Access to justice in environmental matters

Slovakkja

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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

The Slovak legal system belongs to the continental (civil law) legal system, which is based on codified laws adopted by the Parliament. Parliament is the highest legislative body. Courts are obliged to decide according to the constitution, laws and generally binding legal regulations, international treaties, and they are also obliged to apply EU legislation. Judicial decisions of the highest courts (the Constitutional Court, the Supreme Court) are of great importance in the interpretation of law, although they are not formally binding precedents as in common law legal system. Lower courts anticipate that a case may be brought before the Supreme Court or the Constitutional Court, they tend to respect the legal views of these highest courts in similar cases.

Sources of Slovak codified law are divided according to their legal force into three levels, namely constitutional laws, ordinary laws and by-laws. The norm of lower legal force must not contradict the norm of higher legal force.

The executive power in the field of environment is performed by the Ministry of the Environment and the Ministry of Agriculture.

Other environmental administration bodies (district offices) and special environmental agencies, which perform specific tasks in the field of the environmental protection, are subordinate to the government and ministries. It is, for example, Slovak Environmental Inspectorate (SIŽP) – a specialized supervisory authority providing for state supervision and imposing fines on matters concerning environment protection, and carrying out public administration and decision making in the field of integrated pollution prevention and control.

Some competencies in the field of environmental protection are entrusted to municipalities.

Natural and legal persons and NGOs can participate in the environmental protection through several types of legal action. They can protect their personal rights including health and privacy and their ownership rights relating to the environment through civil proceedings under the Civil Code. They can participate in administrative proceedings relating to the environment conducted by public authorities and can subsequently bring actions against acts (e.g. decisions) of public authorities within the system of administrative justice in accordance with the Code of Administrative Judicial Procedure. They can initiate criminal proceedings in the case of an environmental crime or other proceedings (carried out by special environmental supervisory authorities) in the case of an infringement of environmental regulations. They can protect their environmental constitutional rights and rights guaranteed by international conventions by filing constitutional complaints with the Constitutional Court.

The basic principle is that in administrative proceedings and in judicial procedures, the legal standing is provided for anyone (natural or legal persons) directly affected by the case (e.g. by proposed project). Judicial protection of the environment was originally based on the view that everyone can only protect their individual right in court and that the right to a favourable environment belongs only to natural persons and not to legal persons or NGOs, and therefore NGOs can only protect their procedural rights in court, and they cannot challenge a violation of a substantive provision of the law. However, as a result of the adoption of the Aarhus Convention and the effect of EU law, the interpretation has finally prevailed that in cases subject to the Aarhus Convention, NGOs can also challenge violations of substantive law (substantive legal provisions) and violations of the right to a favourable environment.

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

The Constitution of the Slovak Republic explicitly enshrines the rights of everyone to a favourable environment, the right to information about the environment and the right of access to a court, which also applies to cases in environmental matters.

According to Article 44 paragraph 1 of the Constitution, everyone has the right to a favourable environment. According to Article 44 paragraph 2, 3, 4 and 5 of the Constitution, *everyone is obliged to protect and enhance the environment and no one may endanger or damage the environment and natural resources beyond the extent laid down by law; the state looks after a cautious use of natural resources, protection of agricultural and forest land, ecological balance, and effective environmental care, and provides for the protection of specified species of wild plants and animals, and agricultural and forest land are non-renewable natural resources and enjoy special protection by the state and society*. According to Article 44 paragraph 6 of the Constitution, the details on the rights and duties set out in Article 44 must be laid down by a law.

The Constitution also enshrines the “general” right of access to information and, consequently, the special right of access to environmental information. According to Article 26 paragraph 5 of the Constitution, *public authority bodies are obliged to provide information on their activities in an appropriate manner and in the state language.* This paragraph also stipulates, that *conditions and manner of execution of this obligation shall be laid down by law*. According to Article 45 of the Constitution, *everyone has the right to timely and complete information about the state of the environment and about the causes and consequences of its condition.*

However, according to Article 51 par. 1 of the Constitution, the direct application of environmental constitutional provisions is problematic. This provision stipulates that the right to environmental protection as well as the access to justice may *be claimed only within the scope of the laws implementing these provisions.*

Constitutional right of access to court (access to justice) is guaranteed in Article 46 of the Constitution. This right covers access to justice in environmental matters as well.
According to Article 46 paragraph 1 of the Constitution, *everyone may claim his or her right by procedures laid down by a law at an independent and impartial court.*
The right to judicial review of administrative decisions is explicitly guaranteed in the next paragraph. According to Article 46 paragraph 2 of the Constitution, *anyone who claims to have been deprived of his rights by a decision of a public administration body may turn to the court to have the lawfulness of such decision reviewed*. The Constitution explicitly stipulates that *the review of decisions concerning basic rights and freedoms may not be excluded from the jurisdiction of courts*.
Citizens can, in principle, invoke the constitutional right to a favourable environment in administrative proceedings and in proceedings within the administrative judiciary. However, as individual implementing laws specify this constitutional right, the citizens in administrative or judicial procedures must also invoke specific rights set forth in the implementing laws or applicable provisions of international law.
Slovak courts recognize that the **Aarhus Convention is an international convention which takes precedence over national laws**. The Constitutional Court has explicitly stated that **it is also reviewing the compliance of national laws with the Aarhus Convention**. The Aarhus Convention is therefore explicitly recognized as a binding human rights law concerning access to justice in environmental matters.
The amendment to the Act concerning the acceleration of the construction of motorways (Act No. 669/2007 Coll.), adopted in 2017, excluded the power of the administrative court to grant the suspensive effect of administrative actions against a zoning decision for construction of motorways and building permits for the construction of motorways. The Constitutional Court, by its decision of PL. ÚS 18 / 2017-152 of 4 November 2020, decided that this law is in conflict with Art. 9 par. 4 of the Aarhus Convention, which enshrines the right of the public for an administrative court to order an "injunctive relief" following an administrative action against a project authorization decision. The Constitutional Court stated in the decision: *"Part of the right to judicial protection in environmental matters is (also) the possibility of the administrative court to effectively verify the compliance of the zoning decision for highway construction or building permit for highway construction with the conclusions of the environmental impact assessment process. Here, too, the Constitutional Court notes that the possible suspensory effect of an administrative action does not occur ex lege, but only by a decision of the administrative court based on a judicious assessment. ... The Constitutional Court has therefore ruled that the provision of ... the law ... in relation to a zoning decision for the construction of a motorway and a building permit for the construction of a motorway is not in accordance with Article 9 § 4 of the Aarhus Convention"*.
Following the ruling of the Court of Justice of the EU in the Slovak brown bear case (C-240/09, Lesoochranárske zoskupenie VLK), the Slovak administrative courts recognize that the Aarhus Convention must be taken into account when applying national law and that they are obliged to interpret provisions of national law in accordance with the Aarhus Convention. Reference is often made to Article 9 para. 3 of the Aarhus Convention. The Supreme Court has stated in several judgments that relevant procedural legislation must be interpreted in order to guarantee environmental organisation access to justice in environmental administrative cases (see the judgments below).
According to the ruling of the Court of Justice of the EU in Križan case (C-416/10) national courts must interpret the procedural rules concerning the integrated permitting of operations with a significant impact on the environment under the Integrated Pollution Prevention and Control Act (IPPC) in accordance with the Aarhus Convention and EU law. According to the CJEU ruling, a national court is obliged, of its own motion, to make a request for a preliminary ruling to the Court of Justice of the European Union even though it is ruling on a referral back to it after its first decision was set aside by the Constitutional court and even though a national rule obliges it to resolve the dispute by following the legal opinion of that latter court. According to the CJEU ruling, national authorities are obliged to interpret procedural law in such a way that the public concerned have access to an urban planning decision procedure from the beginning of the authorization procedure for the installation. According to the CJEU ruling, the competent national authorities are not entitled to refuse the public concerned access to such a decision by relying on the protection of the confidentiality of commercial or industrial information. According to the CJEU ruling, procedural law must be interpreted as meaning that members of the public concerned must be able to ask the court to order interim measures such as temporarily to suspend the application of a permit, pending the final decision of the administrative court.

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

Act No. 71/1967 Coll. on administrative procedure (Administrative Procedure Code)
Act No. 162/2015 Coll. The Code of the Administrative Judicial Procedure
Act No. 40/1964 Coll. Civil Code
Act No. 71/1992 Coll. on court fees
Act No. 211/2000 Coll. on free access to information (Freedom of Information Act)
Act No. 24/2006 Coll. on environmental impact assessment (EIA Act)
Act No. 39/2013 Coll. on integrated environmental pollution prevention and control (IPPC Act)
Act No. 359/2007 Coll. on prevention and remedy of environmental damages (Environmental Liability Act)
Act No. 569/2007 Coll on geological works (Geological Act)
Act No. 543/2002 Coll. on nature and landscape protection (Nature Conservation Act)
Act No. 50/1976 Coll. on land-use planning and building rules (Building Act)
Act No. 44/1988 Coll. on the protection and use of mineral resources (Mining Act)
Act No. 541/2004 Coll. on peaceful use of nuclear energy (Atomic Act)
Act No. 326/2005 Coll. on forests
Act No. 137/2010 Coll. on air
Act No. 364/2004 Coll. on water
Act No. 79/2015 Coll. on waste

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

The Supreme Court reviews the decisions of lower courts in administrative, civil and criminal cases.
In administrative cases the Supreme Court acts on the basis of a cassation complaint and has cassation power. There are however exemptions from this rule. When reviewing the decisions imposing administrative penalties (fines), the courts may, in addition to cancelling the decision, also moderate the penalty. If the court annuls the administrative decision on refusing the information, it can also order the administrative authority to disclose the information.
In the case of different legal opinions and disagreement between the panels (chambers) of the Supreme Court, the Grand Panel (Chamber) of the Supreme Court must issue a unifying decision for sake of uniform judicial decision-making.
This also applies to administrative cases and environmental cases. According to the Code of the Administrative Judicial Procedure, the legal opinion expressed in the decision of the Grand Chamber is binding on the chambers of the Supreme Court. If the chamber of the Supreme Court wishes to deviate from the legal opinion expressed in the decision of the Grand Chamber, it must refer the case to the Grand Chamber for consideration and decision.

Decisions of the Supreme Court in cases similar to those dealt with by lower courts are not formally binding on those lower courts. However, as lower courts anticipate that a case may be brought before the Supreme Court, they tend to respect the Supreme Court's legal views in similar cases.
Examples of application of the Aarhus Convention by the Supreme Court with regard to standing of environmental non-governmental organizations:
Judgment of the Supreme Court No. 5 Sžp 41/2009, of 12 April 2011:
In the opinion of the Supreme Court, international legal obligations (i.e. the Aarhus Convention) *"ultimately have the* ***effect of undermining the classical concept of standing of individuals in proceedings before administrative authorities by granting the status of party to proceedings to the public or in some cases to the public concerned*** *with environmental protection."* The Supreme Court then stated as follows: *"...****only such an interpretation of procedural law (...) that enables an environmental organization such as the applicant to challenge a decision taken in an administrative procedure, which may be contrary to Community law in the field of the environment, in the court (…) will take account of the objectives of Article 9(3) of the Aarhus Convention****, as well as the objective of effective judicial protection of the rights conferred by Community law."*
Judgment of the Supreme Court No. 3Sžp 30/2009, of 2 June 2011:
"In the light of the judgment of the Court of Justice of the European Union C-240/09 of 08.03.2011, the panel of the appellate court [the Supreme Court], by an extensive euro-conform interpretation (…) assumed that the applicant (…) had the same scope of rights as he would have had in a position of a party to the proceedings. The party to the proceedings pursuant to § 14 par. 1 of the Administrative Procedure Code is the person who is the bearer of a legal right, legally protected interest or obligation (which results from a substantive law) and such a right, legally protected interest or obligation is a matter for the administrative authority to decide. The national authority must always strive for a euro-conform interpretation of national law (interpretation in conformity with Community law). ***The national court may, by means of a euro-conform interpretation, fill in the gaps in national law.*** *However, the Court of Justice of the European Union stated that Article 9 para. 3 of the Aarhus Convention has no direct effect in European Union law,* ***it was necessary to broaden the above definition of a party to the proceeding by a broad interpretation****, and* ***the same range of rights as a party to the proceeding is required to be granted to other persons*** *(in particular the right to bring an action designed to ensure the protection of rights)* ***in order to ensure effective protection of the environment****."*
Example of application of the Aarhus Convention by the Supreme Court with regard to access to information:
Judgment of the Supreme Court No. 3 Sži 22/2014, of 9 June 2015:
"The Supreme Court of the Slovak Republic points out that in the case under review ***the applicability of the provisions of the Aarhus Convention to the present case cannot be ruled out, as the Slovak Republic has recognized its precedence over laws*** *(the Aarhus Convention was published in the Collection of Laws under No. 43/2006 and in the "priority clause" was referred to as an international agreement, which in accordance with Article 7 par. 5 of the Constitution of the Slovak Republic takes precedence over laws). The Aarhus Convention enshrines in Art. 4 par. 3 and 4, the possibility of refusing access to information when, after the evaluation of individual points, the required information cannot be excluded according to any of the above. At the end of Art. 4 of the Aarhus Convention it is stipulated that the grounds for refusal must be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment. According to Art. 2 par. 3 of the Aarhus Convention, the content of information (publication of a document from the preliminary safety report) is precisely information on the impact of Mochovce nuclear power plant activities on individual components of the environment, i.e. water, soil, landscape, landscape, energy, emissions. According to Art. 4 par. 4 letter D/ second sentence of the Aarhus Convention, information on emissions that is important from the point of view of environmental protection must be made available. The defendant refused to provide all the requested information and also confirmed the non-disclosure of information regarding emissions. In the contested administrative decisions, the defendant did not state the reason why the requested information was not provided in its entirety and did not state the reason why there was not the possibility of its partial disclosure, which is also envisaged by the Aarhus Convention in Art 4 par. 6. The principle of confidentiality of this specific information, the disclosure of which could indeed jeopardize established interests, is enshrined here, but the remaining information is to be disclosed.* ***The analysis of the Aarhus Convention shows no reason, on the one hand, to reject the application of the Aarhus Convention itself*** *and, on the other hand, to refuse to disclose environmental information relating to the interim safety report."*

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

Parties to the administrative procedure can directly rely on international environmental agreements.
According to Article 7 paragraph 2 of the Constitution *the legally binding acts of the European Union shall have priority over the laws of the Slovak Republic.*
According to Article 7 paragraph 5 of the Constitution *the international treaties on human rights and international treaties for whose exercise a law is not necessary, and international treaties which directly confer rights or impose duties on natural persons or legal persons and which were ratified and promulgated in the way laid down by a law shall have precedence over laws.*
The Parliament of the Slovak Republic agreed to the Aarhus Convention and the convention became valid for the Slovak Republic on 5 March 2006. The Aarhus Convention became part of the national legal system as an international treaty on human rights which has precedence over laws by being published in the Collection of Acts of the Slovak Republic under No. 43/2006 Coll.
According to the case law of the Court of Justice of the European Union the Aarhus Convention is an integral part of the legal order of the European Union. National courts must also take into account the provisions of the Aarhus Convention, which do not have "direct effect" and are not sufficiently specific and precise. National courts are required to interpret the national law *"to the fullest extent possible"* in accordance with *"the objective of effective judicial protection of the rights conferred by EU law"* (Case C-240/09, Lesoochranárske zoskupenie VLK).
There are several decisions of the Supreme Court (see above) and lower courts in which courts interpreted provisions of national law in accordance with the Aarhus Convention in order to achieve the objectives of the Aarhus Convention – e.g. access to environmental information or access to justice of the members of public (e.g. non-governmental organizations). Based on these court decisions, the public authorities subsequently applied the Aarhus Convention in administrative proceedings, interpreted the national law in conformity with the Aarhus Convention and EU law and granted the rights arising from the Aarhus Convention to non-governmental organizations.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

The Slovak court system consists of:
54 district courts (*okresné súdy),*
8 regional courts (*krajské súdy*),
Specialised Criminal Court (*Špecializovaný trestný súd*),
Supreme Court (*Najvyšší súd*),
Constitutional Court (*Ústavný súd*).

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

The court agenda can be divided into civil and commercial matters, criminal matters and administrative matters.

The courts rule on criminal and civil matters and review the legality of decisions made by administrative bodies. Judges sit on panels (chambers) unless the law prescribes that the matter is to be decided by a single judge.
In civil matters courts decide on rights and disputes arising from Civil Code, Commercial Code and other legal regulations in the sphere of private law – e.g. cases concerning personality rights, privacy or ownership rights and cases when someone infringes these rights (these typically concerns emissions of noise, chemical substances etc.).
In criminal matters courts decide on guilt and punishment for criminal offences defined in the Criminal Code.
In administrative cases, courts review the legality of decisions or measures of public authorities or they can order the public authority to issue a decision when the public authority remains inactive.
The Constitutional Court has the power to review the constitutionality of any legislation. In addition, the Constitutional Court can hear individual complaints against violations of constitutional rights by any other public authorities (including other courts), subject to exhaustion of other remedies. When the Constitutional Court finds that a particular piece of legislation was adopted in violation of the constitution, it has the power to annul such legislation. After the exhaustion of all legal remedies, the Constitutional Court can review the lower court's decision – a party has to file a constitutional complaint invoking infringement of a specific constitutional right by the court decision. If the Constitutional Court finds that the constitutional right was violated by decision of other court (or a public authority), it has the power to annul such a decision.

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

There are no special courts, tribunals or expert judges to decide environmental cases in Slovakia. Administrative cases related to environmental matters are decided by administrative panels (chambers) of regional courts and panels (chambers) of the administrative division of the Supreme Court.
In environmental cases, specific expert knowledge from the environmental field is often needed. In civil cases, for example cases concerning infringement of property rights by emissions (*imisie),* expert opinions are used, which are often decisive for the case.

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

Administrative courts have cassation powers. They can annul a decision of public authority and send the case back for a new proceeding.
However, there are two exceptions. In access to information cases, in addition to annulling the decision, the courts have a discretionary power to order disclosure of the information requested. When reviewing the decisions imposing administrative sanctions (e.g. penalties), the courts may, in addition to cancelling the decision, also moderate the sanction. The courts may change the type or amount of the sanction (e.g. amount of penalty), if this sanction is disproportionate to the nature of the act or would be of a liquidating nature for the plaintiff, or refrain from imposing a sanction if the purpose of administrative punishment can also be achieved by the hearing of the case itself.
In environmental matters the court may act only on the basis of a motion - a petition (complaint). The court may not initiate court proceedings in environmental matters on its own motion.
However, courts have discretion in assessing evidence. According to the procedural codes, the court evaluates the evidence at its discretion, each piece of evidence individually and all pieces of evidence in their mutual connection. The expert opinion is not binding on the judge. It is considered as part of the evidence. The court evaluates all the evidence including the expert opinion at its discretion.
The courts also have a certain discretion in awarding costs. For example, the administrative court may decide not to reimburse all or part of the costs if there are "grounds for special consideration". The administrative court must grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be "reasonably demanded".

1.3. Organisation of justice at administrative and judicial level

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

The system of administrative procedure in Slovakia is generally regulated by the Administrative Procedure Code (Act No. 71/1967 Coll.) and specific acts in various areas of public administration, including environmental protection and its specific branches (nature and landscape protection, water protection, air protection, waste management, forest protection, EIA and IPPC procedures etc).
The Act No. 525/2003 Coll. on the state administration of environmental care sets out the structure and competences of environmental authorities. According to this act the state administration bodies for the protection of the environment are:
Ministry of the Environment,
District Offices in the seat of the region,
District Offices,
Slovak Environmental Inspectorate,
municipalities (perform state administration to the extent stipulated by special laws).
The Ministry of the Environment manages and controls the performance of the state administration, which is performed by the district offices in the seat of the region and the Slovak Environmental Inspectorate, performs public administration to the extent provided by special regulations (e.g. in EIA cases subject to mandatory assessment), decides on an appeal against the decision of the district office in the seat of the region etc.
District offices act as territorial environmental authorities in most environmental administrative cases.
The district office in the seat of the region is the appellate body in matters on which the district office or municipality decides in the first instance.
The Slovak Environmental Inspectorate is generally a specialized supervisory body performing state supervision in matters of environmental protection, but it also performs public administration and decision-making in the field of integrated pollution prevention and control.
Municipalities perform certain powers in the field of air protection, waste management, tree protection, etc.
According to the Forest Act, state administration in the field of forestry is performed by the Ministry of Agriculture, the district office in the seat of the region, the district office and the Slovak Forestry and Wood Inspectorate.

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

Administrative environmental decisions can be taken to court after the administrative appeal has been exhausted and a decision on the appeal has been taken. As a general principle of Slovak administrative law, it is possible to file an appeal against administrative decisions to a superior administrative body. The administrative appeal to a superior administrative body must be exhausted before the administrative decision can be further appealed before the court. But there is an exception. The plaintiff is not obliged to exhaust the administrative appeal in a situation where there is no possibility of administrative appeal, because of an explicit regulation by law. According to § 7a of the Code of the Administrative Judicial Procedure, the obligation to exhaust the administrative appeal does not also apply to the "interested public", if it was not entitled to file an administrative appeal. This applies to cases where the "interested public" does not have the status of a "party to the proceedings", but another status in the proceedings that does not include the right to file an administrative appeal (e.g. "participating person").
Similarly, the administrative remedies have to be exhausted before taking a case to administrative court, also in case of omissions (illegal inaction) of the administrative authorities. The plaintiff must exhaust a "complaint of inaction" pursuant to a special law or a complaint to the prosecutor's office.

The final ruling of the administrative court is usually issued 1 – 2 years after the case was taken to court. The ruling of the first instance (regional) administrative court can be further reviewed on the basis of a cassation complaint by the Supreme Court. The procedure before the Supreme Court usually lasts about 1 year.

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

There are no special environmental courts. The regional courts (administrative division) review all administrative decisions, including administrative decisions related to the environment. There is a possibility to file a cassation complaint against their decision to the Supreme Court.

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

It is generally possible to file an appeal against administrative decisions, including the environmental ones, to a superior administrative body (§ 53 of the Administrative Procedure Code).

The district office in the seat of the region decides on the appeal against the decisions of the district office. The Ministry of the Environment decides on appeals against decisions of the district office in the seat of the region.

Administrative decisions can be taken to court only after the appeal has been decided (with above mentioned exceptions).

Courts review both the procedural and the substantive legality of administrative decisions.

The judgments of regional courts can be reviewed, on the basis of cassation complaint, by the Supreme Court. The cassation complaint is considered to be an extraordinary remedy, as it does not postpone the legal force of the first instance decision.

The Supreme Court may, on the motion of the complainant, grant a cassation complaint the suspensive effect, if the legal consequences of the decision of the regional court would pose a threat of serious harm and the granting of a suspensive effect is not contrary to the public interest (§ 447 of the Code of the Administrative Judicial Procedure).

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

In addition to the administrative appeal against the administrative decision, there are some extraordinary remedies under administrative law.

If the decision of the administrative body is illegal, anyone (including the party to the proceedings) may initiate extra-appellate proceedings (*mimo-odvolacie konanie*) by applying for the extra-appellate review of an administrative decision after the expiry of the time limit for a proper appeal. Upon this application, the superior administrative body may annul the illegal decision of the subordinate administrative body.

Administrative proceedings terminated by a decision which is valid can be renewed (*obnova*) at the request of a party to the proceedings if

new facts or evidence have emerged which could have had a significant effect on the decision;

the decision depended on the assessment of a preliminary question decided otherwise by the competent authority;

due to maladministration by an administrative authority, a party was deprived of the opportunity to participate in the proceedings, if this could have had a material effect on the decision;

the decision was issued by the excluded (e.g. biased) authority

the decision is based on evidence which has been shown to be false or the decision has been obtained through a criminal offence.

The administrative authority must order the renewal of the proceedings for the reasons set out above if there is a general interest in doing so.

According to the Code of the Administrative Judicial Procedure a party to the administrative court proceedings may bring an action for renewal of the proceedings (*žaloba na obnovu konania*) against a valid decision of the administrative court if

a decision has been rendered against a party to the proceedings as a result of a criminal offence by a judge, another party to the proceedings or a person participating in the proceedings,

the European Court of Human Rights ruled that the decision of the Administrative Court had violated the fundamental human rights of the party to the proceedings and that the serious consequences of this violation had not been remedied by satisfaction,

the decision of the administrative court is contrary to the decision of the Court of Justice of the European Union, the Council of the European Union or the Commission, which is binding on the parties.

Slovak national courts have the possibility, and in some cases obligation, to ask the Court of Justice of the European Union under Article 267 of the Treaty on the Functioning of the European Union questions on the interpretation or validity of European law (introduce a preliminary reference). The article states that if such a question arises in proceedings before a court of a Member State whose decision cannot be challenged under national law, that court must refer the matter to the Court of Justice of the European Union. The only exceptions are situations where the interpretation of European Union law does not create problems in its context (*acte clair*) or where the uncertainty of interpretation has already been overcome by the case-law of the Court (*acte éclairé*).

According to § 100/1/a of the Code of the Administrative Judicial Procedure the administrative court must suspend the proceedings the preliminary reference to the Court of Justice of the European Union has been made. If a party to the court proceedings requests that the court suspend the proceedings and refer the matter to the European Court of Justice, the court must state why the application has been rejected if the application is rejected.

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

Mediation is a voluntary, confidential process in which a neutral mediator helps the disputing parties to negotiate a settlement. The mediation process is regulated by Act No. 420/2004 Coll. on mediation. Mediation is suitable for resolving disputes and is mostly used in civil matters No one can force the other party to take part in the mediation, but in some cases the mediation can be initiated by a court - the court can inform the parties about the mediation, call on the parties to try mediation, or even order the first meeting with the mediator. Once the parties have agreed in the mediation, they conclude an agreement. The agreement which arose as a result of mediation is in writing and is binding on the persons involved in mediation. On the basis of the agreement, the creditor may file a motion for judicial enforcement, if this agreement is written in the form of a notarial record or approved as a settlement before a court or an arbitration tribunal.

However, mediation is practically never used in environmental matters.

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

A person may file a motion for the administrative section of the public prosecutor's office, in which he/she asks the public prosecutor to file the “objection” (*protest*) against an illegal administrative decision. On the basis of this motion the public prosecutor can file a *protest* against the illegal administrative decision and propose to the authority which issued the decision to annul it. If neither this body nor the superior body accepts the *protest*, the prosecutor may file a lawsuit against the illegal administrative decision. It is however fully in the discretion of the prosecutor whether he/she will do so.

The prosecutor is also entitled to file an action against the illegal inaction (omission) if the public administration body has remained inactive even after the prosecutor has informed the public administration body of its illegal inaction.

The Ombudsperson deals with all cases where administrative bodies act or omit to act in breach of the law, principles of the democratic state of law, or principles of good administration. This also covers environmental cases. The Ombudsperson examines citizens' petitions alleging that their rights have been violated. If the petition concerns a valid administrative decision of a public authority that is considered illegal by the Ombudsperson, he/she may refer the case to the Public Prosecutor's Office, which may lodge a protest against the illegal decision.

The Ombudsperson may initiate its inquiry *ex officio*. In 2016, the Ombudsperson conducted an inquiry and published a report on compliance with environmental protection in the permitting of small hydropower plants in Slovakia. The report indicates errors in the permission processes for the construction of small hydropower plants in Slovakia.
However, even if the Ombudsperson concludes that the administrative authority has violated the law, he/she may only recommend to the authority to take corrective measures, not impose them. These bodies are obliged to inform the Ombudsperson on the measures undertaken. If not respected, the ombudsperson may contact a superior authority or the government and inform the general public. The Ombudsperson cannot interfere with the decision-making activities of the courts.

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)?

The general concept for standing in the administrative judiciary is generally based on the impairment of right theory.
According to § 178/1 of the Code of the Administrative Judicial Procedure the plaintiff who has a standing in the administrative judiciary is a natural person or legal entity who claims that, as a party to an administrative proceeding, he has been deprived of his rights or legally protected interests by a decision of a public administration body or a measure of a public administration body.
However, based on the effects of the Aarhus Convention and EU law, national law established a special standing for the “interested public”.

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

The EIA process is not finalized by a development consent (permit) in the Slovak legal system, but by an “EIA statement”, which represents a binding basis for subsequent development consent. However, decisions issued in the EIA procedure can be challenged and reviewed separately in the administrative court.
Act No. 24/2006 Coll. on Environmental Impact Assessment (EIA Act) regulates the procedure of environmental impact assessment. The projects listed in Annex no. 8 of the EIA Act are subject to EIA procedure and are divided into those that are subject to obligatory EIA assessment and those that are subject to the screening procedure. The outcome of the screening procedure is a decision as to whether the proposed project will be subject to obligatory EIA assessment or not.
The EIA procedure is an administrative proceeding regulated by the Administrative Procedure Code.
In the EIA procedure, the parties to the administrative proceedings are those whose rights, obligations or legally protected interests may be affected in the proceedings.
The status of a party to the proceedings also belongs to the “public concerned”, if it meets the legal conditions (set out in § 24 par. 2 to 5 of the EIA Act). The public concerned has the status of a party to the obligatory EIA assessment procedure and to the screening procedure (and subsequently the status of a participant in the permitting procedure for the proposed project) if it submits a reasoned written opinion during one of the stages of the EIA procedure (project proposal, scoping phase, evaluation report) and attaches document formalities (statute in the case of NGOs).
The public concerned can also become a party to the proceedings by lodging an appeal against an administrative decision in the EIA procedure.
Anyone (including natural persons or NGOs) can become the “public concerned” and party to the proceedings if they meet the above mentioned conditions.
The party to the proceedings may file an administrative appeal against the decision from the EIA procedure, which is decided by the superior administrative body. An administrative appeal may be lodged against the decision in the screening procedure as well as against the decision in obligatory EIA assessment procedure – so called “final EIA statement”.
The public concerned, which has participated in the EIA procedure (in the screening procedure or in obligatory EIA assessment procedure) and has exhausted an administrative appeal against the administrative decision, may bring an administrative action within the administrative judiciary against the valid decision in the screening procedure as well as against the decision in obligatory EIA assessment procedure (final EIA statement).

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.)

Legal standing in administrative proceedings:
Legal standing (right to be a party to the proceedings) in the administrative proceedings is generally regulated by the Administrative Procedure Code. However, some special environmental laws regulate the standing in administrative proceedings (and define the status of a party to the administrative proceedings) in a different way from the general regulation in the Administrative Procedure Code. These laws include, for example, the Building Act, the Nature Conservation Act, the IPPC Act or the EIA Act.
In administrative proceedings, the basic principle of "standing" is that the rights or obligations of a party to the proceedings may be possibly directly affected by an administrative decision.
According to § 14 par. 1 of the Administrative Procedure Code *the party to the proceedings is the person*
whose rights, legally protected interests or obligations are to be decided on,
whose rights, legally protected interests or obligations may be directly affected by the decision;
who claims that he/she may be directly affected by the decision in his/her rights, legally protected interests or obligations, until the contrary is proved.
This general rule is modified by some sectoral acts, e.g.:
Act no. 50/1976 Coll. **Building Act**, which regulates the issuing of permits for many projects with significant impact on the environment, includes autonomous definitions of parties to the administrative proceedings for issuing the land use and building permits. According to the Building Act, natural and legal persons whose ownership or other rights to land or buildings, as well as to neighbouring land and buildings, including flats, may be directly affected by the decision are also parties to the proceedings. The provision of § 140c par. 8 of the Building Act stipulates that the person who was not a party to the proceedings also has the right to appeal against a permit on the location of a building, a permit on the use of land, a building permit and a permit on the use of a building, which was preceded by a screening procedure or an obligatory EIA assessment procedure under the EIA Act. By filing an appeal, the person becomes a party to the proceedings (and subsequently may bring an action against the permit in court). But this person can only object in the appeal that the permit is inconsistent with the content of the screening decision or with the content of the final EIA statement.
Act no. 543/2002 Coll. on nature and landscape protection (**Nature Conservation Act**) regulates, inter alia, permitting interventions in protected parts of nature or in the conditions for the protection of protected species of animals and plants. In addition to the applicant for a permit, the party to the proceedings is also an association (NGO), whose subject of activity for at least one year is nature and landscape protection and which has submitted a preliminary and general application for participation in the proceedings is a party to the proceedings if it has confirmed its interest in being a party to the individual administrative proceedings initiated.
Act no. 39/2013 Coll. on **integrated environmental pollution prevention and control** regulates integrated permitting of projects with a significant impact on the environment. In addition to the parties to the proceedings pursuant to the Administrative Procedure Code (i.e. persons whose rights may be directly affected or who claim that their rights may be directly affected), the party to the proceedings is also the municipality in which the permitted operation is located or is to be located, and the public concerned. The public concerned is, inter alia, defined as a legal person (including NGO) supporting the protection of the environment that was established at least two years before applying as a party to the proceedings. The law explicitly stipulates that this organization is

considered to be a person whose right to a favourable environment may be affected by the administrative decision on permit. The public concerned must become a party to the proceedings on the day of delivery of the written application to the Slovak Environmental Inspectorate submitted after the publication of the application for a project permit.
Act No. 24/2006 Coll. on **environmental impact assessment (EIA Act)** is very important for access to justice, because by participating in the EIA procedure the public becomes the “public concerned” and thus becomes a party to all subsequent administrative proceedings on project authorization (i.e. permit proceeding under the Building Act, IPPC Act, Atomic Act, Mining Act, Act on Forests, Nature Conservation Act etc.).
In particular, by submitting a reasoned written opinion during one of the stages of the EIA procedure (project proposal, scoping phase, evaluation report) or by lodging an appeal against a decision in a screening procedure or against final EIA statement, the public (which means “anyone” - any natural or legal person including NGO) expresses its interest in the project and thus becomes a “public concerned” that has
the status of a party to the proceedings under the EIA Act (EIA procedures, i.e. screening procedure and obligatory EIA assessment procedure) and also the status of a party in the subsequent administrative proceedings on project authorization regulated by sectoral laws (e.g. permit proceeding under the Building Act, IPPC Act, Atomic Act, Mining Act, Act on Forests, Nature Conservation Act etc.).
In particular, the term “public concerned” is defined by the EIA Act as the public (which means anyone - any natural or legal person including NGO) affected or likely to be affected by environmental proceedings, or having an interest in environmental proceedings.
According to § 24 par. 3 of the EIA Act, the public has an interest in the project and in the proceeding for authorization of the project if it submits reasoned written opinion during one of the stages of the EIA procedure (project proposal, scoping phase, evaluation report).
The EIA Act further expressly provides that a non-governmental organization promoting the protection of the environment and meeting the requirements laid down in the EIA Act (i.e. submitting a reasoned written opinion during one of the stages of the EIA procedure and submitting of a statute of NGO) has an interest in such proceedings and thus is a public concerned.
Individuals can also join in a citizens' initiative and submit a joint opinion. According to § 24 par. 6 of the EIA Act, a citizens' initiative is at least three natural persons over the age of 18 who sign a joint opinion on project. The citizens' initiative must submit a list of its members, which must include the names and surnames, permanent residence, year of birth and signatures of the persons supporting the joint position and who is the representative of the citizens' initiative.
According to § 24 par. 2 of the EIA Act, the right of the public concerned to a favourable environment may be directly affected by the authorization of the proposed activity or its amendment or the subsequent implementation of the proposed activity or its change. This provision guarantees that the public concerned may, in administrative or judicial proceedings, also challenge a breach of substantive law, not just a breach of procedural law.
There is no special provision concerning the possibility of the foreign NGOs to participate in the environmental administrative proceedings. Foreign NGOs should be able take part in these administrative proceedings when they meet the same requirements as the Slovak ones.
Legal standing in court proceedings:
The Code of the Administrative Judicial Procedure ensures the right of access to the court for “the interested public”. The term “interested public” may have a different meaning than the term “public concerned” mentioned above.
According to § 42 par. 1 of the Code of the Administrative Judicial Procedure, if the “interested public” has the right under a special regulation to participate in administrative proceedings in environmental matters, it is entitled
to bring an action before the court against administrative decision or administrative measure
to bring an action before the court against illegal inactivity of the public authority,
to bring an action before the court against a generally binding regulation (e.g. zoning plan regulating land use and building permissions).
This means that according to the Code of the Administrative Judicial Procedure, the “interested public" is a person who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws.
The “interested public” may be a natural person, legal entity, local civic association, or environmental non-governmental organization. In practice, there are also cases where both the municipality and the foreign legal entity (foreign environmental NGO) have become “interested public”.
In this context, it is important how the “interested public” is defined in the sector-specific laws governing administrative proceedings in the field of the environment.
In order for a member of the public to be the “interested public” within the meaning of the Code of Judicial Administrative Procedure and to have the right to bring an action before the court, he/she must satisfy the conditions laid down. In particular, the fulfilment of the condition that a member of the public has a “right to participate in administrative proceedings pursuant to a special regulation” is essential. The “right to participate in administrative proceedings” is a broader concept than a status of a “party to the administrative proceedings”. It is a difference compared to the previous legislation, where legal standing in proceedings before the administrative court was limited exclusively to a “party to the administrative proceedings”.
The “right to participate in administrative proceedings” thus includes
the right to be “a party to the proceedings” (e.g. § 82 of Act No. 543/2002 Coll. on nature and landscape protection, § 24 of Act No. 24/2006 Coll. on environmental impact assessment, § 9 of Act No. 39/2013 Coll. on integrated pollution prevention and control),
the right to be a “participating person”, which has a narrower scope of rights than a “party to the proceedings” (Section 67 of Act No. 326/2005 Coll. on forests in conjunction with the provisions of Section 15a of the Administrative Procedure Code),
the right of “other participation” (e.g. participation in approving of land use plans (zoning plans) according to § 12 to 18 of the Building Act, participation in approving of the air protection plan according to § 10 of Act No. 137/210 Coll. on air, participation in approving of the river basin management plan according to § 13 of Act No. 354/2004 Coll. on water).
According to § 7 letter (a) of the Code of the Administrative Judicial Procedure, the party to the proceedings must exhaust ordinary remedies against the challenged administrative decision (i.e. administrative appeal) before bringing an action before the court. However, the law explicitly states that the obligation to exhaust all ordinary remedies will not apply to the “interested public” if the interested public has not been entitled to an ordinary remedy (appeal). In cases where the “interested public” does not have the status of a “party to the proceedings” according to a special regulation, but “another form” of participation in the proceedings (e.g. a “participating person”), it cannot fulfil the requirement to exhaust ordinary remedies (appeal). The requirement to exhaust the ordinary remedies (appeals) therefore does not apply to the “interested public” in this case.
According to § 178 par. 3 of the Code of the Administrative Judicial Procedure, the “interested public” is entitled to bring an administrative action before a court against a decision of a public authority or a measure of a public authority if it claims that the public interest in the field of the environment has been violated.

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

According to the Constitution, everyone has the right to legal assistance in court proceedings, or proceedings before other state or public administration bodies from the start of the proceedings, under conditions laid down by law. Anyone who declares that he does not have a command of the language in which the proceedings are conducted has the right to an interpreter (Article 47 par. 2 and 4).

In the opinion of the Constitutional Court, the right to an interpreter does not guarantee the interpretation exclusively into the mother tongue. It is sufficient if the interpretation is in a language in which the person is able to communicate. A necessary condition for the right to an interpreter is a declaration by the person that he or she does not speak the language of the proceedings.
According to the Code of the Administrative Judicial Procedure the parties to the proceedings have the same rights and obligations in proceedings before the administrative court (§ 53). Everyone has the right to act before an administrative court in his or her mother tongue or in a language he or she understands.
The administrative court is obliged to ensure that the parties to the proceedings have equal opportunities to exercise their rights. Taking into account the nature and circumstances of the case, the administrative court will provide an interpreter (§ 54 par. 1). The costs of the party acting in his mother tongue or in a language which he understands will be borne by the state (§ 54 par. 2).

1.5. Evidence and experts in the procedures

Overview of specific rules in administrative environmental matters, control of the 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?

According to the Code of the Administrative Judicial Procedure, the parties are required to indicate the evidence in support of their allegations. The court must decide which proposed evidence to take.
The court does not have to accept unnecessary or irrelevant motions. In this case, however, the court is obliged to state the reasons for which evidence was not taken.
The court may also take evidence other than that proposed if it considers it necessary for a decision in the case.
The court is not bound by the facts established by the public authority and may itself take evidence it considers necessary for a decision on the case or to decide on administrative sanctions, on actions against inaction of a public authority or on actions against unlawful intervention of a public authority.
The court evaluates the evidence at its discretion, each piece of evidence individually and all pieces of evidence in their mutual connection.

2) Can one introduce new evidence?

In administrative judicial procedure there is no limited period of time for introducing new evidence, until the end of the court proceedings. However, in the case of action against administrative decision all the claims must be formulated within the two-month period that is reserved for bringing an action.

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

The parties and the court can ask an expert for expert opinions. The expert can be appointed by the court or hired by the party. Parties may submit expert opinions to the court. The rules for experts are set out in the Act No. 382/2004 Coll. on experts, interpreters and translators.
There is publicly available list of experts on the website of the Ministry of Justice.

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

The expert opinion is not binding on the judge. It is considered as part of the evidence. The court evaluates all evidence including the expert opinion at its discretion.
The expert can only express an opinion on issues related to his area of expertise, not on legal issues. Legal issues are considered by the court.
According to the law, the expert must describe in the expert opinion how he came to the conclusions. The expert opinion must make it possible to examine its content and verify its validity.
According to the Code of the Administrative Judicial Procedure, the credibility of any evidence taken may be questioned. If the court does not respect the expert opinion, it has to give due reasons for it in the court decision.

3.2) Rules for experts being called upon by the court

The court calls upon the experts on the proposal of the parties to the proceedings or on its own initiative. The parties may comment on the selection of the expert and on the questions to be answered in the expert's opinion. If the expert's report contains inconsistencies, the parties may request that another expert's report be drawn up to verify the conclusions of the original report. According to the law, the expert is excluded if, due to his relationship to the matter, to the party to the proceeding or to another person to whom the expert opinion relates, it is possible to have doubts about his impartiality. If there is a reason to exclude an expert, the expert opinion cannot be used as evidence.

3.3) Rules for experts called upon by the parties

The expert opinion submitted by the parties is of the same relevance as the opinion requested by the court. Each party may select an expert from the official lists of experts and ask him to draw up an expert opinion.

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

The expert is entitled to a fee for the provision of an expert opinion. If the expert has been appointed by a court, the rules for the fee and the amount of the fee are set by the Regulation of the Ministry of Justice No. 491/2004 Coll. on the remuneration, reimbursement of expenses and compensation for loss of time for experts, interpreters and translators. If the expert opinion was ordered by a party to the proceedings, the expert's fee is determined by a contract between the expert and the party to the proceedings.

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

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

According to the Code of the Administrative Judicial Procedure, the plaintiff must be represented by an attorney in court proceedings within the administrative judiciary, including cassation complaint proceedings (before regional courts and the Supreme Court).
But there are several exceptions to this general rule. The plaintiff does not have to be represented by an attorney if he/she, or his/her employee or the member representing him/her in court, has a university degree in law. Additionally, the plaintiff does not have to be represented by a lawyer, for example, in proceedings concerning administrative sanctions (e.g. fines), actions against unlawful inaction by a public authority or in proceedings concerning access to information (§ 49 of the Code of the Administrative Judicial Procedure).
The plaintiff does not have to be represented by a lawyer in most of civil court proceedings, e.g. proceedings concerning the protection of property rights and rights of neighbours under the Civil Code.
According to the Code of the Civil Judicial Procedure in the civil court proceedings on the appeal on the points of law (*dovolanie*) the appellant must be represented by an attorney.
The applicant must be represented by an attorney in proceedings before the Constitutional Court.
A list of attorneys and their contact details is published on the website of the Slovak Bar Association. Here, anyone can search for an attorney according to his/her name, legal specialisation (including environmental law), his/her place of residence, language, registration number etc. When choosing an attorney, all the data needed is displayed, including phone contact, e-mail address, contact on law firm etc.
Anyone can contact an attorney on the list and ask him or her for legal assistance.
Lawyers specializing in environmental law often work with environmental NGOs. Thus, environmental NGOs can provide people with contacts of environmental lawyers.

There are only several lawyers in Slovakia dealing with environmental public interest law cases and their capacities are limited. There are one or two NGOs that also deal with environmental public interest law cases, but their capacities are also limited.

1.1. Existence or not of pro bono assistance

There are several non-governmental organizations in Slovakia that deal with environmental public interest law cases and can arrange and pay for legal assistance pro bono in these cases (e.g. VIA IURIS, Lesoochranárske zoskupenie VLK).

There is a Pro Bono Lawyers programme run by the Pontis Foundation, that connects lawyers with NGOs that need legal assistance. Under this programme, it is also possible to provide free legal assistance in environmental cases.

In addition to the above-mentioned pro bono legal aid, free legal aid in civil, administrative and other matters (including environmental cases) is provided by the state Legal Aid Center – please see the chapter 1.7.3 below.

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

The above-mentioned organizations assess cases at their own discretion, on the basis of which they decide to provide pro bono legal aid.

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

As follows from the previous answers, the applicant for pro bono assistance can address the Legal Aid Center, some NGOs or the Pro Bono Programme.

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

As mentioned above, the list of experts is published on the website of the Ministry of Justice.

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

VIA IURIS
Lesoochranárske zoskupenie VLK
Združenie Slatinka
Priatelia Zeme – CEPA
Slovenská ornitologická spoločnosť/BirdLife Slovensko
Greenpeace Slovensko

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

Greenpeace
Friends of the Earth
ClientEarth
CEE Bankwatch Network
Justice and Environment

1.7. Guarantees for effective procedures

1.7.1. Procedural time limits

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

The Administrative Procedure Code provides a 15-day time limit to challenge administrative decisions by an administrative appeal, which can be filed by a party to the administrative proceeding (§ 54 par. 2).

According to the Administrative Procedure Code (§ 65), a decision which is legally valid may, on its own or other initiative, be reviewed by an administrative authority superior to the administrative authority which issued the decision. This is called an “extra-appellate” review procedure. Superior administrative authority may annul or amend the decision within 3 years of its validity.

2) Time limit to deliver decision by an administrative organ

Generally, the administrative authority is obliged to deliver administrative decisions within 30 days from the beginning of the proceedings; in particularly complex cases within 60 days at the latest. If, in view of the nature of the case, it is not possible to deliver administrative decisions within that period either, the period may be extended by the appellate authority as appropriate (§ 49 par. 2 of the Administrative Procedure Code).

It is not possible to sanction the administrative authority for delivering a decision late. A person may, however, claim financial compensation for loss caused by delays of the administrative authority in administrative proceeding.

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

The appeal to a superior administrative body must be exhausted before the administrative decision can be challenged before the court.

The only exception is a situation where there is no possibility of administrative appeal, because of an explicit regulation by law.

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

There are generally no specific deadlines for the courts to deliver their judgments.

However, according to the Code of the Administrative Judicial Procedure if the administrative court has granted a suspensive effect to the administrative action, it is obliged to decide on it within six months from the granting of the suspensive effect (§ 187).

A judgment must be drawn up and sent to the parties within 30 days of the date of its delivery, unless the president of the court decides otherwise for serious reasons. This period may be extended by the president of the court for serious reasons, but for a maximum of two months.

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

Time limits in administrative proceedings:

The administrative appeal must be filed within 15 days of the date of notification of the administrative decision of the public authority.

The request for renewal of the administrative proceedings must be submitted within 3 months from the day when the participant learned of the reasons for the renewal, but no later than within 3 years from the validity of the administrative decision. Within the same period, the administrative authority may order a renewal of the administrative proceeding on its own motion.

Three years after the decision has become valid, a request for renewal of the proceedings may be filed or renewal may be ordered only if the decision has been obtained through a criminal offence.

Time limits in judicial proceedings:

According to the Code of the Administrative Judicial Procedure, a natural or legal person must bring an administrative action against an administrative decision or measure within 2 months of the notification (delivery) of the decision of the public authority or the measure of the public authority. The “interested public” must bring an administrative action within two months of the validity of the decision of the public authority or the date a measure was issued by the public authority.

The cassation complaint against the first-instance decision of the regional administrative court must be filed within 1 month from the delivery of the decision of the regional court.

An action for renewal of administrative court proceedings must be brought within 3 months of the date on which the person bringing the action for renewal became aware of the reason for the renewal.
In civil court proceedings, an appeal on the points of law against the decision of an appellate court can be lodged within 2 months of the delivery of the decision of the appellate court.
In civil court proceedings, a person must file an action within the specified time limits from the origin of the legal claim, otherwise the action may be dismissed on the grounds of limitation.
According to the Civil Code, personality rights and right to privacy cannot be time-barred.
Property rights cannot be time-barred and therefore an action can be brought at any time to protect them against unlawful denial or infringement.
The right to compensation expires after two years from the day when the injured party became aware of the damage and of the person who is to be liable.
The right to compensation is time-barred no later than 3 years (or 10 years if the damage was caused intentionally) after its occurrence.
A constitutional complaint must be filed with the Constitutional Court within two months of the validity of the challenged decision.

1.7.2. Interim and precautionary measures, enforcement of judgments

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

An appeal against an administrative decision has suspensive effect. However, the public authority may exclude the suspensive effect of the appeal.
According to the Administrative Procedure Code, if the public interest urgently requests or if irreparable damage may occur to one of the parties to the proceedings if the decision is not implemented immediately, the public authority may exclude the suspending effect of the appeal.
An application for review of a decision in an extra-appellate procedure has no suspensive effect.

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

In addition to the automatic suspensive effect of the administrative appeal, the administrative authority may, at the request of a party to the proceedings or *ex officio*, order preliminary injunctive relief (interim measure). According to § 43 Administrative Procedure Code, the administrative authority may, before the end of the proceedings, order the parties to the proceedings to do something, to refrain from something or to tolerate something in order to ensure the purpose of the proceeding.

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?

It is possible for a party to submit a request for preliminary injunctive relief during the proceedings - until the end of the proceedings. There is no deadline for such a request.

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

As the appeal has suspensive effect, the administrative decision cannot be executed until the appeal body has decided on the appeal. It can only be executed if the suspensive effect of the appeal has been excluded.

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

The filing of an action against a decision of an administrative authority has no suspensive effect. Once the decision has been approved by the superior (appellate) administrative authority, it can be executed regardless of the action brought against it.
However, the court may grant suspensory effect to the action and then execution of the administrative decision is not possible.

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?

The court may, on the application of the plaintiff, grant the suspensive effect to the action – i.e. order suspension of validity of the challenged administrative decision (§ 185 of the Code of the Administrative Judicial Procedure). The court cannot order suspension of validity of the challenged administrative decision on its own motion.
The court may grant the suspensive effect to the action under the following conditions:
if there is a threat of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence due to immediate execution or other legal consequences of the challenged decision of the public authority or measure of the public authority, and granting the suspensive effect is not in conflict with the public interest,
if the challenged decision of the public authority or measure of the public authority is based on the legally binding act of the European Union, about the validity of which there are serious doubts, and there would otherwise be a threat of serious and irreparable harm to the plaintiff, and granting the suspensive effect is not in conflict with the interest of the European Union.
The court must decide on the plaintiff's application to grant suspensive effect within 30 days of receiving the defendant's statement on this application.
If the administrative court does not uphold the plaintiff's application to grant the suspensive effect, it must dismiss it by a resolution.
A cassation complaint is not admissible against the court resolution concerning the suspensive effect of the action.

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.

Generally, no fees are connected with the participation in administrative procedures in environmental matters.
But there are fees for extraordinary remedies.
There is a fee for an application for renewal of administrative proceedings or for a motion to review a decision in the “extra-appellate” proceedings (a natural person: EUR 16.50, a legal person or a natural person entitled to conduct business: EUR 165.50). This fee will be reimbursed if the renewal of proceedings is granted or if the initiative to review the decision in the “extra-appellate” proceedings has been fully successful.
Court fees are regulated by Act No. 71/1992 on court fees.
The plaintiff´s action in court is linked to the following fees:
the fee for initiating legal proceedings
the fee for an appeal or cassation complaint,
the fee for an application for suspensory effect or for injunction relief.
The court fees for administrative lawsuits are based on a flat rate regardless of the value of the case.
The court fee for filing an administrative action against a decision or a measure of a public administration body is EUR 70. The court fee for submitting a cassation complaint is EUR 140.
The court fee for filing an administrative action against a general binding regulation of a municipality (e.g. land use plan) is EUR 50. The court fee for submitting a cassation complaint is 100 EUR.
The court fee for filing a civil action to protect one’s property rights against emissions is EUR 99.50. The court fee for filing a civil action concerning claim to damages (connected to environmental pollution or devastation) is 6% from the sum that is being claimed, which is a minimum of EUR 16.5 and a maximum of EUR 16 596,50. The court fee for filing an appeal is the same.

The court fee for filing an “appeal on the points of law” is twice the fee of a legal action.
The court fee will be refunded if the court proceedings have been discontinued, if the administrative action, cassation complaint or action for renewal of the court proceedings has been dismissed or withdrawn before the case is heard.
Generally, there is no court fee for filing a constitutional complaint with the Constitutional Court. However, in legally and factually similar cases previously decided by the Constitutional Court in which the complainant, who had submitted the constitutional complaint, was not successful, the Constitutional Court orders the complainant to pay court fee of EUR 30 for the eleventh and each subsequent complaint filed by the same complainant in the same year.
If, in the proceedings before the administrative court, a party proposes the taking of evidence to which the costs relate, the administrative court may oblige him to pay a deposit. If the party to the proceedings does not pay a deposit within the time limit set by the administrative court, the administrative court will not execute the proposed evidence.
Attorneys' fees can vary significantly. There is usually an hourly fee agreed with the client, which can range from EUR 50 to 300. However, there are other options for setting a fee - a fee for full representation or a fee calculated on the basis of a lawyers' tariff (a fixed fee for each legal service provided).
Experts' fees may vary and the amount may be determined as a tariff fee (a fixed fee for each service, an hourly rate, or a percentage depending on the subject matter of the expert’s services) or a contract fee.

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

The court fee for application for injunctive relief or interim measure in civil matters is EUR 33.
There is no fee for an application for granting the suspensive effect of the administrative action and no deposit to cover any compensation is required.

3) Is there legal aid available for natural persons?

Free legal aid to natural persons in civil, administrative and other matters (including environmental cases) is provided by the Legal Aid Center.
The Legal Aid Center is an organization established by the Ministry of Justice. The Legal Aid Center provides free legal assistance to natural persons, subject to certain conditions, for example in civil and administrative matters (including environmental matters, administrative court proceedings and proceedings before the Constitutional Court). The Legal Aid Center does not provide legal assistance in criminal matters.
If a person meets the conditions for the provision of legal aid, the Legal Aid Center will issue a decision on the granting of legal aid and determine its form.
Legal aid can take the form of:
legal advice,
mediation,
representation before a court by an attorney or a lawyer of the Legal Aid Center.
Free legal aid is only available to natural persons in material need or to persons whose income does not exceed 1.4 times the subsistence level (i.e. a standard of living or wage that provides only the bare necessities of life) and therefore cannot afford legal aid.
If a person's income is higher than 1.4 times the subsistence level but does not exceed 1.6 times the subsistence level, the person is obliged to pay only 20% of the costs of legal aid and legal aid will be provided by the Legal Aid Center.
Environmental NGOs are not entitled to legal aid provided by the Legal Aid Center.
All information about the Legal Aid Center including contact information can be found here.
The application for legal assistance is available here.

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?

Associations, legal persons and NGOs are not entitled to legal aid provided by the Legal Aid Center.

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

There are several non-governmental organizations in Slovakia that deal with environmental public interest law cases and can arrange and pay legal assistance pro bono in these cases (e.g. VIA IURIS, Lesoochranárske zoskupenie VLK).
There is a Pro Bono Lawyers programme run by the Pontis Foundation, that connects lawyers with NGOs that need legal assistance. Under this programme, it is also possible to free provide legal assistance in environmental cases.
As mentioned above, free legal aid to natural persons in civil, administrative and other matters (including environmental cases) is provided by the state Legal Aid Center.

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

The general rule that the “loser party pays” applies. The losing party is therefore normally obliged to pay for the cost of the successful party as well as the cost of expert opinions and other costs of the procedure.
In the civil court proceedings, if a party succeeds on some and fails on other claims, the court will order that the costs be shared or that neither party is entitled to the costs. Exceptionally, the court in the civil court proceedings will not award costs to the successful (winning) party in the proceedings if there are “grounds for special consideration”. According to the finding of the Constitutional Court I. ÚS 168/2018 the court should apply this rule only in exceptional cases. If the court chooses to do so, neither party (successful or unsuccessful) can be ordered to pay the costs. Why the court considered the case worthy of special consideration must be sufficiently substantiated.
In proceedings within the administrative judiciary, the administrative court will award the plaintiff the right to full or partial reimbursement of the costs if the plaintiff has been successful in whole or in part. But the administrative court may also decide not to reimburse all or part of the costs if there are “grounds for special consideration”. The administrative court will grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be “reasonably demanded”. However, the Code of the Administrative Judicial Procedure explicitly stipulates that the reimbursement of legal representation costs may be granted to a public authority only “exceptionally” (as they should have their own employees – lawyers, who can represent them in the dispute).

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 Act on Court Fees stipulates that certain court proceedings and certain persons in the position of plaintiffs are exempt from the court fee (the fee for bringing the action).
The court proceedings on an action against inaction of a public administration body are, inter alia, also exempt from the court fee.
Foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, as well as municipalities and regions in proceedings in the public and social interest, are exempt from the court fee.
Municipalities in court proceedings in matters of public interest and socially beneficial interest are also exempt from the court fee.
The administrative court will, on application, grant an exemption from the court fee if the circumstances of the party to the proceedings so require.

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?

All laws and regulations are freely available here.

A summary about the rules and possibilities of access to justice in environmental matters can be found here and here.

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

In many situations, the law requires the administrative authority to inform the public or the parties to the proceedings about facts relevant to access to justice – i.e. the initiation of the proceedings, taking of the evidence, the right to access to the files, the course or termination of the proceedings. Every administrative decision must contain instructions as to whether the decision is final or can be appealed and whether the decision can be reviewed by a court. The public may also request information relevant to access to justice from administrative authorities under the Access to Information Act (Act No. 211/2000 Coll.).

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

Information about EIA procedures and all documents related to projects, plans and programmes are available online here.

Information about IPPC procedures are available online here.

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

Each administrative decision must contain instructions as to whether the decision is final or whether it can be appealed, within what period, to which authority and where an appeal can be lodged. The instruction also contains an indication of whether the decision can be reviewed by a court.

The decision of the court must contain instructions on the admissibility of the cassation complaint, on the time limit for filing a cassation complaint, on the requisites of the cassation complaint, on the mandatory representation of lawyers in the cassation proceedings or on the inadmissibility of a remedy.

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

According to the Constitution, anyone who declares that he does not have a command of the language in which the proceedings before public authorities are conducted has the right to an interpreter (Article 47 par. 2 and 4).

The general rule for the administrative procedure is that all documents and hearings are in Slovak. Documents in languages other than Slovak have to be submitted in the original and parties have to submit officially certified translation as well.

According to the Code of the Administrative Judicial Procedure, everyone has the right to act before an administrative court in his or her mother tongue or in a language he or she understands. Taking into account the nature and circumstances of the case, the administrative court will provide an interpreter (§ 54 par. 1). The costs of the party acting in his mother tongue or in a language which he understands will be borne by the state (§ 54 par. 2).

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)

As mentioned above, the EIA procedure including the screening procedure is an administrative proceeding regulated by the Administrative Procedure Code.

As mentioned above, in the screening procedure, the parties to the administrative proceedings are those whose rights, obligations or legally protected interests may be affected in the proceedings.

The status of a party to the proceedings also belongs to the “public concerned”, if it meets the legal conditions (set out in § 24 par. 2, 3, 4 and 5 of the EIA Act). The public concerned has the status of a party to the screening procedure if it submits a reasoned written opinion on the project proposal and attaches document formalities (statute in the case of NGOs).

The public concerned can also become a party to the proceedings by lodging an appeal against an administrative decision in the EIA procedure.

Anyone (including natural persons or NGOs) can become the “public concerned” and party to the proceedings if they meet the above mentioned conditions (if they submit a reasoned written opinion).

The party to the proceedings may file an administrative appeal against the screening decision (against both decisions to initiate obligatory EIA assessment as well as to not initiate it), which is decided by the superior administrative body.

The public concerned, which has participated in the screening procedure and has exhausted an administrative appeal against the screening decision, may bring an administrative action within the administrative judiciary against the valid decision in the screening procedure.

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

According to the Administrative Procedure Code, the law does not apply to the scoping procedure and thus there is no administrative proceeding for the scoping. Therefore, the scoping decision cannot be appealed or reviewed by courts independently (directly). The scoping will be subject to administrative or judicial review only together with the EIA final statement. The EIA final statement can be appealed or reviewed by courts independently.

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

As mentioned above, the public concerned may file an administrative appeal against the screening decision, which is decided by the superior administrative body. Subsequently, the public concerned may bring an action in administrative court against the valid decision in the screening procedure.

By participating in the EIA procedure (screening procedure or obligatory EIA assessment procedure), the public becomes the “public concerned” and thus becomes a party to all subsequent administrative proceedings on project authorization (i.e. permit proceeding under the Building Act, IPPC Act, Atomic Act, Mining Act, Act on Forests, Nature Conservation Act etc.).

The administrative appeal must be filed within 15 days of the date of notification of the administrative decision of the public authority (screening decision, EIA final statement, project permit).

Parties to the administrative proceedings or the “interested public” (which includes the public concerned) must bring an administrative action in court within two months of the validity of the administrative decision of the public authority.

As mentioned above, the scoping decision cannot be appealed or reviewed by courts independently (directly). The scoping will be subject to administrative or judicial review only together with the EIA final statement.

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

As mentioned above, the parties to the administrative proceedings or the “interested public” (which includes the public concerned) may bring an administrative action in court against the final project authorization (project permit, development consent) within two months of the validity of the administrative decision of the public authority.

Parties to the administrative proceedings or the “interested public” may include an individual, an NGO, or a foreign NGO.

There is no special provision concerning the possibility of the foreign NGOs to participate in the environmental administrative procedures. Foreign NGOs should be able take part in these administrative procedures when meeting the same requirements as the Slovak ones.

Judgment of the Supreme Court No. 3 Sžp 18/2012, of 12 March 2013:

In judgment No. 3 Sžp 18/2012, the Supreme Court upheld the judgment of the Regional Court in Banská Bystrica No. 23 S/113/2011, by which the Regional Court upheld the legal action of the civic association, which challenged the administrative decision not to grant the status of a party to the proceedings on the determination of the mining area (pursuant to the Mining Act) to this association. The dispute concerned whether the administrative proceeding for determining the mining area was subject to Art. 6 and Art. 9 of the Aarhus Convention, whether the decision on determination of the mining area is

“development consent” or “project permit” within the meaning of Art. 6 of the Aarhus Convention and whether the civic association should also be a party to the proceedings for the determination of the mining area, or only a party to the subsequent proceedings to permit mining activities. The civic association argued that the decision on determination of the mining area was also a decision to permit activities within the meaning of Art. 6 and Art. 9 of the Aarhus Convention and must therefore also be a party to this administrative proceeding.
The Supreme Court justified its decision with reference to Art. 6 par. 4 and Art. 9 par. 3 of the Aarhus Convention, stating: *“It is necessary to allow public participation within the meaning of Art. 6 par. 4 of the Aarhus Convention, even at a stage in the proceedings where all possibilities are open and the final outcome of the proceedings can be influenced.* ***The determination of the mining area represents the first phase in the permitting of mining activities ... access to the proceedings only in connection with the subsequent possible decision on the mining activity would be in conflict with Art. 6 par. 4 of the Aarhus Convention****. In its judgment in Case C-240/09 of 08 March 2011, the Court of Justice of the European Union set out the procedure for interpreting procedural law relating to an appeal or an action before a court in order to comply with Article 9 par. 3 of the Convention in question.* ***There is no reason to exclude the decision on the determination of the mining area from the scope of environmental proceedings****, since the subject of the authorization procedure is the extraction of gold by cyanide leaching, which is intended to be achieved by surface mining. Annex I, Part 16 of the Aarhus Convention, also lists the surface mining activity.* ***In order (for a civic association) to challenge an administrative decision in court, it must be a party to the administrative proceedings***”.

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

The courts must review both the substantive and procedural legality of the EIA screening decision, EIA final statement or the development consent (project permit).
If, in the administrative procedure, a procedural rule was infringed to such an extent that it could affect the legality of the final decision, the court must annul such decision.
Examination and verification of scientific accuracy in court proceedings is limited. According to the Code of the Administrative Judicial Procedure the courts do not review decisions of public authorities, the issuance of which depends solely on an assessment of the state of health of persons or the technical state of affairs. In the case of a decision issued by a public authority on the basis of an administrative discretion permitted by law, the administrative court will only examine whether such a decision has deviated from the limits and aspects established by law. The administrative Court does not assess the effectiveness, economy and appropriateness of a decision of a public authority (with the exception of the review of administrative sanctions).
But the court can review expert and technical findings to the extent that there is no conflict between these findings and the conclusions and reasoning of the administrative authorities.
There are no judicial procedures concerning environmental matters which the courts could start on their own motion. The courts can act solely on the basis of a motion, never on their own initiative.

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

The public can challenge before the court the valid screening decision, valid final EIA statement as well as valid development consent (project permit), e.g. the land use permit, building permit, IPPC permit, mining permit etc.
A party to the proceedings or the “interested public” (see above) may bring an action before the court if a public authority is inactive in an administrative proceeding concerning environmental matters. An action may be filed if a complaint of inaction under a special regulation or a complaint to the public prosecutor's office has been unsuccessfully exhausted. The defendant is a public authority which is obliged to issue a decision or measure, to perform an act or to initiate administrative proceedings ex officio.

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

An administrative appeal to a superior administrative authority must be exhausted before a decision can be challenged in court. The only exception is when an administrative appeal is not possible due to explicit regulation.

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?

Active participation in the EIA consultation phase of the procedure (comments, participation in the hearing) does not constitute a precondition for the right to appeal or a precondition for bringing an action in court - if a person may be directly affected by an administrative decision, he/she becomes a party to the administrative proceedings and the plaintiff without participating in the EIA consultation phase. However, by participating in the EIA consultation phase, any person (e.g. natural person, NGO) can become “public concerned” and thus also a party to the proceedings under the EIA Act or a party to subsequent permit proceedings and can subsequently bring an action against administrative decisions in court. This means that by participating in the consultation phase, persons who would not otherwise be parties to the proceedings and plaintiffs also become parties to the administrative proceedings and subsequently plaintiffs.

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

According to the Administrative Procedure Code, all parties have the same procedural rights and obligations in the proceedings. According to the Code of the Administrative Judicial Procedure, the parties have equal status in proceedings before the administrative court.

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

According to the Administrative Procedure Code, the administrative authorities are obliged to deal with each case responsibly, to handle it in a timely manner and without undue delay, and to use the most appropriate means that lead to the correct handling of the case.
The Administrative Procedure Code sets deadlines for issuing an administrative decision (see above).
The administrative court may grant suspensive effect to the action so that the execution of the challenged decision does not render the judicial review of the decision useless.
If the administrative court has granted the administrative action a suspensive effect (pursuant to § 185 letter a)), it is obliged to decide on the administrative action within six months from the date on which the resolution on granting suspensory effect was issued (§ 187 par. 1 of the Code of the Administrative Judicial Procedure).

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?

The general rules concerning the possibility for a court to grant the suspensive effect to an action against an administrative decision apply here (see above).

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

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

The public (including NGOs) may, under certain conditions, have the status of a party to proceedings under the IPPC Act. First-instance permit decision issued pursuant to the IPPC Act may be appealed. The final valid IPPC permit decision can be challenged before the administrative court.

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?

As mentioned above, in addition to the parties to the proceedings pursuant to the Administrative Procedure Code (i.e. persons whose rights may be directly affected or who claim that their rights may be directly affected), the party to the IPPC permit proceedings is also the municipality in which the permitted operation is located or is to be located, and the public concerned.
The public concerned is a person or several persons, their associations or groups who are or may be affected by the procedure for issuing a permit for a new establishment or by the procedure for issuing a permit for a substantial change in the activity of the establishment or by acting in the process of reviewing and updating permit conditions, or which has or may have an interest in such proceedings.
The public concerned is also a legal person (including NGO) supporting the protection of the environment that was established at least two years before applying as a party to the proceedings.
The law explicitly stipulates that this organization is considered to be a person whose right to a favourable environment may be affected by the administrative decision on permit.
The public concerned will become a party to the proceedings on the day of delivery of the written application to the Slovak Environmental Inspectorate submitted after the publication of the application for a project permit.
As mentioned above, by submitting a reasoned written opinion during one of the stages of the EIA procedure (project proposal, scoping phase, evaluation report) or by lodging an appeal against a decision in a screening procedure or against final EIA statement, the public (which means “anyone” - any natural or legal person including NGO) expresses its interest in the project and thus becomes a “public concerned” that has a status of a party in the subsequent administrative proceedings on project authorization regulated by the IPPC Act (and by other laws as well – the Building Act, the Atomic Act, the Mining Act, the Act on Forests, the Nature Conservation Act etc.).
A final and valid IPPC permit decision can be challenged before the administrative court, as mentioned above.
There are no special rules for foreign NGOs.

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

According to the IPPC Act any substantial change of the activity requires permission. If the Slovak Environmental Inspectorate, on the basis of the operator's notification or on the basis of the performed inspection, finds that the change is substantial, the proceeding for issuing a permit for change of activity will begin.
As mentioned above, the party to the proceeding concerning the change of activity is also the public concerned.
The public concerned in the proceeding relating to a change of activity is a person, their associations or groups who are or may be affected by the proceeding for issuing a permit for a substantial change in the activity, or which has or may have an interest in such proceedings.
The public concerned is also a legal person (including NGO) supporting the protection of the environment that was established at least two years before applying as a party to the proceedings.
The public concerned will become a party to the proceedings on the day of delivery of the written application to the Slovak Environmental Inspectorate submitted after the publication of the application for a project permit.
Following an appeal against a decision of first instance and a decision of a superior authority on an appeal, the public concerned may bring an action against a permit for a substantial change of activity before a court.

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

There is no “scoping stage” in the IPPC procedure.

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

The public can challenge a valid IPPC permit decision before a court after an administrative appeal has been filed and after the superior authority has decided on the appeal.

6) Can the public challenge the final authorisation?

The public can challenge a final and valid IPPC permit decision (see above).

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

The courts must review both the substantive and procedural legality of the IPPC permit decision.
If, in the administrative procedure, a procedural rule was infringed to such an extent that it could affect the legality of the final decision, the court must annul a permit decision.
Examination and verification of scientific accuracy in court proceedings is limited. According to the Code of the Administrative Judicial Procedure the courts do not review decisions of public authorities, the issuance of which depends solely on an assessment of the state of health of persons or the technical state of affairs. In the case of a decision issued by a public authority on the basis of an administrative discretion permitted by law, the administrative court will only examine whether such a decision has deviated from the limits and aspects established by law. The administrative Court does not assess the effectiveness, economy and appropriateness of a decision of a public authority (with the exception of the review of administrative sanctions).
But the court can review expert and technical findings to the extent if there is not a conflict between these findings and the conclusions and reasoning of the administrative authorities.
There are no judicial procedures concerning environmental matters which the courts could start on their own motion. The courts can act solely on the basis of motion, never on their own initiative.

8) At what stage are these challengeable?

The public can challenge the final valid IPPC permit before the court.
A party to the proceedings (or the “interested public” - see above) may bring an action before the court if a public authority is inactive in an administrative proceeding concerning environmental matters. An action may be filed if a complaint of inaction under a special regulation or a complaint to the public prosecutor's office has been unsuccessfully exhausted. The defendant is a public authority which is obliged to issue a decision or measure, to perform an act or to initiate administrative proceedings ex officio.

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

An administrative appeal to a superior administrative authority must be exhausted before a decision can be challenged before in court. The only exception is when an administrative appeal is not possible due to explicit regulation.

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?

Active participation in the public consultation phase of the administrative procedure (comments, participation in the hearing) does not constitute a precondition for the right to appeal or a precondition for bringing an action in court - if a person may be directly affected by an IPPC permit decision, he/she becomes a party to the administrative proceeding and may bring an action before the court without participating in the consultation phase.

However, as mentioned above, the public concerned (including environmental NGOs) will become a party to the proceedings on the day of delivery of the written application to the Slovak Environmental Inspectorate submitted after the publication of the application for a project permit.
Moreover, by submitting a reasoned written opinion during one of the stages of the EIA procedure (project proposal, scoping phase, evaluation report) or by lodging an appeal against a decision in a screening procedure or against final EIA statement, the public (which means "anyone" - any natural or legal person including NGO) expresses its interest in the project and thus becomes a "public concerned" that has a status of a party in the subsequent administrative proceedings on project authorization regulated by the IPPC Act.
A final and valid IPPC permit decision can be challenged before the administrative court, as mentioned above.

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

According to the Administrative Procedure Code, all parties have the same procedural rights and obligations in the proceedings. According to the Code of the Administrative Judicial Procedure, the parties have equal status in proceedings before the administrative court.

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

According to the Administrative Procedure Code, the administrative authorities are obliged to deal with each case responsibly, to handle it in a timely manner and without undue delay, and to use the most appropriate means that lead to the correct handling of the case.
The Administrative Procedure Code sets deadlines for issuing an administrative decision (see above).
The administrative court may grant suspensive effect to the action so that the execution of the challenged decision does not render the judicial review of the decision useless.
If the administrative court has granted the administrative action a suspensive effect (pursuant to § 185 letter a)), it is obliged to decide on the administrative action within six months from the date on which the resolution on granting suspensory effect was issued (§ 187 par. 1 of the Code of the Administrative Judicial Procedure).

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?

According to the IPPC Act, as a precautionary measure, the Slovak Environmental Inspectorate may, to the extent strictly necessary, require the operator to restrict or suspend the operation of the activity which has a significant negative impact on the environment or any of its components until the end of the proceedings.
The general rules concerning the possibility for a court to grant the suspensive effect to an action against an administrative decision apply here (see above).
The Court of Justice of the EU stated in its judgment C416/10 (*Križan*) concerning the permit under the IPPC Act issued in Slovakia: *"...exercise of the right to bring an action provided for by Article 15a of Directive 96/61 would not make possible effective prevention of that pollution if it were impossible to prevent an installation which may have benefited from a permit awarded in infringement of that directive from continuing to function pending a definitive decision on the lawfulness of that permit. It follows that the guarantee of effectiveness of the right to bring an action provided for in that Article 15a requires that* ***the members of the public concerned should have the right to ask the court or competent independent and impartial body to order interim measures such as to prevent that pollution, including, where necessary, by the temporary suspension of the disputed permit.*** *In the light of the foregoing, the answer to the fourth question is that Article 15a of Directive 96/61 must be interpreted as meaning that* ***members of the public concerned must be able,*** *in the context of the action provided for by that provision,* ***to ask the court or competent independent and impartial body established by law to order interim measures such as temporarily to suspend the application of a permit****, within the meaning of Article 4 of that directive,* ***pending the final decision****."*

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

All laws and regulations are freely available here.
As mentioned above, a summary about the possibilities of access to justice in environmental matters can be found here.

1.8.3. Environmental liability[1]

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

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

According to § 25 of the Environmental Liability Act, a party to the proceedings for the imposition of preventive measures or remedial measures is, in addition to the operator of the activity, also
the owner, manager or lessee of a property which is affected by environmental damage or on which preventive or remedial measures will be taken and implemented,
a municipality whose territory is affected by environmental damage or in whose territory preventive or remedial measures will be taken and implemented,
a natural person or legal person whose rights or obligations may be directly affected by the environmental damage,
a non-governmental organization (civic association or other organization) whose goal according to the statutes valid for at least one year is environmental protection, which has notified that an environmental damage has occurred and subsequently notified in writing its interest in taking part in the proceedings (within 7 days of receipt of the notice of initiation of the proceedings).
The right to be a party to administrative proceedings guarantees the right to bring a case before a court.

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

An administrative appeal may be filed within 15 days from delivery of the decision and an action in court within 2 months from the date of delivery of the decision on the appeal.

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

According to § 26 of the Environmental Liability Act, the owner, manager or lessee of a property that is or may be affected by environmental damage, a legal person or a natural person whose rights or obligations may be directly affected by environmental damage, or an environmental non-governmental organization (whose goal according to the statutes valid for at least one year is environmental protection) is entitled to notify the competent authority of the facts indicating that environmental damage has occurred.
The notification must be made in writing and must include in particular:
the name of the operator whose activity caused the environmental damage, if known to the notifier,
the place where the environmental damage occurred,
a description of the findings,
evidence confirming the content of the notification.

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

There are no specific requirements regarding plausibility for showing that environmental damage occurred.

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)?

The competent authority must examine the notification, request further information from the notifier, if necessary, request opinions from other authorities and request the operator to comment on the notification.
If, on examination of the notification, it is established that no environmental damage has occurred, the competent authority will “set aside” the notification and notify the notifier, accordingly, stating the reasons.
If, on examination of the notification, it is established that environmental damage has occurred, the competent authority will proceed with the procedure, notifying the notifier in writing of its reasons.
The decision must be delivered to the party to the proceedings (including the entitled environmental NGO) in accordance with the provisions of the Administrative Procedure Code.
There is no time limit set directly regarding to the notification of the decision by the competent authority to the entitled natural or legal persons (including the entitled environmental NGOs). The general deadlines for issuing the decision set out in the Administrative Procedure Code (30 days, with the option to extend it up to 60 days) apply.

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?

No extension of the entitlement to request action by competent authority is applied in cases of imminent threat.

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

The competent authority is the district office (environmental department) or the Slovak Environmental Inspectorate.
The Slovak Environmental Inspectorate is the competent authority if the environmental damage or the imminent threat of environmental damage occurred in the operations subject to the IPPC Act.
The Slovak Environmental Inspectorate also imposes fines for breach of legal obligations.

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

Before bringing an action in court, an administrative appeal against the decision must be exhausted.

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?

According to the EIA Act, the subject of transboundary impact assessments are
strategic documents proposed on the territory of the Slovak Republic, which may have a significant impact on the environment beyond state borders,
activities (projects) proposed in the territory of the Slovak Republic (listed in Annex no. 13 and the proposed activities (projects) listed in Annex no. 8 of the EIA Act), including their changes, which may have a significant impact on the environment beyond national borders,
strategic documents and proposed actions referred to in points (a) and (b), if requested by the Party concerned,
strategic documents and proposed activities carried out on the territory of another state, which may have a significant impact on the environment of the Slovak Republic,
another strategic documents and proposed action which may have a significant adverse transboundary impact if agreed between the Party of origin and the Party concerned.
The public of the affected foreign country (including foreign natural persons or foreign NGOs) can also become the “public concerned” under the EIA Act.
By participating in the EIA procedure by submitting a reasoned written opinion the public of the affected foreign country can become the “public concerned” and thus becomes a party to the EIA proceedings and a party to all subsequent administrative proceedings on project authorization (i.e. permit proceeding under the Building Act, IPPC Act, Atomic Act, Mining Act, Act on Forests, Nature Conservation Act etc.).
The party to the proceedings may file an administrative appeal against the decision within 15 days from the date of notification of the administrative decision (screening decision, EIA final statement, project permit).
Parties to the administrative proceedings may bring an administrative action in court against the valid administrative decision.
In addition, the “interested public” that participated in administrative proceedings in environmental matters (e.g. foreign environmental NGO that participated in transboundary impact assessment proceeding) is entitled to bring an administrative action in court also against *a measure of a public administration body* or *general binding regulation of a municipality*, if it claims that the public interest in the field of the environment has been violated.
The “interested public" is a person (natural person, legal entity, local civic association, or environmental non-governmental organization including foreign environmental NGO) who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws (e. g. in transboundary impact assessment proceeding).
It follows that if strategic documents that are the subject of transboundary impact assessments take the form of a measure of a public administration body or a generally binding regulation of a municipality, they may be challenged in court by the public of the affected foreign country (including foreign natural persons or foreign NGOs).

2) Notion of public concerned?

There is no specific notion of the public concerned in the transboundary context.
But the term a “public of the affected country” is included in the EIA Act (see below).
The “public of the affected country” can become the “public concerned” under the EIA Act.
In the transboundary context, the concept of “affected country” also applies to transboundary EIA procedures.

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)?

There is no special and explicit provision regulating the possibility of the foreign NGOs to participate in the environmental administrative procedures.
But foreign NGOs can become the “public concerned” and “interested public” and may bring an administrative action in court against the valid administrative decision, against a measure of a public administration body or general binding regulation of a municipality.

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)?

There are no special rules for individuals of the affected country. Individuals of the affected country must meet the same requirements as the Slovak ones to participate in administrative procedures. Individuals of the affected country can become the “public concerned” under the conditions laid down by the EIA Act and subsequently parties to the administrative proceedings (see above).

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

Most information on projects and procedural rights is provided when notifying the initiation of a procedure.
Information about EIA procedures and all documents related to projects, plans and programmes is available online here.
Information about IPPC procedures is available online here.

Transboundary impact assessment of proposed activities (projects):

According to the EIA Act, the Ministry of the Environment must notify the “affected country” without undue delay of information on a proposed activity that is subject to transboundary assessment or an activity that may have a significant transboundary environmental impact. The information on the proposed activity must include, in particular, basic information on the proposed activity, including available data on the expected transboundary environmental impact, information on the type of permit and the time limit for the response from the “affected country”. The “affected country” must indicate whether it is interested in participating in the assessment.
If the “affected country” expresses an interest in participating in the assessment, the Ministry of the Environment must, without undue delay, send the “affected country” a project proposal and a project evaluation report.
According to the EIA Act, the Ministry of the Environment must send information on the assessment procedure, including the time limit for submitting comments, together with the name of the national authority and its address to which the public of the “affected country” and the competent authorities of the “affected country” may send comments.
According to the EIA Act, the comments of the “affected country” must be taken into account in determining the scope of the EIA assessment.
The Ministry of the Environment must send a project evaluation report to the “affected country” and ask it to express its interest in carrying out consultations. The competent authorities must comply with the party concerned if they express an interest in the consultations.
According to the EIA Act, the final EIA statement must also include an evaluation of the comments of the “affected country”, the comments of the public of the “affected country” and an evaluation of the results of the consultations.

Transboundary impact assessment of strategic documents (plans, programmes):

If the strategic document is likely to have a significant transboundary impact, or if the “affected country” so requests, the Ministry of Environment must inform the “affected country” of these effects before the strategic document is adopted.
The Ministry must inform the “affected country” of the approval process, set a reasonable time limit for the submission of comments, and ask whether the “affected country” will participate in the assessment.
If the “affected country” announces that it will take part in the assessment, the Ministry must request from the “affected country” information on the state of the environment in the territory concerned, and offer consultations to the “affected country”.
The Ministry must notify the “affected country” of the place and date of the public hearing in the Slovak Republic and must allow its participation in the public hearing, including the public of the “affected country”, if the “affected country” so requests.
The opinions and comments of the “affected country” and the public of the “affected country” and conclusions of the consultations will be taken into account by the Ministry in the preparation of the final statement from the assessment of the strategic document. The Ministry must send the final statement on the assessment of the strategic document to the “affected country” within 14 days of the date it was issued. The Ministry must send one copy of the approved strategic document to the “affected country”.

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

As mentioned above, the Ministry of the Environment will set a reasonable time limit for submitting comments, and must inform the “affected country” about the time limit together with the name of the national authority to which the public of the “affected country” and the competent authorities of the “affected country” may send comments.
Individuals and NGOs of the affected country must meet the same requirements as the Slovak ones to participate in administrative proceedings (see above).
Individuals and NGOs of the affected country can become the “public concerned” under the conditions laid down by the EIA Act and subsequently can become parties to the administrative proceedings.
Individuals and NGOs of the “affected country” can challenge the decisions with transboundary effects as follows:
Individuals and NGOs of the affected country which are the parties to the administrative proceedings may appeal against the administrative decision. The administrative appeal must be filed within 15 days of the date of notification of the administrative decision of the public authority. The appeal to a superior administrative body must be exhausted before the administrative decision can be challenged before the court.
Individuals and NGOs of the affected country which are the parties to the administrative proceedings must bring an administrative action against an administrative decision or measure within 2 months from the notification (delivery) of the decision of the public authority or the measure of the public authority.
Individuals and NGOs of the affected country that participated in transboundary impact assessment proceeding and thus became the “interested public” are entitled to bring an administrative action in court also against *a measure of a public administration body* or *general binding regulation of a municipality*, if they claim that the public interest in the field of the environment has been violated. So if strategic documents that are the subject of transboundary impact assessments take the form of a measure of a public administration body or a generally binding regulation of a municipality, they may be challenged in court by individuals and NGOs of the affected country. The “interested public” must bring an administrative action within two months from the date a measure by the public authority was issued.
The cassation complaint against the first-instance decision of the regional administrative court must be filed within 1 month from the delivery of the decision of the first-instance administrative court (Regional Court).
A constitutional complaint must be filed with the Constitutional Court within two months of the validity of the challenged decision of the Supreme Court on the cassation complaint.

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

As mentioned above, each administrative decision must contain instructions as to whether the decision is final or whether it can be appealed, within what period, to which authority and where an appeal can be lodged. The instruction also contains an indication of whether the decision can be reviewed by a court.
The decision of the court must contain instructions on the admissibility of the cassation complaint, on the time limit for filing a cassation complaint, on the requisites of the cassation complaint, on the mandatory representation of lawyers in the cassation proceedings or on the inadmissibility of a remedy.

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

According to the Constitution, anyone who declares that he does not have a command of the language in which the proceedings before public authorities are conducted has the right to an interpreter (Article 47 par. 2 and 4).
The general rule for the administrative procedure is that all documents and hearings are in Slovak. Documents in languages other than Slovak have to be submitted in the original and parties have to submit officially certified translation as well.
According to the Code of the Administrative Judicial Procedure everyone has the right to act before an administrative court in his or her mother tongue or in a language he or she understands. Taking into account the nature and circumstances of the case, the administrative court will provide an interpreter (§ 54 par. 1). The costs of the party acting in his mother tongue or in a language which he understands will be borne by the state (§ 54 par. 2).
According to the agreement between the Government of the Slovak Republic and the Government of the Republic of Austria on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context, the Slovak Republic will provide the following information in German (translation of documents must be provided by the proposer of the activity):

basic data on the proposed activity - name of the activity, name and registered office of the proposer, purpose, character, place of performance of the activity, brief description of the technical and technological solution, expected transboundary impacts, graphic annex
information on the type of authorization of the proposed activity
information on the impact assessment process in the Slovak Republic
parts of the evaluation report that are necessary to identify environmental impacts
parts of the evaluation report, applications for authorization, assessment, final environmental impact assessment and other expert opinions necessary to identify the environmental impacts in the affected country
minutes of the public hearing
conclusions, opinion, measures and, for the affected country, the essential parts of the reasoning of the final EIA statement, the decision authorizing the activity and the decision of the court on the matter.

9) Any other relevant rules?

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

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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?

Many decisions, acts or omissions concerning specific activities that fall within the scope of EU environmental law outside the scope of the EIA and IED directives may be challenged in administrative and judicial proceedings.

The right to administrative review or access to judicial review is regulated by several sector-specific laws and by the Code of the Administrative Judicial Procedure.

Some laws grant the public (individuals or NGOs) the status of a “party to administrative proceedings”, some laws grant the public the status of a “participating person”, and other laws grant members of the public a different special status and other opportunities to participate in administrative proceedings.

The fundamental difference between these statuses is that the “party to the proceedings” has the right to file an administrative appeal against a decision which has the suspensive effect and, consequently, the right to bring the legal action against the administrative decision in court.

Only the “party to the proceedings” has the right to initiate an administrative review. The party to the proceedings, having regard to the possibility of filing an administrative appeal, has the greatest possibility of influencing the administrative decision within the administrative proceeding.

Others (e.g. participating person) do not have the right to file an appeal against the administrative decision but can only challenge a valid administrative decision in court.

Legal standing in administrative proceedings:

The legal standing (right to be a party to the proceedings) in the administrative proceedings is generally regulated by the Administrative Procedure Code.

The basic rule is that in administrative proceedings, the party to the proceedings is the person (natural or legal) whose rights or obligations of a party to the proceedings may be possibly directly affected by an administrative decision or who claims that he/she may be directly affected by the decision in his/her rights, legally protected interests or obligations, until the contrary is proved (§ 14 par. 1 of the Administrative Procedure Code).

However, some sector-specific environmental laws regulate the standing in administrative proceedings (and define the status of a party to the administrative proceedings) in a different way from the general regulation in the Administrative Procedure Code.

These laws include, for example, the Building Act, the Nature Conservation Act, Act on water, Mining Act, Atomic Act.

Act no. 50/1976 Coll. Building Act, which regulates the issuing of permits for many projects with significant impact on the environment, includes autonomous definitions of parties to the administrative proceedings for issuing the land use and building permits. According to the Building Act, natural and legal persons whose ownership or other rights to land or buildings, as well as to neighbouring land and buildings, including flats, may be directly affected by the decision are also parties to the proceedings.

Act no. 543/2002 Coll. on nature and landscape protection (Nature Conservation Act) regulates, inter alia, permitting interventions in protected parts of nature or in the conditions for the protection of protected species of animals and plants. In addition to the applicant for a permit, the party to the proceedings is also an association (NGO), whose subject of activity for at least one year is nature and landscape protection and which has submitted a preliminary and general application for participation in the proceedings, if it has confirmed its interest in being a party to the individual administrative proceedings initiated.

Administrative decisions under the Nature Conservation Act are the most frequently challenged decisions in court by the public (e.g. decisions to grant an exemption for the killing of a protected animal).

Act No. 364/2004 Coll. on water: According to the Act on water, the public may have the status of a party to a special proceeding concerning interventions in surface water and groundwater if it submits a written opinion on the project documentation for the proposed activity or on the expert opinion of the state water administration body.

Act No. 541/2004 Coll. on peaceful use of nuclear energy (Atomic Act): According to the Atomic Act, a natural or legal person whose status of the party to the proceedings derives from a special law is also a party to the permit procedure - referring to the Aarhus Convention as that special law. (Members of the public can also become a party to the permit proceedings subject to the EIA procedure.)

Act No. 44/1988 Coll. on the protection and use of mineral resources (Mining Act): The party to the proceeding on determining the mining area is a natural or legal person whose ownership and other rights to land or buildings may be directly affected by the determination of the mining area, the municipality in whose territory the mining area is located (and a natural person or legal person whose status as a party to the proceedings follows from the EIA Act - members of the public can also become a party to the permit proceedings subject to the EIA procedure).

Following an appeal against a decision of a public authority of first instance and a decision of a superior body on appeal, the public mentioned above may bring an action against the decision on permit in court.
Legal standing in court proceedings:
As mentioned above, the general concept for standing in the administrative judiciary is generally based on the impairment of right theory.
According to § 178/1 of the Code of the Administrative Judicial Procedure, the plaintiff who has standing in the administrative judiciary is a natural person or legal entity who claims that, as a party to an administrative proceeding, has been deprived of his rights or legally protected interests by a decision of a public administration body or a measure of a public administration body.
However, based on the effects of the Aarhus Convention and EU law, national law established a special standing for the “interested public”. The Code of the Administrative Judicial Procedure ensures the right of access to the court for “the interested public”. The term “interested public” may have a different meaning than the term “public concerned” mentioned above.
According to § 42 par. 1 of the Code of the Administrative Judicial Procedure, if the “interested public” has the right under a special regulation to “participate” in administrative proceedings in environmental matters, it is entitled
to bring an action before the court against administrative decision or administrative measure,
to bring an action before the court against illegal inactivity of the public authority,
to bring an action before the court against a generally binding regulation (e.g. zoning plan regulating land use and building permissions).
This means that according to the Code of the Administrative Judicial Procedure the “interested public" is a person who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws.
The “interested public” may be a natural person, legal entity, local civic association, or environmental non-governmental organization. In practice, there are also cases where both the municipality and the foreign legal entity (foreign environmental NGO) have become “interested public”.
In this context, it is important how the “interested public” is defined in the sector-specific laws governing administrative proceedings in the field of the environment.
In order for a member of the public to be the “interested public” within the meaning of the Code of Judicial Administrative Procedure and to have the right to bring an action before the court, he/she must satisfy the conditions laid down. In particular, the fulfilment of the condition that a member of the public has a “right to participate in administrative proceedings pursuant to a special regulation” is essential. The “right to participate in administrative proceedings” is a broader concept than a status of a “party to the administrative proceedings”. It is a difference compared to the previous legislation, where legal standing in proceedings before the administrative court was limited exclusively to a “party to the administrative proceedings”.
The “right to participate in administrative proceedings” thus includes:
the right to be “a party to the proceedings” (e.g. § 82 of Act No. 543/2002 Coll. on nature and landscape protection, § 24 of Act No. 24/2006 Coll. on environmental impact assessment, § 9 of Act No. 39/2013 Coll. on integrated pollution prevention and control),
the right to be a “participating person”, which has a narrower scope of rights than a “party to the proceedings” and does not have a right to file an administrative appeal against the decision (Section 67 of Act No. 326/2005 Coll. on forests in conjunction with the provisions of Section 15a of the Administrative Procedure Code: the association, including non-governmental organizations, is a "participating person" in proceedings under the Act on forests, if its activities are related to the use and protection of forest property and if it announces its participation in the proceedings no later than 7 days after notification of proceedings),
the right of “other participation” (e.g. participation in approving of land use plans (zoning plans) according to § 12 to 18 of the Building Act, participation in approving of the air protection plan according to § 10 of Act No. 137/210 Coll. on air, participation in approving of the river basin management plan according to § 13 of Act No. 354/2004 Coll. on water).
According to § 178 par. 3 of the Code of the Administrative Judicial Procedure the “interested public” is entitled to bring an administrative action before a court against a decision of a public authority or a measure of a public authority if it claims that the public interest in the field of the environment has been violated.
The level of access to national courts has increased significantly thanks to the case law of the Court of Justice of the European Union and the subsequent case law of the Supreme Court. Decisions of the Court of Justice of the European Union have had a very positive effect on the interpretation of the procedural rules concerning the status of a party to administrative and judicial proceedings (rules of standing).
The Judgment of the Court of Justice of the European Union of 8 March 2011 Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky (Slovak brown bear case, C-240/09) is very significant, where the court ruled: “*Article 9(3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 does not have direct effect in European Union law. It is, however, for the referring court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met in order to bring administrative or judicial proceedings in accordance with the objectives of Article 9(3) of that convention and the objective of effective judicial protection of the rights conferred by European Union law, in order to enable an environmental protection organisation, such as the Lesoochranárske zoskupenie, to challenge before a court a decision taken following administrative proceedings liable to be contrary to European Union environmental law*.”
Based on the judgment of the Court of Justice of the EÚ C-240/09, judgments of the Supreme Court were issued granting environmental NGOs the status of a party to the proceedings in order to have access to the court.
Judgment of the Supreme Court No. 5 Sžp 41/2009, of 12 April 2011:
In the opinion of the Supreme Court, international legal obligations (i.e. the Aarhus Convention) *“ultimately have the* ***effect of undermining the classical concept of standing of individuals in proceedings before administrative authorities by granting the status of party to proceedings to the public or in some cases to the public concerned*** *with environmental protection.”* The Supreme Court then stated as follows: *“...****only such an interpretation of procedural law (…) that enables an environmental organization such as the applicant to challenge a decision taken in an administrative procedure, which may be contrary to Community law in the field of the environment, in the court (…) will take the account of the objectives of Article 9(3) of the Aarhus Convention****, as well as the objective of effective judicial protection of the rights conferred by Community law.”*
Judgment of the Supreme Court No. 3Sžp 30/2009, of 2 June 2011:
“In the light of the judgment of the Court of Justice of the European Union C-240/09 of 08.03.2011, the panel of the appellate court [the Supreme Court], by an extensive euro-conform interpretation (…) assumed that the applicant (…) had the same scope of rights as he would have had in a position of a party to the proceedings. The party to the proceedings pursuant to § 14 par. 1 of the Administrative Procedure Code is the person who is the bearer of a legal right, legally protected interest or obligation (which results from a substantive law) and such a right, legally protected interest or obligation is a matter for the administrative authority to decide. The national authority must always strive for a euro-conform interpretation of national law (interpretation in conformity with Community law). ***The national court may, by means of a euro-conform interpretation, fill in the gaps in national law.*** *However, the Court of Justice of the European Union stated that Article 9 para. 3 of the Aarhus Convention has no direct effect in European Union law,* ***it was necessary to broaden the above***

definition of a party to the proceeding by a broad interpretation, and *the same range of rights as a party to the proceeding is required to be granted to other persons* (in particular the right to bring an action designed to ensure the protection of rights) *in order to ensure effective protection of the environment*."
However, in addition to these positive developments, shortcomings remain regarding the delays in court proceedings before administrative courts and the insufficient use of the power of administrative courts to grant suspensory effect to an action against an administrative decision.

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?

Pursuant to Art. 9 par. 3 of the Aarhus Convention and the judgments of the Court of Justice of the EU, the courts are obliged to interpret procedural rules in such a way that the public can challenge both procedural and substantive legality of decisions, acts or omissions.
This was confirmed, for example, by a judgment of the Supreme Court No. 5 Sžp 41/2009, of 12 April 2011: *"…only such an interpretation of procedural law (…) that enables an environmental organization … to challenge a decision taken in an administrative procedure, which may be contrary to Community law in the field of the environment, in the court (…) will take account of the objectives of Article 9(3) of the Aarhus Convention, as well as the objective of effective judicial protection of the rights conferred by Community law."*

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

According to § 7 letter (a) of the Code of the Administrative Judicial Procedure the party to the proceedings must exhaust ordinary remedies against the challenged administrative decision (i.e. administrative appeal) before bringing an action before the court. However, the law explicitly states that the obligation to exhaust all ordinary remedies do not apply to the "interested public" if the interested public has not been entitled to an ordinary remedy (appeal).
In cases where the "interested public" does not have the status of a "party to the proceedings" according to a special regulation, but "another form" of participation in the proceedings (e.g. a "participating person"), it cannot fulfil the requirement to exhaust ordinary remedies (appeal). The requirement to exhaust the ordinary remedies (appeals) therefore does not apply to the "interested public" in this case.

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

It is generally acknowledged that in order for members of the public to become "interested public" and have legal standing under the Code of the Administrative Judicial Procedure, they must in some way participate in the public consultation phase of the administrative proceedings.

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

As mentioned above, the examination and verification of scientific accuracy in court proceedings within administrative judiciary is limited. According to the Code of the Administrative Judicial Procedure, the courts do not review decisions of public authorities, the issuance of which depends solely on an assessment of the state of health of persons or the technical state of affairs. In the case of a decision issued by a public authority on the basis of an administrative discretion permitted by law, the administrative court will only examine whether such a decision has deviated from the limits and aspects established by law. The administrative Court does not assess the effectiveness, economy and appropriateness of a decision of a public authority (with the exception of the review of administrative sanctions).
This means that the use of arguments relating to the assessment of a person's state of health or technical condition, efficiency, economy and proportionality of a decision of a public authority is limited in court proceedings within the administrative judiciary.
But the court can review expert and technical findings to the extent that there is no conflict between these findings and the conclusions and reasoning of the administrative authorities.

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

According to the Administrative Procedure Code, all parties have the same procedural rights and obligations in the proceedings. According to the Code of the Administrative Judicial Procedure, the parties have equal status in proceedings before the administrative court.

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

According to the Administrative Procedure Code, the administrative authorities are obliged to deal with each case responsibly, to handle it in a timely manner and without undue delay, and to use the most appropriate means that lead to the correct handling of the case.
The Administrative Procedure Code sets deadlines for issuing an administrative decision (see above).
The administrative court may grant suspensive effect to the action so that the execution of the challenged decision does not render the judicial review of the decision useless.
If the administrative court has granted the administrative action a suspensive effect (pursuant to § 185 letter a)), is obliged to decide on the administrative action it within six months from the date on which the resolution on granting suspensory effect was issued (§ 187 par. 1 of the Code of the Administrative Judicial Procedure).

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 rules concerning the possibility for a court to grant the suspensive effect to an action against an administrative decision apply here.
The court may, on the application of the plaintiff, grant the suspensive effect to the action – i.e. to order suspension of validity of the challenged administrative decision (§ 185 of the Code of the Administrative Judicial Procedure). The court cannot order suspension of validity of the challenged administrative decision on its own motion.
The court may grant the suspensive effect to the action under the following conditions:
if there is a threat of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence due to immediate execution or other legal consequences of the challenged decision of the public authority or measure of the public authority, and granting the suspensive effect is not in conflict with the public interest,
if the challenged decision of the public authority or measure of the public authority is based on the legally binding act of the European Union, about the validity of which there are serious doubts, and there would otherwise be a threat of serious and irreparable harm to the plaintiff, and granting the suspensive effect is not in conflict with the interest of the European Union.
The court must decide on the plaintiff's application to grant suspensive effect within 30 days of receiving the defendant's statement on this application.
If the administrative court does not uphold the plaintiff's application to grant the suspensive effect, it must dismiss it by a resolution.
A cassation complaint is not admissible against the court resolution concerning the suspensive effect of the action.

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 court fees for individual kinds of actions within the administrative judiciary are based on a flat rate regardless of the value of the case (see the Act No. 71 /1992 Coll. On court fees).
The court fee for filing an administrative action against a measure of a public administration body is EUR 70.
The court fee for filing an administrative action against a general binding regulation of a municipality is EUR 50.

Foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, as well as municipalities and regions in proceedings in the public and social interest, are exempt from the court fee.
The administrative court must, on application, grant an exemption from the court fee if the circumstances of the party to the proceedings so require.
The court fee will be refunded if the court proceedings have been discontinued, if the administrative action, cassation complaint or action for renewal of the court proceedings has been dismissed or withdrawn before the case is heard.
In proceedings within the administrative judiciary, the administrative court will award the plaintiff the right to full or partial reimbursement of the costs if the plaintiff has been successful in whole or in part. But the administrative court may also decide not to reimburse all or part of the costs if there are “grounds for special consideration”. The administrative court will grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be “reasonably demanded”. However, the Code of the Administrative Judicial Procedure explicitly stipulates that the reimbursement of legal representation costs may be granted to a public authority only “exceptionally” (as they should have their own employees – lawyers, who can represent them in the dispute).

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

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

There is no provision in Slovak legislation that explicitly gives individuals or NGOs the access to justice with regard to “concepts, plans or programmes” covered by the SEA Directive or related to the environment.
However, the Code of Administrative Judicial Procedure expressly allows the “interested public” to bring an action against a “measure taken by a public administration body” and against a “general binding regulation”.
In order to be challenged in court, “concepts, plans or programmes” must either be a measure of a public administration body or be adopted in the form of a “general binding regulation of a municipality”.
A person whose rights have been violated or an “interested public” may challenge in court not only a decision but also **a measure of a public administration body**.
According to § 178 par. 1 of the Code of the Administrative Judicial Procedure, the plaintiff who has a standing in the administrative judiciary is a natural person or legal entity who claims that, as a party to an administrative proceeding, he has been deprived of his rights or legally protected interests by a decision of a public administration body or **a measure of a public administration body**.
According to § 178 par. 3 and § 359 par. 2 of the Code of the Administrative Judicial Procedure, the “interested public” is entitled to bring an administrative action before a court against a decision of a public authority, **a measure of a public administration body or general binding regulation of a municipality**, if it claims that the public interest in the field of the environment has been violated.
According to § 42 par. 1 of the Code of the Administrative Judicial Procedure, if the “interested public” has the right under a special regulation to “participate” in administrative proceedings in environmental matters, it is entitled
to bring an action before the court against administrative decision or **administrative measure,**
to bring an action before the court against illegal inactivity of the public authority,
to bring an action before the court against a general binding regulation of a municipality (e.g. **zoning plan** regulating land use and building permissions are enacted by general binding regulation of a municipality).
This means that according to the Code of the Administrative Judicial Procedure, the “interested public" is a person who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws.
The “interested public” may be a natural person, legal entity, local civic association, or environmental non-governmental organization. In practice, there are also cases where both the municipality and the foreign legal entity (foreign environmental NGO) have become “interested public”.
In this context, it is important how the “interested public” is defined in the sector-specific laws governing administrative proceedings in the field of the environment.
In order for a member of the public to be the “interested public” within the meaning of the Code of Judicial Administrative Procedure and to have the right to bring an action before the court, he/she must satisfy the conditions laid down. In particular, the fulfilment of the condition that a member of the public has a “right to participate in administrative proceedings pursuant to a special regulation” is essential. The “right to participate in administrative proceedings” is a broader concept than a status of a “party to the administrative proceedings”.
As regards “concepts, plans or programmes”, the “right to participate in administrative proceedings” includes, for example, the participation of members of public (i.e. the participation is open to anyone) in
approving land use plans (zoning plans) according to § 12 to 18 of the Building Act (the plan is enacted by the general binding regulation of a municipality),
approving the air protection plan according to § 10 of Act No. 137/210 Coll. on air,
approving the river basin management plan according to § 13 of Act No. 354/2004 Coll. on water).
Thus, if a member of the public (individual or NGO) has participated, for example, in the preparation of a land use plan (zoning plan), air protection plan or river basin management plan, it becomes the “interested public” and has the right to bring an action against these acts in court.
The effectivity of access to justice before national courts has increased significantly thanks to the case law of the Court of Justice of the European Union and the subsequent case law of the Supreme Court. Specifically, decisions of the Court of Justice of the European Union have had a very positive effect on the interpretation of the rules of standing in the administrative and court proceedings. First of all, the effectivity of the access to justice to national courts was significantly increased by the Judgment of the Court of Justice of the EU Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky (Slovak brown bear case, C-240/09) which declared the indirect effect of Art. 9 par. 3 of the Aarhus Convention and the obligation of national courts interpret national procedural law in accordance with the objective of Art. 9 par. 3 of the Aarhus Convention.
Based on a lawsuit by several non-governmental organizations and residents of the city of Bratislava and their arguments referring to the Art. 9 par. 3 of the Aarhus Convention and the case law of the Court of Justice of the European Union, the Regional Court in Bratislava recognized their standing before the administrative court and annulled the measure *“Integrated air quality improvement programme for pollutants PM10, NO2, Benzopyrene and ozone in the field of air quality management”*.
There are no other similar cases known at present, but there is a chance that courts could also rule in this way in other cases concerning "concepts, plans or programmes" which are adopted in the form of a "measure of a public administration body" or in the form of a "general binding regulation of a municipality”.

However, in addition to these positive developments, shortcomings remain regarding the delays in court proceedings before administrative courts and the insufficient use of the power of administrative courts to grant suspensory effect to an action against the administrative decision or measure of a public administration body.

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?

Pursuant to Art. 9 par. 3 of the Aarhus Convention and the judgments of the Court of Justice of the EU, the courts are obliged to interpret procedural rules in such a way that the public can challenge both procedural and substantive legality of decisions, acts or omissions.

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

According to the Code of the Administrative Judicial Procedure, the plaintiff must exhaust ordinary remedies against the challenged administrative decision or measure (i.e. administrative appeal) before bringing an action in the court.

As there is no administrative review procedure and no administrative appeal can be filed against the approval of the plan, programme or general binding regulation of a municipality, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures.

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.?

According to the Code of Administrative Judicial Procedure, a person who has the "right to participate in administrative proceedings" ("interested public") may file an action in court. It follows from the principle of subsidiarity of the administrative judiciary that a person ("interested public") must exercise this right and participate in the administrative proceedings (make comments, participate at the hearing) to have standing before the court.

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?

As mentioned above, the court may, on the application of the plaintiff, grant the suspensive effect to the action (§ 185 of the Code of the Administrative Judicial Procedure). The court may grant the suspensive effect to the action if there is a threat of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence due to immediate execution or other legal consequences of the challenged decision of the public authority or measure of the public authority, and granting the suspensive effect is not in conflict with the public interest.

The administrative court may, at the request of the plaintiff, temporarily suspend a generally binding regulation of the municipality or one of its provisions if their application may jeopardize fundamental rights and freedoms, if there is a risk of significant economic damage or serious damage to the environment or any other serious irreparable consequence (§ 362 par. 1 of the Code of Administrative Judicial Procedure).

Thus, it is theoretically possible to grant the suspensive effect to the action against a plan or programme subject to SEA, but it may be difficult for the applicant to show that there is a risk of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence – for the absence of immediate direct effect of plan or programme.

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 court fees for individual kinds of actions within the administrative judiciary are based on a flat rate regardless of the value of the case (see the Act No. 71 /1992 Coll. On court fees).

The court fee for filing an administrative action against a measure of a public administration body is EUR 70.

The court fee for filing an administrative action against a general binding regulation of a municipality is EUR 50.

Foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, as well as municipalities and regions in proceedings in the public and social interest, are exempt from the court fee.

The administrative court must, on application, grant an exemption from the court fee if the circumstances of the party to the proceedings so require.

The court fee will be refunded if the court proceedings have been discontinued, if the administrative action, cassation complaint or action for renewal of the court proceedings has been dismissed or withdrawn before the case is heard.

In proceedings within the administrative judiciary, the administrative court will award the plaintiff the right to full or partial reimbursement of the costs if the plaintiff has been successful in whole or in part. But the administrative court may also decide not to reimburse all or part of the costs if there are "grounds for special consideration". The administrative court will grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be "reasonably demanded". However, the Code of the Administrative Judicial Procedure explicitly stipulates that the reimbursement of legal representation costs may be granted to a public authority only "exceptionally" (as they should have their own employees – lawyers, who can represent them in the dispute).

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

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

There is no provision in Slovak legislation that explicitly gives individuals or NGOs the access to justice with regard to "concepts, plans or programmes" related to the environment.

However, the Code of Administrative Judicial Procedure expressly allows the "interested public" to bring an action against a "measure taken by a public administration body" and against a "general binding regulation" of a municipality.

In order to be challenged in court, "concepts, plans or programmes" must either be a measure of a public authority or be adopted in the form of a general binding regulation of a municipality.

A person whose rights have been violated or an "interested public" may challenge in court not only a decision but also **a measure of a public administration body**.

According to § 178 par. 1 of the Code of the Administrative Judicial Procedure, the plaintiff who has standing in the administrative judiciary is a natural person or legal entity who claims that, as a party to an administrative proceeding, he has been deprived of his rights or legally protected interests by a decision of a public administration body or **a measure of a public administration body**.

According to § 178 par. 3 and § 359 par. 2 of the Code of the Administrative Judicial Procedure, the "interested public" is entitled to bring an administrative action before a court against a decision of a public authority, **a measure of a public administration body or general binding regulation of a municipality**, if it claims that the public interest in the field of the environment has been violated.

According to § 42 par. 1 of the Code of the Administrative Judicial Procedure, if the “interested public” has the right under a special regulation to “participate” in administrative proceedings in environmental matters, it is entitled
to bring an action before the court against administrative decision or **administrative measure,**
to bring an action before the court against illegal inactivity of the public authority,
to bring an action before the court against a general binding regulation of a municipality (e.g. **zoning plan** regulating land use and building permissions are enacted by general binding regulation of a municipality).
This means that according to the Code of the Administrative Judicial Procedure, the “interested public" is a person who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws.
The “interested public” may be a natural person, legal entity, local civic association, or environmental non-governmental organization. In practice, there are also cases where both the municipality and the foreign legal entity (foreign environmental NGO) have become “interested public”.
In this context, it is important how the “interested public” is defined in the sector-specific laws governing administrative proceedings in the field of the environment.
In order for a member of the public to be the “interested public” within the meaning of the Code of Judicial Administrative Procedure and to have the right to bring an action before the court, he/she must satisfy the conditions laid down. In particular, the fulfilment of the condition that a member of the public has a “right to participate in administrative proceedings pursuant to a special regulation” is essential. The “right to participate in administrative proceedings” is a broader concept than a status of a “party to the administrative proceedings”.
As regards “concepts, plans or programmes”, the “right to participate in administrative proceedings” includes, for example, the participation of members of public in
approving of land use plans (zoning plans) according to § 12 to 18 of the Building Act (the plan is enacted by the general binding regulation of a municipality),
approving of the river basin management plan according to § 13 of Act No. 354/2004 Coll. on water).
Thus, if a member of the public (individual or NGO) has participated, for example, in the preparation of a land use plan (zoning plan), it becomes the “interested public” and has the right to bring an action against these acts in court.
The effectivity of access to justice before national courts has increased significantly thanks to the case law of the Court of Justice of the European Union and the subsequent case law of the Supreme Court. Specifically, decisions of the Court of Justice of the European Union have had a very positive effect on the interpretation of the rules of standing in the administrative and court proceedings. First of all, the effectivity of the access to justice to national courts was significantly increased by the Judgment of the Court of Justice of the EU Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky (Slovak brown bear case, C-240/09) which declared the indirect effect of Art. 9 par. 3 of the Aarhus Convention and the obligation of national courts interpret national procedural law in accordance with the objective of Art. 9 par. 3 of the Aarhus Convention.
Based on a lawsuit by several non-governmental organizations and residents of the city of Bratislava and their arguments referring to the Art. 9 par. 3 of the Aarhus Convention and the case law of the Court of Justice of the European Union, the Regional Court in Bratislava recognized their standing before the administrative court and annulled the measure *“Integrated air quality improvement programme for pollutants PM10, NO2, Benzopyrene and ozone in the field of air quality management”.*
There are no other similar cases known at present, but there is a chance that courts could also rule in this way in other cases concerning "concepts, plans or programmes" which are adopted in the form of a "measure of a public administration body" or in the form of a "general binding regulation of a municipality”.
However, in addition to these positive developments, shortcomings remain regarding the delays in court proceedings before administrative courts and the insufficient use of the power of administrative courts to grant suspensory effect to an action against the administrative decision or measure of a public administration body.

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?

Pursuant to Art. 9 par. 3 of the Aarhus Convention and the judgments of the Court of Justice of the EU, the courts are obliged to interpret procedural rules in such a way that the public can challenge both procedural and substantive legality of decisions, acts or omissions.

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

According to the Code of the Administrative Judicial Procedure the plaintiff must exhaust ordinary remedies against the challenged administrative decision or measure (i.e. administrative appeal) before bringing an action in the court.
As there is no administrative review procedure and no administrative appeal can be filed against the approval of the plan, programme or general binding regulation of a municipality, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures.

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.?

According to the Code of Administrative Judicial Procedure, a person who has the “right to participate in administrative proceedings” (“interested public”) may file an action in court. It follows from the principle of subsidiarity of the administrative judiciary that a person (“interested public”) must exercise this right and participate in the administrative proceedings (make comments, participate at the hearing) to have standing before the court.

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?

As mentioned above, the court may, on the application of the plaintiff, grant the suspensive effect to the action (§ 185 of the Code of the Administrative Judicial Procedure). The court may grant the suspensive effect to the action if there is a threat of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence due to immediate execution or other legal consequences of the challenged decision of the public authority or measure of the public authority, and granting the suspensive effect is not in conflict with the public interest.
The administrative court may, at the request of the plaintiff, temporarily suspend a generally binding regulation of the municipality or one of its provisions if their application may jeopardize fundamental rights and freedoms, if there is a risk of significant economic damage or serious damage to the environment or any other serious irreparable consequence (§ 362 par. 1 of the Code of Administrative Judicial Procedure).
Thus, it is theoretically possible to grant the suspensive effect to the action against a plan or programme, but it may be difficult for the applicant to show that there is a risk of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence - for the absence of immediate direct effect of plan or programme.

6) What are the cost rules to bring a chalenge 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 court fees for individual kinds of actions within the administrative judiciary are based on a flat rate regardless of the value of the case (see the Act No. 71 /1992 Coll. On court fees).
The court fee for filing an administrative action against a measure of a public administration body is EUR 70.

The court fee for filing an administrative action against a general binding regulation of a municipality is EUR 50.
Foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, as well as municipalities and regions in proceedings in the public and social interest, are exempt from the court fee.
The administrative court must, on application, grant an exemption from the court fee if the circumstances of the party to the proceedings so require.
The court fee will be refunded if the court proceedings have been discontinued, if the administrative action, cassation complaint or action for renewal of the court proceedings has been dismissed or withdrawn before the case is heard.
In proceedings within the administrative judiciary, the administrative court will award the plaintiff the right to full or partial reimbursement of the costs if the plaintiff has been successful in whole or in part. But the administrative court may also decide not to reimburse all or part of the costs if there are “grounds for special consideration”. The administrative court will grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be “reasonably demanded”. However, the Code of the Administrative Judicial Procedure explicitly stipulates that the reimbursement of legal representation costs may be granted to a public authority only “exceptionally” (as they should have their own employees – lawyers, who can represent them in the dispute).

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

The plans covered by this section include:
Air Quality Improvement Programmes (required by Directive No. 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe)
Waste Management Plans (required by Directive No. 2008/98/EC on Waste).
Water Management Plans (required by Directive 2000/60/EC on Framework for Community Action in the Field of Water Policy) including The River Basin Management Plans and River Sub-basin Management Plans.
The Areas within the system of Natura 2000 (required by Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora).

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

There is no provision in Slovak legislation that explicitly gives individuals or NGOs the access to justice with regard to “concepts, plans or programmes” related to the environment.
However, the Code of Administrative Judicial Procedure expressly allows the “interested public” to bring an action against a “measure taken by a public administration body” and against a “general binding regulation” of a municipality.
In order to be challenged in court, “concepts, plans or programmes” must either be a measure of a public authority or be adopted in the form of a general binding regulation of a municipality.
A person whose rights have been violated or an “interested public” may challenge in court not only a decision but also **a measure of a public administration body**.
According to the § 178 par. 1 of the Code of the Administrative Judicial Procedure, the plaintiff who has standing in the administrative judiciary is a natural person or legal entity who claims that, as a party to an administrative proceeding, he has been deprived of his rights or legally protected interests by a decision of a public administration body or **a measure of a public administration body**.
According to § 178 par. 3 and § 359 par. 2 of the Code of the Administrative Judicial Procedure, the “interested public” is entitled to bring an administrative action before a court against a decision of a public authority, **a measure of a public administration body or general binding regulation of a municipality**, if it claims that the public interest in the field of the environment has been violated.
According to § 42 par. 1 of the Code of the Administrative Judicial Procedure, if the “interested public” has the right under a special regulation to “participate” in administrative proceedings in environmental matters, it is entitled
to bring an action before the court against administrative decision or **administrative measure,**
to bring an action before the court against illegal inactivity of the public authority,
to bring an action before the court against a general binding regulation of a municipality.
This means that according to the Code of the Administrative Judicial Procedure, the “interested public” is a person who has the “right to participate in administrative proceedings” concerning environmental matters under specific environmental laws.
The “interested public” may be a natural person, legal entity, local civic association, or environmental non-governmental organization. In practice, there are also cases where both the municipality and the foreign legal entity (foreign environmental NGO) have become “interested public”.
In this context, it is important how the “interested public” is defined in the sector-specific laws governing administrative proceedings in the field of the environment.
In order for a member of the public to be the “interested public” within the meaning of the Code of Judicial Administrative Procedure and to have the right to bring an action before the court, he/she must satisfy the conditions laid down. In particular, the fulfilment of the condition that a member of the public has a “right to participate in administrative proceedings pursuant to a special regulation” is essential. The “right to participate in administrative proceedings” is a broader concept than a status of a “party to the administrative proceedings”.
As regards “concepts, plans or programmes”, the “right to participate in administrative proceedings” includes, for example, the participation of members of the public in the approval of the air protection plan according to § 10 of Act No. 137/210 Coll. on air,
Thus, if a member of the public (individual or NGO) has participated, for example, in the preparation of an air protection plan, they become the “interested public” and have the right to bring an action against this plan in court.
Based on a lawsuit by several non-governmental organizations and residents of the city of Bratislava, the Regional Court in Bratislava annulled the measure of the Bratislava District Office *“Integrated air quality improvement programme for pollutants PM10, NO2, Benzopyrene and ozone in the field of air quality management in the territory of the Capital of the Slovak Republic, Bratislava”*, by judgment 5S/31/2017 of 13 November 2018.
The Regional Court annulled the Integrated Programme on the grounds that
the procedural conditions were not observed when publishing the draft Integrated Programme,
the notice of public hearing on the draft Integrated Programme was not published on the defendant's website,
the Integrated Programme was published on the website without information on the reasons for adopting the programme and information on public participation in its preparation,
non-compliance with the requirements laid down in the Act No 137/2010 Coll. on Climate and Article 13 of the Directive 2008/50/ES,
the measures taken and included in the Integrated Programme were not measurable, controllable and time-bound (so that the period in which the amount of pollution is exceeded is shortened as much as possible).
The Regional court annulled the Integrated Programme because it did not meet legal requirements, in particular it did not contain the required particulars and the District Office had not complied with the procedural conditions for approval of the programme and prevented public participation in its creation.

The Regional Court referred to the judgment of the Court of Justice of the EU C-237/07 *Janecek*, in which the Court of Justice ruled on the obligation to draw up action plan to improve air quality.
The Regional Court also referred to the judgment of the Court of Justice of the EU C-404/13 *ClientEarth*, in which the Court of Justice stated that the national courts were required to examine the content of the programmes to improve air quality and assess whether the measures contained will lead to the achievement of the limits in the shortest possible time.
The case law of the Court of Justice of the EU has thus made it possible to successfully challenge such plans in court and has made a significant contribution to the effectiveness of judicial protection in this case.
However, in addition to these positive developments, shortcomings remain regarding the delays in court proceedings before administrative courts and the insufficient use of the power of administrative courts to grant suspensory effect to an action against the administrative decision or measure of a public administration body.

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)?

If a plan or programme is adopted by decision or measure, it may be reviewed in accordance with the above mentioned provisions of the Code of the Administrative Judicial Procedure.
If a plan or programme is adopted in the form of a legal regulation (legislation), it can be challenged only in the Constitutional Court. Only certain entities are entitled to file a motion to initiate proceedings before the Constitutional Court (at least one-fifth of the members of parliament - i.e. at least 30 members of parliament, the President of the Slovak Republic, the Government of the Slovak Republic, the court, the General Prosecutor, the Public Defender of Rights).

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?

Pursuant to Art. 9 par. 3 of the Aarhus Convention and the judgments of the Court of Justice of the EU, the courts are obliged to interpret procedural rules in such a way that the public can challenge both procedural and substantive legality of decisions, acts or omissions.

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

According to the Code of the Administrative Judicial Procedure, the plaintiff must exhaust ordinary remedies against the challenged administrative decision or measure (i.e. administrative appeal) before bringing an action in the court.
As there is no administrative review procedure and no administrative appeal can be filed against the approval of the plan, programme or general binding regulation of a municipality, there is no requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures.

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.?

According to the Code of Administrative Judicial Procedure, a person who has the “right to participate in administrative proceedings” (“interested public”) may file an action in court. It follows from the principle of subsidiarity of the administrative judiciary that a person (“interested public”) must exercise this right and participate in the administrative proceedings (make comments, participate at the hearing) to have standing before the court.
However, the “interested public” may also bring an action if the public authority prevents the public from participating in drawing up the plan or programme (see above the judgment of Regional Court in Bratislava 5S/31/2017 of 13 November 2018).

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

As mentioned above, the examination and verification of scientific accuracy in court proceedings within administrative judiciary is limited. According to the Code of the Administrative Judicial Procedure, the courts do not review decisions or measures of public authorities, the issuance of which depends solely on an assessment of the state of health of persons or the technical state of affairs. In the case of a decision or a measure issued or taken by a public authority on the basis of an administrative discretion permitted by law, the administrative court will only examine whether such a decision or measure has deviated from the limits and aspects established by law. The administrative Court does not assess the effectiveness, economy and appropriateness of a decision or a measure of a public authority (with the exception of the review of administrative sanctions).
This means that the use of arguments relating to the assessment of a person's state of health or technical condition, efficiency, economy and proportionality of a decision or a measure of a public authority is limited in court proceedings within the administrative judiciary.

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

According to the Administrative Procedure Code, all parties have the same procedural rights and obligations in the proceedings. According to the Code of the Administrative Judicial Procedure, the parties have equal status in proceedings before the administrative court.

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

According to the Administrative Procedure Code, the administrative authorities are obliged to deal with each case responsibly, to handle it in a timely manner and without undue delay, and to use the most appropriate means that lead to the correct handling of the case.
The Administrative Procedure Code sets deadlines for issuing an administrative decision (see above).
The administrative court may grant suspensive effect to the action so that the execution of the challenged decision does not render the judicial review of the decision useless.
If the administrative court has granted the administrative action a suspensive effect (pursuant to § 185 letter a)), it is obliged to decide on the administrative action within six months from the date on which the resolution on granting suspensory effect was issued (§ 187 par. 1 of the Code of the Administrative Judicial Procedure).

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?

As mentioned above, the court may, on the application of the plaintiff, grant the suspensive effect to the action (§ 185 of the Code of the Administrative Judicial Procedure). The court may grant the suspensive effect to the action if there is a threat of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence threatens due to immediate execution or other legal consequences of the challenged decision of the public authority or measure of the public authority, and granting the suspensive effect is not in conflict with the public interest.
The administrative court may, at the request of the plaintiff, temporarily suspend a generally binding regulation of the municipality or one of its provisions if their application may jeopardize fundamental rights and freedoms, if there is a risk of significant economic damage or serious damage to the environment or any other serious irreparable consequence (§ 362 par. 1 of the Code of Administrative Judicial Procedure).
Thus, it is theoretically possible to grant the suspensive effect to the action against a plan or programme, but it may be difficult for the applicant to show that there is a risk of serious harm, considerable economic loss or financial loss, serious environmental damage or other serious irreparable consequence.

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

The court fees for individual kinds of actions within the administrative judiciary are based on a flat rate regardless of the value of the case (see the Act No. 71 /1992 Coll. On court fees).

The court fee for filing an administrative action against a measure of a public administration body is EUR 70.
The court fee for filing an administrative action against a general binding regulation of a municipality is EUR 50.
Foundations and charities, humanitarian organizations, environmental organizations and associations active in consumer protection, as well as municipalities and regions in proceedings in the public and social interest, are exempt from the court fee.
The administrative court must, on application, grant an exemption from the court fee if the circumstances of the party to the proceedings so require.
The court fee will be refunded if the court proceedings have been discontinued, if the administrative action, cassation complaint or action for renewal of the court proceedings has been dismissed or withdrawn before the case is heard.
In proceedings within the administrative judiciary, the administrative court will award the plaintiff the right to full or partial reimbursement of the costs if the plaintiff has been successful in whole or in part. But the administrative court may also decide not to reimburse all or part of the costs if there are “grounds for special consideration”. The administrative court will grant the defendant the right to reimbursement of the costs of the administrative court proceedings against the plaintiff according to the proportion of his success only if it can be “reasonably demanded”. However, the Code of the Administrative Judicial Procedure explicitly stipulates that the reimbursement of legal representation costs may be granted to a public authority only “exceptionally” (as they should have their own employees – lawyers, who can represent them in the dispute).

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

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

If the act is adopted in form of legal regulation (normative instrument), the only possibility of its direct judicial review is a review before the Constitutional Court.
According to the Article 125 par. 1 of the Constitution the Constitutional Court decides, for example, on the compatibility of
laws with the Constitution and international treaties,
government ordinances, generally binding legal regulations issued by ministries and other central bodies of the state administration with the Constitution and with laws, and
generally binding legal regulations issued by local state administration bodies with the Constitution and with laws.
Only specific parties (e.g. at least one-fifth of Members of Parliament, the President of the Slovak Republic, the Government, the court, the general prosecutor, the public defender of rights) are entitled to initiate this review.
If the district court, the regional court or the Supreme Court is of the opinion that generally binding legal regulation or a particular provision related to the subject-matter of the proceeding contravenes the Constitution, constitutional laws, international treaties or laws, it will interrupt the court proceeding and submit a motion to the Constitutional Court. The finding of the Constitutional Court is binding for all courts. (Article 144 par. 2 of the Constitution).
For the public (both individuals and NGOs), it is not possible to suggest annulment of a legal regulation together with a constitutional complaint against a specific decision in cases where the regulation was applied.
However, in the proceedings before the district court, the regional court or the Supreme Court, the public (individuals or NGOs) may propose that the court interrupt the proceedings and submit a motion to the Constitutional Court on the grounds that a legal regulation contravenes the Constitution, international treaty or law.
However, as mentioned above, if the act is adopted in form of the “general binding regulation of a municipality”, the “interested public” is entitled to bring an action before the court against a “general binding regulation of a municipality” (§ 42 par. 1 of the Code of the Administrative Judicial Procedure).
The Constitutional Court has explicitly stated that **it is reviewing the compliance of national laws with the Aarhus Convention**. The Aarhus Convention is explicitly recognized as an international convention which takes precedence over national laws and as a binding human rights law concerning access to justice in environmental matters.
As mentioned above, the amendment to the Act concerning the acceleration of the construction of motorways (Act No. 669/2007 Coll.) adopted in 2017 excluded the power of the administrative court to grant the suspensive effect of administrative actions against a zoning decision for construction of motorways and building permits for the construction of motorways. The Constitutional Court by decision of PL. ÚS 18 / 2017-152 of 4 November 2020 decided that this law is in conflict with Art. 9 par. 4 of the Aarhus Convention, which enshrines the right of the public for an administrative court to order an "injunctive relief" following an administrative action against a project authorization decision.
The requirements of the effectiveness of access to national courts in environmental matters formulated in the case law of the CJEU were not directly applied by the Constitutional Court in review of normative acts. As mentioned above, the Constitutional Court referred directly to the Aarhus Convention and reviewed the compliance of the national legislative act with the Aarhus Convention.

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 reviews both substantive and procedural legality of the legal regulation. The Constitutional Court examines whether the regulation was adopted within the limits of the competence of the respective authority and in a manner prescribed by law.

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

Specific entities authorized to initiate a review of legislation before the Constitutional Court (at least one-fifth of the Members of Parliament, the President of the Slovak Republic, government, the court, General Prosecutor, Public Defender of Rights) do not have to exhaust other remedies before submitting a motion to the Constitutional Court.
The public does not have the right to directly challenge the legislation in the Constitutional Court.

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.?

The entities which are entitled to initiate the judicial review of legal regulations (normative act) before the Constitutional Court do not have to participate in consultation procedures.

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?

If the Constitutional Court accepts a petition, it may suspend the effectiveness of the challenged legal regulations or some of their provisions, if their further application could jeopardize the basic rights and freedoms, if there is a threat of a substantial economic damage or other serious irreparable consequence.

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 before the Constitutional are generally not subject to court fees.
However, in legally and factually similar cases previously decided by the Constitutional Court in which the complainant, who had submitted the constitutional complaint, was not successful, the Constitutional Court orders the complainant to pay court fee of EUR 30 for the eleventh and each subsequent complaint filed by the same complainant in the same year.
There is the requirement of mandatory (compulsory) representation by an attorney in proceedings before the Constitutional Court. The complaint must be supported by a power of attorney and this power of attorney must expressly state that it was issued for the purpose of representation before the Constitutional Court.
The requirement of mandatory representation by an attorney in proceedings before the Constitutional Court does not apply if reference to the Constitutional Court was made on the basis of a specific dispute by the lower court, where it was claimed that applicable law is unconstitutional, as this is not an individual constitutional complaint but the review of the legislation, where the complainant is not the party to 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[6]?

The obligation for courts to make a reference for a preliminary ruling of the Court of Justice of the EU applies in all cases where EU law is interpreted, and also applies to the interpretation of the validity of acts adopted by the EU institutions and bodies.
Any party to the dispute may request the court to make a reference for a preliminary ruling, but it is only up to the court to decide whether to do so.
Under national law, there is no specific procedure for directly challenging an act adopted by an EU institution or body before a national court.

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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 the Commission Notice C/2017/2616 on access to justice in environmental matters*
[2] The SEA Directive relates to plans and programmes. These are also covered by Article 7 and Article 9(3) of the Aarhus Convention.
[3] See findings under ACCC/C/2010/54 for an example of a plan not submitted to SEA but subject to the public participation requirements of Article 7 of the Aarhus Convention.
[4] These fall within the scope of both Article 7 and Article 9(3) of the Aarhus Convention. See also relevant case-law of the Court of Justice of the European Union such as Case C-237/97, Janecek and cases such as Boxus and Solvay C-128/09-C-131/09 and C-182/10, as referred to under the Commission Notice C/2017/2616 on access to justice in environmental matters.
[5] Such acts come within the scope of Article 8 and Article 9(3) of the Aarhus Convention. An example of such an act concerns the decision of the national administration that featured in Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774.
[6] For an example of such a preliminary reference see Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774.

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

Remedies against the silence of the administration (the administrative passivity)

According to the Administrative Procedure Code (§ 49), in simple cases, especially if it is possible to decide on the basis of documents submitted by the party to the proceedings, the administrative authority must decide without delay. In other cases, (unless a special law provides otherwise) the administrative authority is obliged to decide on the matter within 30 days from the commencement of the proceedings, and in particularly complex cases it must decide within 60 days at the latest. If, in view of the nature of the case, it is not possible to decide within that period, the appeal body may extend it accordingly. If the administrative authority cannot decide within 30 or 60 days, it is obliged to notify the party to the proceedings, stating the reasons.
As stated above, the administrative authorities must proceed without undue delay and comply with the statutory deadlines. If the administrative authority does not act within the statutory time limit or within a reasonable time limit (if the statutory time limit is not specified), the members of public or parties to the proceedings may use the provisions of several laws to protect themselves against the inaction of the administrative authorities.

Action by the appellate body against administrative inaction:

According to the Administrative Procedure Code (§ 50), if the nature of the case allows it and if redress cannot be achieved otherwise, the administrative authority, which would otherwise be entitled to decide on the appeal, will decide the case itself if the administrative authority of first instance competent to decide did not initiate proceedings, even though it was obliged to do so, or did not decide within the statutory time limit. Thus, if the administrative authority of first instance is inactive, the party to the proceedings may inform the appellate authority and ask it to act and decide.

Administrative action against the inaction of an administrative authority:

According to the Administrative Procedure Code, a party to the administrative proceeding may file an administrative action in court against the inactivity of the administrative authority.
Inaction of the administrative authority may relate to the obligation to issue a decision or measure, or to perform an act, or may relate to the obligation of the administrative authority to initiate administrative proceedings ex officio.
However, the condition for filing an administrative action in court is the prior filing of a complaint for inaction of an administrative authority pursuant to Act no. 9/2010 Coll. on complaints, or the prior filing of a complaint for inaction of an administrative authority pursuant to Act no. 153/2001 Coll. on the prosecutor´s office. The party is required to file at least one of these remedies (complaints) before filing an administrative action in court. It is not necessary to file a repeated complaint.
An administrative action may also be brought by the “interested public” if a public authority is inactive in an administrative proceeding concerning environmental matters and at the same time the “interested public” has unsuccessfully filed the above-mentioned remedies (complaint, complaint to the prosecutor's office).
The law does not set any time limit for filing a lawsuit - a lawsuit can be filed for the entire duration of the inactivity of the administrative authority.
If the administrative court, after review, finds that the administrative authority has been unlawfully inactive, it will impose in the decision an obligation for the administrative authority to act and decide, issue a measure or perform an act, or initiate administrative proceedings ex officio within a period specified by the court. The issuance of this court decision does not end the court proceedings and the inactive administrative authority is obliged to deliver to the administrative court within the specified time limit the issued administrative decision, measure or notification of the performed act, or of the commencement of administrative proceedings.
If the administrative authority does not terminate its inaction within the time limit specified by the court, the administrative court may impose a fine on it.

Penalties that the judiciary or any other independent and impartial body (information commissioner, ombudsman, prosecutor, etc.) can impose on the public administration for failing to provide effective access to justice

Penalties for the de-facto contempt of the court, e.g. when the judgment of the court is not followed and respected

If, after issuing a decision of the administrative court by which the court imposes an obligation on the administrative authority to act and decide (in the case of unlawful inaction of an administrative authority), the administrative authority does not terminate its inaction within the period specified by the court, the administrative court may impose a fine on it.

In case of damage caused by an unlawful decision of the public authority or another unlawful maladministration (including unlawful inaction) of the public authority, the victim can ask for redress before the civil court according to Act no. 514/2003 Coll. on liability for damage caused in the exercise of official authority.

Pursuant to Section 326 of the Criminal Code (Act No. 300/2005 Coll.), a public official may be punished for the criminal offence of abuse of power of a public official. This criminal offence is committed by a public official if he fails to fulfil an obligation arising from his jurisdiction or from a court decision (intending to cause harm to another or to obtain an unjustified advantage for himself or another). For committing this crime, a public official is punishable by imprisonment of two to five years. A public official will be punished by imprisonment of seven to twelve years if he fails to fulfil an obligation arising from his jurisdiction or from a court decision in order to prevent or impede another's exercise of his fundamental rights and freedoms.

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