language or other special communication methods provided for by law that are known by them. Upon request, hearing- or speech-impaired persons shall be allowed to make a written statement instead of being interviewed.
In civil as well as administrative court proceedings, the court shall appoint an interpreter, sign language interpreter or translator. The costs arising in relation to interpreters or translators are counted as costs of the court proceedings and – as a main rule – are paid by the losing party. Where there is a need for translation, non-certified translations shall suffice; however, if there is any doubt as to the accuracy and completeness of the translated text, a certified translation shall be obtained.

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 administrative proceedings, if the available information is insufficient to reach a decision, the authority shall initiate a procedure for taking evidence. The administrative authority is free to define the means and extent of the evidentiary procedure. All evidence is admissible that is suitable for ascertaining the relevant facts of the case, however any evidence illegally obtained by the authority is inadmissible. The facts which are officially known by the authority and of common knowledge shall not be evidenced. Clients of the proceedings are also entitled to submit evidence to the administrative authority, which evaluates the available evidence at its own discretion.
If special knowledge is required in the case and the competent authority does not have sufficient expertise, an expert shall be consulted or an expert opinion obtained; however, no expert may be appointed if the opinion of a specialist authority is to be obtained for the subject matter in question.
In the administrative court proceedings, the courts assess the evidence severally and in its totality, compared with the facts established in the prior proceedings. As a main rule, a request for taking of evidence may be submitted and means of proof may be made available in the first hearing at the latest. The court may order the taking of evidence on its own motion with respect to evidence to support any fact or circumstance that must be taken into consideration ex officio and/or in the case of reference made to legal injury jeopardising the interests of a minor or a person entitled to disability benefit. In this case, the court informs the parties that it has ordered the taking of evidence and calls them to submit their comments and supporting evidence or the evidence determined by the court.

2) Can one introduce new evidence?

In administrative proceedings, clients and members of public concerned (not acting as clients) may submit their comments and opinions, and provide evidence to the authority.
In the judicial proceedings, the Kp. stipulates as a main rule that a request for taking of evidence may be submitted and means of proof may be made available in the first hearing at the latest. However, the court may allow taking of evidence within 15 days if the statement of claim was modified at the first hearing or it becomes necessary with respect to the substantive conduct of proceedings.

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

In the judicial proceedings, an expert has to be engaged if specific expertise is considered necessary for defining the framework of the dispute or for establishing or ascertaining facts considered material to the case. The experts provided for in Act XXIX of 2016 on the Activities of Forensic Experts, or ad hoc experts therein specified, may be engaged. As a main rule, an expert may be engaged, if appointed by the party or by way of assignment of the court, upon recommendation. A database of forensic experts is available on the official site of the Government.

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

The opinion of an expert who was dismissed or excluded from the proceedings, a private expert’s report or the opinion of an appointed expert that is considered to give cause for concern, and a private expert’s report or the opinion of an expert appointed for other proceedings, if filed notwithstanding the provisions of an act or in breach of the relevant legal provisions, is inadmissible in the action as evidence. Therefore, in the event that the expert fulfils their obligations set out by law and their opinion does not give any cause for concern, the expert’s opinion shall be considered by the court as evidence.

3.2) Rules for experts being called upon by the court.

As a main rule, the party may propose the submission of the opinion of an expert who is commissioned by the party (a private expert’s report) or the party may propose to use the opinion of an expert appointed in another proceeding.

At the proposal of the party having the burden of proof, the court shall appoint an expert if, with regard to a specific issue, neither of the parties proposed to involve a private expert or an expert appointed for other proceedings, or the private expert's report contains cause for concern, or it is necessary to receive information so as to address any concern that may exist with respect to the opinion of the expert appointed for other proceedings, or to receive answers to questions proposed to be asked. As a general principle, the court shall appoint one expert for the same specific issue.
The motion for the appointment of an expert shall contain the definitive questions which the expert is required to answer. The adversary party may also propose questions to be asked.
The court may put questions to the expert with regard to factual claims affected by the questions the parties have indicated and must discount questions not connected with the case and for which the expert is not qualified. The appointed expert is allowed to appear at the hearing or at the taking of evidence, and to propose putting questions to the parties and to contributors. The court delivers the appointed expert's written report to the parties, who may propose putting questions to the expert having regard to the expert opinion or to material information which had not been disclosed to the expert, and to instruct the expert to convey the necessary information to address any concern that may exist with respect to the expert's report. If the appointed expert's opinion contains any cause for concern, and such cause for concern could not have been eliminated despite the information given by the expert, the court shall appoint a new expert upon request.
3.3) Rules for experts called upon by the parties.
The party may propose the submission of the opinion of an expert ("private expert's report") the party has commissioned. If the motion is granted, the private expert's report must be presented within the time limit specified by the court. Two or more parties adducing evidence, or two or more opposing parties of the party adducing evidence, may engage only one private expert for the same subject matter.
The party adducing evidence may propose using the opinion of an expert appointed in other proceedings prepared with regard to the specific issue.
Where an appointed expert or a private expert provided an opinion, an expert appointed for other proceedings may not be engaged for the same subject matter. The court delivers the private expert's report to the adversary party, which is entitled to put questions to the private expert regarding the private expert' s report. The party may propose that the private expert's submitted report be supplemented in writing or orally.
If there is any contradiction in the private expert's reports in specific issues, either of the parties may propose to ask the private experts to explain their reports verbally at the same hearing in order to explain the cause of the contradiction.
3.4) What are the procedural fees to be paid and when in relation to expert opinions and expert witnessing?
Appointed experts are entitled to be compensated for their expenses incurred in connection with their contribution, and to appropriate remuneration if such contribution manifests in exercising their profession.
As a main rule, the costs of evidentiary shall be advanced by the party adducing evidence. The expert's fee shall be advanced by the requesting party in the event that the court appoints an expert because each private expert's report contains cause for concern, or if it is necessary to receive information so as to address any concern that may exist with respect to the opinion of the expert appointed for other proceedings, or to receive answers for questions proposed to be asked. The court shall order a sufficient sum to be deposited that is estimated to cover the remuneration of the appointed expert's fee. The party may request recovery of the costs of proceedings by way of charging. In the process of charging, the amount of the costs to be recovered shall be indicated, as well as the material circumstances as to how they were incurred and the related right in dispute. These shall also be supported by documentary evidence at the time of charging, where deemed appropriate. The cost that may be determined by the court in its decision closing the proceedings may be charged by way of reference to the statutory provision governing the amount thereof.
The cost of drawing up the work plan of the expert shall be advanced by the party adducing evidence. If the party adducing evidence did not request the expert to carry out the assignment or fails to deposit the expert's fee indicated in the action plan, the costs of the action plan may not be included among court costs. Where so justified by the high cost estimated for the work of the expert, the court – at the party's request – shall instruct the expert in the appointment to draw up a preliminary action plan outlining their functions and the estimated costs and expenses involved.
The remuneration and expenses of the appointed expert are part of the court costs. The main rule is that the court costs of the successful party shall be covered by the unsuccessful party. Where a party only succeeds in part, it must cover the costs of the opposing party proportionate to the loss. The fee of the private expert must be paid by the party commissioning the expert. If the private expert's report is considered to give cause for concern, the party shall not be allowed to include the private expert's fee among court costs.

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

In judicial proceedings of the administrative and labour court (the administrative collegium of the general court after 31 March 2020) aimed at reviewing the definitive decision of the environmental authority, legal representation is not compulsory.
The official website of the Hungarian Bar Association: https://www.mük.hu/
1.1 Existence or not of pro bono assistance
In addition to pro bono assistance provided by legal assistance services operating within Government Offices in accordance with Act LXXX of 2003 on Legal Aid[18], NGOs providing legal assistance to individuals and other NGOs in environmental cases must also be mentioned.
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.)?
Elements of and conditions for receiving pro bono assistance depend on the given organisation providing such a service.
Védegylet
Levegő Munkacsoport (in English)
MTVSZ
EMLA Egyesület (in English)
Reflex Környezetvédő Egyesület
1.3 Who should be addressed by the applicant for pro bono assistance?
This depends on the given organisation providing pro bono assistance. In general, the websites of these organisations contain contact information which can be used for submitting an application.

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

The official website of the National Chamber of Forensic Experts can be found here.

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

Védegylet
Levegő Munkacsoport (in English)
MTVSZ

EMLA Egyesület (in English)
Reflex Környezetvédő Egyesület
4) List of international NGOs, who are active in the Member State
Greenpeace (in Hungarian)
WWF (in Hungarian)
MTVSZ
Friends of the Earth (in English)
Association of Justice and Environment (in English)

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).

As there is no longer an administrative review for environmental decisions in Hungary, this is not applicable.

2) Time limit to deliver decision by an administrative organ

As there is no longer an administrative review for environmental decisions in Hungary, this is not applicable.

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

Clients may bring before the courts an administrative action against definitive decisions. If the decision can be appealed, an administrative action may be brought if either of the entitled parties filed an appeal and the appeal has already been determined by the second instance. Where there is a single-instance procedure, i.e. in environmental administrative proceedings, the first-instance decision is considered definitive with its delivery and it can be directly challenged before the court.

In the case of non-compliance with the deadline prescribed by the prosecutor in his intervention to bring the infringement to an end, the public prosecutor may also bring administrative action against the authority's definitive decision.

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

There is no exact time limit provided by the national legislation in this regard, however the principle of concentration of actions applies in court proceedings. This principle requires the court and the parties to ensure that all facts and evidence required for determining the case is made available within a specific timeframe so that a judgment can be delivered in the dispute after one hearing only.

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

The Ákr. and the sectoral environmental legislations stipulate the time limits applicable in the given environmental administrative proceedings, and the Pp. and the Kp. provide the relevant time limits in relation to court procedures.

As regards the general rules of administrative proceedings, beyond the time limit to deliver the decision the Ákr. does not set out deadlines for clients. If there is a need to remedy deficiencies in the application documentation, the competent authority must advise the applicant on one occasion to remedy the deficiencies within the time limit prescribed by the authority.

In addition, it should be noted that, where the time limit for the execution of a procedural step is not specified by law, the authority, the client and other parties to the proceedings must take action without delay and at the latest within 8 days.

For the time limits applicable in specific environmental administrative proceedings, please see the respective parts of point 1.8.

In administrative court proceedings, the petition of claim must be submitted to the administrative body realising the disputed act within 30 days. The statement of claim has to be forwarded to the competent court within 15 days from its lodging, together with the documents relating to the case. Where the statement of claim also contains a request for immediate legal protection, the statement of claim must be forwarded to the court within 5 days from its lodging, together with the documents relating to the case.

The holding of a hearing may be requested by the plaintiff in the statement of claim and by the defendant in the document of defence. The holding of a hearing may be requested in the request for joining the action and also within 15 days from being joined in the action.

The court proceeds to have the day in court set within 30 days from the time it receives the statement of claim. The first hearing is scheduled to allow at least 15 days to elapse between the time the document of defence is delivered to the plaintiff and the date of the hearing. In urgent cases, this period may be reduced by the court.

The court summons the parties to appear in court. The writ of summons for the first hearing shall be accompanied by the submissions that were not served earlier. In the writ of summons, the parties are instructed to bring to the hearing all the documents pertinent to the case that are in their possession and were not previously submitted. In the writ of summons, the court informs the plaintiff and the person concerned that they may make a written statement on the content of the document of defence before the hearing, and warns the parties that in the hearing they may only make an oral statement. The court sets a deadline preceding the date of hearing, no shorter than 15 days, for making the statement. The court may disregard any statements submitted after this deadline.

A request for taking of evidence may be submitted, and means of proof may be made available in the first hearing at the latest.

Hearings may only be postponed in justified cases, in which event the court notifies the parties summoned to appear in court – if possible – in advance and simultaneously takes action to set the new day in court. At the parties' justified joint request, the court may postpone the hearing on one occasion for a maximum of 60 days if it deems that it might facilitate resolving the legal dispute within a reasonable time.

The parties may make comments orally at the hearing on the results of taking of evidence. If the hearing has to be postponed because further taking of evidence is necessary, the court may set a deadline no shorter than fifteen days for submitting written statements.

If the case is decided without a formal hearing, the court has to set a deadline, no shorter than 15 days, for the parties to submit their submissions. The court may set a deadline no shorter than 15 days for submitting answers to be given to such submissions and other submissions.

1.7.2. Interim and precautionary measures, enforcement of judgments

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

As a main rule, if the authority did not declare a decision immediately enforceable, the appeal has a suspensive effect on enforcement of the decision. This provision does not apply in environmental administrative proceedings which are single-instance procedures, and the decisions of the environmental authority cannot be appealed, only challenged before the court. A specific rule on environmental fines provided by Article 96/C of the Kvt. stipulates that the lodging of a statement of claim against a resolution of the authority on imposing a fine will have a suspensive effect on enforcement. In other environmental cases, the lodging of a statement of claim against the decision of the environmental authority does not have a suspensive effect.

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

If the decision can be appealed, the appeal has a suspensive effect on enforcement of the decision. No other possibility is provided for an injunctive relief during the administrative appeal by the authority or the superior authority.

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?

In administrative proceedings, there is no possibility to introduce a request for such a measure during the procedure.

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

The authority declares its decision immediately enforceable in four cases:

if it is necessary to prevent or eliminate any life-threatening or potentially devastating situation or a severe violation of rights relating to personality, or to mitigate the detrimental consequences thereof;

if it is considered necessary for reasons of national security, defence or public security, or for the protection of public interests;

if the decision provides for the support or maintenance of any person; or

where prompt entry into the relevant official records and registers is prescribed by law.

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

As a general rule, the administrative lawsuit does not have a suspensive effect on the implementation of the decision challenged. However, the procedural provisions allow that any person whose rights or lawful interests are injured by the act of the administrative authority may request immediate legal protection from the court in order to eliminate the directly threatening disadvantage, temporarily resolve the legal relation made disputed or invariably maintain the condition providing grounds for the legal dispute. It is possible to request the ordering of suspensive effect, relieving suspensive effect or temporary measures, or the ordering of the provision of preliminary evidence.

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?

Injunctive relief is provided by national tribunals without it being conditional upon a financial deposit, however the court may make performance of the petition subject to the provision of security. The decision on injunctive relief (and on security, if so required by the court) can be challenged at the Curia within 8 days.

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.

Procedural costs in administrative proceedings cover all costs arising over the course of the procedure, and these costs must be borne by the person who incurred them. If more than one client of the same interest is involved, they are jointly and severally liable for the bearing of procedural costs.

In proceedings opened upon request, procedural costs must be advanced by the requesting client, however the client may not be ordered to advance any procedural costs already covered by the fee. The costs of the procedure for taking evidence must be advanced by the party requesting the evidence.

In proceedings opened or conducted on the authority's own initiative, procedural costs are advanced by the authority, except for the costs incurred in connection with the client's appearance, the costs of the client's representative, translation costs not to be borne by the authorities, and the costs of postage and document transmission incurred by the client and other parties to the proceedings.

The authority specifies the amounts of procedural costs and decides as to the bearing of these costs, including the refund of advanced costs where applicable. The amount of procedural costs is determined based on the supporting evidence available. The authority must reduce the amount of procedural costs if they are considered unreasonably high.

The authority may grant exemption from costs to any natural person client who – due to their income and financial situation – is unable to pay all or part of the procedural costs, with a view to easing the burden on such a person in enforcing his rights, or for other material reasons provided for by an act.

Exemption from costs can be total or partial exemption from advancing and bearing procedural costs.

The costs of court proceedings include all expenses the party has necessarily incurred during or prior to the proceedings in a causal relationship with the enforcement of a right in the action, including the loss of income stemming necessarily from having to appear before the court.

Costs of court proceeding include e.g. procedural fees, remuneration of experts and the legal fee. As a main rule, in administrative lawsuits the court duty is 30,000 HUF. Where the subject matter of the proceedings is connected with tax, duties or similar obligations, social security benefits or customs obligations, competition, press products and media services – apart from complaints – electronic communications or public procurement, the duty is calculated in a different way.

Civil organisations (foundations and associations) are exempt from the obligation to pay duties, however this exemption does not pertain to other costs of the procedure.

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

Any person whose rights or lawful interests are injured by the administrative activity may request immediate legal protection from the court. The petition has to be lodged with the court if it is not filed together with the statement of claim submitted to the authority. The petition must specify in detail the reasons for the necessity of immediate legal protection and the documents for verifying them must be attached. The facts providing grounds for the petition must be substantiated. The court may make performance of the petition subject to the provision of security.

3) Is there legal aid available for natural persons?

Act LXXX of 2003 on Legal Aid[19] ensures legal aid in forms of extrajudicial aid and aid in civil actions and administrative proceedings.

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?

Based on Act LXXX of 2003 on Legal Aid, legal aid may be made available to public-benefit organisations and trade unions, regardless of their financial situation, in lawsuits instituted by them in the public interest pursuant to authorisation by specific other legislation, for example consumer protection or environmental protection. In the framework of legal aid, representation is provided to the plaintiff, defendant, interested party, petitioner and respondent through an advocate in legal proceedings, and the costs thereof are advanced or borne by the State.

The application for legal aid must be submitted to the legal assistance service by filling in the form prescribed for this purpose in a single copy. The documents and/or official certificates proving eligibility for aid should be attached to the form (Template of the request for legal aid).

In addition to pro bono assistance provided by legal assistance services operating within Government Offices in accordance with this Act, NGOs performing legal assistance for individuals and other NGOs in environmental cases must also be mentioned.

The application for legal aid specified in the Act on Legal Aid must be submitted to the legal assistance service by filling in the form prescribed for this purpose in a single copy. The documents and/or official certificates proving eligibility for aid should be attached to the form (Template of the request for legal aid).

The legal assistance service should make decisions immediately, or at the latest within five days, regarding applications submitted in person (if it can be determined, on the basis of the application, that the conditions for granting aid have been met). Decisions regarding applications submitted in writing should be made within fifteen days.

The legal assistance service also provides, free of duty and charge, information on aid; the conditions for authorising, reviewing, withdrawing and repaying it; and legal aid providers and their contact data. The legal assistance service should also provide the necessary aid application forms and help the applicant to fill out the forms.

The register of legal aid providers and further information on the provision of legal aid is available here.
Contact information for legal assistance services is included in the following document.

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

Other financial mechanisms for financial assistance in administrative or court proceedings are not provided by national law.

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

The main rule is that the court costs of the successful party must be covered by the unsuccessful party. Where a party only succeeds in part, it shall cover the costs of the opposing party proportionally to the loss. The co-litigants cover the costs of court proceedings jointly and severally. The court may, in justified cases, reduce the amount of the legal fee if it is disproportionate to the actual practice of the lawyer. The court must give reasons for its decision.

In the case of the settlement of the parties, the party agreed upon by the parties pays the other party's court costs. If there is no agreement in this regard, the court costs of the successful party to the settlement must be covered by the unsuccessful party to the settlement. If the ratio of winning and losing cannot be determined, neither of the parties will be required to cover the court costs.

If the proceedings are terminated, the court costs of the defendant must be covered by the plaintiff. However, where the proceedings are terminated due to withdrawal and the withdrawal took place because the defendant satisfied the claim after the opening of proceedings, the court costs of the plaintiff are to be covered by the defendant. Furthermore, if the proceedings are terminated due to death or dissolution, neither party is required to cover the court costs of the opposing party.

Where a party fails to carry out certain acts during the proceedings, is delayed in certain acts without justification, fails to meet a deadline or time limit, or causes unnecessary expenses to the opposing party in any other way, either during the proceedings or beforehand, said party must cover those costs irrespective of the outcome of the action.

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 party might be entitled to different types of cost allowances:

subject-specific and individual cost exemption;

subject-specific and individual right for the suspension of payment of costs;

subject-specific and individual duty exemption;

right for the suspension of payment of specific duty;

reduced duty;

exemption from the prepayment of the advocacy fee, or the payment thereof.

In general, the party is entitled to individual cost exemption and individual right for the suspension of payment of costs upon request based on their income and financial situation, whereas individual duty exemption will be granted ex officio. Specific allowances can be based on the subject matter of the proceedings, and the allowance of duty reduction will be granted ex officio upon the occurrence of specific procedural events (for example, if the defendant – the authority – acknowledges and/or satisfies the claim and modifies or withdraws its decision).

Under cost exemption, the party is exempt from the advance payment of duties, the prepayment of costs incurred during the proceedings, save as otherwise provided for by law, the payment of any unpaid duty and the recovery of expenses advanced by the State, and the requirement to provide security for court costs.

The right for the suspension of payment of costs covers exemption from the advance payment of duties and from the prepayment of costs incurred during the proceedings. In the case of partial individual right for the suspension of payment of costs, the allowance applies to a specific percentage of duties and expenses, or to duties, and/or to itemised specific expenses.

It should be noted that cost exemption does not exempt the party from covering the unpaid duties and the costs of any unnecessary procedural act.

The decision on the authorisation of individual cost allowance and the individual right for the suspension of payment of costs and for the withdrawal of authorised cost allowances lies with the court. The resolution rejecting the application for authorisation and the decision for the withdrawal of an authorised cost allowance may be appealed separately.

The specific rule in administrative court proceedings is that in a model action[20] the court may provide that the court costs incurred in the scope of taking of evidence, or a part of such costs, are to be advanced or borne by the State.

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?

The most important national legislations on environmental access to justice are laid down by the Kvt., the Khvr. and the Skvr., which can be found on the official website of the Official Journal and in the National Database of Laws.

In this respect, further forms of structured information can be found on the website of the Commissioner of Fundamental Rights and environmental NGOs or on the websites of environmental NGOs, for instance here.

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

According to the general procedural rules, information on access to justice/legal remedy is to be provided in the decision of the authority or the court taken on the merits of the case.

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

In this respect, sectoral rules are not provided by national law. According to the general procedural rules, information on access to justice/legal remedy is to be provided in the decision of the authority or the court taken on the merits of the case.

As regards plans and programmes not adopted by a regulatory act of an authority, the notification of the members of public concerned on the details of the proceedings and the documentation of the plan or programme is published by the developer and such notification does not contain information on access to justice.

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

The operative part of the administrative decision must contain the authority's decision, the assessment of a specialist authority, the procedural costs incurred and information on seeking legal remedy. A simplified decision may be adopted without any information as to remedy, showing in the statement of reasons only the specific statutes underlying the decision if the authority approves the request in its entirety and if there is no adverse party in the case, or if the decision does not affect the right or legitimate interest of the adverse party, or on the approval of a settlement.

The judgement of the court must also provide information as to whether or not the judgment can be appealed and, if so, the place where and time when it has to be submitted, as well as information on the rules for applying for the holding of an appellate hearing.

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

Administrative as well as court proceedings are conducted in the Hungarian language. However, the Ákr. requires an interpreter to be engaged if the case officer does not speak the foreign language of the client or any other party to the proceedings.

Furthermore, the Pp. provides that in court proceedings, including those conducted under the Kp., all parties are entitled in oral communications to use their native language, the language of their respective nationality, or the language of their region or nationality to the extent provided for by international agreement. In civil as well as in administrative court proceedings, the court must appoint an interpreter, sign language interpreter or translator.

1.8. Special procedural rules

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

Country-specific EIA rules related to access to justice

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

According to the provisions of the Ákr., a client is a natural or legal person, or an organisation, whose rights or legitimate interests are affected by the case (Art. 10(1) of this Act). In addition, in certain specific cases the rights of clients may be vested in other persons or organisations.

In screening procedures, public concerned means any natural or legal person

affected or likely affected by the decision made in a procedure, or

otherwise interested in the decision made in a procedure, including an environmental organisation specified in Art. 98(1) of the Kvt.

The term “client” is construed comprehensively by the Kvt. insofar as it clearly spells out that associations established to represent environmental interests and other civil organisations not deemed to be political parties or interest representatives and operating in the impact area may have the status of a client in environmental administrative procedures. This privileged legal standing is also confirmed by Khvr., which lays down the framework of EIA and IED procedures and declares that NGOs operating in the area affected by the activity subject to EIA must always be deemed “concerned”.

In administrative judicial proceedings, persons who were considered as “clients” in the administrative stage can file a court action against the administrative decision. The lawful interests necessary for intervention in administrative lawsuits are determined by involvement in the specific impact area and the interest in operation. Compared to Art. 98(1) of the Kvt., a further condition for filing a claim against the decision is stipulated by the Code of Administrative Litigation, namely that the NGO in question must be active in the impact area for at least one year.

Members of the public concerned and environmental NGOs can submit application for legal standing during the administrative proceedings and are entitled to bring administrative action against the definitive decision of the authority.

The EIA screening decision can be challenged before the court separately.

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

Similar to the rules applicable to screening, standing in scoping is ensured for “clients” under Art. 10(1) of the Ákr. and members of the public concerned, covering any natural or legal person

affected or likely affected by the decision made in a procedure, or

otherwise interested in the decision made in a procedure, including an environmental organisation specified in Art. 98(1) of the Kvt.

Members of the public concerned and environmental NGOs can submit application for legal standing during the administrative proceeding. The result of scoping can be challenged together with the final decision taken in the EIA procedure.

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

As already mentioned, environmental administrative proceedings are single-instance procedures, and the decision of the environmental authority is definitive at the time of its delivery. The decision of the authority can take the form of a ruling on procedural issues or a resolution on the merits of the case which closes the EIA proceedings and incorporates the environmental permit. Clients (members of the public concerned, environmental NGOs having legal standing) may bring administrative action against definitive decisions within 30 days.

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

Final authorisation can be challenged by any person whose rights or lawful interests are directly affected by the administrative activity, the public prosecutor’s office or the body exercising regulatory supervision or legal control if the deadline set in the notice elapsed without any result, any administrative body that did not take part in the prior proceedings as an authority or regulatory authority if its competence is affected by the administrative activity, or, in the cases specified in law, any NGO that has been pursuing its registered activity in order to protect any fundamental right or enforce any public interest in a geographical territory affected by the administrative activity for at least one year if the administrative activity affects its registered activity.

In this regard, rights of members of public concerned (natural and legal persons and environmental NGOs) are deemed to be affected in EIA procedures. Therefore, individual members of the public concerned (natural and legal persons) and environmental NGOs can submit application for legal standing during the administrative proceedings and are entitled to bring administrative action against the definitive decision of the authority.

The provisions of the Kvt. and the Khvr. do not ensure the right of foreign NGOs to challenge the final authorisation granted in EIA proceedings. However, based on the general concept of “client”, any natural or legal person (including a foreign NGO having legal personality) can participate in the proceedings if its rights or lawful interests are directly affected by the case. This means that a foreign environmental NGO does not have the right provided by Art. 98(1) of the Kvt. – its interests are not deemed to be affected automatically – but can have the right to have legal standing under Art. 10(1) of the Ákr.

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

National law does not set out specific rules for administrative court procedures in environmental matters. The general provisions of the Kp. apply in the judicial review of the environmental authority’s decision.

The court has to judge the dispute within the frameworks of the petition of claim, applications and legal statements submitted by the parties. The court may order an examination or taking of evidence ex officio only in cases specified by law.

Several requirements of the Kp. provide for own motion of the court, e.g. the court may, upon request or ex officio, bring any person into the action as a person concerned whose rights or lawful interests are affected by the judgment to be passed in the action if the court deems that their involvement in the action is necessary in order to resolve the dispute.

The court may, ex officio or upon petition, ask the Court of Justice of the European Union to provide a preliminary opinion, or ask the Constitutional Court to commence its proceedings for declaring that a legal regulation, statutory provision, means of regulation of public-law organisations or uniformity decision is contrary to the Fundamental Law and to international treaties.

Furthermore, the court may order the taking of evidence ex officio with respect to evidence to support any fact or circumstance that must be taken into consideration ex officio, or in the case of reference made to legal injury jeopardising the interests of a minor or a person entitled to disability benefit, or if the law so provides.

The judicial review covers both the substantive as well as the procedural legality of the challenged act of the authority. The court examines the lawfulness of the administrative activity within the limits of the petition of claim; however, the court must ex officio take into consideration the grounds for nullity or other legally stipulated grounds for invalidity of the disputed administrative act and any material deficiency in formal requirements owing to which the administrative act is to be considered as non-existing, the fact that the administrative act is based on a legal regulation that is not applicable in the case, and other facts and circumstances stipulated in law.

Where the legal injury is declared, the court must ex officio require the administrative body to eliminate the consequences of the activity that injure rights.

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

National law does not set out specific rules for administrative court procedures in environmental matters. The general provisions of the Ákr. and the Kp. apply in the judicial review of the environmental authority's decisions or omissions.

The petition of claim can be submitted to the administrative body which adopted the disputed decision within 30 days from its disclosure. The authority must forward the case documents to the court within 15 days.

Administrative authorities (including environmental authorities) are required to act within their area of jurisdiction in cases for which they are competent. However, if an authority fails to meet its obligation to act within the administrative time limit, its supervisory body will instruct it to carry out the procedure. If there is no supervisory body, or if the supervisory body fails to take action, the court of competent jurisdiction in administrative actions will order the authority to carry out the procedure.

In the event of omissions (i.e. if the administrative authority does not meet its obligations stipulated by law), the client or the person whose rights are directly affected by the omission, or the public prosecutor's office, or the body exercising regulatory supervision, has the right to bring an action. The statement of claim must be submitted to the court within 90 days from becoming aware of the unsuccessful outcome of the administrative proceedings serving to remedy the omission or, in the case of omission of a legal remedy organisation, from expiry of the deadline available for taking measures, but no later than one year after expiry of the deadline for implementing the administrative act.

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

As already mentioned, environmental administrative proceedings are single-instance procedures, and the decision of the environmental authority is definitive at the time of its delivery. In relation to EIA proceedings, the national legislation does not require an administrative review procedure to be exhausted prior to recourse to the judicial review procedure. Clients (members of the public concerned, environmental NGOs having legal standing) may bring to the court an administrative action against definitive decisions of the authority within 30 days.

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?

In EIA proceedings, it is not required by national legislation that participation in the public consultation phase is necessary to have legal standing before the court.

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

Fair and equitable proceedings in relation to access to justice in environmental administrative procedures is ensured by the general provisions of the Ákr., which stipulate that administrative authorities must adhere to the principles of legality. Authorities must exercise their powers under the principle of due course of the law. This means that cases must be handled professionally and in good faith, having regard to the objectives of simplicity and cooperation with clients, in due observation of the right to equality before the law and the principle of equal treatment, without undue discrimination, bias or prejudice. Administrative authorities are responsible for ascertaining that the client and other parties to the proceeding are properly informed of their rights and obligations.

According to the basic principles of court proceedings, all clients have equal rights and the court must adjudge the dispute in fair, concentrated and cost-effective proceedings. The court must, in such a manner and by means of the tools stipulated by law, contribute to enabling the parties and other persons in the lawsuit to exercise their procedural rights and fulfil their obligations.

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

With regard to access to justice in EIA proceedings, the general procedural rules must be taken into account. The Ákr., the Pp. and the Kp. entered into force in 2018, and these new legislations reformed the provisions on time limits in order to accelerate the administrative proceedings and make the judicial review of administrative decisions (administrative actions) more concentrated.

As regards the proceedings of administrative courts, the Kp. stipulates strict time limits for certain procedural steps (forwarding case documentation to the court for examination of the statement of claim, adjudication of petitions for immediate legal protection, setting the date of the court hearing etc.). A court hearing can be postponed only under the conditions stipulated by this Code. The timelines mentioned are aimed at most judgments being delivered within a reasonable time.

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?

In relation to EIA, the general provisions on injunctive relief as provided by the Kp. apply. Any person whose rights or lawful interests are injured by the administrative activity may request immediate legal protection from the court. The petition must be lodged with the court if it is not filed together with the statement of claim submitted to the authority. The petition must specify in detail the reasons for the necessity of immediate legal protection and the documents for verifying them must be attached. The facts providing grounds for the petition must be substantiated.

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

Most provisions of IED have been transposed into national law by the Khvr. With regard to access to justice in IPPC/IED proceedings, the general procedural rules pertaining to administrative and court procedures (i.e. the Ákr., the Pp. and the Kp.) must be taken into account. As mentioned above, the EIA as well as the IED rules are stipulated by the Khvr., and where the activity to be authorised is subject to both regimes, the applicant (the developer) is entitled to ask the authority to conduct an integrated procedure for a consolidated environmental permit.

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?

Standing rules are similar to those stipulated by national law for EIA proceedings. Decisions of the authority can be challenged by any person whose rights or lawful interests are directly affected, or, in the cases specified in law, by any NGO that has been pursuing its registered activity in order to protect any fundamental right or enforce any public interest in a geographical territory affected by the administrative activity for at least one year if the administrative activity affects its registered activity.

The decision of the authority can take the form of a ruling (deciding on procedural issues) or a resolution (on the merits of the case) which closes the EIA proceedings and incorporates the environmental permit. Both types of decision can be challenged before the court within 30 days.

In this regard, rights of members of public concerned (natural and legal persons and environmental NGOs) are deemed to be affected in IED procedures. Therefore, individual members of the public concerned (natural and legal persons) and environmental NGOs can submit application for legal standing during the administrative proceedings and are entitled to bring administrative action against the definitive decision of the authority.

The provisions of the Kvt. and the Khvr. do not expressly provide the right of foreign NGOs to challenge the final authorisation granted in IED proceedings. However, based on the general concept of "client", any natural or legal person (including a foreign NGO having legal personality) can participate in the proceedings if its rights or lawful interests are directly affected by the case. This means that a foreign environmental NGO does not have the right provided by Art. 98(1) of the Kvt. – its interests are not deemed to be affected automatically – but can have the right to have legal standing under Art. 10(1) of the Ákr.

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

Where the activity is subject to the EIA/IED regime, the environmental authority may take the following decisions in the screening procedure:
the activity will likely have a significant impact on the environment, therefore EIA and IED procedures must be conducted (separately or even in integrated proceedings);
the activity will not have significant impact on the environment and only the IED permitting procedure is necessary.
The decision made in the EIA/IED screening procedure can be separately challenged before the court.
In screening procedures, “public concerned” means any natural or legal person
affected or likely affected by the decision made in a procedure, or
otherwise interested in the decision made in a procedure, including an environmental organisation specified in Art. 98(1) of the Kvt.
The Kvt. provides that associations established to represent environmental interests and other civil organisations not deemed to be political parties or interest representatives and operating in the impact area may have the status of a client in environmental administrative procedures. This privileged legal standing is also confirmed by Khvr., which lays down the framework of EIA and IED procedures and declares that NGOs operating in the area affected by the activity subject to IED must always be deemed “concerned”.
In administrative judicial proceedings, persons who were considered as “clients” in the administrative stage can file an action at the court against the administrative decision. The lawful interests necessary for intervention in administrative lawsuits are determined by involvement in the specific impact area and the interest in operation. Compared to Art. 98(1) of the Kvt., a further condition for filing a claim against the decision is stipulated by the Code of Administrative Litigation, namely that the NGO in question must be active for at least one year in the impact area.
Members of the public concerned and environmental NGOs can submit application for legal standing during the administrative proceedings and are entitled to bring administrative action against the definitive decision of the authority.

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

For cases where an activity is subject to mandatory EIA and IED, or only subject to IED, the national legislation provides for the developer to initiate a preliminary consultation procedure (scoping). Public participation in scoping is ensured for members of the public concerned, covering any natural or legal person
affected or likely affected by the decision made in a procedure, or
otherwise interested in the decision made in a procedure, including an environmental organisation specified in Art. 98(1) of the Kvt.
Members of the public concerned and environmental NGOs can submit application for legal standing during the administrative proceedings. It should be noted that in a preliminary consultation the authority issues an opinion on the content of the application documentation and does not take a decision, which cannot be challenged before the court separately.

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

The petition of claim can be submitted to the administrative body which adopted the disputed decision within 30 days from its disclosure. The authority must forward the case documents to the court within 15 days.

6) Can the public challenge the final authorisation?

Members of the public concerned and environmental NGOs fulfilling the legal requirements stipulated by the Kvt. and the Kp. are entitled to bring administrative action against the definitive decision of the authority (which incorporates the final authorisation).

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 mentioned above, national law does not set out specific rules for administrative court procedures in environmental matters. The general provisions of the Kp. apply in the judicial review of the environmental authority’s decision.
The court has to judge the dispute within the frameworks of the petition of claim, applications and legal statements submitted by the parties. The court will take account of the applications and statements in accordance with their content and not in accordance with their specification in terms of form. The court may order an examination or taking of evidence ex officio only in cases specified by law.
Several requirements of the Kp. provide for own motion of the court, e.g. the court may, upon request or ex officio, bring any person into the action as a person concerned whose rights or lawful interests are affected by the judgment to be passed in the action if the court deems that their involvement in the action is necessary in order to resolve the dispute.
The court may, ex officio or upon petition, ask the Court of Justice of the European Union to provide a preliminary opinion, or ask the Constitutional Court to commence its proceedings for declaring that a legal regulation, statutory provision, means of regulation of public-law organisations or uniformity decision is contrary to the Fundamental Law and to international treaties.
Furthermore, the court may order the taking of evidence ex officio with respect to evidence to support any fact or circumstance that must be taken into consideration ex officio, or in the case of reference made to legal injury jeopardising the interests of a minor or a person entitled to disability benefit, or if law so provides.
The judicial review covers both the substantive as well as the procedural legality of the challenged act of the authority. The court examines the lawfulness of the administrative activity within the limits of the petition of claim; however, the court must ex officio take into consideration the grounds for nullity or other legally stipulated grounds for invalidity of the disputed administrative act and any material deficiency in formal requirements owing to which the administrative act is to be considered as non-existing, the fact that the administrative act is based on a legal regulation that is not applicable in the case, and other facts and circumstances stipulated in law.
Where the legal injury is declared, the court shall ex officio require the administrative body to eliminate the consequences of the activity that injure rights.
Own motion acts of the court are adopted by rulings which – if explicitly provided by the Kp. – may be appealed by the party, the person concerned and those regarding whom the ruling contains provisions with respect to the relevant part of such provision applying to them.
In civil (and administrative) court proceedings, the party may lodge a complaint with the court if the court was bound to certain time limits for the conduct of proceedings, for carrying out certain procedural steps or for adopting resolutions and the court failed to observe such time limits. This applies in cases where the court lays down time limits for carrying out certain procedural steps which lapse without success and the court fails to impose sanctions on the defaulting person or body, or where the court fails to perform a procedural step within a reasonable timeframe for the completion thereof or fails to ensure that such a procedural step is carried out.

8) At what stage are these challengeable?

National law does not set out specific rules for administrative court procedures in environmental matters. The general provisions of the Ákr. and the Kp. apply in the judicial review of the environmental authority’s decisions or omissions.
The petition of claim can be submitted to the administrative body which adopted the disputed decision within 30 days from its disclosure. The authority must forward the case documents case to the court within 15 days.

Administrative authorities (including environmental authorities) are required to act within their area of jurisdiction in cases for which they have competence. However, if an authority fails to meet its obligation to act within the administrative time limit, its supervisory body will instruct it to carry out the procedure. If there is no supervisory body, or if the supervisory body fails to take action, the court of competent jurisdiction in administrative actions will order the authority to carry out the procedure.
In the event of omissions (i.e. if the administrative authority does not meet its obligations stipulated by law), the client or the person whose rights are directly affected by the omission, or the public prosecutor's office, or the body exercising regulatory supervision, has the right to bring an action. The statement of claim must be submitted to the court within 90 days from becoming aware of the unsuccessful outcome of the administrative proceedings serving to remedy the omission or, in the case of omission of a legal remedy organisation, from expiry of the deadline available for taking measures, but no later than one year after expiry of the deadline for implementing the administrative act.

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

In relation to IED proceedings, national legislation does not require an administrative review procedure to be exhausted prior to recourse to the judicial review procedure.

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?

In IED proceedings, it is not required by national legislation that participation in the public consultation phase is necessary to have legal standing before the court.

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

Fair and equitable proceedings in relation to access to justice in environmental administrative procedures (including IED) are ensured by the general provisions of the Ákr., which stipulate that administrative authorities must adhere to the principles of legality. Authorities must exercise their powers under the principle of due course of the law. This means that cases must be handled professionally and in good faith, having regard to the objectives of simplicity and cooperation with clients, in due observation of the right to equality before the law and the principle of equal treatment, without undue discrimination, bias or prejudice. Administrative authorities are responsible for ascertaining that the client and other parties to the proceedings are properly informed of their rights and obligations.
In line with the basic principles of court proceedings, all clients have equal rights and the court must adjudge the dispute in fair, concentrated and cost-effective proceedings. The court must, in such a manner and by means of the tools stipulated by law, contribute to enabling the parties and other persons in the lawsuit to exercise their procedural rights and fulfil their obligations.

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

With regard to access to justice in IED proceedings, the general procedural rules must be taken into account. The Ákr., the Pp. and the Kp. entered into force in 2018, and these new legislations reformed the provisions on time limits in order to accelerate the administrative proceedings and make the judicial review of administrative decisions (administrative actions) more concentrated.
As regards the proceedings of administrative courts, the Kp. stipulates strict time limits for certain procedural steps (forwarding the case documentation to the court for examination of the statement of claim, adjudication of petitions for immediate legal protection, setting the date of the court hearing etc.). A court hearing can be postponed only under the conditions stipulated by this Code. The timelines mentioned are aimed at most judgments being delivered within a reasonable time.

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?

In relation to IED, the general provisions on injunctive relief as provided by the Kp. apply. Any person whose rights or lawful interests are injured by the administrative activity may request immediate legal protection from the court. The petition must be lodged with the court if it is not filed together with the statement of claim submitted to the authority. The petition must specify in detail the reasons for the necessity of immediate legal protection and the documents for verifying them must be attached. The facts providing grounds for the petition must be substantiated.

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

The most important national legislations on access to justice in IED proceedings are laid down by the Ákr., the Kp., the Kvt. and the Khvr., which can be found on the official website of the Official Journal and in the National Database of Laws.
Structured information in this regard can be found on the websites of environmental NGOs, for instance here.

1.8.3. Environmental liability[21]

Country-specific legal rules relating to the application of 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?

Where a decision has been taken by the environmental authority, it can be challenged before the court in accordance with the general rules of the Kp., i.e. by any natural or legal person whose rights or lawful interests are directly affected by the decision. Environmental NGOs (associations formed to represent environmental interests which are active in the impact area for at least one year) are also entitled to bring an action to the court, as provided for by the Kp. and the Kvt.

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

In this regard, the general rules for lodging a petition of claim apply, therefore it can be submitted to the administrative body which adopted the disputed decision within 30 days from its disclosure.

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

The Kvt. lays down that where the environment is endangered, damaged or polluted, environmental associations are entitled to intervene, in the interest of protecting the environment, and
ask the competent authority to take appropriate measures, or
file a lawsuit against the user of the environment.
In such a lawsuit, the court can be asked to require the party posing the hazard to refrain from the unlawful conduct (operation) or to compel the same to take the measures necessary to prevent the damage.

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

National legislation does not provide specific provisions in this regard.

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)?

Natural or legal persons (including environmental NGOs) entitled to be notified are informed of the decision of the authority in accordance with the general procedural rules of administrative proceedings. The authority delivers its decisions in the form of an official document or, if the client is obliged to receive electronic communication, by means of an official electronic document.

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?

Based on Art. 99 of the Kvt., where the environment is being threatened, damaged or polluted, associations formed to represent environmental interests which are active in the impact area are entitled to intervene, in the interest of protecting the environment, and

ask the competent authority to take appropriate measures within its jurisdiction, or

file a lawsuit against the user of the environment. In the lawsuit, the party in the case may ask the court to enjoin the party posing the hazard to refrain from the unlawful conduct or compel the same to take the measures necessary to prevent the damage.

Therefore, environmental associations are entitled to submit their request to the competent authority or to the court in the case of imminent threat of damage to the environment.

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

The minister with responsibility for environmental and nature protection (the “Minister”), County Government Offices, district environmental authorities, the National Meteorological Service, mayors and notaries are appointed as having competence in environmental administration. County Government Offices proceed as territorial environmental authorities in most environmental administrative cases. In specific cases stipulated by law, the Government Office of Pest County or the Minister proceeds as the environmental authority of nationwide competence.

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

In relation to proceedings stipulated by Art. 99 of the Kvt. (see point 6.), national legislation does not require an administrative review procedure to be exhausted prior to recourse to court 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?

The national environmental legislation requires that enforcement of environmental interests must be encouraged by Hungary through international agreements, particularly in its relations with neighbouring countries, and that consideration must be given to the environmental interests of other countries, the reduction of cross-border loading of the environment and endangering of the environment, and the prevention of environmental pollution and damage to the environment.

In Hungary, the Espoo Convention has been implemented by Governmental Decree 148/1999 (X.18.). This piece of legislation contains the provisions of the Convention. The coordinator of the Espoo procedure is the ministry with responsibility for environmental protection, which is the Ministry of Agriculture, in close cooperation with the competent environmental authority.

The specific rules on cross-border impacts are assessed in accordance with the specific pieces of legislation in the Skvr. (transposing the SEA Directive) and the Khvr. (transposing the EIA Directive).

Trans-boundary EIA procedures are governed by the Khvr. The competent environmental authority sends the relevant information to the ministry responsible for environmental protection as soon as it emerges that the activity under consideration may have significant environmental effects on the territory of another Member State. The affected country must be notified when it emerges, during the preliminary assessment procedure (screening) or during the preliminary consultation (scoping), that a trans-boundary environmental impact can be assumed.

Cases where a Member State likely to be significantly affected requests information on the project are not expressly regulated by Khvr., however in accordance with Art. 3(7) of the Espoo Convention (implemented by Art. 3(7) of Governmental Decree 148/1999), the concerned party must, at the request of the affected party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse trans-boundary impact.

In connection with plans and programmes which are likely to have a significant impact on the environment, the strategic environmental assessment must cover consultations with neighbouring countries in the case of significant cross-border impact and take into account the results of the consultations in drawing up the plan or programme.

Based on Art. 9.1 of the SEA Decree, if, on the basis of the environmental evaluation, significant adverse trans-boundary environmental effects are likely to occur in a Member State of the European Union or in the territory of other countries with which reciprocity with regard to environmental assessment of the trans-boundary effects of the plans and programmes is guaranteed by international treaties, or if so requested by other countries, the developer must forward the relevant documents to the ministry responsible for protection of the environment in that country at the same time as national consultations on the draft plan or programme are held.

As mentioned above, national legislation does not expressly provide legal standing for foreign NGOs, however if their rights or lawful interests are directly affected by the proceedings, they can be clients in administrative proceedings in accordance with the general rules of the Ákr., which also ensures that the rules on translation and interpreters apply to foreign NGOs as clients. The right to legal aid is not provided for foreign NGOs.

Environmental administrative proceedings are single-instance procedures, and the decision of the environmental authority is definitive at the time of its delivery. The decision of the authority can take the form of a ruling on procedural issues or a resolution on the merits of the case which closes the proceeding. Clients (members of the public concerned, environmental NGOs having legal standing) may bring administrative action against definitive decisions within 30 days from delivery of the given decision.

2) Notion of public concerned?

The notion of public concerned is stipulated by the national EIA, IED and SEA legislations, i.e. by the Khvr. and the Skvr., and these terms apply in the proceedings relating to projects, plans or programmes likely to have trans-boundary impacts. According to the Khvr., “public concerned” covers any natural or legal person and any association lacking the legal status of a legal person which is or might be affected by the decision or which is interested in the decision taken.

The Skvr. defines “public concerned” as natural persons, legal entities or organisations without legal entity which are or may be affected by the decision on the plan or programme requiring environmental assessment, in particular because of its effects on the environment, which have an interest with regard to the decision, in particular environmental or other non-governmental organisations whose range of activity is affected, or which are defined as affected by law or by the developer.

As the SEA Directive regulates, the authorities and the public must be given an early and effective opportunity, within appropriate timeframes, to express their opinion on the draft plan or programme and the accompanying environmental report before adoption of the plan or programme or its submission to the legislative procedure.

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)?

As mentioned above, national legislation does not expressly provide legal standing for foreign NGOs, however if their rights or lawful interests are directly affected by the proceedings, they can be clients in administrative proceedings in accordance with the general rules of Ákr. In this case, the general procedural rules of administrative and court proceedings are applicable. According to the general rules of administrative procedures, under the information on legal remedy, the decision provides information on which general court is entitled to review the decision.
Right to legal aid is not provided for foreign NGOs.

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)?

According to the Ákr., any natural person (including citizens of other countries) may have the status of a client if their rights or lawful interests are affected by the case. In this case, the general procedural rules of administrative and court proceedings are applicable for submissions, time limits, etc. Legal aid is not available to foreign parties in the case of environmental proceedings.

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

In EIA and IED proceedings, at the earliest phase of the procedure the environmental authority publishes on its website a notice about the details of the case. At the same time, the notaries of the affected municipalities must be informed concerning the procedure and the notaries must make available to the public the announcement on the proceedings and the features of the planned project.
In the case of plans and programmes, the developer must publish its decision on the necessity of preparing an SEA. The scoping decision is also made public, together with the way the developer intends to ensure public participation.

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

In the national legislation on EIA, in preliminary assessment proceedings (screening), after submission of the request and the preliminary assessment documentation, the environmental authority publishes in its office and on its website:
the fact that the environmental impact assessment has been initiated;
information on the website where the documentation can be accessed;
whether consultation is in progress with other countries likely to be affected;
a call for making any comments directly to the environmental authority within 21 days from the date of publication of the environmental authority's announcement;
the date of the start of the proceedings and the administrative time limit, name and official contact details of the contact person;
the decisions which potentially may be made by the environmental authority.
Simultaneously with the publication of the announcement, the environmental authority must deliver the announcement, the printed copies of the application and its annexes to the notary of the affected municipality and to the notaries of the presumed to be affected municipalities. The notary must immediately, and no later than within five days, make sure that the announcement is made public by displaying it in public places and using other local customary methods.
In EIA proceedings, after submission of the request the environmental authority publishes on its website:
the fact that the environmental impact assessment has been initiated;
information on the website where the documentation can be accessed;
whether consultation is in progress with other countries likely to be affected;
the ways of providing information and the possibilities of submitting comments and asking questions;
the date of the start of the proceedings and the administrative time limit, name and official contact details of the contact person;
the decisions which potentially may be made by the environmental authority.
Together with the publication of the announcement, the environmental authority must deliver the announcement, the printed copies of the application and its annexes to the notary of the affected municipality and to the notaries of the presumed to be affected municipalities. The notary must immediately, and no later than within five days, make sure that the announcement is made public by displaying it in public places and using other local customary methods. The period of publication must be at least 30 days.
In EIA proceedings, comments may be submitted to the environmental authority, or to the notary of the municipality competent according to the location of the public hearing, up to the time of the public hearing.
The environmental authority must make available to the public concerned the opinion of the specialist authorities and the expert opinions, and also the documents prepared in order for corrections to be made within eight days of their submission or availability (or the consultation, if any).
In IED proceedings, at the earliest phase of the procedure (within 15 days after receipt of the application documentation and all necessary information), the environmental authority publishes on its website a notice about the details of the case, including the relevant information on the project, the impact area, the expected emissions and impacts on the environment and human health, the measures to prevent or to mitigate the likely impacts, the monitoring tools, and the measures to prevent accidents and inform the public.
At the same time, the notaries of the affected municipalities must be informed concerning the procedure. Within five days, the notaries must make available to the public the announcement on the proceedings and the features of the planned project for at least 21 days.
National legislation does not provide specific timeframes for access to justice in the case of trans-boundary decisions. An action against the authority's decision can be brought within 30 days.
In the case of plans and programmes, the developer must publish its decision on the necessity of preparing an environmental assessment (SEA). The scoping decision is also made public, together with the way the developer intends to ensure public participation. The public has 30 days to comment on the draft environmental report.

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

In the case of EIA and IED proceedings, the notification on the proceedings contains information on the details of public participation (timelines, date of public hearing, deadline for submitting comments etc.), and the decision of the authority (which has to be delivered to the clients) must contain information on legal remedy and the relevant time limit.

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

In this respect, the general rules of administrative proceedings and court procedures apply. Administrative as well as court proceedings are conducted in the Hungarian language. However, the Ákr. requires that an interpreter must be engaged if the case officer does not speak the foreign language of the client or any other party to the proceeding.
Furthermore, it is provided by the Pp. that in court proceedings, including those conducted under the Kp., all parties are entitled, in oral communications, to use their native language, the language of their respective nationality, or the language of their region or nationality to the extent provided for by international agreement. In civil as well as in administrative court proceedings, the court must appoint an interpreter, sign language interpreter or translator.

9) Any other relevant rules?

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[1] *Magyarország Alaptörvénye (2011. április 25.)*, Official Journal: Magyar Közlöny No 2011/43 (in Hungarian)
[2] *Az Alkotmánybíróságról szóló 2011. évi CLI törvény*, Official Journal: Magyar Közlöny No 2011/136 (in Hungarian)
[3] *1995. évi LIII. törvény a környezet védelmének általános szabályairól*, Official Journal: Magyar Közlöny No 1995/52
[4] In administrative proceedings, and depending on the subject of the procedure, the main decision-making authority may be obliged to involve expert authorities within their fields of competence. An expert authority provides its opinion, including an approval or refusal of the application. Where the law requires the involvement of expert authorities in a permit procedure, the permit shall not be granted without the expert authority's approval.
[5] *2016. évi CL törvény az általános közigazgatási rendtartásról*, Official Journal: Magyar Közlöny No 2016/200
[6] *314/2005. (XII. 25.) Korm. rendelet a környezeti hatásvizsgálati és az egységes környezethasználati engedélyezési eljárásról*, Official Journal: Magyar Közlöny No 168/2005
[7] *2017. évi I. törvény a közigazgatási perrendtartásról*, Official Journal: Magyar Közlöny No 2017/30
[8] *2016. évi CXXX. törvény a polgári perrendtartásról*, Official Journal: Magyar Közlöny No 2016/190
[9] *2/2005. (I. 11.) Korm. rendelet egyes tervek, illetve programok környezeti vizsgálatáról*, Official Journal: Magyar Közlöny No 2005/3
[10] *2011. évi CLI. törvény az Alkotmánybíróságról*, Official Journal: Magyar Közlöny No 2011/136
[11] *2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról*, Official Journal: Magyar Közlöny No 2011/88
[12] *311/2005. (XII. 25.) Korm. rendelet a nyilvánosság környezeti információkhoz való hozzáférésének rendjéről*, Official Journal: Magyar Közlöny No 2005/168
[13] *2017. évi XXVIII. törvény a nemzetközi magánjogról*, Official Journal: Magyar Közlöny No 2017/54
[14] *71/2015. (III. 30.) Korm. rendelet a környezetvédelmi és természetvédelmi hatósági és igazgatási feladatokat ellátó szervek kijelöléséről*, Official Journal: Magyar Közlöny No 43/2015
[15] *2011. évi CLXIII. törvény az ügyészségről*, Official Journal: Magyar Közlöny No 2011/143
[16] *1996. évi LIII. törvény a természet védelméről*, Official Journal: Magyar Közlöny No 1996/53
[17] *275/2004. (X. 8.) Korm. rendelet az európai közösségi jelentőségű természetvédelmi rendeltetésű területekről*, Official Journal: Magyar Közlöny No. 2004/143 (X.8)
[18] *2003. évi LXXX. törvény a jogi segítségnyújtásról*, Official Journal: Magyar Közlöny No 2003/127
[19] *2003. évi LXXX. törvény a jogi segítségnyújtásról*, Official Journal: Magyar Közlöny No 2003/127
[20] If at least ten proceedings with an identical legal and factual base commence before the court, the court may – while providing the parties with a right to make a statement – decide to adjudge one of the cases in a model action and stay the rest of the proceedings until it adopts its decision concluding the proceedings. (Kp. Art. 33(1))
[21] 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 outside the scope of the EIA and IED Directives[1]

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

In administrative proceedings, according to Article 10(1) of the Ákr. the term "client" (therefore a person who can have legal standing) covers any natural or legal person, or other entity, whose rights or legitimate interests are directly affected by a case, who is the subject of any data contained in official records and registers, or who is subject to regulatory inspection. Furthermore, an act or government decree may define the persons and entities to be treated as clients in connection with certain specific types of case.

In environmental administrative proceedings, the above-mentioned provision of the Ákr. ensures the legal standing of individuals whose legal interests are directly affected, and Article 98 of the Kvt. provides that environmental associations can also participate as clients. Other legal entities, members of ad hoc groups or foreign NGOs may be treated as clients if the conditions laid down by Article 10(1) of the Ákr. are met.

Since 1 March 2020, in administrative environmental cases there is a single-instance procedure, i.e. the decision of a second-instance environmental authority cannot be requested. However, clients may bring to the court an administrative action against the decision. As a main rule, a final decision of the authority taken on the merits of the case can be challenged before the court within 30 days. With regard to proceedings which are considered as "environmental administrative proceedings", access to national courts is considered effective, as no major barriers hinder access to justice related to legal standing. However, as explained above, the proceedings of the water management authority or the forest authority are not regarded as environmental administrative proceedings, unless the environmental authority participates in that procedure as an expert authority. In such cases, as a main rule environmental NGOs do not have legal standing and cannot bring an action to the court.

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?

In administrative environmental cases where the environmental authority is the main (decision-making) authority, there is a single-instance procedure, i.e. the decision of a second-instance environmental authority cannot be requested. However, clients may bring to the court an administrative action against the decision. In proceedings where the environmental authority is acting as an expert authority, which thereby also renders the matter an administrative environmental case, the right to appeal – similar to standing – depends on the specific provisions of the relevant legislation. Where the decision can be appealed, the administrative review covers both procedural and substantive legality of the procedure and the decision, regardless of the content of the appeal.

Clients may bring an administrative action against definitive decisions (decision taken in a single-instance procedure or on second instance, if appeal was possible). According to the Kp., in administrative court cases the court must judge the dispute within the frameworks of the petition of claim, applications and

legal statements submitted by the parties. The court will take account of the applications and statements in accordance with their content and not in accordance with their specification in terms of form. The court may order an examination or taking of evidence ex officio only in cases specified by law. The judicial review may cover both procedural and substantive legality depending on the content of the petition of claim.

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

If the decision can be appealed, an administrative action may be brought if either of the entitled parties filed an appeal and the appeal has already been determined. Since 1 March 2020, in administrative environmental cases the decision of a second-instance environmental authority cannot be requested. Clients may bring to the court an administrative action against the decision.

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 general, it is not required by national legislation that participation in the public consultation phase is necessary to have legal standing before the court. In this respect, the provisions of the Kp. must be taken into account. Any person whose rights or lawful interests are directly affected by the administrative activity (i.e. the decision), or any non-governmental organisation, in the cases specified in law or government decree, that has been pursuing its registered activity in order to protect any fundamental right or enforce any public interest in a geographical territory affected by the administrative activity for at least one year, if the administrative activity affects its registered activity, has the right to institute an action.

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

There are no explicit provisions precluding arguments from the judicial review phase. The subject of the administrative dispute is the lawfulness of the act of the authority regulated by administrative law or the omission of such act.

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

Fair and equitable proceedings in relation to access to justice in environmental administrative procedures are ensured by the general provisions of the Ákr., which stipulate that administrative authorities must adhere to the principles of legality. Authorities must exercise their powers under the principle of due course of the law. This means that cases must be handled professionally and in good faith, having regard to the objectives of simplicity and cooperation with clients, in due observation of the right to equality before the law and the principle of equal treatment, without undue discrimination, bias or prejudice. Administrative authorities are responsible for ascertaining that the client and other parties to the proceedings are properly informed of their rights and obligations.

In accordance with the basic principles of court proceedings, all clients have equal rights, and the court must adjudge the dispute in fair, concentrated and cost-effective proceedings. The court must, in such a manner and by means of the tools stipulated by law, contribute to enabling the parties and other persons in the lawsuit to exercise their procedural rights and fulfil their obligations.

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

The Ákr., the Pp. and the Kp. entered into force in 2018 and these new legislations reformed the provisions on time limits in order to accelerate the administrative proceedings and make the judicial review of administrative decisions (administrative actions) more concentrated.

As regards the proceedings of administrative courts, the Kp. stipulates strict time limits for certain procedural steps (forwarding the case documentation to the court for examination of the statement of claim, adjudication of the petitions for immediate legal protection, setting the date of the court hearing etc.). A court hearing can be postponed only under the conditions stipulated by this Code. The timelines mentioned are aimed at most judgments being delivered within a reasonable time.

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?

The general provisions on injunctive relief are provided by the Kp. Any person whose rights or lawful interests are injured by the administrative activity may request immediate legal protection from the court. The petition must be lodged with the court if it is not filed together with the statement of claim submitted to the authority. The petition must specify in detail the reasons for the necessity of immediate legal protection and the documents for verifying them must be attached. The facts providing grounds for the petition must be substantiated. There are no special rules applicable in this regard.

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 which must be taken into consideration when filing a lawsuit with the administrative court in access to justice matters are the duty and the legal fees. As a main rule, the duty on administrative actions is 30,000 HUF (ca. 85 EUR), which must be paid by the party submitting the petition of claim. Legal fees can also be requested to be paid by the unsuccessful party as a court cost. The amount of this may be reduced by the court.

The main rule is that the court costs of the successful party (including the duty) must be covered by the unsuccessful party. Where a party only succeeds in part, it must cover the costs of the opposing party in proportion to the loss. The co-litigants cover the costs of court proceedings jointly and severally.

In the case of the settlement of the parties, the party agreed upon by the parties pays the other party's court costs. If there is no agreement in this regard, the court costs of the successful party to the settlement must be covered by the unsuccessful party to the settlement. If the ratio of winning and losing cannot be determined, neither of the parties will be required to cover the court costs.

If the proceedings are terminated, the court costs of the defendant must be covered by the plaintiff. However, where the proceedings are terminated due to withdrawal and the withdrawal took place because the defendant satisfied the claim after the opening of proceedings, the court costs of the plaintiff are to be covered by the defendant. Furthermore, if the proceedings are terminated due to death or dissolution, neither party is required to cover the court costs of the opposing party.

Where a party fails in carrying out certain acts during the proceedings, is delayed in certain acts without justification, fails to meet a deadline or time limit, or causes unnecessary expenses to the opposing party in any other way, either during the proceedings or beforehand, said party must cover those costs irrespective of the outcome of the action.

The party might be entitled to different types of cost allowances:

subject-specific and individual cost exemption;

subject-specific and individual right for the suspension of payment of costs;

subject-specific and individual duty exemption;

right for the suspension of payment of specific duty;

reduced duty;

exemption from the prepayment of the advocacy fee, or the payment thereof.

In general, the party is entitled to individual cost exemption and individual right for the suspension of payment of costs upon request based on their income and financial situation, whereas individual duty exemption will be granted ex officio. Specific allowances can be based on the subject matter of the proceedings, and the allowance of duty reduction will be granted ex officio upon the occurrence of specific procedural events.

Under cost exemption, the party is exempt from the advance payment of duties, the prepayment of costs incurred during the proceedings, save as otherwise provided for by law, the payment of any unpaid duty and the recovery of expenses advanced by the State, and the requirement to provide security for court costs.
The right for the suspension of payment of costs covers exemption from the advance payment of duties and from the prepayment of costs incurred during the proceedings. In the case of partial individual right for the suspension of payment of costs, the allowance applies to a specific percentage of duties and expenses, or to duties, and/or to itemised specific expenses.
It should be noted that cost exemption does not exempt the party from covering the unpaid duties and the costs of any unnecessary procedural act.
The decision on the authorisation of individual cost allowance and the individual right for the suspension of payment of costs and for the withdrawal of authorised cost allowances lies with the court. The resolution rejecting the application for authorisation and the decision for the withdrawal of an authorised cost allowance may be appealed separately.
The specific rule in administrative court proceedings is that in a model action[2] the court may provide that the court costs incurred in the scope of taking of evidence, or a part of such costs, are to be advanced or borne by the State.
The amount of the duty (30,000 HUF – 85 EUR) cannot be considered as being prohibitive. Furthermore, in Hungary associations and funds are exempt from the obligation to pay duties. Therefore, in administrative court proceedings NGOs should count with legal fees and – if applicable – expert fees.

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[3]

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

According to national law, plans or programmes (including land-use plans) may be adopted by different legal measures, i.e. by law or by a public administrative measure without legal force. Challenging the legality of laws and/or public administrative measures by a natural person or by an organisation is possible by means of a constitutional complaint lodged with the Constitutional Court. Where the legal measure adopting the plan or programme is contrary to the Fundamental Law and this infringes a fundamental right of a natural or legal person, for example the right to a healthy environment laid down by the Fundamental Law, the Constitutional Court is entitled to annul the contested provision.
A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if, due to the application of a legal regulation contrary to the Fundamental Law in their judicial proceedings
their rights enshrined in the Fundamental Law were violated, and
the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.
By exception, Constitutional Court proceedings may also be initiated if, due to the application of a legal provision contrary to the Fundamental Law, or when such legal provision becomes effective, rights were violated directly, without a judicial decision, and there is no procedure for legal remedy designed to repair the violation of rights, or the petitioner has already exhausted the possibilities for remedy. In these proceedings, the Constitutional Court may also examine the constitutionality of a judicial decision.
The Constitutional Court will admit constitutional complaints if a conflict with the Fundamental Law significantly affects the judicial decision, or if the case raises constitutional law issues of fundamental importance.
Constitutional complaints may be submitted within 60 days of receipt of the contested decision, or within 180 days of entry into force of the legal regulation contrary to the Fundamental Law. If the decision is not communicated, the time limit for submitting constitutional complaints will be 60 days from the date of becoming aware of the decision or from the date of the violation of rights guaranteed by the Fundamental Law. The Constitutional Court may also rule on constitutional complaints that were submitted after the time limit due to the submitter's inability to submit the complaint due to a circumstance beyond their control, providing that the petitioner submits an application for extension along with the complaint within 15 days of the termination of the obstacle. However, no Constitutional Court proceedings may be initiated 180 days after the communication of the decision, the violation of the right guaranteed by the Fundamental Law and entry into force of the legal regulation that is contrary to the Fundamental Law.
The Constitutional Court must decide on constitutional complaints within a reasonable time. In practice, it is not uncommon for proceedings of the Constitutional Court to take years.

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

The Constitutional Court examines whether the rights enshrined in the Fundamental Law were violated, which may include infringement of both procedural and substantive norms.

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

A constitutional complaint may be submitted to the Constitutional Court if the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.

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.?

A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if their rights enshrined in the Fundamental Law were violated.

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?

No injunctive relief is available.

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 proceedings of the Constitutional Court are free of charge. The applicant must bear their costs incurred in the course of the proceedings.

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

Legal standing in administrative and/or judicial review of plans and programmes depends on the legal form by which the plan or programme was adopted. If the act adopting a plan or programme is considered as a legal measure or a public administrative measure without legal force and the relevant conditions are met, a constitutional complaint can be lodged with the Constitutional Court as explained under Chapter 2.2. point 1.

However, plans and programmes subject to Article 7 of the Aarhus Convention which are not considered as such acts cannot be challenged.

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

The Constitutional Court examines whether the rights enshrined in the Fundamental Law were violated, which may include infringement of both procedural and substantive norms.

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

A constitutional complaint may be submitted to the Constitutional Court if the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.

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.?

A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if their rights enshrined in the Fundamental Law were violated.

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?

No injunctive relief is available.

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 proceedings of the Constitutional Court are free of charge. The applicant must bear their costs incurred in the course of the proceedings.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[5]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the 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?

Legal standing in administrative and/or judicial review of plans and programmes depends on the legal form by which the plan or programme was adopted. If the act adopting a plan or programme is considered as a legal measure or a public administrative measure without legal force and the relevant conditions are met, a constitutional complaint can be lodged with the Constitutional Court as explained under Chapter 2.2. point 1.

However, plans and programmes which are not considered as such acts cannot be challenged.

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)?

As explained under Point 1 legal standing in administrative and/or judicial review of plans and programmes depends on the legal form by which the plan or programme was adopted. If the act adopting a plan or programme is considered as a legal measure or a public administrative measure without legal force and the relevant conditions are met, a constitutional complaint can be lodged with the Constitutional Court as explained under Chapter 2.2. point 1.

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

The Constitutional Court examines whether the rights enshrined in the Fundamental Law were violated, which may include infringement of both procedural and substantive norms.

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

A constitutional complaint may be submitted to the Constitutional Court if the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.

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.?

A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if their rights enshrined in the Fundamental Law were violated.

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

Explicitly not, however the constitutional complaint must be based on the fact that the fundamental rights of the complainant were violated.

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

In accordance with the basic principles of court proceedings, all clients have equal rights and the court must adjudge the dispute in fair, concentrated and cost-effective proceedings.

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

The Constitutional Court must decide on constitutional complaints within a reasonable time. In practice, it is not uncommon for proceedings of the Constitutional Court to take years.

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?

No injunctive relief is available.

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?

Proceedings of the Constitutional Court are free of charge. The applicant must bear their costs incurred in the course of the proceedings.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[6]

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?

Similar to the cases covered by Chapters 2.2 to 2.4, executive regulations and/or generally applicable legally binding normative instruments – as legal measures or public administrative measures without legal force – can be challenged by a constitutional complaint lodged with the Constitutional Court if the conditions stipulated by the Act on the Constitutional Court are met. A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if, due to the application of a legal regulation contrary to the Fundamental Law in their judicial proceedings
their rights enshrined in the Fundamental Law were violated, and
the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.
By exception, Constitutional Court proceedings may also be initiated if, due to the application of a legal provision contrary to the Fundamental Law, or when such legal provision becomes effective, rights were violated directly, without a judicial decision, and there is no procedure for legal remedy designed to repair the violation of rights, or the petitioner has already exhausted the possibilities for remedy. In these proceedings, the Constitutional Court may also examine the constitutionality of a judicial decision.
The Constitutional Court will admit constitutional complaints if a conflict with the Fundamental Law significantly affects the judicial decision, or if the case raises constitutional law issues of fundamental importance.
Constitutional complaints may be submitted within 60 days of receipt of the contested decision, or within 180 days of entry into force of the legal regulation contrary to the Fundamental Law. If the decision is not communicated, the time limit for submitting constitutional complaints will be 60 days from the date of becoming aware of the decision or from the date of the violation of rights guaranteed by the Fundamental Law. The Constitutional Court may also rule on constitutional complaints that were submitted after the time limit due to the submitter's inability to submit the complaint due to a circumstance beyond their control, providing that the petitioner submits an application for extension along with the complaint within 15 days of the termination of the obstacle. However, no Constitutional Court proceedings may be initiated 180 days after the communication of the decision, the violation of the right guaranteed by the Fundamental Law and entry into force of the legal regulation that is contrary to the Fundamental Law.
The Constitutional Court must decide on constitutional complaints within a reasonable time. In practice, it is not uncommon for proceedings of the Constitutional Court to take years.

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

The Constitutional Court examines whether the rights enshrined in the Fundamental Law were violated, which may include infringement of both procedural and substantive norms.

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

A constitutional complaint may be submitted to the Constitutional Court if the possibilities for legal remedy (not including the review procedure of the Supreme Court as extraordinary legal remedy) have already been exhausted or legal remedy is not possible.

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.?

A person or organisation affected by a concrete case may submit a constitutional complaint to the Constitutional Court if their rights enshrined in the Fundamental Law were violated.

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?

No injunctive relief is available.

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?

Proceedings of the Constitutional Court are free of charge. The applicant must bear their costs incurred in the course of the proceedings.

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

National legislation does not provide for legal challenge against EU regulatory acts before national courts.

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

[2] If at least ten proceedings with an identical legal and factual base commence before the court, the court may – while providing the parties with a right to make a statement – decide to adjudge one of the cases in a model action and stay the rest of the proceedings until it adopts its decision concluding the proceedings. (Kp. Art. 33(1))

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

[4] 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.

[5] 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.

[6] 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

[7] For an example of such a preliminary reference, see 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

The obligation for administrative authorities to act is stipulated by the Ákr. The authority has an obligation to act within its area of jurisdiction in the cases for which it has competence, or on the basis of delegation. If the authority fails to meet its obligation to act within the administrative time limit, the supervisory

body provided will instruct it to carry out the procedure. If there is no supervisory body, or the supervisory body fails to take action, the court of competent jurisdiction in administrative actions will order the authority to carry out the procedure. Such petition of claim can be submitted by any natural or legal person whose rights or lawful interests are directly affected by the omission of the environmental authority.

There are cases in which the authority may exercise the right to remain silent. This means that the client is considered to have been authorised to exercise the right asserted if the authority decided not to adopt a resolution within the prescribed administrative time limit. The right to remain silent may be exercised in automated decision-making processes if not precluded by law, or in other cases if it is expressly ordered by law.

The decisions of the courts and other judicial forums are executed by judicial enforcement proceedings in accordance with the Act on Judicial Enforcement[1]. In the course of judicial enforcement, executive force may be employed to order a party compelled to pay money or undertake some other conduct to fulfil such obligation. The enforcement order may be issued if the writ of execution contains an obligation (ruling against the judgment debtor), it is final, definitive or subject to preliminary enforcement, and

the resolution of the public prosecutor’s office and/or the investigating authority is not subject to further remedy, and

the deadline of performance has expired.

The court will impose a fine on the debtor or the person or organisation obliged to participate in the enforcement procedure for contempt, for failure to meet the obligations in connection with enforcement or for engaging in any conduct aimed at obstructing the authority carrying out the enforcement procedure. The fine for contempt may not exceed the enforceable amount. No fine for contempt may be imposed for the sole reason of the judgment debtor's failure to comply with their obligation prescribed in the enforcement order.

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[1] 1994. évi LIII törvény a bírósági végrehajtásról (Official Journal: Magyar Közlöny No 1994/51)

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