Aċċess għall-ġustizzja fi kwistjonijiet ambjentali

Latvja

Biex issib iktar informazzjoni nazzjonali dwar l-aċċess għall-ġustizzja fi kwistjonijiet ambjentali, jekk jogħġbok ikklikkja waħda mil-links hawn taħt:

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Access to justice at Member State level

1.1. Legal order – sources of environmental law

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

In Latvia, the right to live in a healthy and good environment is enshrined at the constitutional level (Art.111, Art.115 of the Constitution). To implement and to enforce this right and to preserve nature and healthy environment, the legal system embodies:

A complex system of written law or normative acts (laws of the Parliament (*Saeima*), Cabinet regulations, regulations of local governments such as spatial plans and construction regulations),

A structure of administrative authorities, both state and local government level, monitoring the compliance with those normative acts and issuing different permits,

Procedural rights guaranteeing the possibility for individuals or interest groups to receive environmental information, to participate in decision-making and to access justice.

Since Latvia is a member of the EU, European Union law is applied accordingly.

International law officially ratified (including the European Convention on Human Rights and Aarhus Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters) can be applied directly by administrative authorities and courts. [1]

For environmental protection interests to be properly taken into account, the so-called *actio popularis* exists in Latvia. This means that persons have access to administrative authorities and the administrative court not only to protect their own individual interests, but also to protect general interests of environmental protection. These rights are recognised both to natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. [2]

Since actions affecting the environment are usually controlled and authorized by administrative decisions, the main and most common instrument for environmental protection used by the public is gaining information about forthcoming or adopted administrative decisions, taking part in decision-making (usually during public participation), and submitting an appeal to the administrative authority and then a court if necessary. These possibilities are prescribed by the Environmental Protection Law setting a framework for environmental protection, and also in specific laws and regulations regarding particular areas of law related to environmental issues. The public may also apply to respective controlling authorities if other persons infringe norms protecting the environment, and to access administrative court subsequently, if necessary. [3]

In addition, the public has a right to access environmental information and be informed about the environmental conditions and to protect this right at the court.

A system of constitutional control and constitutional review exists in Latvia. This means that the Constitutional Court may evaluate whether the legal norms of lower legal rank (laws of the Parliament, Cabinet regulations, municipal regulations) contradict the Constitution or binding international norms, recognise them as incompatible, and invalidate them. The right to apply to the Constitutional Court is granted, among others, to general courts reviewing individual cases, and to individual persons to protect their fundamental rights if they have exhausted “ordinary” legal remedies, as well as to an Ombudsman, including in cases when legally binding norms might contradict the right to live in a benevolent environment as protected by the Constitution. [4] Courts of general jurisdiction, when reviewing an individual case, must evaluate possible contradictions of legal norms and apply norms of lower legal rank consistently with norms of superior legal rank, and, under certain conditions, apply to the Constitutional Court.

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

According to Art.115 of the Constitution of Latvia (*Latvijas Republikas Satversme*), the state protects the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment. This constitutional right includes:

the substantial aspect: a right to live in a benevolent environment and a corresponding obligation of the state to establish a system of environmental protection [5];

the procedural aspect as an integral part of the right to live in a benevolent environment: a right of the public to access environmental information, to participate in decision-making in environmental matters, to access the court in environmental matters. [6]

According to the case-law of the Constitutional Court, Art.115, as other human rights provisions of the Constitution, is a directly and immediately applicable norm. [7]

According to Art.111 of the Constitution, the state protects human health. The Constitutional Court found that the right to health also comprises the right to healthy environmental conditions [8]. This may include noise and other environmental pollution that influences the quality of environment in which a person resides.

Both aforementioned constitutional provisions (right to a benevolent environment and right to health protection) can be applied separately or in connection with each other.
Art.92 of the Constitution provides for the right of everyone to defend his or her rights and legal interests in a fair court, and the right to the assistance of counsel.
Constitutional provisions can be applied directly both in administrative procedures and at the court. Citizens can invoke the provisions at any stage in administrative or judicial procedures.
According to the jurisprudence of the Constitutional Court (*Satversmes tiesa*), human rights enshrined in the Constitution should be applied and interpreted consistently with the binding international agreements, including on human rights. [9] This means that, for example, the European Convention on Human Rights and the case-law of the European Court of Human Rights can be used when arguing the case in administrative authority or at the court.

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

The framework law regarding environmental protection is the Environmental Protection Law. It defines the main concepts of environmental law (Sect.1), such as the environment, environmental information, states the principles of environmental protection (the “polluter pays” principle, the precautionary principle, the prevention principle and the assessment principle) (Sect.3), and sets out the rights of the public in the environmental field.
The latter includes:
the right to environmental information (Sect. 7),
the right to participate in the decision-making, including during the authorization procedures of developments that might affect the environment, as well as in the preparation of planning documents affecting the environment (Sect. 8), and also
the right to access the competent administrative authorities and the administrative court (a) in the event that the aforementioned rights are not observed, or (b) to appeal the administrative act or actual measures of the public authority or local government if it does not comply with the environmental law or creates threats to environment, or (c) if any other private person breaks legal provisions regarding environment (Sect. 9). Sect. 30 specifically provides for the right to address the State Environmental Service or other competent authority (and this administrative stage may be followed by appeal to the administrative court) with a request to perform the necessary activities if the public gets to know about the environmental damage or imminent threat of damage.
The concept of “the public” includes any private person, and also associations, organisations and groups of persons (Sect.6(1)).
As confirmed by the Supreme Court, these provisions of the Environmental Protection Law establish an exemption from the general rules on legal standing. [10] In contrast to the latter, the EPL does not require any “individualized” *nexus* authorizing members of the public to initiate a case against a public authority that may have breached environmental law.
In further sections, the Environmental Protection Law details the aforementioned rights and corresponding responsibilities of administrative authorities, in addition making it mandatory for the respective authorities to involve the public in the preparation and discussion of the laws and regulations regarding the environment, at as early a stage as possible (Sect.13).
The law On Environmental Impact Assessment sets the principles and outlines the procedure of the initial environmental assessment (screening procedure) and the environmental impact assessment of the intended activities that might affect the environment. [11] Sect.3 provides for the right of the public to obtain the information and to participate in the decision-making on the EIA. More detailed rules on public participation and decision-making, including in transboundary cases, are contained in other sections of the law. During the environmental impact assessment procedure, any person has a right to complain to the competent administrative authority [12] if his/her rights to information or to participation have been infringed or ignored (Sect.26(2), 26(3)). The final decision to accept the intended activity may be contested in the competent administrative authority and appealed to the administrative court, if the rights of the public to information or participation have been infringed or ignored (Sect.26(4)).
The law On Pollution stipulates the procedures for permitting and controlling polluting activities and the allocation of greenhouse gas emission permits [13]. Sect.27 of the law prescribes the availability of information on submissions for permits for polluting activities, information on issued permits for polluting activities, the conditions of the issued permits, and the information regarding monitoring and control results, as well as the participation in decision-making on permitting polluting activities. Sect.32.7 provides details on the right to the public to be informed about plans and decisions on allocation of greenhouse gas emission allowances, including the right to comment on planned allocations. The section also includes the obligations of the public authorities to provide information on plans and decisions allocating emission allowances (permits).
In Sect.50, there are more detailed rules on contesting administrative decisions and appealing them to the administrative court. According to these rules:
persons may contest decisions in relation to A and B category permits for polluting activities,
submit a complaint if the right to public participation and the right to environmental information have been ignored,
contest conditions of a permit at any time while the relevant permit is in effect if the respective polluting activity may have a substantial negative impact on human health or the environment, or the environmental quality objectives specified in the law,
contest decisions concerning a research on or remediation of polluted or potentially polluted site if the health, security, or property of a natural or legal person may be affected,
a person that might be affected by a greenhouse gas emission permit may contest the permit.
According to Sect.51(5), the final administrative decision can be appealed to the administrative court.
The Waste Management Law prescribes the procedures for waste management, including procedures for issuing waste management permits. According to Sect.13 of the law, a decision in relation to a waste management permit may be disputed in the Environment State Bureau (ESB), and a decision of the Bureau may be appealed to the administrative court. In addition, it is possible to dispute the conditions of such a permit throughout the period the permit is in effect if the polluting activities may cause significant negative impact on the environment or endanger human life or health.
The Water Management Law, Sect.26, includes provisions on administrative and judicial appeal of administrative decisions concerning permits specified in this law or conditions of such permits.
One of the instruments to implement environmental law and to ensure its effect is territorial (spatial) planning. In Latvia, the framework law regulating the spatial planning system is the Spatial Development Planning Law. Sect.4 of the law imposes the obligation to involve the public in the planning procedures. Sect.27 provides for the possibility to contest a *spatial plan or local plan of the local government*. The competent authority for reviewing such submissions is the ministry responsible for spatial development planning. After this administrative pre-trial stage, persons can submit a constitutional complaint (i.e., to the Constitutional Court) regarding the conformity of the local government binding regulations (approving a spatial plan or a local plan) with the norms of superior legal force. Sect.30, in its turn, provides for the possibility to appeal a *detailed plan*, which is an administrative act, to the administrative court.
The Construction Law sets out the framework for issuing construction permits which usually involves, among other things, considering the environmental impact of the intended construction. However, the procedures on the EIA and construction permits are not integrated into one but are regulated as two subsequent procedures. At the same time, rights on public participation are provided only in cases when: 1) neither the EIA has been applied nor a detailed plan elaborated (both require public participation) and 2) if the construction is proposed next to a residential or public building and may cause significant

impact (smell, noise, vibration or pollution of another kind) (Sect.14(5)). Thus, if the EIA has been carried out or there is a detailed plan, no public participation is required during decision on permitting construction.
A municipality is authorized to extend the requirements on public participation requesting it on other occasions (for example, set in their legally binding norms type of activities when a public participation needs to be organized on construction permission, notwithstanding whether the EIA has been carried out. (Sec. 14(5)).
The decision regarding the proposed construction must be made public on a Construction Information System, and there are rules on informative measures regarding public discussions and submissions to change the initially proposed building design. In cases regulated by the Cabinet regulations, it is a responsibility of a developer to place a construction board on the respective plot of land. The law states that a developer also "may provide information to owners of immovable properties adjacent to the respective plot of land". Sect.14 contains rules on contesting and appealing the decisions of the competent authority (usually to the construction board of the local government and then to the administrative court). It is specifically regulated in Sect. 14(5) that the superior authority or the court must consider the violations of the right to public participation in decision-making.
Sect.6.1 of the Construction Law defines the competence of the State Construction Control Office. According to Sect.6.1(1)8, it lies within the competence of the Office to examine complaints on substantial violations of laws and regulations in the construction process or also in cases when a structure has caused or may cause danger or substantial harm to human life, health, property or the environment. It must be noted that the Office is an authority of general state control, and not a pre-trial administrative authority for administrative acts regarding the construction, for example, constructions permits.

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

The administrative courts have developed wide-ranging case-law regarding the rights of the public to access the court in environmental matters. Decisions of the administrative courts are available on the national portal of the court decisions. The Supreme Court (*Senāts*) as the cassation instance court interprets legal norms and is responsible for the unified application of law. This includes unified application of norms providing for the access to the court. On the website of the Supreme Court, there is an additional selection of the rulings of the Supreme Court. The search options in English make it possible to obtain a chronological overview, while the Latvian version of the database also provides quick access to subject-matter classified rulings, including chapters devoted to the environmental issues and building issues, as well systematization according to legal norms applied or interpreted by the Supreme Court. Moreover, the national database of legal acts has been complemented with additional indications and direct links to current case-law of the Supreme Court and the Constitutional Court on the norm associated with the case law.

(i) Recognizing an *actio popularis* approach in environmental cases

The Senate has interpreted Sect. 9(3) of Environmental Protection Law giving a broad approach to legal standing in environmental matters admitting it as an *actio popularis*: if the person in his or her appeal to the court indicates a possible infringement of environmental law or damage to environment caused by construction, this person as a member of the public in the meaning of Environmental Protection Law has a right to contest the construction permit. In such a case, there is no need for an evaluation of any infringement (or potential infringement) of his/her individual rights or legal interests. Any appeal of any person showing reasons which form the basis to identify the respective application as submitted in accordance with Sect.9(3) of the Environmental Protection Law is permissible as an *actio popularis* appeal against administrative act or actual measures of the state or the local government. [14]
An *actio popularis* is the exception provided by environmental law from the dominant approach established by the Administrative Procedural Law where the legal standing rules are based on a "right-based" doctrine requiring proof of the infringement of an applicant's (subjective) rights or legal interest to be entitled to sue. [15]

(ii) Limitations on the *actio popularis* rule

The Supreme Court has established margins on the notion of "environmental interests", thus, limiting the possibilities to sue aimed at eliminating dishonest and trivial applications. Accordingly, the Supreme Court has stated that a reference to the necessity of the protection of the environment and to the rights of the public in environmental law need not be formal. Sect.9(2) and Sect.9(3) of Environmental Protection Law are to be interpreted as precluding the right to appeal to the court if it is established that the reference to the alleged denial of the participation in decision-making or to the infringements of environmental law only serves as an instrument for achieving other goals not related to environmental protection. [16]
The Supreme Court confirmed the limitation on admissibility of a case to avoid accepting applications based on an *actio popularis* where concerns about a threat to the environment are insignificant and formal, and arguments in the application do not indicate any considerable threat to the environment. Otherwise, according to the Supreme Court, the possibilities of initiating a case would be open to "trivial" cases where there are no serious concerns on the threat to the environment. [17] Therefore, in deciding whether the application is admissible, the court has to assess "conditions that the applicant indicates to substantiate the infringement of the public interests in environmental protection." [18]
Consequently, there are two limitations established by the Supreme Court with respect to admissibility of the case and thus, affecting the decision on accepting a case from a private person claiming a breach of environmental law. 1) limitation based on the theory of "trivial case;" [19] 2) limitation based on the "honesty test." [20]

(iii) The right to information, public participation and access to justice in EIA cases

The Supreme Court has explained that the mandatory rules on informing the public about the public participation procedures (law On Environmental Impact Assessment, Sect.15(1) and Sect.17(1)) are not an-end-in-itself. The aim of those rules is to ensure that the information about the arrangements of the public participation reaches the public as far and wide as possible, thus encouraging the involvement of the public in decision-making. Taking into account this aim, the observance of those rules should not be considered formally. It should be evaluated whether the informative measures taking place have achieved their aim. [21]

"Environment" and cultural and historical heritage

According to the decision of the Supreme Court (*23.04.2018., case No. SKA-989/2018, ECLI:LV:AT:2018:0423.SKA098918.5.L.* the notion of environment also includes cultural and historical heritage. Any person may lodge an application before the court to protect environmental interests regarding cultural and historical heritage according to the Art.9(3) of the Environmental Protection Law.

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

Officially ratified international law, including the Aarhus Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters, can also be applied directly by administrative bodies and by the court. [22] If a conflict between a legal norm of international law and a norm of Latvian law of the same legal force is identified, the legal norm of international law must be applied.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

There is a three-level court system in Latvia.
The first level consists of 9 *district courts* of general jurisdiction for civil and criminal cases and one administrative district court, consisting of 5 courthouses in different cities and covering entire territory of Latvia, for administrative cases.

The second level consists of 5 *regional courts* of general jurisdiction for civil and criminal cases and one regional administrative court for administrative cases. The regional courts are courts of appeal for civil, criminal and administrative cases that have already been heard in district courts. The Administrative regional court has a jurisdiction as first-instance court in certain categories of cases mentioned in laws governing certain fields (for example, competition law). The *Supreme Court* or the Senate is the third-level court. The Senate is divided in three departments and functions as a cassation instance for civil, criminal and administrative cases, respectively.

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

Under Latvian law, procedures concerning administrative offences (violations) exist. If a person commits a petty offence listed in a certain law or regulation, the Administrative Liability Law applies and a penalty is imposed by an administrative authority. The penalty imposed by administrative authority can be appealed to a superior administrative authority as a pre-trial institution and to the district (city) court – i.e., common court for civil and criminal cases. Cases adjudicated by the district (city) courts can be appealed to regional courts. The judgments of regional courts are final and cannot be appealed.

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)?

Before an initiating a court case, the court in administrative and civil procedure evaluates the admissibility of the lodged application or the civil action brought. If the court comes to a conclusion that the application or the action does not lie in its jurisdiction (administrative or civil), it makes a written decision of non-admissibility which can be appealed to a higher instance court. If the question of the jurisdiction is especially complex, the court may ask the Supreme Court (the Senate) for its opinion on jurisdiction. The jurisdiction of the court is then decided by the Chief justice and chairpersons of all departments of the Senate. If the court, during initiated and ongoing court proceedings, comes to the conclusion that the case is initiated contrary to the rules of the jurisdiction, it terminates the proceedings. Such a decision can be appealed to a superior instance court.

There is no possibility that the court of civil or administrative jurisdiction would hand over the application directly to the competent judicial branch: it is the responsibility of the applicant or plaintiff to apply to the respective court in accordance with procedural rules. In exceptional cases, the Supreme Court (i.e., the Chief justice and the chairpersons of the departments) has decided that particular proceedings may continue despite the wrongly determined jurisdiction, but it is then justified by individual circumstances, mainly very long ongoing proceedings and a possible negative consequences due to the change of the jurisdiction.

The court also decides on the competence of the given court among other courts of the same jurisdiction and may refuse to accept the application or the civil action if other court of the same jurisdiction is competent. In **civil matters**, the court refuses to initiate the proceedings if other court of first instance is competent (for example, the respective court is not the court of the defendant's declared place of residence). In **administrative matters**, there is only one district court consisting of five courthouses; applications submitted to a particular courthouse may be transferred to the competent one if the applicant has erred in identifying the right courthouse. If the application lies in jurisdiction of different administrative court (i.e., when special rules state the Administrative regional court or the Supreme court as the first instance court), the court refuses to accept the application. In **criminal matters**, the court may transfer the case to the competent court if the case is submitted contrary to the rules defining the competence of the courts. Disputes between courts are forbidden.

There are no rules regulating conflicts of jurisdiction of different states. The general rules on accepting the application or the action apply.

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

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

If a person considers that an administrative decision or action, or omission, violates the law protecting the environment and nature, or could create the threat of damage or damage to the environment, he/she can apply to the administrative court. Since environmental issues on most occasions are settled by administrative decisions (building permits, water use permits, permits for polluting activities etc.), those disputes are mostly reviewed by the administrative court. Exercising the right to apply to the court may not cause, in itself, any unfavourable consequences, including those falling under the private law, to the applicant. [23]

There are no expert judges dealing with environmental or technical issues. In the official case distribution plans of the administrative courts, some of judges are specialized in environmental, spatial planning or construction cases, which reflects their expertise in the respective fields of law.

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

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

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

In administrative cases, the court has full jurisdiction over both factual and legal issues. This means that the court may review any question of facts or law. The exemption exists only where the administrative authority has a discretionary power (for example, where the authority decides on the means and scale of penalty) or has some scope for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority. If the court lacks technical or scientific knowledge, the assessment of facts can be done with the support of forensic expertise.

In environmental cases initiated by an applicant based on an *actio popularis* approach (in order to defend public interests in environmental protection) the scope of a court review has been limited by the Supreme Court in its judgment delivered in 2018. The Court stated that when assessing a complaint that has been submitted to protect the environment, the legality of a decision (construction permit) must be assessed focusing only on the existence of a threat to the environment or a possible breach of the requirements of environmental legislation that might be directly linked to the development under the dispute, rather than *any* facts or illegality a claimant might refer to. [24] Accordingly, this statement of the Supreme Court indicates that the scope of review for appeals based on environmental exception clause might be restricted to the infringement of legal provisions that are related to the environment. This applies to both procedural and substantive issues.

The administrative procedure is conducted in accordance with the inquisitorial principle or the principle of investigation, i.e., the court may gather evidence and make relevant legal considerations on its own motion. But it is the responsibility of the applicant to identify the contested administrative decision and to state reasons for challenging this decision. The administrative court examines the case strictly within the boundaries set by the applicant. The court may not alter the claim or examine decisions not appealed in written form by the applicant on its own motion. Also, the applicant must submit all the relevant evidence he or she has in his/her possession.

1.3. Organisation of justice at administrative and judicial level

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

Administrative decisions (administrative acts) are issued by different state or local governments' authorities according to their competence. The procedures and deadlines of appeal must be stated in the administrative act, otherwise the addressee of the decision enjoys longer terms for the appeal, i.e. one year instead of one month general deadline.
Generally, it is not possible to challenge the first level administrative decision directly before the court. As a general rule, an administrative act, actual measures or omission are subject to appeal to a superior administrative authority, which is a mandatory pre-trial stage. Exemptions exist only where there is no superior authority or the superior authority is the Cabinet of Ministers, then a person has the option of appealing the decision to the same administrative authority or to submit the application directly to the administrative court.
If the person contests the administrative act/measure/omission to a superior administrative authority, the complaint must be submitted to the same authority which issued the first decision, and it is the responsibility of this authority to transfer the complaint to a superior authority.
Administrative procedures at the administrative authority are free of charge, including in environmental cases. Exemptions however are provided by law, e.g., in public procurement cases).
A person can submit his/her complaint to the administrative authority both in written and in oral form. Oral complaints will be immediately written down by the civil servant of the institution. Written complaints and appeals, signed electronically, can be sent also by e-mail.

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

If a person is not satisfied with the decision of a superior administrative authority, he or she may submit an application to the administrative court within terms stated in the decision. The general time limit for lodging the appeal before the court is one month according to Sect. 188 of the Administrative Procedure Law. If the administrative authority has not explained the procedure of appeal (including time limits) in the written administrative decision, the deadline for appeal extends to one year.
A court fee must be paid. The applicant must formulate his/her pleading (what he or she wants to be done, i.e., to annul the decision, to make the authority to do something), to state main facts of the case, to identify the contested decision/measure/omission and to state the reasons for the contesting the decision /measure/omission. The applicant must attach all the relevant evidence and/or point to particular evidence that he/she wants the court to obtain from other sources. In environmental cases, an applicant must "appreciably substantiate" a claim demonstrating that there are well-founded concerns about a breach of environmental law in order to acquire standing based on the environmental exception clause (on an *actio popularis* rule).
The Administrative district court (consisting of five courthouses) is the first instance court. The exemptions are set out in law, for example, decisions of the Competition Council or the Financial and Capital Market Commission have to be appealed to the Administrative regional court.
Before initiating the court case, the judge will scrutinise the application to make certain the application lies within the jurisdiction of the court and there are no obstacles to initiating the proceedings.
If the judge accepts the application, the procedure at the Administrative district court usually lasts 6–9 months [25], in complex cases the procedure may last longer. The procedure in the first instance administrative court, as a default, is written, but the applicant has a right to ask for oral procedure.
If the judgment or the decision of the Administrative district court is appealed to the **Administrative regional court**, the appeal proceedings may last approximately the same time as at the district court, 6–9 months except in complex cases. A state fee must be paid for the appeal. The proceedings are conducted in written procedure. The appellant – an applicant in the administrative case – may ask the court to hold an oral hearing if he or she can state reasons for the need of it. The decision on providing the oral or written procedure is left to the court's discretion.
If a party to a case appeals the judgment of the Administrative regional court to **the Supreme Court**, a deposit must be paid for the cassation appeal. The cassation procedure at the Supreme Court will last about two years if the cassation complaint is admitted to the cassation proceedings. The Supreme Court may decide to refuse the initiation of the cassation proceedings if the appeal is ill-founded or if the judgment of the regional court is consistent with the judicature of the Supreme Court, or if there are no grounds to believe that the judgment of the regional court is wrong. There is written procedure at the Supreme Court, except in cases where the Court, using its own discretion, decides to hold an oral hearing. Oral hearings are rarely held at the Supreme Court.
If the court of the first instance or the appellate instance decides procedural questions (on the admissibility of the application, pleadings, on injunctive relief or interim measures etc.) during the court proceedings, decisions may be appealed separately with an ancillary complaint to a higher instance court if Administrative Procedure Law provides for such ancillary appeal, and in a procedure according to this law. According to Sect.316 of Administrative Procedure Law, a time limit for lodging an ancillary appeal is 14 days starting from the day the court has issued the decision. Only in particular cases mentioned in Administrative Procedure Law will the term be counted starting from the moment the addressee of the decision has received the decision, usually it is when the addressee has not previously been informed about the date for the review of the issue.
The higher instance court will verify this procedural decision of the lower instance court.

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

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

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

The same general procedural rules apply for administrative and judicial procedures in environmental matters, as in other types of administrative cases (*see 1.3.2*).
At the administrative level, there should be at least one appeal level to a superior administrative authority as a mandatory pre-trial stage, except where there is no superior administrative authority or where the Cabinet of Ministers is the only superior authority to the given lower authority. Special laws may provide for more appeal levels. Taking into account that there are different administrative authorities issuing administrative decisions both in local and state level, it is not possible to give precise instructions as to which administrative authority is a superior administrative authority. It depends on the institutional structure of local and state administration. The administrative authority issuing the decision must state the appeal procedures in the same decision. The complaint must be submitted to the same, i.e. lower, administrative authority which will then itself forward the complaint to the respective, institutionally or functionally superior, administrative authority.
After the final administrative decision is issued, it can be appealed to the administrative court.
The court system provides for three possible levels of court proceedings: the Administrative district court and, consequently, the Administrative regional court will decide the matter on its merits and issue a judgment on the merits, while the Supreme Court (the Senate), as a cassation instance court, will decide on questions of law only. An exemption exists in relation to disputes regarding information requests: the case will be reviewed on two levels only, the Administrative district court and the Supreme Court.
The general time limit for lodging the appeal before the Administrative district court is one month according to Sect.188 of Administrative Procedure Law. If the administrative authority has not explained the procedure of appeal (including time limits) in the written administrative decision, the deadline for appeal extends to one year.
A court fee must be paid in the amount of 30 EUR. The applicant must formulate his/her pleading (what he or she wants to be done, i.e., to annul the decision, to make the authority to do something), state main facts of the case, identify the contested decision/measure/omission and state the reasons for the

contesting the decision/measure/omission. The applicant must attach all the relevant evidence and/or point to particular evidence that he/she wants the court to obtain from other sources.
An appeal on the merits must be lodged before the Administrative regional court within one month after a full judgment of the Administrative district court has been issued. The court fee in the amount of 60 EUR applies to the appeal to the Administrative regional court. The appellant must clearly state the scope of the appeal, and it must not go beyond the initial scope of the appeal to the Administrative district court. Also, the merits of the appeal must be stated. If the appellant wants to attach new evidence or to ask the appellate court to gather new evidence, he/she must explain why such evidence was not submitted to the first instance court.
After the case is reviewed at the appellate instance court and the judgment of the Administrative regional court is issued, a cassation complaint to the Supreme Court is allowed regarding the points of law only. A cassation complaint must be lodged within one month after the issue of the judgment of the Administrative regional court, and a 70 EUR deposit must be paid. The Supreme Court, at first, will verify the content of the cassation complaint and decide whether to accept the complaint for the review on its merits. Cassation complaints lacking legal argumentation on the points of law will not be accepted to the cassation procedure. If such is the case, The Supreme Court will issue reasoned decision on the rejection of the complaint.
If the cassation complaint is accepted to the cassation procedure, the Supreme Court will not examine evidence. The judgment will include the arguments only regarding points of law, i.e., whether the appellate court has applied the law correctly.
If the cassation complaint has been accepted to be reviewed on its merits and, afterwards, is successful and the case has been returned to the Administrative regional court for a new review, the complainant will recover the deposit.
Some more important procedural decisions (clearly mentioned in the Administrative Procedure Law) of the court may be appealed with ancillary appeals (for example, the decision not to accept the application to the court, or the decision on injunctive relief). Procedural decisions are reviewed on one appeal level only. If the procedural decision is subject to an appeal, an ancillary complaint must be lodged before a higher instance court within 14 days starting from the day the court issued the decision (Sect.316 of Administrative Procedure Law). Only in particular cases mentioned in Administrative Procedure Law will the term be counted starting from the moment the addressee of the decision received the decision, usually it is when the addressee has not been previously informed about the date for the review of the issue.

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

The law On Pollution, Sect.50, provides for a possibility to contest conditions of an A or B category permit for polluting activities at any time while the relevant permit is in effect. An appeal is allowed if the respective polluting activity could have a substantial negative impact on human health or the environment, or the environmental quality objectives specified in the law.
If the administrative court (any level of it) deciding the case acknowledges that a legal norm does not conform to the Constitution (*Satversme*) or international law, it has a competence to suspend court proceedings and to send an application to the Constitutional Court to annul the legal norm (Sect.104 of Administrative Procedure Law). Parties to the case may argue on the need to apply to the Constitutional Court. After the decision of the Constitutional Court, the administrative court proceedings will be renewed and the administrative court will base its decision or judgment upon the view of the Constitutional Court.
The administrative court (any level of it) may refer a question of EU law to the Court of Justice of the European Union (CJEU) for a preliminary ruling if it needs the interpretation or a decision on the validity of EU law to decide the case before it. The function of the preliminary reference procedure is to ensure uniform interpretation and validity of EU law across all the Member States. The administrative court will suspend the administrative court proceedings and send an application to the CJEU. Parties to the case may argue before the administrative court on the need for such a preliminary reference and give their views on how to draft the question.

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

There are no specific rules for mediation in administrative procedure. The possibility to come to a settlement is left to the free will of the parties to the case. A person and an administrative authority can enter into an administrative agreement both during administrative procedure at the authority or during the court proceedings. The court or the judge does not in any way formally interfere with the conclusion of such an agreement and does not approve it by a court decision. The only way the court may influence the parties is to explain the possibility of entering an agreement and to make proposals for the conditions of the agreement. If the parties have started negotiations, the court may adjourn the hearing or postpone taking the final decision in the case.

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

Apart from the administrative and judicial review of decisions or omissions of administrative institutions, there are other means of remedies available in environmental matters.
The protection of human rights, including the right to live in a benevolent environment, falls under the competence of the Ombudsman (Tiesībsargs).
According to Ombudsman Law the Ombudsman may:
examine complaints and proposals of private individuals, investigate the circumstances;
request that institutions clarify the necessary circumstances of the matter and inform the Ombudsman thereof;
upon or after the examination, provide the institution with recommendations and opinions regarding the lawfulness and effectiveness of their activities, as well as the compliance with the principle of good administration;
within the framework of law, resolve disputes between private individuals and institutions, as well as disputes in respect of human rights between private individuals;
facilitate conciliation between the parties to the dispute;
in resolving disputes, provide opinions and recommendations to private individuals regarding the prevention of human rights violations;
provide the Parliament, the Cabinet, local governments or other institutions with recommendations on the issuance of or amendments to the legislation;
provide persons with consultations regarding human rights issues;
conduct research and analyse the situation in the field of human rights, as well as provide opinions regarding the topical human rights issues.
The prosecutor's office is vested with a supervisory power, i.e., a prosecutor has a duty to take measures required to protect the rights and lawful interests of persons and the State. This may include environmental protection interests, too. A prosecutor may initiate a criminal investigation, as well as to take other actions. According to the Law on Prosecutor's Office, the prosecutor may:
issue a warning to the persons if their actions show the possibility of a violation of law;
issue a protest to the Cabinet, ministries and other administrative institutions, local government institutions, inspections and state services, undertakings, institutions, organisations and officials, if their decisions do not comply with law; the particular institution or official must inform the prosecutor of the result of the protest within a 10-day period. The prosecutor may apply to the court if his protest is denied without basis or no reply to it is provided;
submit a written submission to the relevant undertaking, authority, organisation, official, or person, if it is necessary to discontinue an illegal activity, rectify the consequences of such activity or to prevent a violation; if the requirements expressed in a submission are not complied with or no reply to it is provided, the prosecutor is entitled to submit to a court or any other competent institution an application requiring respective liability measures.

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 so-called *actio popularis* (a right of access to justice in public interests) exists in environmental matters. This means that persons have access to administrative authorities and court not only to protect their own individual interests, but also to protect general interests of environmental protection. According to the Environmental Protection Law and the case-law of the Supreme Court, those rights are recognised for both natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. There are no specific conditions for non-governmental organizations to have a right to go to the administrative court.

The Supreme Court has established margins on the notion of "environmental interests", thus limiting the possibilities to sue aimed at eliminating dishonest and trivial applications. Accordingly, the Supreme Court has stated that a reference to the necessity of the protection of the environment and to the rights of the public in environmental law need not be formal. Sect.9(2) and Sect.9(3) of Environmental Protection Law should be interpreted as precluding the right to appeal to the court if it is established that the reference to the alleged denial of the participation in decision-making or to the infringements of environmental law only serves as an instrument to achieve other goals not related to environmental protection. [26]

The Supreme Court confirmed the limitation of admissibility of a case to avoid accepting applications based on an *actio popularis* where concerns about a threat to the environment are insignificant and formal, and arguments in the application do not indicate any considerable threat to the environment. Otherwise, according to the Supreme Court, the possibilities of initiating a case would be open to "trivial" cases where there are no serious concerns on the threat to the environment. [27] Therefore, in deciding whether the application is admissible, the court has to assess "conditions that the applicant indicates to substantiate the infringement of the public interests in environmental protection." [28]

Consequently, there are two limitations established by the Supreme Court with respect to admissibility of the case and thus, affecting the decision on acceptable case from a private person claiming a breach of environmental law. 1) limitation based on the theory of "trivial case;" [29] 2) limitation based on the "honesty test." [30]

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

The same broad interpretation of legal standing for access to administrative and judicial appeal is recognized in all branches of environmental law. However, on two occasions the law states a condition to identify an individual infringement.

The law On Pollution stipulates the procedures for permitting and controlling polluting activities and the allocation of greenhouse gas emission permits. Sect.50 of this law contains detailed rules on contesting administrative decisions and appealing them to the administrative court. Among other decisions and omissions, a person may contest decisions concerning research on or remediation of a polluted or potentially polluted site *if the health, security, or property of a certain natural or legal person may be affected*. Also, a person may contest the issuing of a greenhouse gas emission permit, if a certain person *may be affected by this decision* (however, *any* person may appeal such decision if the right to an environmental information, right to participate in the decision-making and to have public's opinions considered has been ignored or infringed). But there are no such conditions (to identify an individual infringement) to contest decisions in relation to Category A or B permits for the performance of polluting activities, to submit a complaint if the right of public participation and the right to environmental information have been ignored, or to contest the conditions of the permit during the entire period the permit is in effect.

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.)

See above 1.4.1. regarding *actio popularis*.

There are no specific rules for foreign non-governmental organizations or individuals, they enjoy the same access to the court in environmental interests if the contested decision or omission falls within the jurisdiction of Latvia. According to Art.91 of the Constitution and Sect.4 of Law on Judicial Power, all persons are equal before the law and the court. Cases are adjudicated irrespective of, among other things, the origin, nationality, language or place of residence of a person.

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

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

1.5. Evidence and experts in the procedures

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

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

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

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

testimonies of witnesses,

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

material evidence,

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

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

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

2) Can one introduce new evidence?

Participants to the procedure may also introduce new evidence during the court proceedings at the first instance court or even at the appellate court. The cassation instance court (the Supreme Court) does not accept new evidence since its task is to examine points of law only.

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

If the participants to the court procedure have reasonable doubts about the facts on which the disputed administrative decision is based, they may ask the court to order an expert opinion, or the court may appoint an expert witness on its own motion. If the court is convinced of the necessity of the expert report, it

will select one or more experts, taking into account the views of the participants to the procedure. The participants have a right to propose questions which, in their opinion, require the opinion of an expert, but questions will be finally determined by the court.
According to the Law on Forensic Experts, state forensic experts and private forensic experts are entitled to perform forensic expert examinations. Only in special circumstances may other persons having necessary knowledge perform expert examinations. The list of forensic experts may be found in the public Register of Forensic Experts.
Parties to the case may submit expert opinions to the court acquired on their own initiative. However, such expert opinions do not qualify as expert opinions in the meaning of the Administrative Procedure Law. The court may evaluate their credibility in the same way as a credibility of any other written evidence.
According to the Law on the Conservation of Species and Biotopes, there exists a register of experts providing opinions on protected species and biotopes. An administrative authority, an individual person or a court may seek for opinions of experts in environmental administrative cases. More information and the register of experts: the Nature Protection Agency website.

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

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

3.2) Rules for experts being called upon by the court

A person selected as an expert is obliged to attend the court when he or she is summoned. An expert has the right to become acquainted with the materials of the case file, to put questions to participants in the administrative proceeding and to witnesses, and to request the court to require additional materials. An expert must give an objective opinion in his or her own name and is personally liable for the opinion.
If the material provided for the expert's investigation is not sufficient or if the questions asked are beyond the scope of expert's knowledge, the expert must inform the court.
An expert may be held criminally liable for refusal to perform his or her duties without justified reason or for knowingly giving a false opinion.
The law provides for the possibility of withdrawal or removal of an expert if there is a reason to believe that he or she is biased.
An expert opinion has to be reasoned and substantiated. If the opinions of the experts conflict, each expert writes a separate opinion.

3.3) Rules for experts called upon by the parties

There is no possibility for parties to call their own experts to the court (*see above*). If the participants have obtained and submitted expert-opinions on their own initiative, the court may evaluate such opinions as any other written evidence.

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

No procedural fees are to be paid at the administrative court.
The State budget will cover the remuneration paid to experts assigned by the court's decision. The parties to the proceedings do not have to pay any fees or cover any expenses. However, in both administrative and court procedures, the person has to cover payments to experts if that person has involved any on his/her own initiative.

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

As a rule, any person can go to the administrative institution or to the court personally, without a mandatory legal counsel. Taking into account that the administrative court is bound to the principle of objective investigation (inquisitorial principle), the court may also on its own motion clarify any possible ambiguities in the written appeal, or ask participants and other persons to submit the necessary evidence. This is a great advantage for persons defending their rights or environmental interests at the administrative court. Nevertheless, a person may involve another person, lawyer or any other person as his/her representative and/or legal counsel at the administrative or judicial procedures. There are no rules on mandatory legal counsel for judicial proceedings at the administrative court, not even at the Supreme Court.
Expenses related to legal aid or expert examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.
The person in need of legal counsel may contact members of the Advocacy (sworn advocates) as well as other lawyers. They can provide legal consultations, prepare legal documents and perform other legal activities.
The list of sworn advocates
There is no list of specialized lawyers in the environmental field.

1.1 Existence or not of pro bono assistance

It is sometimes possible, on an individual basis, to receive *pro bono* legal assistance in administrative matters. For example, if the outcome of the case or the interpretation of the legal provisions could be significant, the lawyers are sometimes ready to provide legal advice free of charge. Law firms and lawyers can be contacted individually.
The legal clinic functioning at the University of Latvia is ready to provide legal advice to persons with a low income. Legal advice provided by law students usually covers such branches as employment, rent of dwelling premises, or maintenance allowance for children.
The Latvian branch of the Transparency International Delna provides legal aid for citizens in building and land use matters. Delna are prepared to handle the case in situations when the case is of public importance, i.e., when a substantial damage is caused or may be caused to environment, or when the case could serve as a precedent and contribute to the improvement of law or legal practice.

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.)?

See above 1.1.

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

See above 1.1.

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

Register of Forensic experts (forensic expertise ordered by the court)
The list of sworn advocates
According to the Law on the Conservation of Species and Biotopes, there is a register of experts providing opinions on protected species and biotopes. An administrative authority, an individual person or a court may seek the opinions of experts in environmental administrative cases. More information and the register of experts: the Nature Protection Agency website.

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

Baltic Environmental Forum (*Baltijas Vides forums*)

Latvian Fund for Nature (*Latvijas Dabas fonds*) Participating in court proceedings. Wide range of environmental expertise.
The Environmental Protection Club (*Vides aizsardzības klubs*) Participating in court proceedings.
Latvian Green Movement (*Latvijas Zaļā kustība*)
Society „Green Liberty" (*Biedrība „Zaļā brīvība"*)
Society for protection of Jūrmala (*Jūrmalas aizsardzības biedrība*) promotes civic involvement in decision-making in Jūrmala city, including environmental matters. This often involves spatial planning, land-use and construction in Jūrmala, impact on the Baltic Sea Coastal Protection Zone. Participating in court proceedings.
The Ornithology Society The main organization dealing with the birds' protection. It has been both initiating administrative justice procedures and participating in court proceedings.
Society of Botanists
Society „Baltic Coasts" (*Biedrība „Baltijas krasti"*)

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

WWF Latvian Branch
Transparency International Latvian Branch Delna Participating in court proceedings.
Foundation for Environmental Education Latvian Branch

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).

If the person is not satisfied with the environmental administrative decision of the competent administrative authority, he/she can appeal it to a superior administrative authority within *one month* after the decision comes into effect. The procedures and time limits for appeal must be stated in the administrative decision, otherwise the addressee of the decision enjoys longer terms (one year) for the appeal. An administrative decision comes into effect at the moment the addressee is notified of it, except when the decision or the law regulates otherwise. The Law on Notification contains detailed rules regarding notifying the addressee in different manners (mail, electronic mail etc.) and rules about when the document is deemed to have been notified.

Persons who are not the direct addressees of the administrative decision but whose rights or legal interests are affected by that decision may dispute the decision within a one-month period from the day when this person become informed of it, but no later than within a one-year period from the day the decision comes into effect. The same rule applies to persons contesting a decision in environmental interests (environmental claims) even if they are not individually affected by the respective decision.

Important special rules exist regarding construction permits. According to Sect.15(4) of the Construction Law, a decision on a construction permit must enter into effect from the moment it has been notified to the addressee, and at this moment the time limit for contesting the construction permit begins also for other persons (third parties), regardless of the moment those third parties acknowledged the existence of the permit. Only if the mandatory rules on informative measures have not been observed properly may the third parties rely on the time limits counting from the moment those persons become informed of the fact that the permit has been issued. The informative measures include making public the decision on a Construction Information System, and there are also rules on informative measures regarding public discussions and submissions to change the initially proposed building design. In cases regulated by the Cabinet regulations, it is a responsibility of the initiator of the construction to place a construction board on the respective plot of land; a developer *may* provide an information to owners of immovable properties adjacent to the respective plot of land.

Some normative acts concerning environment issues prescribe specific rules for appealing particular environmental decisions. For example, persons can contest the conditions of the permit for polluting activities *during the entire period of its validity*, which significantly differs from the general rule to contest any decision within one month from the day of its coming into effect (Sect.50(3) of the law On Pollution).

The administrative appeal should be submitted to the authority that issued (or had an obligation to issue) the decision concerning the original complaint. The appeal will then be forwarded for examination to a superior administrative institution.

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

2) Time limit to deliver decision by an administrative organ

Administrative authorities, including superior authorities when reviewing a complaint on the decisions of lower authorities, must deliver their decisions within one month from the day the person has lodged his/her application or complaint. In urgent cases, the person may request the authority to issue the decision immediately.

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

If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.

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

Generally, it is not possible to challenge the first level administrative decision directly before court. As a general rule, an administrative act, actual measures or omission are subject to appeal to a superior administrative authority, which is a mandatory pre-trial stage. Exemptions exist only where there is no superior authority or the sole superior authority is the Cabinet of Ministers, then a person has a choice to appeal the decision to the same administrative authority or to submit the application directly to the administrative court.

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

There is no deadline set for the court to hear a case and to decide on the merits. The judge (the court) examines cases in the order of the waiting list, but the duration of the proceedings depends on the complexity of the case and the procedural choices made by parties. The Law on Judicial Power allows a Chief judge of the court to ask a judge for an explanation for the work organisation, to issue orders related to work organisation and to take appropriate measures to ensure the examination of the case within a reasonable time period. For example, the law allows the Chief judge to assign the judge to determine a time period for performing necessary actions or to re-allocate the cases according to the allocation plan of the court-cases.

After the case is heard (or examined in written procedure) on its merits at the district court of the regional court, the court must deliver its written judgment within 21 days. This term may be extended to two additional months. At the Supreme Court, the court must deliver its written judgment within one month after the oral or written review of the case, and this term may be extended to two additional months.

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

The general time limit for appealing the administrative decision of a superior administrative authority before the administrative court is one month. If the superior administrative authority has failed to clarify the procedure for appealing its decision, the time limit extends to one year. Also, if the superior administrative authority has not issued its decision at all after the person has filed the complaint regarding a decision or an omission of a lower administrative authority, the person may file his/her appeal to the administrative court within one year after addressing the superior administrative authority.
The time limit for filing appeals against court judgments is one month. The general time limit for filing ancillary complaints against procedural decisions of the court (for example, decision not to accept the application to the court due to the lack of jurisdiction, or decision on injunctive relief) is 14 days.
During the stage of the preparation of the case for review, the judge sets time limits for submitting arguments, evidence and procedural pleas and petitions.

1.7.2. Interim and precautionary measures, enforcement of judgments

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

Submitting a complaint against an administrative decision, generally, suspends its effect from the moment the complaint is received at the administrative authority. Sectoral law may provide for exemptions, for example, the law On Pollution, Sect.50(4) states that contesting amendments to an existing permit does not suspend the effect of that existing permit. For more detailed information on exemptions see 1.7.2.4.
The suspensive effect lasts until the day the time limit for appealing the decision of a superior administrative authority ends and no appeal has been lodged before the administrative court.

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

There is no possibility to ask for injunctive relief during the administrative appeal, the only provisional protection is the suspensive effect of administrative decisions.

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?

See above 1.7.2.2.

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

The Administrative Procedure Law, Sect.80 and Sect.360, provides for exemptions when there is no suspensive effect during administrative appeal procedure:
when special law requires immediate enforcement (execution) of the decision (for example, appeal against a construction permit for structures of national interest does not have suspensive effect);
when the administrative authority itself has specifically provided for immediate enforcement of the given decision;
if the administrative decision is issued orally, or disregarding other formal requirements, in the event of an emergency, or in accordance with special legal norms, or in some trivial matters;
if administrative decisions of the police, the border guards or the fire service are issued to prevent immediately threats to national security, public order, the environment, the life and health, and property of individuals, those decisions are to be enforced immediately and there is no suspensive effect;
if the contested administrative decision is favourable to the addressee, and this addressee asks for more favourable decision;
if the contested administrative decision is of general nature, i.e., it concerns many persons not mentioned as addressees but who it is possible to identify taking into account their relation to the situation (for example, if the decision is addressed to the users of some particular facility, or some other specific group of persons not directly identified in the decision).

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

When an administrative decision is appealed to the administrative court, the action submitted to the court generally has a suspensive effect, i.e., the operation of the administrative act is suspended from the day the application is submitted. For example, if a person submits an action against a building permit, the construction of the disputed building is not allowed.
However, Administrative Procedure Law, Sect.185(4), like during the administrative appeal, sets out several exemptions when the contested administrative decision may be executed notwithstanding the appeal to the court. The main exemptions are as follows:
the administrative act imposes a duty to pay tax, duties or another payment to the State or a local government budget, except penalties;
it is provided for by other laws, for example, if a person has submitted an appeal against the conditions of the permit for polluting activities after the general deadline of one month for appealing administrative decisions, the appeal will not suspend the operation of the permit;
the institution, setting out grounds for urgency of execution in respect of the specific matter, has specifically provided in the administrative act that it must be executed immediately; or
an administrative act of the police, border guard, national guard, fire-fighting service and other officials authorised by law is issued to prevent direct threats to national security, public order, or the life, health or property of individuals;
the contested administrative decision establishes, amends or terminates an institution’s legal relations with a civil servant;
the contested administrative decision is favourable to the addressee, and this addressee asks for a more favourable decision;
the contested decision is of a general nature, for example, is addressed to users of some particular facility, or restricts the use of a municipal road;
the contested administrative act annuls or suspends a licence or other special permit.

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 participants to the court procedure may ask the court for the provisional protection (injunctive relief):
if the appeal has had a suspensive effect, the addressee of the contested decision may ask the court to resume the enforcement (the execution) of the decision, for example, to allow to begin the construction works or the operation of the power plant;
if the appeal has not had a suspensive effect, the person submitting an action against the decision may ask the court to suspend the operation of the contested decision.
In either of the above-mentioned cases, the court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved.
If there is a reason to believe that the contested administrative decision or consequences of the non-issue of an administrative decision (omission) might cause significant harm or damage, the prevention or compensation of which would be considerably encumbered or would require incommensurate resources, and if examination of information at the disposal of the court reveals that the contested decision is *prima facie* illegal, the court may, pursuant to the reasoned request of an applicant, take a decision on injunctive relief. As a means of injunctive relief, the court may issue:
a court decision which, pending judgment of the court, substitutes the requested administrative decision or actual measures of the institution,
a court decision which imposes a duty on the relevant institution to carry out a specific action within a specified time period or prohibits a specific action,
a court decision which assigns the Land Register to register restrictions on the owner’s right of disposal with real property.
The participants to the proceedings may request injunctive relief at any stage of the procedure, also in the appellate court instance and cassation court instance, when they consider the provisional protection urgently needed. No formal deadlines are applied. The exercising of the rights to request a

provisional protection may not, in itself, cause any unfavourable consequences, including those falling under the private law. This means that the person will not be liable for financial loss caused to another person by the court's decision.
The participant to the proceedings requesting provisional protection (injunctive relief) must pay a deposit payment to the State budget in the amount of 15 EUR defined by law. A natural person may ask the court to relieve him/her from paying the deposit fully or partially. The deposit payment is returned if the request for provisional protection is successful.
The court's decision regarding injunctive relief can be appealed. Also, the participant to the proceedings may request to replace or to revoke the imposed injunctive relief.

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.

Administrative procedures in administrative institutions are free of charge.
If the person submits an appeal to the administrative court, he/she should take account of state fees.
Both in administrative and court procedures the person has to cover his/her own expenses:
remuneration to a representative or legal advisor (if the person has involved any); if the administrative institution (or the court subsequently) finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may decide that remuneration to a representative of this person, within regulated frameworks, will be paid from the State budget.
payment to private experts (if the person has involved any on his/her own initiative); the State budget will cover the remuneration paid only to experts assigned by the court's decision; the participant to the proceedings also bears his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.
State fees. When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters *de novo* in connection with newly-discovered facts is 15 EUR.
The amount of the state fee is the same for all categories of administrative cases. An exemption exists for asylum seeker cases which are free of charge.
The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.
Administrative Procedure Law does not prescribe any other fees or deposit payments.
Expenses related to legal aid or expert examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.
In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission has been fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or *de novo* review) is successful.
The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But, if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisors or experts.

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

Only a deposit payment of 15 EUR applies and must be paid to the State budget. It is reimbursed if the request for interim measures/injunctive relief is successful and the court has decided in favour or the participant requesting the measures.
There is no system applied for financial deposits as guarantees for other participants to the proceedings for any losses incurred due to the provisional measures.

3) Is there legal aid available for natural persons?

A natural person contesting an administrative decision to a superior administrative authority may ask the administrative authority to pay the remuneration to his/her representative. If the authority finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may decide that remuneration to a representative of this person, within regulated frameworks, should be paid from the budget of this administrative authority.
If a natural person lodges an appeal to the administrative court, he/she may ask:
for a decrease in the amount of the state fee or exemption from the obligation to pay the fee. The court will take into account this person's financial situation;
for state legal aid to be arranged. The court may decide to grant state legal aid to a natural person in difficult financial situation if the particular administrative matter is complicated. The practical arrangements (assignment of the particular lawyer, amounts and kinds of legal aid, remuneration) are administered by Court Administration.

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?

No state legal aid is available for legal persons.
It is sometimes possible, on an individual basis, to receive pro bono legal assistance in administrative matters. For example, if the outcome of the case or the interpretation of the legal provisions could be significant, the lawyers are sometimes ready to provide legal advice free of charge. Law firms and lawyers can be contacted individually (see also above 1.6.1.1.).

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

There is no financial mechanism provided by the state on regular or systemic basis but there has been support available on a project basis, for example, the Environmental Protection Fund [31] and the Society Integration Foundation. [32] In recent years, however, the former has not been available to address environmental cases through legal remedies.

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

The "loser party pays" principle only partially applies.
In the judgment, the court will order a reimbursement of the state fee in successful applications of the applicant: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not need to reimburse the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or *de novo* review) is successful.

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

7) Can the court provide an exemption from procedural costs, duties, filing fees, taxation of costs, etc.? Any other national characteristics linked to this topic?

The court may decrease the amount of the state fee or exempt a natural person from the obligation to pay the fee. The court will take into account this person's financial situation. The participant to the proceedings must bear his/her own other procedural expenses (for obtaining evidence, obtaining private expert opinions etc. according to his/her own willingness to submit such evidence).

1.7.4. Access to information on access to justice - provisions related to Directive 2003/4/EC

1) Where are the national rules on environmental access to justice available? Internet link to be provided. Are there other forms of structured dissemination?

The Internet site of the State Environmental Bureau provides general information about EIA procedure, as well as detailed information on all on-going and past EIA procedures. However, there is no information about access to justice rules.

The Internet portal to the judiciary provides information on administrative and civil litigation and criminal procedure.

A free online database of national legislation is available here.

However, there is no specific information disseminated through official webpages of the authorities that reflects the rules on environmental access to justice.

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

There are no particular rules on providing information about access to justice in environmental procedures. Every written administrative decisions and court decisions or judgments must include a precise indication of a procedure of appeal to a superior administrative authority or to the court.

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

Regarding IPPC/IED procedure, Cabinet Regulation No. 1082 (30.11.2010), Sect.71.6 provides for the obligation of the operator to include information on contesting the permit for polluting activities in the notice to the public.

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

Every written administrative decision and court decision or judgment must include a precise indication of a procedure of appeal to a superior administrative authority or to the court. The deadline for appealing an administrative decision extends from one month to one year if this rule is not observed.

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

The language of administrative authorities and courts is Latvian.

Administrative authorities accept documents in Latvian, with the exemption of documents received from foreign countries. In all other occasions, documents in foreign languages must be translated into Latvian to submit them to administrative authorities. Persons may address authorities in foreign language in the event of an emergency (police, medical emergency etc.).

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

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)

Procedures of environmental impact assessment (EIA) are regulated by the Law on Environmental Impact Assessment and by Cabinet regulations issued in accordance with this law.

An EIA screening decision declaring that an EIA is *necessary* can be contested to a superior administrative authority and, subsequently, appealed to the court by the person planning to perform the intended activity. The general time limits for administrative and judicial appeal apply (one month).

An EIA screening decision declaring than an EIA is *unnecessary* cannot be contested to a superior administrative authority or appealed immediately to the court, but may be examined within the reviewing of the final decision authorizing the intended project (for example, the construction permit). [33] In this case, any person alleging an infringement of the rights to environmental information or to the rights to participate in environmental decision-making, or alleging an infringement of the environmental law, may contest and appeal the decision. This means that *actio popularis* (the right to access the court for the protection of general environmental interests) applies. For example, if a person argues that because of the lack of the EIA the public was unjustifiably precluded from participating, or substantial environmental norms are allegedly broken, this person may contest the construction permit for a municipality road.

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

During the environmental impact assessment (EIA) procedure, any person may submit a complaint to a competent administrative authority (Environmental State Bureau) against the person planning to undertake the intended activity if this person ignores or infringes the right of the public to environmental information or public participation. If the decision of the competent authority does not satisfy the person, he/she may submit a complaint to the Ministry of Environmental Protection and Regional Development (the Law on Environmental Impact Assessment, Sect.26(2)).

EIA scoping decisions and the competent authority's reasoned opinion regarding an EIA report cannot be contested to a superior administrative authority or appealed to the court directly and immediately. The final authorization (*akcepts*) of the development may be appealed and, within this framework, a court is free to examine objections against the EIA procedure, report and competent authority's statement on the EIA report.

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

The public can challenge final decisions authorizing the intended activity. As a final authorization is taken by a municipality (in some cases by the Government), and there is no superior authority, it can be appealed to the administrative court. The time limit for judicial appeal is one month from the notification. If a person is not an addressee of the decision and has not been involved in administrative procedure, the time limit for this person is either one month from the notification of the addressee (in the case of construction permits) or one month from the moment a person obtained the information about the authorization but no later than one year after the act came into force. The procedure and time limits must be clarified in the decision.

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

A person can challenge the final authorization of the intended activity, and complain also about all procedural and material infringements, including EIA screening and scoping decisions, and final EIA decision. *Actio popularis* applies, this means any person (natural or legal) may lodge a complaint.

For procedure, see 1.8.1.3.

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

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

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

whether EIA has been conducted in a way which provides a sufficient possibility to gather all the relevant information on the possible impact of the intended activity to the environment,
whether the final EIA decision is based on correct findings and whether it lays down sufficient and clear written reasons. Expert opinions may be used as an evidence to clarify scientific and technical issues.
In administrative cases, the court has full jurisdiction over factual and legal issues. This means that the court may review any question of facts or law. The court cannot decide and declare its own statements about the impact of the intended activity instead of the administrative institution; however, the court can find factual errors and consideration errors which have led, or may have led, to an erroneous final decision. Such findings may lead to an annulment of the final authorization of the intended activity.
In environmental cases initiated by an applicant based on an *actio popularis* approach (in order to defend public interests in environmental protection) the scope of a court review has been limited by the Supreme Court in its judgment delivered in 2018. The Court stated that for assessing a complaint that has been submitted to protect the environment, the legality of a decision (construction permit) must be assessed focusing only on the existence of a threat to the environment or a possible breach of the requirements of environmental legislation that might be directly linked to the development under the dispute, rather than any facts or illegality a claimant might refer to. [34] Accordingly, this statement of the Supreme Court indicates that the scope of review for appeals based on environmental exception clause might be restricted to the infringement of legal provisions that are related to the environment. This applies to both procedural and substantive issues.
The administrative procedure is conducted in accordance with the inquisitorial principle or the principle of investigation, i.e., the court may gather evidence and make relevant legal considerations on its own motion. But it is the responsibility of the applicant to identify the contested administrative decision and to state reasons for challenging this decision. The administrative court examines the case strictly within the boundaries set by the applicant. The court may not alter the claim or examine decisions not appealed in written form by the applicant on its own motion.

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

If an EIA has been carried out: the public can challenge the final decision authorizing the intended activity. See 1.8.1.3. for procedure. The procedure and time limits must be clarified in the decision.
If an EIA has not been required: a final administrative decision allowing the activity can be contested according to the general rules, taking into account which authority has given the permit and whether there is a superior administrative authority (see 1.3.4. for more detailed information).
When lodging an administrative complaint or a judicial appeal to the court, a person may contest any procedural or material infringements of law, including any omissions during EIA procedure and issuing of the final authorization.

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

A person must exhaust an administrative review procedure lodging his/her complaint to a superior administrative authority if one exists (pre-trial stage). The administrative appeal is mandatory before appealing to the court.
If the final authorization has been made by a local authority, i.e., the council of local government, there is usually no superior administrative authority and the appeal must be lodged directly before the Administrative district court. The same applies where the final authorization is given by the Cabinet of Ministers. In other cases, a superior administrative authority exists and a mandatory pre-trial appeal must be made.to a superior administrative authority

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?

It is not a prerequisite for a court action in administrative court. [35]

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

The principle of procedural fairness is recognised as a general principle of law and a prerequisite of fair trial. It is mentioned, inter alia, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.1 of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and must give proper opportunities to every participant to proceedings to explain their opinion and to submit evidence.

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

As in other administrative law sectors, every administrative authority must observe time limits set in the law for taking decisions, unless otherwise regulated in special norms.
The Law on Environmental Impact Assessment does not provide for different time limits for administrative review procedure if persons have contested a decision authorizing the intended activity. This means that a superior administrative authority must deliver a decision within one month from receiving the administrative appeal from the person. In urgent cases, the person may request the institution to issue the decision immediately. Due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.
If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.
There are no time limits set for hearing the case at the court. Cases are administered according to the case load of the specific court. Environmental matters and, specifically, EIA matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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?

As a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court, it has a suspensive effect on the appealed decision. I.e., it is forbidden to begin operation of the intended activity, to begin construction works, or to issue new decisions based on the contested one. The law On Environmental Impact Assessment does not provide any exemptions to this. A person who wants to begin the intended (now suspended) activity has a right to ask the court for a summary of the operational force of the decision. The court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved, including environmental. [36] The participants to the proceedings may request injunctive relief at any stage of the procedure, also in the appellate court instance and cassation court instance, if they consider that provisional protection is urgently needed. No formal deadlines are applied. The exercising of the rights to request provisional protection may not cause, in itself, any unfavourable consequences, including those falling under the private law. This means that the person will not be liable for financial loss caused to another person by the court's decision.
The participant to the proceedings requesting provisional protection (injunctive relief) must pay a deposit payment to the State budget, in the amount of 15 EUR defined by law. A natural person may ask the court to relieve him/her from paying the deposit fully or partially. The deposit payment is returned if the request for provisional protection is successful.

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

Procedures for granting permits for polluting activities, or for substantial changes in the conditions of those polluting activities, are regulated by the law On Pollution and Cabinet regulations issued in accordance with this law.

Procedures for granting permits for polluting activities are regulated and conducted separately from the environmental impact assessment (EIA). If the EIA is necessary for the intended polluting activities, the operator must itself initiate the EIA procedure and submit the findings of the EIA to the administrative authority competent for issuing permits for polluting activities, the State Environmental Service. Requirements for informing and involving the public are integrated into both EIA procedure and decision-making on environmental permits.

The Law on Pollution regulates publication of information about intended polluting activities (initiated procedures), the involvement of the public in the decision-making, and publication of the information about granted permits. Information is publicly available on the Internet site of the State Environmental Service.

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?

The law On Pollution provides rules for contesting administrative decisions and appealing them to the administrative court. According to those rules, persons may contest decisions regarding Category A or B permits for polluting activities, or decisions to change conditions of the polluting activities; submit a complaint if the right to public participation and the right to environmental information have been ignored; in cases of possible substantially negative impact, contest the conditions of the permit during all the period while the permit is in effect. The final administrative decision can be appealed to the administrative court.

Actio popularis (a right of access to justice in public interests) exists in environmental matters, and this also includes sectoral regulation of permits for polluting activities, if not regulated otherwise in specific occasions. This means that persons have access to administrative authorities and the court not only to protect their own individual interests, but also to protect general interests of environmental protection. According to Environmental Protection Law and the case-law of the Supreme Court, those rights are recognised both to natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. There are no specific conditions for non-governmental organizations to have a right to go to the court.

There is no requirement to identify an *individual* infringement to contest the decisions in relation to Category A or B permits for polluting activities, to submit a complaint if the right of public participation and the right to environmental information have been ignored, or to contest the conditions of the permit during all the period while the permit is in effect. This means, the contesting can be based on public interests of environmental protection.

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

There is no screening decision phase during the procedure for granting a permit for polluting activities since EIA is a separate procedure.

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

There is no scoping decision phase during the procedure for granting a permit for polluting activities since EIA is a separate procedure.

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

The law On Pollution provides rules for contesting administrative decisions to a functionally superior administrative authority, the Environmental State Bureau, and appealing them to the administrative court.

According to those rules, during the permit procedure, persons may submit a complaint if the right to public participation and the right to environmental information have been ignored. This is an immediate measure to rectify errors in public participation or dissemination of information.

Persons may contest final decisions regarding Category A or B permits for polluting activities, or decisions to change conditions of the polluting activities. In this case, a complaint to a functionally superior administrative authority, the Environmental State Bureau, must be submitted within a month from the notification.

A specific mechanism exists for persons to contest conditions of the permit even beyond the regular appeal measures against a permit. If the permit allows for polluting activities which might have substantially negative impact on human health or the environment, or the environmental quality objectives, persons may contest the conditions of the permit during all the period while the permit is in effect.

If a person is not satisfied with the decision of the superior administrative authority, he/she may appeal the decision to the administrative court within a month from the notification.

6) Can the public challenge the final authorisation?

Yes, see above 1.8.2.5.

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 court will revise both the procedural and substantive legality of a permit granted for polluting activities:

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

whether the permit procedure has been conducted in a way which provides a sufficient possibility to gather all the relevant information for assessment of the intended polluting activity and necessary conditions,

whether the final decision on granting the permit is based on correct findings and whether it lays down sufficient and clear written reasons. Expert opinions may be used as evidence to clarify scientific and technical issues.

In administrative cases, the court has full jurisdiction over factual and legal issues. This means that the court may review any question of facts or law. The court is free to verify the facts justifying the issuance of the permit, for example, the court may verify data on the planned industrial activity, characteristics of the facilities, and data on existing environmental conditions. The court cannot decide and declare its own statements about the impact of the intended activity instead of the administrative institution; however, the court can find factual errors and consideration errors which have led, or may have led, to an erroneous final decision. Such findings may lead to an annulment of the final authorization of the intended activity.

In environmental cases initiated by an applicant based on an *actio popularis* approach (in order to defend public interests in environmental protection), the scope of a court review has been limited by the Supreme Court in its judgment delivered in 2018. The Court has stated that to assess a complaint that has been submitted to protect the environment, the legality of a decision (construction permit) must be assessed focusing only on the existence of a threat to the environment or a possible breach of the requirements of environmental legislation that might be directly linked to the development under the dispute, rather than *any* facts or illegality a claimant might refer to. [37] Accordingly, this statement of the Supreme Court indicates that the scope of review for appeals based on environmental exception clause might be restricted to the infringement of legal provisions that are related to the environment. This applies to both procedural and substantive issues.

It is worth noting that the stage of the environmental permit is viewed as a separate procedure rather than an integral part of EIA and a final decision – acceptance of a development – within it. Thus, if one has missed or lost a lawsuit on the effects of a project assessed during the EIA, it will not be reconsidered during the dispute on environmental permit (which usually take place after an installation/plant/farm/other structure has been built). In accordance with the recent practice of the administrative court, the same would be true with respect to the stage of a construction permit, if there is a court decision on the competent authority's decision to accept a development following the EIA procedure. [38]

The administrative procedure is conducted in accordance with the inquisitorial principle or the principle of investigation, i.e., the court may gather evidence (including expert opinions) and make relevant legal considerations on its own motion. But it is the responsibility of the applicant to identify the contested administrative decision and to state reasons for challenging this decision. The administrative court examines the case strictly within the boundaries set by the applicant. The court may not alter the claim or examine decisions not appealed in written form by the applicant on its own motion.

8) At what stage are these challengeable?

As a general rule, the administrative court will review final decisions of any particular procedure. This means that all the alleged procedural or substantial violations of law will be reviewed within the proceedings regarding this final decision. Since EIA is a separate procedure and is followed by separate final authorization, the review of the final decision of IPPC/EID (permit) does not involve the review of EIA and its respective decision.

However, as is explained above in 1.8.2.5., the sectoral regulation on permit procedures for polluting activities provides also for the possibility to contest and, subsequently, to appeal to the court conditions of the permit during the entire period while the permit is in effect. Such recourse to a superior administrative authority and the court is allowed if the permit allows for polluting activities which might have a substantially negative impact on human health or the environment, or environmental quality objectives etc.

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

There is a mandatory pre-trial appeal to the Environmental State Bureau.

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?

It is not a prerequisite for a court action in the administrative court. [39]

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

The principle of procedural fairness is recognised as a general principle of law and a prerequisite of a fair trial. It is mentioned, *inter alia*, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.1 of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and give proper opportunities to every participant to a proceedings to explain their opinion and to submit evidence.

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

As in other administrative law sectors, administrative authorities must observe time limits set in the law for taking decisions, i.e. one month as a general term. The law On Pollution does not provide for different time limits. In the case of an administrative appeal against a permit for polluting activities, a superior administrative authority must deliver its decision within one month from the receiving of the appeal of the person. In urgent cases, the person may request the institution to issue the decision immediately. According to Administrative Procedure Law, due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.

If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.

There are no time limits set for hearing the case at the court. Cases are administered according to the case load of the specific court. Environmental matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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?

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

The law On Pollution provides for a possibility for the Environmental State Bureau to decide not to suspend the operation of the permit if the suspension could cause a substantively negative effect on the environment.

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

Regarding the suspensive effect of an appeal to the court, the law On Pollution states that the appeal does not have a suspensive effect on the decision of a superior authority, the State Environmental Bureau.

Persons appealing the permit to the court may ask the court to suspend the operational effect of the decision if there has been no suspensive effect on its operation. On the other hand, the operator may ask the court for an injunctive relief if the operation of the activity has not been granted or fully granted by the decision of the superior administrative authority. The court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved, including environmental.

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

The participant to the proceedings requesting provisional protection (injunctive relief) must pay a deposit payment to the State budget, in the amount of 15 EUR defined by law. A natural person may ask the court to relieve him/her from paying the deposit fully or partially. The deposit payment is returned if the request for provisional protection is successful.

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

The Internet site of the State Environmental Bureau provides general information about the procedure of issuing permits for polluting activities, as well as detailed information on all issued A and B category permits.

The Internet portal to the judiciary provides information on administrative and civil litigation and criminal procedure.

A free online database of national legislation is available here.

1.8.3. Environmental liability [40]

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?

If a person considers that any other private individual or legal person causes environmental damage or an imminent threat of such damage, she/he can act in the following ways:

if the respective activity causing environmental damage or imminent threat of damage is carried out in accordance with the decision of an administrative authority, the person can appeal the decision to a superior administrative authority and, subsequently, to the administrative court, or,

submit an application to the administrative authority competent to protect the environment and to enforce appropriate actions to interrupt damage to the environment. If the competent administrative authority refuses to act, its decisions or omissions can be appealed to a superior administrative authority and, subsequently, to the administrative court. In this case, the person may require the court to oblige the competent administrative authority to take a decision aimed at the protection of environment. [41] For example, if an individual has unlawfully, without a prior permit, built a road in the protected natural area, the person may require the competent administrative authority to oblige the person responsible to tear down the construction, to restore the previous situation and to compensate material damage caused to the environment.

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

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

If the appeal to the administrative court is justified with environmental interest, it is sufficient to have standing in the court. (see 1.4.1. for more detailed information on legal standing). The written appeal stating the objections should be submitted to the Administrative district court, with all available evidence attached.

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

General deadlines apply: one month for each administrative and judicial 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 Sect.30(2) of the Environmental Protection Law, the application or appeal should include information, as precise as possible, on the alleged environmental damage.

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

There are no special legal requirements regarding "plausibility" of the allegations. Any evidence and data will increase the possibility to scrutinize the facts.

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)?

General time limits for responding to any administrative appeal apply, i.e., one month; although the competent authority must respond or take respective measures as fast as possible according to the Sect.30(3) of the Environmental Protection Law.

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

The Environmental Protection Law entitles persons in both cases, environmental damage and imminent threat of damage, to submit an application to a competent administrative authority and an appeal to the court.

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

The State Environmental Service (SES) is the competent authority carrying out the state control of the environment protection and natural resources use. It exercises its duties through 7 territorially situated regional environmental boards and the Radiation Safety Centre. The decisions of the SES can be appealed to functionally higher administrative authority, which is the Environmental State Bureau.

Other administrative authorities are competent within limits of their field or operation, for example local governments are generally responsible for construction permits, which means they are competent authorities if persons allege environmental damage caused by construction permits.

The **State Plant Protection Service** (SPPS) is the only competent authority controlling the activities that fall under Annex III of the ELD covering: "Manufacture, use, storage, processing, filling, release into the environment and onsite transport of… plant protection products as defined in Article 2(1) of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market." (Annex III (7) (c)).

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

Pre-trial administrative appeal is mandatory if there is any superior administrative authority except the Cabinet of Ministers.

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 Law on Judicial Power all persons are equal before the law and the court. Cases are adjudicated irrespective of, among other things, the origin, nationality, language or place of residence of a person. This means that administrative authorities and courts apply the same rules to all persons irrespective of their nationality or place of residence.

Taking into account the existence of cross-border impact of some environmental decisions and some activities having an environmental impact, environmental law provides for pro-active measures aimed at involving foreign states and citizens. Latvia is a participant in the Espoo Convention on Environmental Impact Assessment, and respective obligations are embodied in environmental law.

In *the EIA procedure*, other countries are notified about the intended activity if the screening decision has identified possible cross-border impact. Notifying takes place before the intended activity is announced to the public in Latvia. Following the notification procedure, foreign citizens and other institutions are given a possibility to submit their opinions if the respective government has announced its intention to participate in the EIA. All procedures are coordinated between competent authorities of the countries involved, with a help of the Ministry of Foreign Affairs. Competent authorities of the respective foreign countries are consulted during the EIA. The administrative authority deciding on final authorization must consider opinions received from foreign citizens and institutions, as well as the results of inter-institutional consulting.

The procedure for granting *permits for polluting activities* also contains specific a regulation regarding the cross-border impact of polluting activities. If the information in the application for a permit gives reason to conclude that there will be a cross-border impact, or if the respective foreign country requests information regarding the intended activity, the operator must prepare and submit a translated application and necessary information about the activity to the competent administrative authority which forwards it to the country concerned. It is then the decision of the country concerned whether to organise a public

participation procedure regarding the intended activity. The competent administrative authority deciding on the granting of the permit must consider opinions received from the competent authorities and public of the other countries. The competent authority of the country concerned also receives information on granted permits.
The sectoral regulation does not provide for specific rules for the contesting and appealing of environmental decisions involving cross-border issues. General rules for the contesting and appealing decisions apply.

2) Notion of public concerned?

Environmental law does not differentiate between Latvian and other public. It might be concluded that the same broad notion of *actio popularis* (see above 1.4.1.) applies in both cases. This means that persons have access to administrative authorities and the court to protect general environmental interests. Those rights are recognised both to natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. To date, there is no confirming case law on this.

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)?

Any person, including NGOs, has equal standing to apply to administrative authorities and the court in environmental matters.
General rules to administrative and judicial appeal apply (see above 1.7.1.1. and 1.7.1.5.).
After the mandatory pre-trial appeal to a superior administrative authority, the person may lodge their appeal before the Administrative District Court.
Pro bono assistance is available only when the NGO has arranged it individually on its own initiative. Law firms and lawyers can be contacted individually.
The Latvian branch of the Transparency International Delna provides legal aid for citizens in building and land use matters. Delna are prepared to handle the case in situations when the case is of public importance, i.e., when a substantial damage is caused or may be caused to environment, or when the case could serve as a precedent and contribute to the improvement of law or legal practice.
Foreign NGOs are entitled to the same procedural guarantees as other participants to the administrative and court proceedings, including provisional protection (injunctive relief) (see above 1.7.2.).

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)?

Individuals of the affected country may contest an administrative decision to a superior administrative authority and appeal to the court according to the same provisions as individuals residing in Latvia.
The same procedural rules apply to natural persons as to NGOs (see above 1.8.4.3.).
In addition, there are mechanisms of legal aid for natural persons, although there is no known case law on granting legal aid to foreign nationals in environmental matters. Generally, a natural person contesting an administrative decision to a superior administrative authority may ask the administrative authority for the remuneration to his/her representative. If the authority finds that the person (addressee of the decision, natural person only) is in a difficult financial situation and that the particular administrative matter is complicated, it may decide that remuneration to a representative of this person, within regulated frameworks, should be paid from the budget of this administrative authority.
If a natural person lodges an appeal to the administrative court, he/she may ask:
for a decrease in the amount of the state fee or exemption from the obligation to pay the fee. The court will take into account this person's financial situation;
for state legal aid to be arranged. The court may decide to grant state legal aid to a natural person in a difficult financial situation if the particular administrative matter is complicated. The practical arrangements (assignment of the particular lawyer, amounts and kinds of legal aid, remuneration) are administered by Court Administration.

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

In *the EIA procedure*, other countries are notified about the intended activity if the screening decision has identified possible cross-border impact. Notification takes place before the intended activity is announced to the public in Latvia. Following the notification procedure, foreign citizens and other institutions are given a possibility to submit their opinions if the respective government has announced its intention to participate in the EIA. The administrative authority deciding on the final authorization must consider opinions received from foreign citizens and institutions.
During the procedure for granting *permits for polluting activities*, if the information in the application for a permit gives reason to conclude that there will be a cross-border impact, or if the respective foreign country requests information regarding the intended activity, the operator must prepare and submit a translated application and necessary information about the activity to the competent administrative authority which forwards it to the country concerned. The competent authority of the country concerned must be informed at least two months before the final decision is delivered. It is then the decision of the country concerned whether to organise a public participation procedure regarding the intended activity. The competent administrative authority deciding on granting the permit must consider opinions received from the competent authorities and public of the other countries.

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

Only the law On Environmental Impact Assessment contains special provisions regarding the duration of public involvement in other countries concerned: the deadline for submitting opinions should be at least 30 days from the day the notification is sent to the competent authority of the country concerned.
If foreign nationals and NGOs participate in administrative and judicial appeal they must meet the same time limits for submitting complaints and appeals, which is generally one month from the notification of the addressee of the decision. For more detailed information see above 1.7.1.5.

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

Every written administrative decision and court decision or judgment must include precise indication of a procedure of appeal to a superior administrative authority or to the court.
The Internet site of the Environmental State Bureau provides general information about procedure of issuing permits for polluting activities, as well as detailed information on all issued A and B category permits.
The Internet portal to the judiciary provides information on administrative and civil litigation and criminal procedure.
A free online database of national legislation is available here.

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

There are no provisions providing for particular language assistance for foreign participants to administrative or court procedures.
Both in administrative and judicial appeal procedure, the official language is Latvian. Administrative authorities accept documents in Latvian, with an exemption from documents received from foreign countries. In all other occasions, documents in foreign languages must be translated to Latvian to submit them to administrative authorities. Persons may address authorities in foreign language in the event of an emergency (police, medical emergency etc.).
The official language of the court is Latvian, and all the documentation must be submitted in Latvian. Generally, legal persons are not entitled to court interpreters paid by the government. The court, at its own discretion, may provide an interpreter also for a legal person.

9) Any other relevant rules?

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[1] See: Constitutional Court of Latvia, judgment of 29.11.2007, case No. 2007-10-0102, para. 75.2; judgment of 17 Jan. 2008, case No. 2007-11-03, para. 12, directly applying the Aarhus Convention in assessing legal standing of environmental NGO.
[2] E.g. Supreme Court, decision of the of 31.03.2010, case No. SKA-325/2010 (A42938509) applying the notion of „any person" to a political party.
[3] See: Sect.9(4) of the Environmental Protection Law, entitling "any person" and requiring the submission of "substantiated information."
[4] See seminal case in this respect: Constitutional Court of Latvia, judgment of 19.12.2017, case No. 2017-02-03, against the Regulation of the Cabinet of Ministers to increase the permissible noise level that the Constitutional Court ruled as contradicting the right to a healthy and benevolent environment.
[5] Constitutional Court, judgment of 19.12.2017, case No. 2017-02-03, para. 16. In addition, according to the Constitutional Court (see judgment of 14.02.2003, case No. 2002-14-04, para. 1; judgment of 08.02.2007, case No. 2006-09-03, para. 11) other normative acts detail the right to a benevolent environment embodied in Art.115 of the Constitution; accordingly, a review of the constitutionality may lead to a review of conformity of contested legal norms to substantial provisions contained in other normative acts such as Environmental Protection Law, Law on Protective Zones etc., as well as to principles of environmental law. See e.g.: Constitutional Court, judgment of 08.02.2007, case No. 2006-09-03, para. 11 for a reference to Law on Protective Zones and a restriction to construct buildings within protective zones of lakes.
[6] Constitutional Court, judgment of 17.01.2008, case No. 2007-11-03, para. 10–11.
[7] Constitutional Court, judgment of 17.01.2008, case No. 2007-11-03, para. 10.
[8] Constitutional Court, judgment of 19.12.2017, case No. 2017-02-03, para. 16.
[9] Constitutional Court, judgments of 05.11.2004, case No. 2004-04-01, para 8.2.
[10] Supreme Court, judgment of 05.03.2015, case No. SKA-22/2015.
[11] See: Sect. 4 on the conditions for a mandatory EIA; Sect.32 on the requirements for a screening procedure.
[12] "The competent authority" in these cases is the Environment State Bureau (ESB). For more information see: http://www.vpvb.gov.lv/lv
[13] It is the implementing legislation of ex-IPPC Directive and now IED, thus covering these activities, as well as regulation on greenhouse gas emissions.
[14] Supreme Court, decision of 25.10.2016, case No. SKA-824/2016 (A420241114).
[15] Supreme Court, decision of 31.03.2010, case No. SKA-325/2010 (A42938509).
[16] Supreme Court, decision of 25.10.2016, case No. SKA-824/2016 (A420241114).
[17] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[18] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[19] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[20] Supreme Court, decision of 25.10.2016, case No. SKA-824/2016 (A420241114), taken in joint meeting of all judges (full panel).
[21] Supreme Court, judgment of 07.05.2018, case No. SKA-356/2018 (A420168915).
[22] Constitutional Court, judgment of 29.11.2007, case No. 2007-10-0102, para. 75.2; judgment of 17.01.2008, case No. 2007-11-03, para. 12, directly applying the Aarhus Convention in assessing legal standing of environmental NGO.
[23] Taking into account the principle embedded in Art. 3(8) of the Aarhus Convention, the Administrative Procedure Law establishes the norm aimed at protecting applicants exercising their rights including environmental procedural rights (See: Sect.4(4) of the Administrative Procedure Law).
[24] Supreme Court, decision of 25.03.2019, case No. SKA-796/2019 (A420358914) referring as well to the judgment of the Supreme Court of 27.06.2018. in case No. SKA-306/2018 (A4201811715).
[25] An approximate assumption, taking into account the situation in 2020. There are no precise terms for reviewing the case; mostly it depends on the complexity of the case and the workload of the court.
[26] Supreme Court, decision of 25.10.2016, case No. SKA-824/2016 (A420241114).
[27] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[28] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[29] Supreme Court, decision of 18.06.2015, case No. SKA-912/2015 (A420237615).
[30] Supreme Court, decision of 25.10.2016, case No. SKA-824/2016 (A420241114), taken in joint meeting of all judges (full panel).
[31] See information: https://www.vraa.gov.lv/lv/latvijas-vides-aizsardzibas-fonds
[32] See information on project initiative supporting NGOs
[33] Supreme Court, judgment in case No.SKA-139/2012.
[34] Supreme Court, decision of 25.03.2019, case No. SKA-796/2019 (A420358914) referring as well to the judgment of the Supreme Court of 27.06.2018. in case No. SKA-306/2018 (A4201811715).
[35] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[36] For example, Supreme Court, decision of 30.09.2013., case No. SKA-984/13 (A420374412), where environmental interests (threat to environment) was among considerations taken into account.
[37] Supreme Court, decision of 25.03.2019, case No. SKA-796/2019 (A420358914) referring as well to the judgment of the Supreme Court of 27.06.2018. in case No. SKA-306/2018 (A4201811715).
[38] Judgment of the Regional administrative court of 26.06.2018 in case No A420358914, confirmed by the decision of the Supreme Court of 25.03.2019. in case No SKA-796/2019 (A420358914), para. 5.
[39] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[40] See also case C-529/15
[41] Administrative District Court, judgment of 01.07.2014., case No. A42689508, The case was incited by the NGO requesting the action from the competent authority to issue an administrative act to ensure that illegally deposited waste is removed. The Court confirmed this request as well as entitlement of the NGO to request the action.

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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?

Administrative environmental decisions falling outside the scope of the EIA [2] and IED [3] directives are subject to general administrative procedure rules included in the Administrative Procedure Law, except where special sectoral rules provide for different regulation.

Regarding standing, as in other environmental law sectors, *actio popularis* applies. This means that persons have access to administrative authorities and courts not only to protect their own individual interests, but also to protect general environmental interests. According to Environmental Protection Law and the case-law of the Supreme Court, those rights are recognised both to natural and legal persons, and even interest groups (unregistered associations of persons). Legal persons may include any kind of non-governmental organization, commercial entities and even political parties. There are no specific conditions for non-governmental organizations to have a right to go to the court. The only prerequisite for standing is a genuine environmental interest (see 1.4.1. for more detailed information on legal standing).

If the person is not satisfied with the environmental administrative decision of the competent administrative authority, he/she can appeal it to a superior administrative authority within one month after this decision comes into effect. The procedures and time limits for appeal must be stated in the administrative decision, otherwise the addressee of the decision enjoys longer terms (one year) for the appeal. An administrative decision comes into effect at the moment the addressee is notified of it, except when the decision or the law regulates otherwise. The Law on Notification contains detailed rules regarding notifying the addressee in different manners (mail, electronic mail etc.) and rules about when the document is deemed to have been notified.

Persons who are not the direct addressees of the administrative decision but whose rights or legal interests are affected by that decision, may dispute the decision within a one-month period from the day when this person becomes informed of it, but not later than within a one-year period from the day the decision comes into effect.

Important special rules exist regarding construction permits. According to Sect.15(4) of the Construction Law a decision on a construction permit must enter into effect from the moment it has been notified to the addressee, and at this moment the time limit for contesting the construction permit begins, also for other persons, regardless of the moment those third parties acknowledged the existence of the permit. Only if the mandatory rules on informative measures have not been observed properly may the third parties rely on the time limits counting from the moment those persons become informed of the fact that the permit has been issued. The informative measures include making public the decision on a Construction Information System, and there are also rules on informative measures regarding public discussions and submissions to change the initially proposed building design. In cases regulated by the Cabinet regulations, it is a responsibility of the initiator of the construction to place a construction board on the respective plot of land and to provide information to owners of immovable properties adjacent to the respective plot of land.

The general time limit for appealing administrative decision of a superior administrative authority before the administrative court is one month. If the superior administrative authority has failed to clarify the procedure for appealing its decision, the time limit extends to one year. Also, if the superior administrative authority has not issued its decision at all after the person has filed the complaint regarding a decision or an omission of a lower administrative authority, the person may file his/her appeal before the administrative court within one year after the addressing the superior administrative authority.

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?

A superior administrative authority is entitled to perform a full review of the contested administrative decision including the efficiency of the decision using the discretionary power of administration. The only exemption exists in cases where a superior administrative authority carries out a supervision in a form which includes the review of the legality but does not include a right to review the discretionary decisions on efficiency.

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

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

whether the administrative procedure has been conducted in a way which provides a sufficient possibility to gather all the relevant information,

whether the decision is based on correct findings and whether it lays down sufficient and clear written reasons. Expert opinions may be used as evidence to clarify scientific and technical issues.

In administrative cases, the court has full jurisdiction over factual and legal issues. This means that the court may review any question of facts or law. An exemption exists only where the administrative authority has a discretionary power (for example, where the authority decides on the means and scale of penalty) or has some space for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority. If the court lacks technical or scientific knowledge, the fact assessment can be done by the support of forensic expertise.

The court cannot replace the decision of an administrative authority or issue a decision itself; however, the court can find factual errors and consideration errors which have led, or may have led, to an erroneous final decision, and to annul unlawful decisions. Also, the court can impose an obligation on the respective administrative authority to issue a decision with a certain operative part or pointing to certain considerations to be taken into account. The court can impose an obligation on the respective administrative authority to carry out certain actual measures or to stop any ongoing activities and measures.

In environmental cases initiated by an applicant based on an *actio popularis* approach (in order to defend public interests in environmental protection) the scope of a court review has been limited by the Supreme Court in its judgment delivered in 2018. The Court stated that to assess a complaint that has been submitted to protect the environment, the legality of a decision (construction permit) must be assessed focusing only on the existence of a threat to the environment or a possible breach of the requirements of environmental legislation that might be directly linked to the development under the dispute, rather than *any* facts or illegality a claimant might refer to.[4] Accordingly, this statement of the Supreme Court indicates that the scope of review for appeals based on environmental exception clause might be restricted to the infringement of legal provisions that are related to the environment. This applies to both procedural and substantive issues.

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

Generally, it is not possible to challenge the first level administrative decision directly before court. As a general rule, an administrative act, actual measures or omission are subject to appeal to a superior administrative authority, which is a mandatory pre-trial stage. Exemptions exist only where there is no superior authority or the superior authority is the Cabinet of Ministers, then a person has a choice to appeal the decision to the same administrative authority or to submit the application directly to the administrative 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.?

It is not a prerequisite for a court action in the administrative court.[5]

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

As is explained in 2.1.2., an exemption to a full review only exists where the administrative authority has a discretionary power (for example, where the authority decides on the means and scale of the penalty) or has some scope for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority, as far as it concerns environmental interests.

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

The principle of procedural fairness is recognised as a general principle of law and a prerequisite of fair trial. It is mentioned, inter alia, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.1 of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and give proper opportunities to every participant to proceedings to explain their opinion and to submit evidence.

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

As in other administrative law sectors, administrative authorities must observe time limits set in the law for taking decisions, i.e. one month as a general term. Specific provisions may exist in sectoral regulations.

In case of an administrative appeal against environmental decision, a superior administrative authority must deliver its decision within one month from the receiving of the appeal of the person. In urgent cases, the person may request the institution to issue the decision immediately. According to Administrative Procedure Law, due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.

If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.

There are no time limits set for hearing the case at the court. Cases are administered according to the case load of a specific court. Environmental matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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?

As a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision. I.e., it is forbidden to begin operation of the intended activity, to begin construction works, or to issue new decisions based on the contested one.

The same general rule applies to the appeal to the court (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this).

Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision if there has been no suspensive effect on its operation. On the other hand, the addressee of the decision (for example, a person carrying out environmentally hazardous activity) may ask the court for an injunctive relief if the operation of the decision has not been granted or fully granted by the decision of the superior administrative authority. The court will decide the provisional protection, considering both the lawfulness of the decision (in a rapid manner, without any prejudice to the final judgment) and possible damage to the interests involved, including environmental.

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

The participant to the proceedings requesting provisional protection (injunctive relief) must pay a deposit payment to the State budget, the amount 15 EUR defined by law. A natural person may ask the court to relieve him/her from the paying of deposit fully or partially. The deposit payment is returned if the request for provisional protection is successful.

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?

General rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

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

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

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

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

Both in administrative and court procedures, the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

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

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

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

Accordingly, the overall process at both levels (public authority and administrative court) is not expensive with respect to state fees and other statutory payments. The principle protecting an applicant from paying other party expenses (state or municipality) functions as a safeguard against excessive costs.

The legislation does not include express statutory reference to a requirement that costs should not be prohibitive.

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[6]

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

The law On Environmental Impact Assessment stipulates for strategic environmental assessment (SEA) of planning documents concerning the environment if the expected impact of the proposed plan on the environment is *substantial*. The expected impact of the planning document is considered to be substantial if it is mentioned as such in the Cabinet Regulation (Regulation No. 157 of 23.03.2004.) or is considered to be substantial on an individual basis by the Environmental State Bureau.

The law On Environmental Impact Assessment includes a regulation on involving the public in the decision-making, the obligation to take into account the opinions expressed, and also on informing measures regarding the final decision. Sectoral regulation (for example, the Spatial Development Planning Law) contains specific rules regarding the procedures where final planning, normative or administrative decisions are taken according to the results of the SEA procedure.

The possibilities of contesting and appealing any final plan and decision which is based (or should be based) on the SEA depends on the type of document and its legal status. As a rule, planning documents lacking individual legal settlement are not considered to be administrative acts, and there is no possibility to contest such documents in the administrative court. Planning documents embodied in normative legal acts (regulations, and this is the case also for spatial plans of local government) may be contested in the Constitutional Court only (see 2.5.1. on constitutional complaint for further information).

Only decisions having direct legal consequences to individual persons (or individual objects) may be considered to be administrative acts contestable in the administrative court. Detailed spatial plans are the most common planning documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.

If the appeal to the administrative court is allowed, the same rules apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person. This means that persons have access to administrative authorities and court not only to protect their own individual interests, but also to protect general environmental interests.

The same general procedural rules apply to administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).

A general one-month time limit applies to both administrative and judicial appeal. The time limit for appealing a detailed spatial plan of the local government is one month from a public notification about the final decision on the adoption of the plan.

In addition, there is a special mechanism, an immediate measure to rectify errors in public participation or dissemination of information during any SEA procedure regardless of the form of the final decision (Sect.26(2) of the law On Environmental Assessment). During the SEA procedure, any person may submit a complaint to a competent administrative authority (Environmental State Bureau) against the person developing the plan, if this person ignores or infringes the right of public to environmental information or public participation. If the decision of the competent authority does not satisfy the person, he/she may submit a complaint to the Ministry of Environmental Protection and Regional Development.

The courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it seems possible also on its own motion. Participants can also plead for reference for a preliminary ruling to be submitted to the CJEU.

Taking into account the existence of *actio popularis* and its broad application in Latvian courts, and also the wide application of the EU law and thorough review of the administrative decisions, the Latvian court system provides for rather effective access to the court in environmental matters. Still, the overall length of court proceedings, especially in the cassation instance court, could be improved.

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 administrative court reviewing the lawfulness of the appealed final administrative planning decision will revise both procedural and substantive legality of the final decision involving the SEA:

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

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

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

If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act.

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

Procedures regarding spatial plans.

Sect.27 of the Spatial Development Planning Law specifically addresses the procedure for contesting spatial plans or local plans of the local government. Since such plans are adopted as local governments regulations (normative acts), the competent court in this case is the Constitutional Court. Before lodging a constitutional complaint, a person must address the competent administrative authority, i.e., the ministry responsible for spatial development planning (at the moment – the Ministry of Environmental Protection and Regional Development). The appeal must be submitted within two months after the respective regulation comes into effect. After this administrative pre-trial stage, a person can submit a constitutional complaint (i.e., to the Constitutional Court) regarding the conformity of the local government regulations with the norms of superior legal force. A constitutional complaint must be lodged before the Constitutional Court within six months after the respective regulation comes into effect (Sect.19.3(2) of the Constitutional Court Law).

Detailed spatial plans are adopted as administrative acts according to Sect.30 of the Spatial Development Planning Law. In this case, the respective detailed plan may be appealed to the administrative court. Since there is no superior administrative authority for local government, an appeal must be lodged before Administrative district court, and the time limit is one month after the local government has published a notice on the adoption of the plan. The appeal to the administrative court suspends the effect of the detailed plan, but the operative effect can be renewed by injunctive relief.

Procedures for contesting plans adopted are as for other normative acts. A person may contest normative acts (other than spatial plans and local plants) in the Constitutional Court. See 2.5.1. for a detailed information on the procedure.

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

It is not a prerequisite for a court action in administrative court.[7] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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?

In the case of detailed plans: the appeal to the administrative court suspends the effect of the detailed plan, but the operative effect can be renewed by injunctive relief (Sect.30 of Spatial Development Planning Law). A request for injunctive relief may be submitted at any stage of the procedure, also in the appellate court instance and cassation court instance. No formal deadlines are applied.

In case of planning documents adopted in the form of normative acts.

for spatial and local plans, the competent ministry receiving administrative appeals (see 2.2.3.a) will decide on the possibility to give operational effect on all or part of the plan according to the appeals received; the operational effect will be renewed if the appeals continue to be considered unfounded (Sect.27 of Spatial Development Planning Law).

no provisional protection exists in the procedure of the Constitutional Court, and this applies to any plan (normative act) contested in the Constitutional Court.

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

General rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

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

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

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

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

Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

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

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

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

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[8]

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?

As explained in 2.2.1., the law On Environmental Impact Assessment stipulates for strategic environmental assessment (SEA) of planning documents concerning the environment, if the expected impact of the proposed plan on the environment is *substantial*. If the proposed planning intention or any plan or programme developed by the state (including local governments and other public institutions) is not expected to have a substantial impact on the environment, but still relates to the environment, the drafting of the planning document or programme must follow procedural rules incorporated in the respective sectoral regulation. For example, according to the Spatial Development Planning Law and the respective Cabinet regulations, a detailed spatial plan of the local government might include the proposed development having a substantial impact on the environment or NATURA 2000 territory, and if such is the case, the SEA procedure is mandatory. However, if the proposed development does not have a substantial environmental impact, the drafting of the detailed spatial plan must follow the same planning procedure without the SEA.

Although the SEA is not carried out, sectoral regulation of planning procedures for environmentally relevant plans provides for the involvement of the public in the decision-making, the obligation to take into account the opinions expressed, and also for the informing measures regarding the final decision. It should be reminded that Aarhus Convention, ratified by Latvia and requesting public participation in planning procedures related to the environments, is applicable in administrative authorities and courts.

The possibilities of contesting and appealing any final plan and decision having an impact on the environment depend on the type of the planning document and its legal status. As a rule, planning documents lacking individual legal settlement regarding individual person or object (direct effect on a person or an object) are not considered administrative acts, and there is no possibility to contest such documents at the administrative court. Usually, a plan as such will not have such a binding nature (direct effect) on any individual. In this case, it is not contestable in any court.

Planning documents embodied in normative legal acts (laws, regulations) may be contested in the Constitutional Court only (see 2.5.1 for more detailed information about the procedure).

Only decisions having a direct legal effect on individual persons (or individual objects) may be considered to be administrative acts contestable at the administrative court. Detailed spatial plans are the most common planning documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.

If the appeal to the administrative court were allowed, the same rules would apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person, and the same general procedural rules apply for administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).
Administrative courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it deems possible also on its own motion. Participants can also plead for a reference for a preliminary ruling to be submitted to the CJEU.

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?

If a plan is adopted in the form of administrative act, the scope of the administrative review is the same as in other administrative cases. The court would revise both procedural and substantive legality of the final decision confirming the planning document.
If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act (see 2.5.1. for information).

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

In general, there should be at least one level appeal to a superior administrative authority as a mandatory pre-trial stage in case of an administrative decision, except where there is no superior administrative authority or where the Cabinet of Ministers is the only superior authority to the given lower authority. Since, usually, the local government would be the authority adopting the plan as an administrative decision (detailed spatial plans), there is no superior administrative authority and an appeal must be submitted directly to administrative court.
The administrative authority issuing the decision must state the appeal procedures in the same decision.
In cases where the planning document is adopted as a normative act, a person must exhaust general remedies before the submitting a constitutional complaint, if there are any (for example, contesting an administrative act based on the respective normative act, if this was the case). In case of spatial plans and local plans, a person must address the Ministry of Environmental Protection and Regional Development before submitting a constitutional complaint. A constitutional complaint must be lodged before the Constitutional Court within six months after the respective regulation comes into effect.

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

It is not a prerequisite for the court action in administrative court.[9] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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 a general rule in administrative procedure, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this). Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision in case there has been no suspensive effect on its operation. The court will decide the provisional protection, considering both the lawfulness of the decision and possible damage to the interests involved, including environmental.
The participants to the proceedings may request the provisional protection at any stage of the procedure, also in the appellate court instance and cassation court instance. No formal deadlines are applied.
There is no provisional protection in the Constitutional Court procedure.

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?

General rules of administrative appeal procedures apply if the decision adopting a plan is an administrative act and thus subject to the jurisdiction of administrative courts.
Administrative procedures in administrative institutions are free of charge.
If the person submits an appeal to the administrative court, he/she should take account of state fees.
When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.
The amount of the state fee is the same for all categories of administrative cases. The court, taking into account the financial situation of a natural person, may decrease the amount of the fee or exempt the person from the obligation to pay the fee.
The Administrative Procedure Law does not prescribe any other fees or deposit payments.
Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the has person involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.
Expenses related to the legal aid or private expert-examinations are not regulated and will be dependent mainly on the market situation, the complexity of the case or the factual circumstances examined by experts.
In the judgment, the court will order a reimbursement of the state fee: if the appeal against the administrative decision or omission is fully or partially successful, the court will order the defendant (the State or municipality thereof) to reimburse the state fee to the claimant; if the appeal is not successful, the claimant will not recover the state fee paid. The same principle applies to deposit payments: the claimant will get back the deposit payment if his/her cassation complaint (or request for injunctive relief, ancillary complaint or de novo review) is successful.
The court's decision on the reimbursement of expenses does not cover other kinds of expenses. Thus, any other expenses, except state fees and deposit payments, incurred to the participants, are not recovered. But, if the appeal against the administrative decision is successful, the claimant may subsequently claim to recover all damages caused by the unlawful decision from the defendant, and this may include previous payments to legal advisor or experts.
Regarding the procedure of constitutional complaint, it does not involve state fees.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[10]

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?

The possibilities of contesting and appealing any plan or programme having an impact on the environment depend on the type of the planning document and its legal status.
The possibilities of contesting and appealing any final plan and decision having an impact on the environment depend on the type of the planning document and its legal status. As a rule, planning documents lacking individual legal settlement regarding individual person or object (direct effect on a person or an object) are not considered administrative acts, and there is no possibility to contest such documents at the administrative court. Usually, a plan as such will not have such binding nature (direct effect) on any individual. In this case, it is not contestable in any court.[11]
Planning documents embodied in normative legal acts (laws, regulations) may be contested in the Constitutional Court only (see 2.5.1. for a detailed information about the procedure).
Only decisions having direct legal effect on individual persons (or individual objects) may be considered to be administrative acts contestable in the administrative court. Detailed spatial plans are the most common planning documents having legal status of a general administrative act and as such involving a possibility to lodge an appeal against it before the administrative court.
If the appeal to the administrative court were allowed, the same rules would apply as with other environmental decisions. This means, *actio popularis* (a right of access to justice in public interests) is applied regarding the standing of a person, and the same general procedural rules apply for administrative and judicial procedures as in other types of administrative cases (see above 1.3.2).
Administrative courts apply EU law and the case law of the Court of Justice of the European Union. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). The court is free to use EU law and the CJEU case law as much as it seems possible also on its own motion. Participants can also plead for the reference for a preliminary ruling to be submitted to the CJEU.

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

As explained in 2.4.2., only planning decisions embodied in administrative decisions directly effecting individuals, or into normative acts, are possible to contest in the administrative or the Constitutional Court. Plans and programs lacking direct legal effect (individual or normative) are not possible to challenge in the court.

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?

If a plan is adopted in the form of administrative act, the scope of the administrative review is the same as in other administrative cases. The court would revise both procedural and substantive legality of the final decision confirming the planning document.
If the planning decision is embodied in a normative act, the Constitutional Court is also competent to review both the procedural and substantive legality of the normative act (see 2.5.1. for a detailed information).

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

In general, there should be at least one level appeal to a superior administrative authority as a mandatory pre-trial stage in case of administrative decision, except where there is no superior administrative authority or where the Cabinet of Ministers is the only superior authority to the given lower authority. Since, usually, the local government would be the authority adopting a plan as an administrative decision (detailed spatial plans), there is no superior administrative authority and an appeal must be submitted directly to administrative court.
The administrative authority issuing the decision must state the appeal procedures in the same decision.
In cases where the planning document is adopted as a normative act, a person must exhaust general remedies before the submitting a constitutional complaint, if there are any (for example, contesting an administrative act based on the respective normative act, if this was the case).

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

It is not a prerequisite for the court action in administrative court.[12] In the case of a constitutional complaint, it is worth mentioning that the Constitutional Court has developed autonomous criteria for legal standing, involving a prerequisite of being a participant to planning procedure (see 2.5.1. for a detailed information).

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

In administrative procedure, an exemption to a full judicial review exists only where the administrative authority has a discretionary power or has some scope for professional evaluation of facts (for example, the evaluation of the results in exams) or risk assessment, but the court must nevertheless check whether all relevant facts have been taken into account and whether all the legal considerations have been properly made by the administrative authority.
It is not clear how far the Constitutional Court will look into considerations of the legislator. As it can be inferred from the judgments of the Constitutional Court, there is a margin of appreciation reserved for the legislator. The Constitutional Court uses opinions of professionals to have an insight into planning considerations.

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

In the administrative court, the principle of procedural fairness is recognised as a general principle of law and a prerequisite of a fair trial. It is mentioned, inter alia, as one of the general principles applied in administrative authorities and administrative courts according to the Administrative Procedure Law. As explained in Art.14.1 of the Administrative Procedure Law, an administrative authority and the court issuing decisions are impartial and give proper opportunities to every participant to a proceedings to explain their opinion and to submit evidence.

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

Regarding administrative procedure, administrative authorities must observe time limits set in the law for taking decisions, i.e. one month as a general term. Specific provisions may exist in sectoral regulations.
In the case of an administrative appeal against an environmental decision, a superior administrative authority must deliver its decision within one month from receiving the appeal of the person. In urgent cases, the person may request the institution to issue the decision immediately. According to Administrative Procedure Law, due to objective reasons, the authority may extend the time limit for a period not exceeding four months. If there are objective difficulties in clarifying factual circumstances, the time limits may be extended for up to one year. The decision of the superior authority to extend the time limit may be appealed to the court.
If there is a delay in delivering the decision of the superior authority, there are no immediate sanctions possible against the authority. However, the person is then allowed to lodge his/her appeal in the main matter immediately to the administrative court without waiting for a written response from the administrative authority.
There are no time limits set for hearing the case at the court. Cases are administered according to the case load of a specific court. Environmental matters are not an exceptional category and are reviewed in consecutive order. Injunctive relief is decided according to the urgency, but no later than within a month after a proper application has been received at the court.

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 a general rule, when an appeal is submitted to a superior administrative institution or to the administrative court against any administrative decision, it has a suspensive effect on the appealed decision (see above 1.7.2. for more detailed explanation of suspensive effect and exemptions to this). Persons appealing an administrative decision to the court may ask the court to suspend the operational effect of the decision in case there has been no suspensive effect on its operation. The court will decide the provisional protection, considering both the lawfulness of the decision and possible damage to the interests involved, including environmental.

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?

In the case of administrative procedure, general rules of administrative appeal procedures apply.

Administrative procedures in administrative institutions are free of charge.

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

When submitting an appeal to the first instance administrative court, the applicant should pay a state fee in the amount of 30 EUR. The state fee for the appeal of the first court instance's judgment is 60 EUR. A deposit payment for submitting a cassation complaint to the Supreme Court is 70 EUR. The deposit payment for requesting injunctive relief or to ancillary complaints on procedural decisions is 15 EUR. The deposit payment for matters de novo in connection with newly-discovered facts is 15 EUR.

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

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

Both in administrative and court procedures the person has to cover his/her own expenses: remuneration to a representative or legal advisor (if the person has involved any); payment to private experts (if the person has involved any on his/her own initiative) and his/her own expenses related to obtaining or producing of any other evidence (copying, requesting from institutions etc.) if obtained by the participant himself/herself.

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

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

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

A constitutional complaint procedure does not involve state fees.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[13]

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?

Normative legal acts or legislative acts (legislation) implementing EU environmental legislation usually take the form of laws enacted by the Parliament (the Saeima) or Cabinet regulations. On the basis of laws and Cabinet regulations, local government regulations also include rules according to the EU law.

There are two ways in which individuals can manage to verify if the national legislative acts are consistent with the Constitution or the EU law:

direct application to the Constitutional Court strictly on the condition that it is allowed by the Constitutional Court Law and according to the provisions of this law;

submitting arguments and plea to the administrative or general jurisdiction court reviewing a certain case to submit an application to the Constitutional Court or to make a referral for a preliminary ruling to the Court of Justice of the European Union (the CJEU).

A constitutional complaint (application) may be submitted to the Constitutional Court by any person who considers his/her fundamental rights infringed by norms of law, Cabinet regulations or regulations of local government. The Constitutional Court has maintained an approach under which an alleged infringement of rights guaranteed by the Constitution is a prerequisite to have legal standing in the court, including in environmental matters. On the other hand, since Art.115 of the Constitution guarantees a right to a benevolent environment, and this right is quite broadly characterized by the Constitutional Court[14], it does not preclude individuals and environmental NGOs from bringing actions in environmental interests. The case law of the Constitutional Court shows that applications protecting general environmental interests are allowed from NGOs and also from individuals (see, for example, the judgment of 06.10.2017. in case No. 2016-24-03 as an example of challenging spatial plan in environmental interests).

However, this approach, unlike that taken by administrative courts, has led to setting criteria for legal persons to have a legal standing. To conclude that the right to a benevolent environment of a certain legal person has been infringed it must be seen that (a) the objective of the legal person's activities is environmental protection, (b) the legal person is founded according to the law,[15] (c) the legal person has participated in the development and adopting of the contested normative act as far as such participation has been granted by law and has been practically feasible.[16]

A constitutional complaint is allowed only after ordinary legal remedies are exhausted (recourse to the competent administrative authorities, courts of general jurisdiction or the administrative court). For example, if an administrative decision is based on the respective normative act, a person should at first appeal the administrative decision to the administrative court where the court may consider the constitutionality of the legal norm and submit an application to the Constitutional Court.

If a person has exhausted ordinary legal remedies, or there are no such remedies available, the constitutional complaint must be lodged before the Constitutional Court within six months after the last decision in the case has come into effect. Only in exceptional individual cases may the recourse to ordinary legal remedies be skipped, i.e., if the reviewing of the constitutional complaint is generally important or if the ordinary legal remedies cannot prevent substantial damage to the complainant.

However, special procedural rules exist for contesting spatial plans and local spatial plans of local governments (as they are enacted in the form of local government's regulations). An application to the Constitutional Court has to be submitted within six months after the respective regulation of the local government has come into effect. In addition, a person must exhaust the specific administrative review procedure: to submit an appeal to the Ministry of Environmental Protection and Regional Development within two months after the spatial plan or local spatial plan of the local government has come into effect.

The Constitutional Court reviews the complaints taking into account EU law and ratified international law. This means the case law of the Court of Justice of the European Union is also relevant. Participants to the procedure can argue their case with references to both the EU law and the CJEU case law, as well as international law (Aarhus Convention, for example). Participants can also plead for a reference for a preliminary ruling to be submitted to the CJEU.
Taking into account the broad legal standing of natural and legal persons in environmental matters, stemming from the rather broad scope of Art.115 of the Constitution, , and also the approach of the Constitutional Court to interpret the Constitution in tune with international and EU law, the recourse to the Constitutional Court can be regarded as an effective legal remedy. The judgment is usually delivered in about one year after the complaint is submitted to the Court.

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

Administrative review (applicable if the spatial plans or local spatial plans of local governments are contested) and constitutional review cover both procedural and substantive legality of the contested legal act:
if, in the given case, there is a specific procedure involving public consultations, the competent administrative authority and, subsequently, the Constitutional court will verify whether the essential procedural rules are followed in relation to persons affected and persons having an interest in environmental issues, with special emphasis on the access to the environmental information and rights to participate in the decision-making (if applicable in the given situation), including the possibility to submit information, to express views and proposals, and sufficiently serious attitude of the administrative authority towards those views and proposals;
whether the procedure has been conducted in a way that guarantees sound legislative decisions;
whether the legislative act is based on correct fact-findings.
The Constitutional Court may request expert opinions.
The Constitutional Court will always scrutinise the contested legal norms in the light of their conformity with the Constitution, EU law and international law, taking into account the borders of claim set in the constitutional complaint.

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

As explained in 2.5.1., a constitutional complaint is allowed only after ordinary legal remedies are exhausted (recourse to the competent administrative courts, courts of general jurisdiction or the administrative court). The application (complaint) must be lodged before the Constitutional Court within six months after the last decision in the case has come into effect. Only in exceptional individual cases may the recourse to ordinary legal remedies be skipped, i.e., if the reviewing of the constitutional complaint is generally important or if the ordinary legal remedies cannot prevent substantial damage to the complainant.
However, special procedural rules exist for contesting spatial plans and local spatial plans of local governments (if they are enacted in the form of local government's regulations). An application to the Constitutional Court has to be submitted within six months after the respective regulation of the local government has come into effect. Besides, a person must exhaust specific administrative review procedure: to submit an appeal to the Ministry of Environmental Protection and Regional Development within two months after the spatial plan or local spatial plan of the local government has come into effect. An administrative appeal is a mandatory pre-trial stage 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.?

The Constitutional Court has set criteria for legal persons to have legal standing. To conclude that the right to a benevolent environment of a certain legal person has been infringed, it must be seen that, inter alia, that the legal person has participated in the development and adopting of the contested normative act as far as such participation has been granted by law and has been practically feasible.[17]

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?

The procedure of constitutional review does not provide for suspensive effect of the constitutional complaint. The Constitutional Court Law allows the Court to decide to suspend the effect of the judgment of the general (or administrative) jurisdiction court if the constitutional complaint is related to one. According to the case law of the Constitutional Court, the legislator has not allowed other measures of provisional protection in the case of constitutional complaint (the decision of the Constitutional Court of 04.02.2015 in case No. 2015-03-01).
The only occasion when administrative review exists, i.e., if the spatial plan or local spatial plan of the local government is contested to the Ministry of Environmental Protection and Regional Development, the Ministry has discretionary power to impose restrictions for execution of the contested plan until the final administrative decision is delivered.
No other means of provisional protections exist against legislative acts.

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?

Administrative appeal against spatial plans or local plans of local governments is free of charge.
There is no state fee for submitting a constitutional complaint to the Constitutional Court.
The participants to the procedure bear their own expenses, including hiring of an interpreter if one is needed at the court. The Constitutional Court does not decide on the reimbursement of those costs.
A natural person may ask for legal aid financed from the state budget according to the State Ensured Legal Aid Law. The court adminisrator will grant and administer legal aid if the Constitutional Court has already refused to accept a person's complaint due to manifestly insufficient legal grounds as the sole reason. Within the time limits set for submitting the constitutional complaint, the person may then again apply to the Constitutional Court with the aid of state financed lawyer.

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[18]?

In the same way as it is possible to plead for a referral for a preliminary ruling on the interpretation of EU law. There are no obstacles to raise the issue of the validity of acts of the institutions of the EU, as is provided in Art.267 of the TFEU, and to request a preliminary ruling of the CJEU. To date, the Constitutional Court has not exercised this possibility and has requested preliminary rulings only on the interpretation of EU law.

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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] Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

[3] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).
[4] Supreme Court, decision of 25.03.2019, case No. SKA-796/2019 (A420358914) referring as well to the judgment of the Supreme Court of 27.06.2018. in case No. SKA-306/2018 (A4201811715).
[5] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[6] The SEA Directive relates to plans and programmes. These are also covered by Article 7 and Article 9(3) of the Aarhus Convention.
[7] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[8] 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.
[9] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[10] 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.
[11] See, for example, the order of the Cabinet of 16.04.2020 No. 197 „On the plan of the decreasing of the air pollution for 2020-2030"
[12] Supreme Court, judgment of 28.05.2020 in case No. SKA-163/2020 (A420144516), para. 9.
[13] 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
[14] „The infringement of the right to a benevolent environment is to be broadly interpreted so as to include activities actually taking place and creating an imminent threat to human health or to the environment, as well as activities expected to take place in the future." The Constitutional Court, judgment of 17.01.2008. in case No. 2007-11-03, para. 13.1.
[15] The Constitutional Court, judgment of 17.01.2008. in case No. 2007-11-03, para. 13.1.
[16] Ibid, para. 13.2.
[17] Ibid, para. 13.2.
[18] 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

Besides the appeal against administrative environmental decisions, there are other legal remedies.
Remedies against the silence of the administration (the administrative passivity).
Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters provides for each party (state) to ensure that members of the public have access to administrative or judicial procedures to challenge, *inter alia*, omissions by public authorities which contravene provisions of its national law relating to the environment. According to the case law of the Supreme Court, Aarhus Convention and Art.115 of the Constitution grant a right to the public to demand from the competent state authorities to really carry out measures lying within the competence of those authorities and a right to request it at the court. Such omissions may include the silence of the institution (for example, failure to take decision when such decision would be expected), but also insufficiently effective measures, for example, a failure to properly enforce any decision already delivered before[1].
This is the only measure that can be used also if an individual aims to prevent or to rectify damage to the environment made by other private individuals or entities, i.e., a person may request the competent supervising administrative authority to issue an administrative decision against another private person, to bring an action before the administrative court if the competent authority does not issue any decision or the decision is not effective, and to ask for real enforcement of any issued decision. To the extent that complaints are grounded in environmental law and allege a damage or imminent threat to the environment in the case of a further lack of action, any natural or legal person has standing at the competent administrative authority and at the court since *actio popularis* applies in environmental law (see above 1.4.1. about *actio popularis*).
If the competent authority does not respond to a submitted application for effective measures, a person has a possibility to appeal to a superior administrative authority and to the administrative court. General rules of administrative procedure apply (see above 1.3.1.–1.3.4. for more information about the system of administrative and judicial appeals, and 1.7.1. for information about applicable time limits).
If the appeal is accepted by the court, a person may ask for injunctive relief within the boundaries of the appeal. For example, an applicant may plead for immediate measures to prevent possible harm to the environment.
Measures for effective enforcement of administrative and judicial environmental decisions.
Administrative Procedure Law provides for measures that could be used to achieve full enforcement of administrative decisions, and decisions or judgments of the court, i.e., the rules on compulsory execution. The law regulates both the compulsory measures used by administrative authorities and by bailiffs, as well as by the police.
There are different compulsory measures used by administrative authorities (Sect. 367, 368 of the Administrative Procedure Law): executive orders, replacing measures carried out by the institution at the addressee's expense, pecuniary penalties (applied repeatedly if needed), direct force. The court may impose pecuniary penalties to the officials responsible for the enforcement of the court's decision, and those pecuniary penalties also may be applied repeatedly (Sect. 374 of the Administrative Procedure Law).
If, taking into account the content of the decision, a court bailiff can execute the decision, all the usual measures may be used according to the Civil Procedure Law.
A person in whose interests the administrative decision or judicial decision has been delivered has a right to appeal against omissions or inaccuracies regarding the execution. Also, a person against whom the administrative or judicial decision has been delivered has a right to appeal against inaccuracies regarding the execution.
Criminal liability may be applied in the event of severe environmental offences, and also for avoidance of enforcement of judicial decisions requiring certain actions.
During the court proceedings, the administrative court may also impose procedural sanctions to succeed in guaranteeing fair procedure and fair decisions. Such measures include warning, expulsion from the courtroom, pecuniary penalties, and forced conveyance. Pecuniary penalties may be applied (also repeatedly), for example, against state officials not complying with a court's requests for information, and to any party to the case not complying with requests for evidence.

[1] The Supreme Court, judgment of 01.07.2011. in case No. SKA-215/2011.